where the defendant resided, at H. in county of W. See cases cited in *Haneman v. Smith*, U. C. L. J. 118-9.

The reason of C. B.'s bidding more than £95 was not entirely explained, except that the two executions amounted to £202, and Sheriff did not feel justified in letting land go at only £95, as there were still other executions in J. C.'s hands without rendering execution on return of goods on hand, &c.; for which reason this judgment was limited however to £10, defendant's offer—not including the costs on the Sheriff's judgment against C. B., which he could have avoided by paying without suit—nor interest on the £10 offered, as it may be fairly presumed that it would have been paid at the time if accepted.

MONTHLY REPERTORY.

COMMON LAW.

Q.B. CORLAN *v.* IRELAND. *Jan.* 11.

Banker crossed cheque—"Bona fides" of taker of crossed cheque.

The crossing of a cheque payable to bearer does not restrain its negotiability; the effect of it, is to throw upon the person who cashes it, the duty of shewing that he took it *bona fide*, and gave consideration for it, but it does not cast upon him the responsibility of enquiring into the title of the holder.

Q.B. JEFFERIES *v.* SOUTH WESTERN RAILWAY. *Jan.* 11.

Trover—Setting up "jus tertii" by the defendant, a wrong-doer, against the party in possession at the time of the conversion.

Where goods are in the order and disposition of a bankrupt at the time of the act of bankruptcy, but after that time come into the owner's possession, the person in possession may maintain trover against another, converting the goods to his own use, relying upon a valid sale of the goods to him, before the act of bankruptcy, and such person cannot by way of defence, set up the title of the assignees under whom he does not claim.

C.P. WHEELER *v.* SCHILIZI. *Nov.* 5.

Contract—Tale quale—"Such as it is."

The defendant agreed to sell to the plaintiff "Calcutta Linseed," "tale quale," the two last words signifying "such as it is." The linseed was found to be mixed with other seeds—but it appeared that "Calcutta linseed" was always mixed with other seed to some extent. On the trial, in an action for breach of warranty for not delivering "Calcutta linseed," the Judge asked the Jury if there was such an adulteration and admixture as to alter the substantive character of the article more in truth than might reasonably have been expected.

Held, no misdirection.

DENTON *v.* THE GREAT NORTHERN RAILWAY COMPANY.

Q.B. *Jan.* 19.

Railway Company—Passenger—Time tables—Contract—False representation—Action.

A railway company are bound except where prevented by some *vis major*, such as a convulsion of nature, by the representations contained in their time-tables, and where they profess that a train will run at a particular time from a station on their line to a station on another company's line, it does not relieve them from liability in respect of failing to carry a passenger the whole distance accordingly, to show that they ran the train to the limit of their own line, and that the detention was entirely owing to the other company having ceased to run a train in connection with it: they knowing at the time at which the tables were continued to be published by them that such other train had ceased running.

EX. BROADBENT *v.* RAMSBOTTOM AND ANOTHER. *Jan.* 12.

Easement—Flowing water—Overflow from a pond—Natural channel.

Water, the occasional overflow of a marsh, pond, or well, which, spreading over the surface without flowing in any channel, or by means of subterraneous courses, not traceable, is not the subject of an easement.

Q.B. DOEL *v.* SHEPPARD. *Jan.* 18.

Factory act, 7 & 8 Vic., ch. 15. s. 21—"Fencing machinery," meaning of.

In an action for an injury sustained by the plaintiff in consequence of the non-fencing of a certain shaft, a plea alleging that the shaft, from its position could cause no danger, and therefore did not require to be fenced.

Held, no answer to the declaration, and therefore bad.

Q.B. SEEDHAM *v.* BAXTER. *Jan.* 19.

Attorney—personal undertaking—Liability.

After issue joined in an action, an agreement was signed by the plaintiff's attornies, the defendant's attornies, and the defendant, which, after providing that the record in the action should be withdrawn, and that certain things should be done by the defendant within a specified time, stipulated that, if these things were not so done by him, his plea should be withdrawn by his attornies, so as to allow judgment to be signed by the plaintiffs.

Held, that the defendant's attornies, who had signed the agreement without professing to sign on his behalf, were personally liable in respect of the plea not having been withdrawn.

WALL *v.* LONDON AND SOUTH-WESTERN RAILWAY COMPANY.

EX. *Jan.* 22.

Practice—Costs—Abortive trial—Jury discharged without costs.

The costs of a writ of trial where the jury are discharged by the judge, without returning a verdict, being unable to agree upon it, do not follow the event.

EX. KINGSFORD AND ANOTHER *v.* MERRY. *Jan.* 23.

Goods—Sale of goods—Fraud—Right to rescind contract—Property—Trover.

When a vendee obtains possession of a chattel with an intention by the vendor to transfer both the property and the possession, although the vendee has made a false and fraudulent representation in order to effect a contract or obtain the property, the property in the goods vests in the vendee until the vendor has done some act to disaffirm the transaction; and the legal consequence is, that if before the disaffirmance