

ACCIDENT INSURANCE—FOSS AND HIS "BIOGRAPHIA JURIDICA."

which takes place without any intelligent or apparent cause, without design, and out of course. * "Some violence, casualty, or *vis major* is necessarily involved" in the term accident.† It means, in short, in the insurance policies, an injury which happens, by reason of some violence, casualty, or *vis major* to the assured, without his design or consent or voluntary co-operation. "Violent and accidental" are equivalent in meaning to "accidental violence,"‡ and every injury caused by accident, save those specially excepted by the policy, is covered by it.§ A full discussion of what an accident is, will be found in *Schneider v. Prov. Life. Ins. Co.*, 24 Wis. 28.

SELECTIONS.

FOSS AND HIS "BIOGRAPHIA JURIDICA."

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Sir John Maynard, of whom much has been said, for and against, used to call the law 'ars bablativa,' and—

"Delighted so much in his profession that he always carried one of the Year Books in his coach for his diversion, saying that it was as good to him as a comedy. His passion for law ruled him to such a degree that he left a will purposely worded so as to cause litigation, in order that sundry questions, which had been 'moot points' in his lifetime, might be settled for the benefit of posterity. Judge Jeffreys is said to have availed himself of the serjeant's legal knowledge; but one day, when Maynard was arguing against judicial dictum, the coarse judge told him that 'he had grown so old as to forget his law.' 'Tis true, Sir George,' he retorted, 'I have forgotten more law than ever you knew.'"

Lord Thurlow used to say that Lord Mansfield was—

'A surprising man; ninety-nine times out of a hundred he was right in his opinions and decisions; and when once in a hundred times he was wrong, ninety-nine men out of a hundred would not discover it. He was a wonderful man.'

* *Mallory v. Travellers' Ins. Co.*, 47. N. Y. 52.

† *Cockburn, C. J. in Sinclair v. Maritime Passengers' Ass. Co.*, 3 El. & E. 478.

‡ *Ripley v. Railway Passengers' Assurance Co.*, ut supra.

§ *Pro. Life Ins. & Inv. Co. v. Martin*, ut supra.

The law's delays were much more general in former times than at the present day, and little effort was made to fetch up arrears. During the chancellorship of Lord Eldon the business of the Court of Chancery progressed but slowly, notwithstanding that on the one hand the proverbial dilatoriness, hesitation, and dubitation, displayed by his lordship in decisions was more than counterbalanced by the expeditiousness of his colleague, Vice-Chancellor Sir John Leach, who was notorious for the swiftness with which he disposed of the business which came before him. A line might well have been drawn between the two extremes. The rapid disposal of cases by the latter, owing to his extraordinary confidence in himself, led to much inconvenience, and unnecessary and harassing litigation.

'He relied so little upon authorities, and listened so indifferently to any arguments that conflicted with his own opinion, sometimes not even condescending to give any reasons for his judgments, that his decisions were frequently appealed against, and not unfrequently overturned. In comparing his summary judgments with Lord Eldon's proverbial delays, the chancellor's court was designated the court of *Oyer sans terminer*, and Sir John's that of *Terminer sans oyer*.'

On the other hand Lord Eldon justified himself in his delays by his over-anxiety to do strict justice to the litigants, and acted on the principle that extreme care was necessary to come to a right decision, inasmuch as it prevented not only the annoyance and expense of appeal, but also future litigation in the same class of subjects. His judgments are certainly not only treated with the greatest respect, but regarded as of the highest authority, while those of his colleagues were often reversed on appeal or overruled. The following epigram wittily gives the contrast:—

"In Equity's high court there are
Two sad extremes, 'tis clear:
Excessive slowness strikes us there,
Excessive quickness here.

"Their source, 'twixt good and evil, brings
A difficulty nice;
The first from Eldon's virtue springs,
The latter from his Vice."

A contemporary of Lord Eldon's, Sir Thomas Harris, Master of the Rolls, was another tedious judge. Although possess-