STOCK TRANSACTION BETWEEN BROKER AND CUSTOMER.—The proceeding was against the estate of a bankrupt stock broker, by a customer who claimed £2,323, of which £195 was a balance due by the broker, and £2,128 damages for the non-delivery of 400 Canadian Pacific Railway shares bought by the customer in May and June, 1897. After the purchase of the shares, the customer was not in a position to take them up without borrowing the money, and he did not in fact pay cash on the first day of the account. The shares having largely risen in price, he did, six months later, in December, 1897, demand delivery, which demand was refused, or at least not complied with. It appeared that in the contract between the broker and his customer for the sale and purchase of stocks and shares, was contained provisions, that the price should be one-eighth more if the stock was taken up, or one-eighth less if it was delivered. It was contended on behalf of the bankrupt's estate, that the claim arose out of a gambling transaction and was bad.

Upon an appeal which came before three Judges of the Queen's Bench Division in England, it was held, that the existence of an option for the customer to demand delivery or payment in cash, did not of itself prevent the Court finding, that the contract was really one for the payment of differences only.

And held, that the provisions as to price showed that the contract was for differences only, and that such an agreement was void as being "by way of gaming or wagering" within the meaning of the English Gaming Act of 1845, which enacts that all contracts or agreements, whether by parol or in writing, by way of gaming or wagering, shall be null and void.

In the course of his judgment Lord Justice Vaughan Williams said:—Here, in my judgment, if you look at the whole of this transaction, the proper inference to draw is, that neither of these parties ever contemplated delivery or acceptance of the stock and shares the subject matter of the contract, but both of them intended that the matter should be dealt with as a matter of differences simply, and that there should be no delivery or acceptance. The form of this contract, with this provision at the foot, plus one-eighth if the stock is taken up, or less one-eighth if it is delivered, shows that these parties were minded to have a contract between them which should facilitate that which I believe to have been their sole object, gambilng in differences. When you look at the conditions of the contract, which are endorsed on the contract note, every one of them seems to point in the same direction. The whole form of the transaction is exactly what you would have expected if the parties were minded to gamble in differences, but anxious to put their contract in such a form as to cloak or veil the fact that they were gambling. 47 W. R. 441.