

Chancellor Turner in succession, and there can be little question that his eminence came to him principally from his skill in bankruptcy law. But Mr. Bacon's practice was not confined to bankruptcy, and it is a peculiar fact, noted by a contemporary, that the commissionership given to him by Lord Cairns was in all probability given in grateful acknowledgement of the skill which the eminent bankruptcy lawyer had shown in arguing against Sir Hugh Cairns in the famous Windham Lunacy case.

The present generation, however, has most justifiably forgotten Mr. Bacon as an advocate; but of the chief judge and the vice-chancellor it has familiar experience. There has certainly been no judge of the present generation of whom more pleasant and characteristic anecdotes have been told. His alleged habit of garnishing his note-book so plentifully with illustrations that nothing but illustrations remained to be seen; his quickness of repartee; his impatience of awkwardness in manner, speech or expression; his habit of offering personal criticisms, have all become almost proverbial. More substantial memories remain of the sterling qualities of Vice-Chancellor Bacon. He had the rare merit of being able to take a clear and decided view of every case which was brought before him. His confidence was often misplaced, and it was his misfortune to be frequently reversed by the Court of Appeal; but it was always possible to have a clear view of the state of mind which urged him to pronounce a certain decision. There was, in his judgment, no tendency to loiter round the outskirts of the case, no hesitation lest a dangerous precedent should be established, no ultra superstitious veneration for authorities. He had, on the other hand, a high opinion of the virtue of brevity. Here, for example, is the whole of his judgment *in re* Earl De la Ware's Estate: "In asking my opinion you could not do otherwise than state the provisions of the statute. The answers will be in the affirmative." Curiously enough, it often happened that the cases upon which he felt most confident were those in which his decision was reversed. Thus in *ex parte* Merchant Banking Company of London, heard in Feb., 1881, Vice-Chancellor Bacon, sitting as chief judge said: "The court can protect its own proceedings, and see that nothing fraudulent is done; but it has no authority to say to forty out of forty-two men that they have taken an erroneous view of their interests, and that they are not at liberty to take 10s. in the pound because 10s. 2d. can be got for them.

"There is no principle, reason or authority suggested why the unquestionable power of the majority to decide upon what is best for their interests should be over-ruled by the court," etc. No words could be plainer, no conviction could be more clearly expressed; yet that the decision was wrong is obvious

from Sec. 28 of the Bankruptcy Act, 1869, and from the words of Sir G. Jessel uttered upon the hearing of an appeal—"On general principles, unless there is some decision to the contrary, I should say that this section means what it says." This is but a typical case, chosen quite at haphazard from the volume of Law Reports which happened to be nearest at hand; but it goes without saying that the task would be, indeed, long of him who should undertake to collect the results of all appeals from judgments by the last of the vice-chancellors. In such a collection, the list of reversals would undoubtedly be large. Of this we think we see the reason and the origin. We believe that Vice-Chancellor Bacon was at least equal to the majority of his colleagues on the bench in knowledge of law; we believe, on the other hand, that in shrewd common sense, and in mastery of facts, he was equalled by hardly any judge of the century, except the late Master of the Rolls.

If anything, however, Sir James Bacon relied too implicitly upon his common sense, and erred in a desire to do justice at all costs. We believe that a certain tendency to make little of authorities arose from long experience of the Bankruptcy Court. There, as we know, no argument is considered complete, unless it is supported by an army of authorities, and there is a disposition to take advantage of every conceivable technicality. Cases are habitually quoted in a manner more or less irrelevant, and it becomes, if we may so speak, the duty of the judge to find a way through the authorities to justice, and to trample technical objections under foot. He becomes familiar with what somebody—we think it was Sir G. Jessel—called the hair-splitting arguments over the Bills of Sale Act, and in the end, he is apt to take a straight course toward the judgment which seems to him to be honest. This we believe to have been the chief source of Sir James Bacon's errors. Of his merits we can not speak too highly. Of sensible argument he was patient to a marvel, and if his humor was somewhat bitter on occasions, his disposition was, on the whole, kindly. The cessation of his judgments will cause a lamentable gap in the Law Reports. No judge on either side has shown such a capacity for elegant expression and clear language; none has made more valuable contributions to the literary value of the Law Reports. Sir James Bacon, in fact, was a link between the old order of judges and the new—the last member of an order of which he saw the beginning and the end. His successor will doubtless do his duty to the public satisfaction; but the vice-chancellor has a place in the affections of the profession which can hardly be filled by any other man. In the well-earned retirement of his latter years we wish him that rest and enjoyment which long and arduous public services deserve.