The leading case upon the subject is Allen v. Hearn, 1 T.R. 56. . . .

The reasons thus set out are none the less, but indeed may be the more, applicable in a case such as this, in which the bet is not upon the result in one constituency, but in all.

So far as I am aware, there has never been any judgment in the Courts of England or of this Province in conflict with the case of Allen v. Hearn.

Mr. Smith's contention that the bet is enforceable because legislation in this Province lagged long behind Imperial legislation, in making bets generally unenforceable, so that, at the times when the bet in question was made and won, such Imperial legislation had not been adopted in this Province: see 2 Geo. V. ch. 56(O.), and R.S.O., vol. 3, ch. 329; is beside the mark. The want of legislation here making all betting invalid, at the times mentioned, had not the effect of making good that which at common law was bad. The bet in question is not enforceable, quite apart from any legislation on the subject.

It is, therefore, not necessary to consider whether the bet would be void at law under the provisions of sec. 279 of ch. 6, R.S.C. 1906; or unenforceable under 2 Geo. V. ch. 56, because this action was not brought until after that enactment came into force.

My conclusion is, that the plaintiff cannot recover, in the Courts of this Province, upon a claim which he now admits is for the amount of a bet made and won in this Province on the result of a parliamentary election in this Dominion; and so the action will be dismissed, but without costs. The motion as made would not have succeeded to that extent; at the most the plaintiff would have been required to state his case plainly or have his pleading struck out, which relief might have been had on a Chambers motion under Con. Rule 298; and there are other reasons why my discretion on the question of costs should be exercised as I have exercised it.