

DATES CLAIMED FOR 1879.

CANADIAN.

Hamilton..... July 1 to 8
Dundas May 24

ICE RACES.

Campbellford Feb. 5 to 6
St. Catharines..... Feb. 5 to 6
Brockville Feb. 7 to 10
Prescott Feb. 11 to 13
Morrisburg Feb. 12 to 18
Caledonia Feb. 12 to 18
Ottawa Feb. 18 to 21
Bradford Feb. 27 to 28
Bell Ewart March 1 to 1
Barrie March 1 to 1
Orillia March 1 to 1

ENTRIES CLOSE.

St. Catharines..... Feb. 8
Caledonia..... Feb. 11
Prescott Feb. 8

AMERICAN.

TROTTING.

Milwaukee, Wis..... June 2 to 6
Chicago, Ill..... July 15 to 19
Cleveland, O..... July 29 to Aug. 1
Buffalo, N. Y..... Aug. 5 to 8
Rochester, N. Y..... Aug. 5 to 8
Cleveland, O..... Sept. 9 to 12

RUNNING.

Savannah, Ga..... Jan. 21 to 25
Charleston, S. C..... Feb. 5 to 8

NEWSPAPER DECISIONS.

1. Any person or persons who takes a paper regularly from a Post Office, whether directed in his name or another's, or whether he has subscribed or not, is responsible for payment.

2. If a person orders his paper discontinued, he must pay all arrears, or the publisher may continue to send it until payment is made, and then collect the whole amount, whether the paper is taken from the office or not.

3. The Courts have decided, that refusing to take newspapers or periodicals from the Post Office, or removing and leaving them uncalled for, is *prima facie* evidence of intentional fraud.

TO OUR SUBSCRIBERS.

During this and subsequent weeks we will issue a call upon our patrons whose subscriptions are unpaid. The major portion are now long over due for the present year, while many are uncredited on our books for periods of time varying from two to four years. We look for prompt payment in every instance on this appeal. There is no doubt of the amounts being due, and there is if anything less uncertainty that we can use the thousands of dollars which are spread over the country in small amounts to a better advantage, both personally and to the interests of our patrons, if we could control them in a lump sum. We are tired of hearing frivolous excuses to our requests, and have determined to place all unpaid subscription accounts in the hands of our legal collector for immediate suit.

which deliberately robs the winner of the race of \$240. Could the essence of meanness be better personified. They accepted the entry money, insisted upon it accompanying the nomination, and then protect themselves behind the shield of the law from paying what the judges of the race had decided had been honestly won. We have no disposition to enlarge on this striking example of bad faith, only to remark that our warning had good foundation, and hoping that no other Association in Canada will show itself contemptible enough to take advantage of the law in the same manner as the Hamilton one has so recently done.

In connection with this matter it is but due to state that R. R. Wadell, Esq., the present proprietor of the track was in no way connected with the old Association, and is not responsible for their unportsmanlike conduct in this case. At the same time it may be as well to state we have understood that Mr. Bearman, the defendant in this action, was perfectly willing to adjust his share of the claim, but his private feelings were controlled by the other members of the Association. He was simply made the defendant on account of his official position in the Association.

The following is the judgment:—

WILSON VS. BEARMAN.

The plaintiff sued for \$240, run for and won, as he alleged, by his horse Tempest, on the 28th June, 1876, in a race for \$350 over the track of the Hamilton Riding and Driving Park, open to all horses who had never trotted in 2:37 in public, payable \$240 thereof to the first horse, \$75 thereof to the second horse, and \$35 thereof to the third horse. The defence to this was that (as defendants alleged) the race was illegal by the statutes, particularly statute 13, George II., ch. 19, and 18, George II., ch. 34, sub. 11, because what plaintiff's horse so ran for and won was not equivalent to the £50 English mentioned in those statutes. The law points were argued by Thomas Robertson, Q.C., for plaintiff, and by Richard Martin, Q.C., for the defendants, and the judgment of the Court thereon was in the following words:

I think it too late in the day to argue that the statutes upon which the plea demurred to is founded were not introduced as part of our legal system under the Statute of Upper Canada, known as 32 George III. chap. 1. It is too well settled and established by a perfectly consistent current of authority, that the English statutes referred to form a part of our jurisprudence. See *Sheldon vs. Law*, 3 O. S. 85; *Fulton vs. James*, 5 C. P. 182; *Croyn vs. Widder et al.*, 16 U. C. R. 356; *Corby vs. McDaniel et al.*, 16 U. C. R. 378, and especially at page 379 per Robinson C. J. I, at least, am not going to be so bold as to question it at this late day, after being recognized as law in this province for upwards of forty years. The difficulty which Mr. Robertson suggests in carrying out some of the provisions of one of the Statutes of a criminal character can not prevent the operation of those parts having reference to the question to be here decided. The next point that arises in this case is whether or not if the prize purse, or sum of money, is less than fifty pounds sterling, as the plea here charges that it was, the race was a lawful one. That question has not, so far as I have been able to discover, ever come up for judicial determination in this province. In the case of *Sheldon vs. Law*, 3 O. S., Sherwood J., at page 88, speaks of the whole amount put up on both sides as having "exceeded £50 sterling." In *Wilson vs. Catten, Draper, C. J.*, says at page 479 of 7 C. P., that the Statutes in question "would require the race to be for £50 Sterling, money of Great Britain, which £50 currency certainly is not." In *Fulton vs. James*, 5 C. P. 182, the stakes were £50 currency or \$240, a side in all \$400. The plaintiff contended, the race was illegal, and that he had a right to recover his stake from the stake holder. After notice not to pay it over, the Court held, the match legal, though it was a trotting race, on the ice of Burlington Bay. Ever since the case of *Bidmead vs. Gale*, 4 Burr., 2432, it has been understood, as well as established that the stakes on both sides may be added together to make up the £50

was raised; but, after a careful search for authority, this is the only case I have been able to discover. The stake in the pleadings mentioned is in dollars, and if at the trial the defendants can show that \$240 do not represent £50 sterling then their plea will be proved. A contract by which one of the parties to it was to receive £50 sterling on the happening of a certain event could undoubtedly be satisfied by payment in this province of its equivalent in our money. In my opinion, the same amount of our money to satisfy the provisions of the Statutes in question would be required as to satisfy the case just put. I do not think the plaintiff's case can be put on any higher ground, and consequently the pleas demurred to are not open to this objection.

There remains the further question that the total stakes run for and won by the horses awarded first, second and third places in the race, amounted to more than £50 sterling. So far as the plaintiff's horse was concerned, as appears by the offer of prizes to be run for as shown by the declaration, I think it could not be said that he was running for more than \$240. That is all that he could by any possibility win. There were, in fact, three prizes run for, none of which was equal to £50 sterling; and I think it would be a perversion of the plain meaning of the statutes to add these three together for the purpose of legalizing the race, when by its very conditions such total sum could not be awarded to the owner of any horse in the race. I therefore think that the pleas of each defendant demurred to is a good answer in law to the declaration.

I have given my opinion more fully than the strict line of pleading required me to do, but the Counsel wished an expression of opinion broadly on the questions of law presented by the declaration as well as the pleas, and with a view of saving further litigation if my opinion is acquiesced in, I have done so.

I have consulted the following additional authorities:—

Challand vs. Bray, 1 Dowling N. S. 790; *Evans vs. Pratt*, 1 Dowling N. S. 505; *Combes vs. Dibble*, L. R. 1 Exch. 248. *Hampden vs. Walsh*, 1 O. B. D. 189; *Diggle vs. Higges*, 2 Exch. D. 422; *Batterby vs. Odell*, 23 U. C. R. 482; *Bank of Toronto vs. McDougall*, 28 C. P. 345.

Judgment for defendants on demurrer.

AN IMPORTANT ORDER.

A cable telegram, of date of January 29, informs us that the Imperial Government have issued an order-in-council prohibiting the importation of American cattle into the British Islands. This edict was rendered necessary in consequence of the arrival at Liverpool of a cargo of cattle infected with incipient pleuro-pneumonia from America. Although we have no further advices in the matter, it is altogether probable that the shipment in question was made from some U. S. port. There is not or has there been any indication of disease in our Canadian herds, and if the above order has been enforced respecting shipments from the Dominion, it will operate very prejudicially to the development of a trade that promised to be more than unusually beneficial to all parties engaged in it.

A PROPOSED \$100,000 MATCH.

The New York Spirit of the Times last week contained a notification to the effect that the editor of that journal was authorized by a gentleman to make a match for \$50,000 a side, half forfeit on the following condition:—He proposes to trot a pair of his horses now (Jan. 22, 1879) driven together on the road, against any pair in the United States filling same conditions, a race of mile heats, best three in five, to wagon, over a mile track belonging to National Association, not more than 150 miles from New York City, to be named by him at least thirty days before the race, which shall occur on Saturday, June 14, 1879, good day and track, if

question is beyond a doubt, and the adoption of his flat-bat theory would further tend to popularize the game. The opposition to the innovation so far has been very slight, and the probabilities are that by next year his proposition will be embodied in the playing rules of the game.

KRIK'S GUIDE.

Mr. Crickmore, the compiler of this useful and essential work, informs us that the edition for 1879 is in a forward state of preparation and will be issued about the middle of next month. To any one acquainted with the Guide it will not be necessary to speak of the time, labor, or trouble required in its preparation, or the experience necessary on the part of its editor. The forthcoming volume of the Guide will commend itself to Canadians as it will not only contain the records of all our Canadian racing, but will embody within its cover all races in the States in which Canadian horses have taken part. The sale of this class of a book of reference is necessarily limited, and it is but meet that Dominion horsemen should subscribe largely to recompense the compiler for the expenditure of his time and ability in getting up such a complete work.

Sporting Gossip.

The horse trade in Montreal is looking up, owing to the demand for shipment to the States. About 100 horses were sent across the lines last week at an average value of \$70. Several car loads were also shipped to Manitoba.

A London correspondent of an American paper says the Prince of Wales is enamored with the game of poker, but suggestively adds that he plays that pleasing game with more enthusiasm than success.

The Morrisburg winter races will come off on the canal on Feb. 12 and 18. It is expected that \$500 will be given in prizes for the different classes.

Games of chance would not be so awful naughty if a man could win every time.

Dr. Bergin, M. P., of Cornwall, owner of the trotting stallions Ringwood and Midway, and proprietor of the Stormont Stock Farm, recently delivered an address before the St. Patrick's Society of Montreal, upon Education. His address was a marked success.

The "Church of the Eight Spot of Diamonds" is found in Denver, Col. The wicked gave it this name, on account of the resemblance of its fancy-colored slate-roof to the card designated.

Mr. Joseph Duggan, proprietor of Woodbine Race Course, Toronto, this week purchased from Mr. H. Stanford, the well-known book-maker of New York, the five-year-old thoroughbred stallion St. James, by Lexington, dam Banner by imported Albion. The sale was negotiated through this office. We congratulate Mr. Duggan on the possession of such a fine horse as St. James, and when he arrives at his new home we will be pleased to give a more extended notice of him and his performances.

Already the English prophets have got to work, and the Sporting Life boldly plumps for Peter for the Two Thousand Guineas, with Rayon d'Or and Ruperra for places.

foaled in 1870, big boned and just the class of stock horse wanted in this country to cross on cold blooded and half-bred mares. The price will make it an object for any one wanting such a horse to buy him.

Mr. L. H. Daniels, of Prescott, has purchased the trotting horse Wallace. He won a five-mile trot at Montreal some years ago.

Mr. Richard Ten Broeck, the veteran sportsman, has taken up his residence in England. It has been recently given out that he contemplates disposing of all the turf prizes, whips, cups, bowls, and plates won by him during his career on the turf.

Queen's plates are commencing to show up in different parts of the country. Mr. John Forbes, of Woodstock, has a youngster by Judge Curtis, out of Bonnie Brae, that, he thinks, will not be last in the race.

Mr. Alex. Cameron, of this city, last week purchased from Mr. N. McConnell, coal merchant, a fine bright bay carriage team for \$700.

An ice track has been laid out on the river at Prescott, in front of Mr. J. P. Wiser's distillery.

They raffle colts in Ridgetown, Ont., for Church purposes.

It has been rumored that Mr. James Gordon Bennett recently purchased three horses of Lord Roseberry, at the price of \$80,000. It is asserted that the trio are intended as a nucleus for an extensive racing stable in the States.

A western correspondent says:—Parkhill boasts of the fastest trotter in the Dominion. Like Sir John, he is a rum one to look at but a rare one to go. He has some additional attractions in the shape of founder and broken knees. He is for the present the glory and the admiration of the Parkhill world.

Mr. Geo. Hogaboom, joint owner of Russian Spy, we are pleased to learn, is getting some better. He is able to set up for a few hours each day and his appetite is good. His complete recovery is now only a matter of time.

There are quite a lot of trotters working at Bradford. Among the more prominent ones are Russian Spy, Lucy, Hamilton, Valentine, Erin Chief, and Bonesetter (not the original). The ice is kept in good condition and horsemen are invited to use it.

Ice races will be held at St. Catharines Feb. 5 and 6; Caledonia, 11 and 12; Bradford, 27 and 28. Bell Ewart, Barrie, and Orillia will follow Bradford in succeeding weeks.

Mr. T. H. Darling shipped from Cayuga a few days ago a car load of heavy draught horses, weighing from 18 to 16 cwt., for the Buffalo market. He also shipped a splendid lot of coaches and drivers last week.

At a recent meeting of the South Grenville Agricultural Society, Mr. J. P. Wiser, of Prescott, was elected one of the directors.

An ice track has been made on the river at Montreal, and the Gazette says some lively speeding of the crack nags in the city may be witnessed any afternoon.

Mr. J. H. O'Neil, of Cobourg, is in Ottawa buying horses for the Boston market. He shipped two car loads from Montreal last Saturday. They were a fine lot and averaged him \$110.