

warrant issued under the Betting Act, 1853 (16-17 Vict. c. 119) s. 11, the police entered the house, and seized a number of betting slips, and the aforesaid money. The plaintiff's employee was convicted of keeping a common gaming house, but the plaintiff was acquitted. The plaintiff then claimed a return of the money, but the defendant claimed that it was forfeited under the Metropolitan Police Act, 1839, s. 48. Warrington, J., who tried the action, found that the money had not been forfeited as claimed, because the procedure required by s. 48 had not been complied with, but he held that inasmuch as the money had been acquired by bets in the street, which were illegal transactions, the maxim *ex turpi causa non oritur actio* applied, and the plaintiff therefore could not recover. The Court of Appeal (Williams, Moulton and Buckley, L.JJ.), however, were unable to agree in this conclusion, but, though they were agreed in the result, they were not agreed in their reasons. Williams, L.J., dissents from the views of Moulton, L.J., on the application of the maxim in question. Williams, L.J., appears to consider the rule would be applicable, but for the fact that there was really no evidence as to the circumstances in which the money in question had been received by the plaintiff. Whereas Moulton, L.J., thought the maxim had no application to such a case, because, in his view, although the betting by which the money was alleged to have been obtained might have been illegal, yet the property in the money passed to the plaintiff and any person from whom it had been obtained could not have claimed the specific coins, but would only have had an action of debt for its recovery. Buckley, L.J., on the other hand, thought the maxim is only applicable when the plaintiff cannot establish his cause of action without relying upon an illegal transaction, and here the plaintiff had the possession and property, and his case was exhaustively stated by saying he sued the defendant for having deprived him of the possession of his property.