

## HUNTINGDON COUNTY COURT.

[Before E. BEALES, Esq., Judge.]

THE monthly sitting of this Court took place on Tuesday. The following cases of interest came before his Honour :—

## BECK V. FYSON.

The plaintiff, James Beck, formerly a publican at Woodhurst, claimed £50 of the defendant, a farmer of the same place, for ejecting him from his house, and damaging his furniture, causing him to be put to great expense in consequence of the illness of his wife, who, at the time, was near her confinement.

Mr. J. W. COOPER appeared for the plaintiff ; Mr. COCKERELL for the defendant.

Mr. COOPER, in stating the plaintiff's case, narrated the following facts : It appeared that the defendant in the present action brought an action of ejectment against the present plaintiff in the Huntingdon County Court, which was settled upon terms. By those terms, which were reduced to writing, it was stipulated that within two months of the date of the agreement the plaintiff Beck should give up possession of the premises, unless the landlord, Sir Henry Pelly, should signify his willingness that he should continue to occupy, and in default the plaintiff should be turned out in the same manner as if a writ of possession had been placed in the hands of the sheriff. On the 30th of May the present defendant demanded possession, but it was refused on the ground that he had not shown that Sir Henry Pelly wished it ; however, he sent, on the 2nd of June, several persons to take possession by force—Mr. Rose (a Dissenting minister), a police-constable, and his son (Samuel Fyson). Upon the 30th of May and upon the 2nd of June the defendant was informed that the wife of the plaintiff was near her confinement, and was shown a certificate from a surgeon to the effect that her removal would be attended with great danger. However, the defendant and his agents removed the furniture, despite the protestations of the plaintiff, locked his wife up in a room, and at 10 at night turned her out. The excitement caused her considerable injury ; and it was, upon these facts, that the plaintiff sought to recover.

Mr. COCKERELL put in the agreement, which, he contended, in express terms indemnified the defendant, and gave him leave and licence to commit the acts complained of.

His HONOUR, after perusing the document, said it appeared to him that it put the plaintiff out of court.

Mr. COOPER contended that not being under seal, it was invalid, as it conveyed an interest in the premises.

His HONOUR decided against the objection.

Mr. COOPER further contended that it was incumbent upon the defendant to prove that Sir Henry Pelly was unwilling that the plaintiff should retain possession.

His HONOUR thought the *onus probandi* of that rested on the plaintiff.

Mr. COOPER relied strongly upon the excess. No doubt after his Honour's ruling upon the other points, the question would resolve itself into that, whether the defendant had not exceeded his lease and license. Turning his wife out under the peculiar circumstances was such an excess as to enable the plaintiff to recover.

His HONOUR ruled that in his opinion, as no personal violence had been used, and as the only case rested upon the locking the plaintiff's wife up in a room for a short time, it was not such an excess as he could visit with damage.

Mr. COOPER said after such expressions of opinion, he could not contest the case further, and submitted to be non-suited.

Mr. COCKERELL applied for costs, which his HONOUR granted, but deprecated asking for costs of defendant's witnesses.