Statute of Frauds, and either of them may sign for the purchaser the memorandum in writing in the same manner as an auctioneer or his clerk.

The entry of defendant's agent as the purchaser is sufficient, if the defendant afterwards acknowledge the agent's authority, as was done in this case.

In this case a person, requested by the bailiff to act as his clerk, noted in pencil on the back of a letter the name of each purchaser, the article sold, and the amount bid; and after the sale was over, but on the same day, the bailiff made out a more extended memorandum, headed "List of goods sold and by whom bought, 17th October, 1866," and containing the article, the purchaser's name and the price. This he signed "D. Howard, bailiff:"

Held, insufficient, for it did not appear who the seller was, or terms of sale, and the second memorandum could not bind, for the bailiff's authority continued only during the sale.

Defendant after the sale wrote to the Deputy Sheriff speaking of the engine, one of the articles claimed for, as being on his lot, which belonged to him, and having been bid in for him by Mr. T. (the agent who had purchased at the sale), and saying that he had heard the Sheriff's fees had not been paid and that he intended to sell again.

Held, insufficient, for it did not shew the terms of sale, and it was not evidence of a delivery to satisfy the Statute, which the other evidence tended strongly to disprove.—*Flintoft* v. *Elmore*, C. P. H. T. 31 Vic., 274.

TENANT TO REPAIR—LESSEE AGAINST LESSOR—CONTINUING COVENANT—MEASURE OF DAMAGES.—In an action by lessor against lessee for breach of a covenant to repair fences, on or before a certain day. *Held*, 1st. That such a covenant is not a continuing covenant, and damages must therefore be assessed once for all. 2nd. The proper measure of damages in such a case is the amount by which the beneficial occupation of the premises during the term is lessened.

Whether the cost of repairing would also be a correct method of estimating the damages must depend upon the circumstances of each case.

Semble, if the cost of repairing would be so large as to be out of proportion to the tenant's interest in the premises, he would not be justified in repairing and treating the costs of such repair as his damages.—*Cole* v. *Buckle*, C. P. H. T. 31 Vic., 286.

ACTION ON BILLS OF EXCHANGE—MORTGAGE AS COLLATERAL SECURITY—MERGER—PLEADING.—To an action on bills of exchange defendant pleaded that E., another party to the bills, had given plaintiffs a mortgage containing a covenant to pay the amount of the bills, and that the remedy on the bills was merged in the higher security.

Held, that the mortgage being expressed to have been given, as "further security," and there being a provision that it should stand as security for any renewal of the bills, the mortgage was collateral and did not merge the remedy on the simple contract.

Held, also, that the remedy on the specialty and on the simple contract, not being *co-extensive* or between the same parties, the doctrine of merger did not apply.—*Gore Bank* v. *McWhirter*, C. P. H. T. 31 Vic., 293.

CARRIAGE OF GOODS—WANT OF NOTICE OF NECESSITY FOR PROMPT DELIVERY—BREACH OF CONTRACT—MEASURE OF DAMAGES.—In an action by plaintiffs against defendants for damages occasioned by non-delivery of a certain article of machinery contracted to be delivered for plaintiffs, it appeared that no notice had been given at the time of the contract to the defendants of the necessity for a prompt delivery of the machinery, nor of the use it was to be put to:

Held, on the authority of *Cory* v. *The Thames Iron Works Co.*, L, R, 3 Q. B. 181, re-affirming *Hadley* v. *Baxendale*, 9 Ex. 341, that the plaintiffs could only recover the value of the missing article, and were not entitled to the loss of profits arising from its non-delivery, or the wages of certain workmen employed upon the building in which the machinery was to be used.—*The Ruthven Woollen Manufacturing Company* v. *The Great Western Railway Company*, C.P.H.T. 41 Vic. 316.

LANDLORD AND TENANT—ASSIGNMENT OF LEASE UNDER SEAL—TAXES—DISTRESS—BEASTS OF THE PLOUGH—ACQUIESCENCE OF TENANT.—The defendant owner in fee, conveyed to E. D. and took back mortgage. E. D. then leased to plaintiff, and afterwards by writing, without deed, assigned lease to defendant. A dispute having arisen whether tenant or landlord should pay taxes, the lease being silent as to this, defendant distrained and plaintiff replevied. The Judge left it to the jury to say whether the plaintiff had attorned to defendant, and they found in the negative. On motion for a new trial, *Held*, that there could be no assignment without deed, and as the question of tenancy was raised by the pleadings, plaintiff must succeed, for he was not tenant by assignment, nor, as the jury had found, by attornment.

Held, also, that the landlord should pay the taxes, as the lease contained no provision as to them; and that as to the issue raised respecting beasts of the plough distrained, the tenant had acquiesced.—*Dove* v. *Dove*, C. P. H. T. 424.