LANGLEY VS. BARKMAN.

An appeal will not lie from an order of a justice of the peace, under
sec. 26, chap. 66, Gould's Dig., in reference to estrays.

Appeal from Clark Circuit Court.

Hon LEN B. GREEN, Circuit Judge.

GARLAND & RANDOLPH, for Langley.

FLANAGIN, contra.

Mr. Justice FAIRCHILD delivered the opinion of the court.

Barkman took up a stray colt which Langley claimed, and he
established his claim to the satisfaction of a justice of the peace,
under *section* 25, *chap.* 66, *Gould's Dig.;* and the justice made
the order provided for in the 26th *section,* requiring Barkman
to give the colt up to Langley, upon his paying all legal costs,
and "all further costs" Barkman was ordered to pay. Bark-
man appealed to the circuit court. That court refused to take
jurisdiction of the ownership of the colt, but tried the other
branch of the case, and adjudged Langley to pay four dollars
and twenty cents to Barkman for keeping the colt. With this
Langley was dissatisfied, and appealed to this court; while Bark-
man prosecutes his appeal because the circuit court would not try
the right of the colt. Langley moved, in the circuit court, to
dismiss the appeal because the court had no jurisdiction of the
subject matter of the controversy, which the court over-
ruled.

. The court should have sustained the motion. The proceed-

ing before the Justice was not appealable. The only object of the statute is to enable the taker up of a stray animal to restore it to its owner, and obtain indemnity against the bond given to the county—the right of the animal is not determined; the taker up may refuse to obey the order of the justice, if he will, and expose himself to an action of detinue or trover, in which the right of property may be tried, (*section 29 of Statute*,) or to replevin. *Davis vs. Culbert,* 17 *Ark.* 85; *Phelan vs. Bonham,* 4 *Eng.* 389.

The circuit court had no jurisdiction of either branch of the case, and its judgment is reversed, with direction to dismiss the case, for want of jurisdiction.