

277, L.R. 4 Ch. 748. See *Chapman v. Michaelson* (1908), 78 L.J.C. 272, [1909] 1 Ch. 238. A bond or covenant or other security subsequently given for a debt originating in an illegal consideration or transaction, or for a prior security for such debt, is vitiated by the same illegality: *Fisher v. Bridges* (1854), 23 L.J.Q.B. 276, 3 E. & B. 642; as a bill given to a broker for his charges in effecting an illegal insurance: *Ex p. Mather* (1797), 3 Ves. 373; a bill in renewal of a bill given for a gaming debt: *Wynne v. Callander* (1826), 1 Russ. 293; a security given to a compounding creditor by way of illegal performance: *Geere v. Mare* (1863), 33 L.J. Ex. 50, 2 H. & C. 339; a bond given to the holder of a note which had been given for an illegal purpose and indorsed to the holder when overdue: *Amory v. Meryweather* (1824), 2 L.J.O.S.K.B. 111, 2 B. & C. 573.

A guarantee of an illegal debt is illegal and void; but a guarantee of a debt which is merely void and not illegal, as the loan of a company in excess of their borrowing powers, is valid: *Yorkshire Waggon Co. v. MacLure* (1881), 51 L.J.C. 253, 19 Ch.D. 478. See *Re Coltman* (1881), 51 L.J.C. 3, 19 Ch.D. 64.

The effect of illegality is the same, in whatever form the contract is framed, whether in the form of a simple contract or of a contract under seal, or of a bond with an illegal condition: *Co. Lit.* 206b; *Duvergier v. Fellows* (1828), 7 L.J.O.S. C.P. 15, 5 Bing. 248, (1830), 8 L.J.O.S. K.B. 270, 10 B. & C. 826, (1832), 1 Cl. & F. 45, and though the contract is apparently valid in form and matter, extrinsic evidence is always admissible in variance of or in addition to the contract in order to shew that the transaction is illegal and therefore void, even in the case of a covenant or contract under seal: *Collins v. Blantern* (1767), 2 Wils. 341, 1 Sm. L.C. 355. The facts shewing illegality, either by statute or common law, must be pleaded; they cannot be proved under a bare denial of the contract: *Ord. XIX. rr. 15, 20*. See *Willis v. Lovick* (1901), 70 L.J.K.B. 656, [1901] 2 K.B. 195; but where the illegality appears from the plaintiff's own evidence (as in the case of a criminal conspiracy to create a market by fictitious dealings in shares) it is the duty of the Court to take judicial notice of the fact, and to give judgment for the defendant, although the illegality is not raised by the pleadings: *Scott v. Brown*, [1892] 2 Q.B. 724, 61 L.J.Q.B. 738. The Courts will grant discovery in aid of the defence of illegality unless there are special circumstances of exemption: *Benyon v. Nettlefold* (1850), 20 L.J.C. 186, 3 Mac. & G. 94.

Money paid in consideration of an executory contract or purpose which is illegal, upon repudiation of the transaction may be recovered back, as upon a total failure of consideration; but it cannot be reclaimed after the happening of the event: *Taylor v. Bowers* (1876), 46 L.J.Q.B. 39, 1 Q.B.D. 291; *Wilson v. Strugnell* (1881), 7 Q.B.D. 548, 50 L.J.M.C. 145; *Hermann v. Charlesworth* (1905), 74 L.J.K.B. 620, [1905] 2 K.B. 123. Money deposited with a stakeholder upon a wagering contract may be reclaimed and recovered back after the event, at any time before the money