

## QUIET IN HARNESS.

Thanks to the persistency of succeeding generations of suitors, most points of dispute that can arise upon the breach of a horse warranty have been the subjects of judicial decision. Several elaborate judgments have been delivered, showing what is to be considered a warranty, and what constitutes unsoundness. It only remains for litigants to offer proof of such facts as will bring their cases within the definitions so given.

Hitherto no technical force has been given to the word "quiet." A warranty of quietness is satisfied if the horse proceeds peacefully along, in the hands of an average driver and under ordinary circumstances.

In the case of "Wilson vs Rymill," decided on the 21st ult., the plaintiff contended that a warranty of quiet in harness implied quietness merely, but also a capability to perform harness work. The plaintiff was a cab proprietor, and the defendant was the owner of the Barbican Horse Repository. The latter sold some horses for a jobmaster of Chelsea, named Whitshire. The horses were warranted quiet in double and single harness; but there was a further condition that "all lots in this catalogue shall be sold with all faults and errors of every description." One horse was bought by the plaintiff for 25 guineas; but on putting it into a cab it was found to be so lame as to be useless. Upon this ground the plaintiff sought to recover the purchase money, and the principal question raised was what was the meaning of the condition of sale? Evidence was tendered on behalf of the plaintiff, that in the cab trade "quiet in harness" meant that the horse was able to work, and would do that work quietly. Mr. Justice Lopes, who tried the case, rejected this evidence, giving to words a signification they would not bear. A farrier was called, who spoke of the lameness as a fact, and also a veterinary surgeon, who deposed to having had charge of the horse when suffering from arched withers, and to having performed the now unusual operation of extracting a piece of bone. The judge ruled that the lameness would have been guarded against by a warranty of soundness, which in this case was not given; on the contrary, the lots were expressly sold "with all faults." In the end the plaintiff was nonsuited.

On the 21st the case was brought to the notice of the Queen's Bench Division, the plaintiff's counsel contending that the term "harness" implied work, and that the horse would not be bought as a harness horse and harnessed unless he could work; for of what use was a quiet horse that was permanently lame? The Lord Chief Justice, agreeing with the judge below, defined "quiet in harness" to mean quiet in harness and nothing else, and refused the application for a rule. The case would have been very different if the plaintiff had contracted for the sale of a cab horse; for it is a rule of law that, a person selling an article for some specific purpose of which he is informed, implied warrants the article he does sell to be reasonably fit for such purpose. Obviously then a lame horse would be no more reasonably fit for the hard work of a cab than would a dray horse be for a light cart.

"Wilson vs Rymill" involved a point never before argued, so far as we know; and the decision of the judges is important to horse owners, as helping them to understand what is the legal meaning of the word "quiet." If a horse is warranted "quiet in all respects," this includes single and double harness. In the case of "Coltherd vs Pouchon" (2 D. & R. 10), the warranty was peculiar; the horse was said to be "a good drawer, and to pull quietly in harness." On action brought the defendant attempted to prove that the horse was a good drawer; but the court were of opinion that proof of this fact alone would not satisfy the warranty and held that "a good drawer" and "quiet in harness" were convertible terms—that if a horse did not pull quietly, he could not be reckoned a good drawer.

Each practical horse owner will know that a horse kicks or plunges once in way, it does not follow that he is unworthy of a character for quietness. Some irregular conduct may proceed from freshness, unskilful handling, or the neglect of some precaution. In the case of "Beckingham vs Reeve" all the parties concerned were horse-dealers. The

from vice," this was held to be enough ("Cavo vs Coleman," 8 M. & R. 2). Nor is it requisite that the warranty should be in writing, even though a written receipt is given for the money. In "Allen vs Pink" the receipt did not include any terms of the sale, and the buyer proved a verbal warranty.

Juries are, as a rule, loth to believe that if a horse is really restive he will not show it at once. If, therefore, a buyer has reason to complain of his purchase in respect to quietness, he will do well to consider quietly how far tight and ill-fitting harness, or any other preventible, though perhaps not immediately apparent cause, may have contributed to the result.—London Field.

## CASSINO.

"BY TRUMPS."

## TECHNICAL TERMS USED IN CASSINO.

**GREAT CASSINO**, the Ten of Diamonds, reckons for two points.

**LITTLE CASSINO**, the Two of Spades, for one point.

**THE CARDS**.—When you have a greater number than your adversary, three points.

**THE SPADES**.—When you have the majority of the suit, one point.

**THE ACE**.—Each of which reckons for one point.

**THE SWEEP**.—Matching all the cards on the board.

**BUILDING UP**.—Suppose the dealer's four cards in hand to be a Seven, Ten, and two Aces—his adversary plays a Six—the dealer puts an Ace upon it and says "Seven," with a view of taking them with his Seven—the non-dealer throws a Two upon them and says "Nine," hoping to take them with a Nine then in his hand—the dealer again puts upon the heap his only Ace, and cries "Ten," when, if his adversary has no Ten, he plays some other card, and the dealer takes them all with his Ten. It will be observed that a player in announcing the denomination of a build, always employs the singular number, thus: "Nine" or "Ten"—not "Nines" or "Tens." This is called building up.

**BUILD FROM THE TABLE**.—Employing cards on the table to continue a build. (See note to Law 10.)

**CALL**.—Suppose a player to have in his hand two or more cards of the same denomination, and one or more cards of the same denomination remain upon the board, he may play one of them on the table, at the same time calling the denomination, and his opponent is thereby debarred from taking it with a card of any other denomination. In calling the denomination, the plural is always used. Thus: "Fours," not "Four." This is termed calling.

**BUILD**.—A card already built up.

**FALSE BUILD**.—A build made without any card in hand to redeem it. (See Law 11.)

**COMBINE**.—To play a card which will take two or more cards of a different denomination, whose aggregate number of pips or spots exactly equals those of the card played. Thus: a Ten will take a Seven, Two, and Ace, the combined spots on those cards being precisely ten.

**LAST CARDS**.—Those cards remaining on the board after the last trick is taken, all of which go to the winner of the last trick.

**ELDEST HAND**.—The player sitting at the left hand of the dealer, so called, because he is the first to play.

**MISDEAL**.—An error in giving out the cards, the penalty for which is the forfeiture of the game, and all depending upon it.

## THE LAWS OF CASSINO.

## OF CUTTING AND DEALING.

1. The game of Cassino is played by two persons, with a pack of fifty-two cards.

Three, four or six persons may play Rounce, or Set-Back Cassino with a complete pack. It is also sometimes played by four persons, who divide into sets of partners, as at Whist or Euchre. See note to Law 13.]

2. The deal is determined by cutting, and the player cutting the lowest card must deal. Ties cut over. In cutting, Ace is low.

3. At the outset of the game the dealer gives each player four cards, one at a time, commencing with the eldest hand, and either regularly as he deals, or by one, two, three or four at a time, lays four more face upwards upon the board. After the first cards are all played, four others must be dealt to each player, one at a time, until the pack is exhausted; but it is only in the first deal round that any cards are to be turned up.

4. In the case of a misdeal, the dealer forfeits the game and all depending upon it.

The penalty prescribed for the infraction of the above rule may at first sight seem too severe,

building or otherwise; or, if an Eight, Four and Five are on the table, and a player hold a Nine and Ace, he may put the Four and Five on the table together, and play the Ace in hand upon the Eight on the table, putting them all together and calling Nines, and his opponent cannot take the cards with any card but a Nine.

8. Should a player build up a card to a certain denomination, and his opponent decline to build it up higher, he, the first player, may not alter his build, but must take it with a card of the same denomination; he is, however, at liberty to make another build, either of the same or of any other denomination, or he may pair or combine any other cards, before taking up his first build, but he must comply with one of the above conditions before playing a card which will not do either.

Thus: if he play a Two on a Five, making it Seven, his adversary failing to take it or build upon it, the first player may not play a Three and make it Ten, but must take it with a Seven. Prior to so doing, he may, however, build a Two upon a Four and make it Six, or form a build of any other denomination, or he may pair a card, or take several cards by combination, but he must comply with one or other of these conditions, or take up his first build.

9. If a player has built up a card, and has in his hand more than one card of the same denomination as his build, and his opponent leaves the build undisturbed, the player may play one of those cards upon the cards constituting the build, at the same time repeating his announcement of the denomination of the build (in the manner enjoined in Law 7), and the card so played is equivalent to a call. This may be done a second time before taking up the build.

For instance: A and B are playing; A has three Fours and an Ace in his hand, and there is a Three on the table; A may play his Ace on the Three and make it Four; suppose B leaves it undisturbed; A may play a Four from his hand on the top of the build and call (not "four," but "Fours"; if B then fails to take it up A may play another Four on the top of the first one, again calling Fours, before taking up the build, and each of these Fours so played on a build has all the immunities of a call.

10. A player cannot build from the table.

For instance: if a Seven and Two are upon the table and a player put an Ace upon the Seven calling Eight, his opponent cannot employ the Two upon the table to build it up to Ten.]

11. Should a player make a false build, that is, build up one or more cards to a certain denomination, or call a card (as provided in Law 7), and it subsequently transpire that he holds no card of a similar denomination with which to redeem or take the cards thus called or built up, he forfeits the game.

[The remark following Rule 4, may apply equally in this case. The spirit of all rules, which enforce a penalty, is that a defaulting player be debarred from profiting by his own delinquency; and in most cases, the only penalty that accomplishes this end thoroughly, is one which, leaving this view of the matter out, might appear unnecessarily stringent; but a less severe penalty would be found to fall short of its object, and there is therefore, unfortunately, no alternative.]

12. When a card is played for the purpose of making a build, or call, the player must declare the denomination of the proposed build or call, audibly and distinctly, so that no doubt of his intentions may exist, and failing to comply with this requirement, his opponent may separate the cards, and employ them in any lawful way he may deem to his advantage. No announcement, which may occur in compliance with any of the preceding rules, possesses any value whatever, unless the foregoing condition be strictly observed.

[Thus, the mere act of playing a Five on a Two does not of itself constitute a build, nor prevent the opponent from pairing the Five, or combining the Two with a Seven to be taken with a Nine, or building on either of them, unless the player of the Five says, when he lays the Five on the Two, audibly and distinctly, Seven; or if the play be for the purpose of making a call, he must mark the distinction between a call and a build. For instance: if he play a Five upon a Five on the table to make a call, he must announce his intention by saying, clearly and audibly, Fives. The same is of course, applicable to builds or calls of any other denomination.]

## OF THE SCORE.

13. The points gained by each party are counted at the end of each deal, and that party which has the greatest number of points wins the game.

[In Europe Cassino is played differently: the game there is eleven points, and a player must achieve that number before he can win. The manner of scoring is as follows: at the conclusion of each deal the points gained by each party are counted, and that party which has the least number of points scores nothing, but has

## A TERRIBLE FIGHT WITH A BEAR.

HUN AND THE MAN FALLS THREE HUNDRED FEET DOWN A MOUNTAIN SIDE.

The Goshen, N.Y., correspondent of the New York World says that the bear hunters have on a joyed fine sport in Ulster Co., N. Y., for the past two weeks. Even in the wilderness of Denning township it has been many years since bears were so numerous. "Jack" Ackert and three companions of the Bull Run region startled a large bear from its nest a few days ago and followed it several miles. Jack came up with it where the dogs had brought it to bay on a ledge overlooking a laurel swamp. The ledge was a perpendicular one, ten feet high, on the summit of a barren ridge that extended in an abrupt slope to the edge of the swamp, a distance of over three hundred feet. The ground was covered with several inches of snow, upon which a stiff crust as smooth as ice had formed. Ackert shot the bear as it was fighting with the dogs. It fell to all appearances dead. The other hunters were scattered about in the woods. Ackert approached near the prostrate animal and shouted for his comrades to come in. The bear, however, was not dead, and, to the hunter's surprise, arose to its feet and rushed towards him in spite of the dogs. Ackert fired his other barrel, but did not kill the bear, and in another second was defending himself in a hand to hand fight with the enraged brute. The crust was so slippery that the bear had the advantage of the hunter, as the latter could not keep his feet, while the sharp claws of the former permitted him to maintain his position. Ackert slipped and fell. The bear had him in his embrace in a moment. The movement of the combatants had brought them nearer the edge of the rocks. As the bear threw his paws about the half prostrate form of the hunter, the latter dealt it a fearful blow with his hunting axe, which felled the animal. The ground was sloping, and as the smooth fur of the bear came in contact with the glassy surface of the snow the animal, maintaining its hold of Ackert, slid towards the edge of the ledge, and before it could get a hold in the crust with its claws, both hunter and bear fell over the rocks, and striking the icy slope below, shot like a cannon ball down the mountain. Two of Ackert's companions came out upon the rocks just as he and the bear went crashing into the tangled laurels at the foot of the ridge and disappeared in the swamp. The hunters were compelled to make a detour of half a mile to reach the swamp. They found Ackert sitting with his back against a hemlock tree. He was covered with blood and his clothing hung in tatters. He was alive, but it was half an hour before he was able to realize where he was and how he got there. He remembered falling off the rocks, starting down the mountain hugged by the bear and crashing into the swamp, and that was all. The bear lay ten or fifteen feet away, covered with blood and dead. Both of Ackert's shots had reached vital spots, but there is no doubt that but for the fortunate ride down the mountain the bear would have crushed the hunter before the wounds proved fatal. The bear weighed over two hundred pounds.

Since the above adventure King Sheeley, of South Mountain, with two of his brothers, put up a bear on Moose Mountain, in Denning. King wounded it, but was attacked by the bear. The three brothers killed it with their hunting axes, Ding being badly wounded by it during the fight. The bear was an enormous one. As the hunters were dragging it to an old wood road near by they heard the dogs making a commotion in the woods. One of the brothers went to the spot, and found two bear cubs in a nest, in the rocks. They were taken out. The cubs began to whine and cry piteously, and in a few minutes their mother came tearing through the woods and sprang out into the opening where the hunters were amusing themselves with the cubs. They dropped the cubs and sprang for their guns. The old bear threw herself in front of the cubs, and rising on her haunches backed towards the woods, keeping the cubs behind her, roaring furiously as she kept her eyes on the hunters. Two rifle balls entered her heart, however, before she gained the thicket, and she fell dead on the snow. The hunters allowed the dogs to tear the cubs to pieces.

## KING TOM DEAD.

Before his departure from England, Glencoe, got by Marposse (a daughter of Muley and Clara, by Marmon), the filly Pocahontas, who gave to England three of the best racehorses and most famous stallions ever in the kingdom, Stockwell, Rataplan, and King Tom. The latter was by that great Irish racer Harkaway. This sire yielded the palm of speed to no horse that lived. It was said at the time that Mr. Ferguson availed himself of tricks, such as a gentleman would not be guilty of. These incidents brought upon him the severest criticisms of the public, and provoked the action of the stewards of the

## Cricket.

## CRICKET IN ENGLAND.

No town in England, so far as I have observed is too small to be without its common, or as they style it, "green," and Byemore has one some three or four acres in extent. It is a triangular enclosure, lying between the two converging roads whereby the town is entered from the west and south-west. A few cattle are pastured upon it, but its principal function seems to be that of cricket and foot-ball grounds. During the cricket season two or three regular matches, with white flannel and marquee, are played upon it, but the bulk of the year is, of course, devoted to practice. Our own bare ball, which seems to me a much more stirring game than cricket, has never held such sway over the active part of our community as has the latter game over all classes of Englishmen. Rich or poor, from dauntless infancy to decrepit age, they revel in it. One sees undismissed paunches upon English cricket fields, which an American base ball ground would quickly compel either to cave in or retro. Cricket, too, is more fashionable here than is our game with us; though it has its professionals in abundance, that does not prevent the flower of the great schools and universities from practising it as much as or more than ever. What most entertains me, however, is not the ultra-scientific, classical interpretation of the game, but rather the homely, ardent expedients whereby the awards of three-foot draggled gamins make shift to pursue the pastime. It does my heart good to see them roll up a couple of ragged jackets for a wicket, steal a bit of mouldy board from somebody's back-yard for a bat, and make play with I know not what quasi-spherical compound for a ball. Oh! the shrill yells, the curling imprecations, the frenzied runs, the howling howlings, and the heroic batting, that there are even and heard! No pen, no pencil, no instantaneous photographic lens, could do it justice. And it lasts as long as daylight, and longer. I have heard "hom hard at it after dark. It is the only national game, rightly so called, in the world. The nation plays it all its life long, the bats and balls should be quartered upon the British flag; and a wicket should be every true Englishman's tombstone. Surely all pious Britons must hope to enter paradise through the wicket gate!—Appleton's Journal.

## A SINGULAR COMBAT.

SPRUCE PARTRIDGE VS. SPANISH ROOSTER.

DORNALD, CAP RANGE ROAD, ST FOYE Near Quebec, Jan. 2, '78.

On a balmy, cloudless May morning, the cry of "Your gun, quick," roused me from an unusually prolonged nap. After a very hasty toilet I found myself, gun in hand, on the kitchen stoop. From the alarmed cry of the person who called, I concluded that I was about to confront some very unusual denizen of the forest—a bear, a loup cervier, or perhaps, the dreaded cat-a-wampus (Felis concolor), which, it is said, has for some time haunted the outskirts of the settlement at Valcartier. Great was my surprise, indeed, when, instead of any of the above formidable gentry, I beheld a male spruce partridge (Tetrax canadensis) engaged in mortal duello with the Spanish knight-errant of our poultry yard. The combatants fought in the manner common to the Gallinaceæ—eyeing each other with outstretched necks and drooping wings. At each attempt to strike on the part of the rooster, Tetrax, with the rapidity of a flash, would hop, or rather fly, over the head of his unlucky opponent, and passing, would use, as weapons of offence, both wing and claw with astonishing effect. At each onset, this passing was repeated several times without intermission; when, as before, the posture of attack would be resumed. In this manner the duello was carried on, round after round, but it soon became evident that owing to his activity and strange superior mode of attack, the smaller of the two opponents must evidently become the victor. Feeling his advantage, the little hero's fury knew no bounds. Striking from all sides, he punished the unlucky Chevalier des poules till his crest and wattles were torn to shreds, and, half blind, bleeding and stunned he became utterly demoralized, and took to his heels. Little, however, did his flight avail him. Tetrax, bent on carrying hostilities to the bitter end, followed the fugitive, knocking him down repeatedly by the violence of the blows he dealt, and pushed him