

A LEGAL DECISION OF INTEREST.

Reported for PRINTER & PUBLISHER by Mr. Peers Davidson,
of the Montreal bar.

AN instance of newspaper prize competition, for the purpose of increasing circulation, proving somewhat disastrous to the paper in question, lately came before the Court of Appeals in England. The defendant was the proprietor of a weekly newspaper called 'The Rocket', and, in the issue of the paper of November 13, 1897, he published the following offer:

"A thousand pounds for you" A fortune easily won. Your golden chance in life has come to win a fortune easily, without working for it. Any man, woman or child may win a prize of £1,000, herewith offered to the readers of 'The Rocket'. You have only to answer a simple question, in accordance with the following conditions, to win this fortune. Conditions—According to the Registrar General's returns, the number of births and the number of deaths in London, during the week ending December 12, 1896, were as follows. Births (males), 1,342, (females) 1,213, deaths, 1,539. A prize of £1,000 is offered for a correct prediction of the numbers of male and female births, and the number of deaths, in London, during the week ending December 11, 1897. All that competitors are asked to do is to fill in the following voucher, paste it on a sheet of paper, and send it with a coupon cut from the front page of 'The Rocket', in accordance with the instructions below. Here is the voucher, and no other will serve for the competition. 'I say that the number of births and the number of deaths in London, during the week ending December 11, 1897, as disclosed by the Registrar-General's returns, will be. Births (male)....; births (female)....; deaths.... Name..... Address..... Date.....' Fill in the number of births (male and female) and deaths you predict in the spaces left blank for that purpose. Write your name, address and date in the spaces marked for these, and send your voucher to the office of 'The Rocket', 26 Southampton street, Strand, W.C. N.B.—The envelopes containing the vouchers should be inscribed "£1,000" on the top left-hand corner, and must reach the office of 'The Rocket' not later than the first post on Friday, December 10. Competitors are not limited to one prediction, but each prediction must be written on one of the above vouchers cut from a current issue, and a coupon cut from the front page of 'The Rocket'. Should more than one correct prediction of both births (male and female) and deaths be received, the money will be divided."

Plaintiff duly fulfilled all the conditions of the offer, and, being unable to obtain payment of the money, brought an action to recover it. The jury found a verdict for £1,000 for the plaintiff, but Mr. Justice Lawrance held that the competition, being more a matter of chance than of skill, was a lottery, and, upon that ground, ordered judgment to be entered for the defendant.

Lord Justice Smith, in rendering the judgment of the Court of Appeal, said:

"We have not had the advantage of hearing the point argued upon the side of the defendant, but I am clearly of opinion that this competition did not constitute a lottery. The selection of the numbers for which, if correct, a prize is offered did not depend on mere chance. It depended largely upon chance,

but not entirely, and the cases show that to constitute a lottery it must be a matter depending entirely upon chance. Here an element of statistical inquiry entered into the competition. The offer of the prize was for a correct prediction of the numbers of male and female births, and of the deaths in London, as disclosed by the Registrar-General's returns, during a particular week in 1897. The newspaper which makes the offer itself sets out the number of these births and deaths, according to the Registrar-General's returns, for the corresponding week of the year 1896. This is clearly intended as a starting point from which a calculation is to be made. The inquiry depends on a study of the previous returns, the rate of the increase of the population, the death rate, and similar statistical investigations. It is, therefore, not wholly a matter of chance, but contains an element of statistical research. It seems to me that the competition is similar to the competitions in *Caminada v. Hulton*, and *Stoddart v. Sugar*, and that those cases were rightly decided. In *Caminada v. Hulton*, Mr. Justice Day and Mr. Justice Lawrance held that the offer of a prize to any purchaser of a book who filled up a coupon contained with the names of six, five, or four of the winning horses in six selected future races was not a proposal and scheme for the sale of chances in a lottery within Section 41 of the Lottery Act, 1823, upon the ground, as I understand, that the skilled knowledge of the competitor for the prize was an ingredient in the matter. In *Stoddart v. Sugar*, Baron Pollock and Mr. Justice Wright came to a similar conclusion. In my judgment these decisions should be approved. I feel some difficulty in understanding in what way Mr. Justice Lawrance reconciled his decision in the present case with that given by him in *Caminada v. Hulton*. The result is that the appeal must be allowed. *Hall v. Cox*, 68, L.J., Q.B.D., p. 167.

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