deed was then executed, and that subsequently on the settling day, the defendant paid the plaintiff the money, he, the defendant had lost. The defendant stated in his evidence that the plaintiff agreed to advance the money on condition that he paid the plaintiff his account. The plaintiff in giving his evidence stated that there was no condition or agreement of any kind that he was to receive back any money; but said that he assumed the defendant would pay him on the settling day as all others to whom he had lost; and that when he agreed to lend the money he assumed that it was to pay his debts on the settling day.

The jury were directed that if the money advanced in pursuance of a stipulation or agreement that out of it the plaintiff should be paid money won of the defendant by betting, that would be mere colourable evasion of the statute and they should find for the defendant, but that if there was no such agreement or stipulation, but the plaintiff advanced the money absolutely for the defendant as the lawful owner to dispose of it as he pleased, and the deed was given to secure that loan, then the deed was valid, although the plaintiff expected to be paid out of the money so lent. Upon objection on the part of the defendant that this direction was calculated to mislead the jury to suppose that the deed was valid unless there was some binding agreement; and that they ought to have been told that the "intention and understanding" between the parties was that the plaintiff should be paid out of the loan, the deed was illegal.

The jury found for the plaintiff.

Held, that the direction was right.

EX. C. *Feb.* 8.

PAUL (P. O. OF STUCKEY'S SOMERSETSHIRE BANKING CO.) v. JOEL.

Bill of Exchange—Notice of dishonor.

The holder of a bill of exchange, on the day after it became due, called at the office of J, the drawer, and on being told that he was engaged, wrote on a scrap of paper, and sent in to him the following notice:—"B's acceptance to J, £500 due 12th January is unpaid; payment to R. & Co., is requested before 4 o'clock." The Clerk who took in the notice said "it should be attended to."

Held, affirming the judgment of the Exchequer, a sufficient notice of dishonor.

Q. B. DEAN AND CHAPTER OF BRISTOL v. JONES ET AL EXRS.

Landlord and Tenant—Covenant to repair—Condition precedent.

In a lease for lives of a manor and demesnes the lessee covenanted to repair and keep the premises in all needful and necessary reparations having or taking in and upon the demised premises, competent and sufficient housebote for the doing thereof without committing waste.

Held, that the covenant was an absolute, and not a conditional covenant to repair, with a licence to take timber for housebote.

EX. C. REEVE v. PALMER. *Feb.* 7.

Detinue—Lost deed—Attorney and Client—Negligence of bailee.

Bailee of a chattel is answerable in detinue for its loss by negligence; A, an attorney acting for B, his client, has custody of a deed which is lost by him. No evidence is given of the circumstances of the loss but only the bare fact of the loss before demand.

Held, affirming the judgment of the Common Pleas, first, that the loss is *prima facie* imputable to negligence; and, secondly that the attorney is liable in detinue for the damage occasioned by such loss.

Q. B. SPARK v. HESLOP. *Jan.* 18.

Agreement—Contract to pay costs of action.

The defendant wrote to the plaintiff, "I shall feel obliged by your paying on my account a bill of exchange for £500, accepted by H. and endorsed by me, and I request you to bring an action against H. for the amount of the bill; and I agree to be answerable to you for the payment of the bill, and for all costs, damages, and expenses, which you may sustain by reason of such payment and the trying of the action." The plaintiff paid the bill, sued H., lost the action and paid H.'s costs; but his own costs were not paid, nor was any bill delivered by his attorney.

Held, that the plaintiff might recover the costs which he was liable to pay to his own attorney in the action against H., and that the defendant was primarily liable to pay such costs, and not by way of indemnity.

EX. C. *Feb.* 4.

WAITE v. NORTH EASTERN RAILWAY COMPANY.

Negligence—Child of tender years under charge of adult—Negligence of such adult contributing to accident—Railway Company.

Plaintiff, a child of 5 years of age, was under the charge of its grandmother, who purchased tickets for herself and the child to go from one station to another on defendant's Railway. In crossing the line previous to starting, defendant's train knocked down both the grandmother and child, severely injuring the child and killing the grandmother. There was negligence both in the defendants and in the grandmother.

Held, affirming the judgment of the Court of Queen's Bench, that the plaintiff was identified with the grandmother, so that her negligence was the negligence of the plaintiff, and that the action in his name could not be maintained.

EX. HARDCASTLE v. S. Y. RAILWAY AND RIVER DUN CO.

Nuisance—Highway—Excavation—Action for damage by excavation on land adjoining highway—Obligation to fence.

The owner of land adjoining a highway is not responsible for injury sustained by a person who wanders from the highway upon his land, and then falls into an excavation therein, and which was not in any way fenced from the highway. But he will be responsible if the excavation is so near that a person may fall into it while using the highway.

EX. KEEN v. PRIEST. *Feb* 8.

Distress—Beasts of the plough—Animals which gain the land—Sheep—Exemption—Cattle of stranger—Statute 51, *Hen.* 3, *st.* 4.

The 51 Hen. 3, st. 4, exempting from distress for rent animals which gain the land and sheep, where there are other goods on the premises sufficient to satisfy the distress, applies although such animals or sheep be not the property of the tenant, and the land is in the occupation of a sub-tenant.

Sheep were seized as a distress for rent, while there were upon the land a cart-colt, heifers and steers.

Held, that these were not animals that gained the land, and the seizure of the sheep was therefore unlawful; and that the measure of damages in an action for seizing the sheep in contravention of the statute was the value of the sheep.

EX. ASHTON v. DAKIN. *Jan.* 28.

Gaming and wagering—Purchase and sale as shares—Statute 8 & 9 Vic., c. 109, s. 18.

The plaintiff, a stockbroker at B. was employed by the defendant to purchase on his behalf shares in Railway Companies, with a view to sell them before the settling day on the stock exchange. The plaintiff employed K. a stockbroker in London, to buy the shares, and he having purchased them by the orders of the defendant through the plaintiff, sold them before the settling day. By the custom of the Stock Exchange, K. was responsible as the purchaser; he did not, however, pay money on the purchase and transfer of the shares, but was debited by the selling brokers with the amount, he having open accounts with them, and on the settling day the accounts were closed, and the balance ascertained.

Held, that as shares were really bought and sold, the transaction was not by way of gaming and wagering, and that the plaintiff was entitled to recover his commission, and the amount of losses on the sale of the shares.