

DIARY FOR DECEMBER.

2. Sun.....1st Sunday in Advent.
 4. Tues....General Sessions and C.C. sittings for trials in York.
 6. Thur....Chancery Division H.C.J. sits.
 8. Sat.....Sir W. Campbell, 6th C.J. of Q.B., 1825. L. S. Michaelmas term and H.C.J. sittings end.
 9. Sun.....2nd Sunday in Advent.
 11. Tues....General Sessions and Co. Ct. sittings for trials, except in York.
 16. Sun.....3rd Sunday in Advent.
 21. Fri.....Shortest day. St. Thomas.
 23. Sun.....4th Sunday in Advent.
 24. Mon.....Christmas vacation begins.
 25. Tues....Christmas day. Sir M. Hale died, 1676, æt. 67.
 26. Wed....St. Stephen.
 27. Thur....J. F. Spragge, 3rd Chan., 1869.
 30. Sun.....1st Sunday after Christmas. Holt, C.J., born, 1642.

Reports.

THIRD DIVISION COURT OF THE
COUNTY OF ONTARIO.

[Reported for the CANADA LAW JOURNAL.]

RAY v. ADAMS *et al.*

Horse-race—Statutes 13 Geo. II. c. 19, and 18 Geo. II. c. 34—Division of purse—Construction of racing rules.

The statutes of Geo. II. affecting horse-racing are in force in this country, and, therefore, a race for a purse of \$200, divided into \$120, \$50 and \$30, for first, second and third horses is illegal, and the purses cannot be sued for.

Where there is a discrepancy as to the conditions of a race between the newspaper advertisement and the bill-posters, the former should govern. But, assuming that the race was legal, the plaintiff having clear notice before he entered his horse of the conditions under which it would be run, and having failed to follow up his protest before the tribunal appointed by the Rules of the Canadian Turf Association to consider such protests, he was not entitled to recover.

[DARTNELL, J.J.—Whitby.]

This was an action brought to recover the sum of \$30, under the following circumstances:

A self-constituted committee, of which the defendants Meharry and Gordon were members, arranged for a summer race meeting in Port Perry last July; stated to be "under the auspices of the Ontario Central Agricultural and Driving Park Association," of which the defendants, Adams and Christie, were officers, and whose names, as such officers, were appended without their knowledge or assent to the advertisements of the event. They did not take any part in the conduct of the race, and

were present only as spectators. One of the events for competition was a trotting race for a purse of \$200, divided into \$120, \$50 and \$30, for first, second and third horses respectively. According to the advertisement, drawn up by one McKay, with the knowledge and approbation of the other members of the committee, except Adams and Christie, this race was to be open to all trotting horses who had not beaten 2.40 before the first of June; in other respects the Rules of the Canadian Turf Association were expressed as governing. By these rules, if no date of qualification is published, the last day for entry would be the date of such qualification; in this instance being 30th June. Subsequently a draft from the advertisement from memory was made by McKay, and bill-posters, intended to be a duplicate of the advertisement, were prepared and distributed as advertisements or posters. In the last no mention was made of the 1st of June as the time for qualification. This was stated to have been an inadvertent omission, as the first advertisement was what was intended should fix the date. It was stated on oath that the earlier date was fixed for the purpose of inducing owners at a distance to enter their horses. This advertisement was inserted in the *Canadian Sporting Times*, which, it is stated, is regarded as the official organ of the Turf Association, and has a large circulation throughout the Dominion and elsewhere. This was seen in Montreal by one Winch, who thereupon entered his horse, as he states, upon the faith of the conditions, and without even having seen, up to the day of the race, the printed posters.

The plaintiff admitted that he had seen the advertisement in the *Canadian Sportsman*, and also the posters, before he made his entry; and, for the defence, it was sworn to that, before making his entry and paying his entry fees, he was told that the race would be trotted under the rules in the advertisement in the *Times*, and not those in the posters. As he was not called to deny this, it must be taken as proved that he entered and started his horse with that knowledge.

Before the horses started, a written protest was handed in to the judges on behalf of one Sebert, who also had a horse entered, claiming that Winch's horse was disqualified, as having made 2.37½ on the 19th of June, at