THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

In an amusing case which occurred at Hong Kong, and which will be found in the third volume of the *Lower Canada Law Journal* (A.D. 1867), p. 107, counsel expressed contempt for the court by "a stare of astonishment," and by "opening his eyes very wide." Among the contempts of which Mr. Pollard, the defendant in that case, was convicted were two "tones and manners," etc. The Court of Review at Montreal has discovered a contempt conveyed in six notes of exclamation, following an extract from the judgment under review, and although the counsel gained his case the fee usually allowed on the factum was struck off. Three years ago Mr. Justice Jetté directed attention to improprieties of the same description (14 Legal News, p. 41). It is now formally intimated that in future no fees will be allowed to lawyers who offend by the unrestrained expression of their sentiments on the subject of the decisions which they are appealing from.

Another matter to which the Court of Review has directed attention is the practice of writing documents forming part of the record on both sides of the page. Where a number of papers are attached for the purposes of review or appeal there is an obvious inconvenience in

having to turn the record round with every turn of the page. It may be useful here to remark that lawyers—and judges also—who prepare anything for publication should remember that only one side of the paper should be used. Some judges of the Quebec section are the greatest offenders in this respect, it being common to see pages of paper closely written on both sides, and, moreover, full of abbreviations. Only such abbreviations as are intended to appear in the printed page should ever be used in preparing manuscript for publication.

An Act of the legislature of Pennsylvania, passed in 1870, made it a misdemeanor for any person, partnership or association other than a corporation to issue policies of fire insurance. One Samuel B. Vrooman was prosecuted with others, not incorporated, for insuring furniture. Judge Biddle, of Philadelphia, in giving judgment, declared the Act unconstitutional. He said: "That no citizen can agree to indemnify another against loss by fire is certainly a most startling proposition. The most odious species of monopoly is where a government grants to a body of men any particular trade or business. If the power exists, the legislature could grant to one corporation the exclusive right to sell dry goods, inflicting penalties upon anyone who interfered with it." The late Mr. Justice Mackay, in his treatise on Fire Insurance, which appeared in the LEGAL NEWS observes, (Vol. 13, p. 141), "There seems to be nothing to prevent any private individual from carrying on the business."

"The Seal Arbitration, 1893," is the title of an interesting article issued in pamphlet form (Montreal, Wm. Foster Brown & Co.), written by Mr. Donald Macmaster, Q.C. Within the limits of about sixty pages the author reviews the whole question, and gives a summary account of the negotiations which preceded the reference to arbitration, and the questions which were submitted to the commis-

sion. Naturally Mr. Macmaster is severe upon the terms of the reference, which prevented the arbitrators from disposing of the whole matter, and more especially excluded from consideration the question of liability for damages suffered by the owners of vessels unlawfully seized in Behring Sea. Full credit is accorded to the arbitrators themselves and to the eminent and learned counsel engaged in the case, for doing the best that was possible under the terms of the reference. Canada did not get all that she might reasonably have expected from the award: on the other hand Canada was specially interested in having a troublesome question between the two countries disposed of in a peaceful manner. The pamphlet of Mr. Macmaster, which treats the subject in a very clear and able manner, will be found useful to those who wish to have in a convenient form the leading incidents of this famous arbitration.

The solicitor-general, Sir John Rigby, has been promoted to the office of attorney general vacated by Sir Charles Russell, and Mr. R. T. Reid has been appointed solicitor-general. It is stated that these appointments are now made with the understanding that the law officers shall cease to take any private cases. Up to the present time they have had the privilege of practising privately before the House of Lords and Privy Council. Now their whole time is to be available for official duties.

The Montreal appeal list for the May term has shrunk to 61 cases, including two re-hearings. Only 12 new appeals appear on the list since the March term.

COURT OF APPEAL.

LONDON, April 23, 1894.

Before LINDLEY, L.J., KAY, L.J., SMITH, L.J.

SMITH v. HANCOCK. (29 L. J., 263.)

Restraint of Trade—Sale of business—Agreement by vendor 'not to carry on or be in anywise interested in' similar business—Wife of vendor carrying on business with separate estate.

Appeal from a decision of KEKEWICH, J. (reported 63 Law J. Rep. Chanc. 201; L. R. (1894) 1 Chanc. 209.)

The defendant formerly carried on business as a grocer under the style of 'T. P. Hancock.' His wife and her nephew K. assisted him in it. In 1886 he sold the business premises and the goodwill of the business to the plaintiff, and agreed 'not to carry on or be in anywise interested in' any similar business within five miles of the business premises during a period of ten years. In 1893 the defendant's wife wished to start K. in business, and she, contrary to the defendant's wishes, opened a grocer's shop within 200 yards of the plaintiff's shop, and carried on business there under the style of 'Mrs. T. P. Hancock.' The business was managed by K., and the defendant's wife took some part in it. The money used in this business was the separate property of the defendant's wife, and she received the takings. The defendant had no pecuniary interest in it. He assisted his wife in the negotiations for taking the lease of her shop, and he wrote out a circular which contained an invitation to 'old friends' to come to the shop, and referred to a tea formerly sold by him as 'Mrs. Hancock's Mixture.' After the shop had been opened he distributed copies of the circular to various persons, and introduced K. to provision merchants, and he was present at the bank when his wife opened an account in her own name.

Kekewich, J., held that the defendant was not 'interested in' the business within the meaning of the agreement, and that there had been no breach of the agreement by him.

The plaintiff appealed.

LINDLEY, L.J., and SMITH, L.J., were of opinion that the business was the business of the defendant's wife, and though he had assisted in the starting of it, he took no part in the management, and had no pecuniary interest in it; he was not, therefore, carrying on or interested in the business within the meaning of the

agreement, and the judgment appealed from must be affirmed.

KAY, L.J., was of opinion that defendant had by what he had done rendered active assistance in carrying on the new business, and that inasmuch as he and his wife were living together, and he would have the benefit of any profits which she might receive, it could not be said that he was not 'in anywise interested' in it. There had, therefore, been a breach of the agreement in both its branches.

Their Lordships dismissed the appeal, but, under the circumstances, without costs.

HIGH COURT OF JUSTICE.

LONDON, April 21, 1894.

[*Crown Case Reserved.*]

Coram LORD COLERIDGE, C.J., HAWKINS, J., MATHEW, J., CAVE, J., and GRANTHAM, J.

REGINA v. DYSON. (29 L.J., 263.)

Criminal Law—Obtaining credit—Undischarged bankrupt—Intent to defraud—Bankruptcy Act, 1883 (46 & 47 *Vict. c.* 52), *s.* 31—*Debtors Act*, 1869 (32 & 33 *Vict. c.* 62), *s.* 18.

This was a case stated by a Court of Quarter Sessions.

The prisoner had been indicted under section 31 of the Bankruptcy Act, 1883, for obtaining credit for 10*3l.* whilst he was an undischarged bankrupt. The contention for the defence was that if he had obtained the credit without any intention to defraud he was entitled to an acquittal.

The Court of Quarter Sessions held that it was immaterial to consider whether the credit had been obtained with or without intent to defraud, and ruled that questions proposed to be put with a view of showing an absence of intent to defraud were inadmissible, and so directed the jury upon the question of fraudulent intent. The jury convicted the prisoner.

The question for the consideration of the Court was whether this ruling and direction were right or wrong.

The Court held that the ruling and direction were right, and that an undischarged bankrupt indicted for obtaining credit to the extent of 20*l.* and upwards contrary to section 31 could not show that the credit was obtained without intent to defraud.

Conviction affirmed.

LONDON, April 21, 1894.

[*Crown Case Reserved.*]

Coram LORD COLERIDGE, C.J., HAWKINS, J., MATHEW, J., CAVE, J., and GRANTHAM, J.

REGINA v. BLABY. (29 L.J., 264.)

Criminal law—Verdict and judgment—'Conviction'—Prisoner released upon recognisance to come up for judgment when called upon.

This was a case stated by the Common Serjeant of London, before whom the prisoner had been tried for feloniously uttering counterfeit coin contrary to section 12 of 24 & 25 Vict. c. 99. The first part of the indictment charged that Alice Blaby, on January 11, 1894, uttered and put forth one piece of false and counterfeit coin, intended to resemble and pass for a florin, to one Emily Hutchinson, knowing it to be false andcounterfeit. The second part charged that on April 23, 1888, the said Alice Blaby, in the name of Ellen Edwards, was convicted on an indictment for uttering a counterfeit half-crown to Ellen Dunn, and that she was thereupon ordered to find one surety in 20*l.* for her appearance to hear judgment when called upon. The prisoner was given in charge on the first part of the indictment, and pleaded 'Guilty.' She was then given in charge on the second part, which charged her with previous conviction. To this charge she pleaded 'Not Guilty.' A sergeant of police proved that the prisoner was the same woman as Ellen Edwards, convicted April 23, 1888, and procured a certificate of the conviction, which certified that 'Ellen Edwards was in due form of law convicted on a certain indictment, &c., . . . and was thereupon ordered to find one surety in the sum of 20*l.* for her appearance to hear judgment when called upon.' It was then submitted on behalf of the prisoner that there was no case to go to the jury, since to constitute a conviction there must have been both verdict and judgment. Here there was no judgment, only an order empowering the prisoner to be released on entering into a recognisance to come up for judgment. The learned Common Serjeant ruled, with some doubt, that there was a case for the consideration of the jury, leaving it to the Court to determine authoritatively what constituted a 'conviction.' The jury found the prisoner was the same person named in the certificate, and

judgment was respited, and the prisoner released on bail. The question was whether the prisoner could properly be convicted of felony.

The Court held that there had been a conviction on April 23, 1888, and that the prisoner could, upon the indictment on which she was charged with uttering counterfeit coin on January 11, 1894, be properly convicted of felony.

Conviction affirmed.

LONDON, April 21, 1894.

[*Crown Case Reserved.*]

Coram LORD COLERIDGE, C.J., HAWKINS, J., MATHEW, J., CAVE, J., and GRANTHAM, J.

REGINA v. SOWERBY. (29 L.J., 264.)

Criminal law—Indictment—False pretences—Attempt to obtain moneys with intent to defraud.

This was a case reserved by a Court of Quarter Sessions, the question being whether the following indictment was good and sufficient in law, and whether the prisoner was lawfully found guilty on such indictment: 'The jurors for our lady the Queen upon their oaths present that William Marr and Obadiah Blenkinsop, on September 28, A.D. 1893, were in the employ and service of the Butterknowle Colliery Company (Lim.), at the Quarry Pit of the Butterknowle Colliery, in the County of Durham, as hewers of coal, and were entitled to payment from their said employers of the sum of fivepence for every tub of coal wrought and filled by them; and the jurors aforesaid do further present that Joseph Sowerby, the younger, on the day and year aforesaid, unlawfully, knowingly, and designedly did, by placing a token upon a certain tub of coal in the said pit, falsely pretend that he, the said Joseph Sowerby the younger, had wrought and filled the said tub, by means of which false pretence he did unlawfully attempt to obtain the sum of fivepence, the moneys of the said Colliery Company (Lim.), with intent to defraud; whereas, in truth and in fact, the said Joseph Sowerby the younger had not wrought or filled the said tub of coal, as he then well knew, against the form,' &c.

Prisoner's counsel submitted that the indictment was bad, since (*a*) it was not stated to whom the false pretence was made; (*b*) it was not stated from whom the money was attempted to be obtained.

The jury found the prisoner guilty.

The Court held that the conviction must be quashed. There was no authority that an indictment could be held good that did not state the person to whom the false pretence was made. The old form should have been followed. No attempt could be made to supply averments which ought to have been in the indictment, but which were not there.

Conviction quashed.

CHANCERY DIVISION.

LONDON, April 19, 1894.

Before STIRLING, J.

HARVEY v. HART.

Gaming—Partnership—Principal and Agent—Bets won by agent—Right of principal to recover—Collateral agreement—Account—Gaming Acts, 1845 (8 & 9 *Vict. c.* 109), 1892, (55 *Vict. c.* 9).

The plaintiff and the defendant had entered into an agreement whereby the former was to pay certain sums of money to the defendant to be employed in making bets on horse-races, and the profits were to be divided. The plaintiff alleged that the defendant had received money under this agreement to part of which he (the plaintiff) was entitled, and took out a summons asking for an account. The defendant answered that the agreement was null and void under the Gaming Acts, 1845 (8 & 9 Vict. c. 109), and 1892 (55 Vict. c. 9), and he put in an account showing receipts to a considerable amount, but, on the other hand, payments and deductions which resulted in a debt due to him by the plaintiff.

STIRLING, J., said that the result of the agreement was to constitute a partnership between the plaintiff and the defendant, and that the betting part of the transaction was simply collateral. Therefore, as was said by Bowen, L.J., in *Bridger* v. *Savage*, 54 Law J. Rep. Q. B. 464; L. R. 15 Q. B. Div. 363, 'the contract under which he received the money for his principal is not affected by the collateral contract under which the money was paid to him.' The plaintiff asserted that the defendant, as his agent, the particular form of agency being a partnership, had received money for which he ought to account. The case was in-

distinguishable from *De Mattos* v. *Benjamin*, 63 Law J. Rep. Chanc. 248, and the plaintiff was entitled to the relief he sought. That he asked for an account instead of judgment was of no consequence; the only difference was in the machinery, not in the principle. The account would be of all sums come to the defendant under the agreement, and how they had been applied. Costs reserved.

ONTARIO DECISIONS.

Sale of goods—Quantity—Description—"Car-load."

The defendants agreed to buy from the plaintiff a "car-load of hogs" at a rate per pound, live weight. The plaintiff shipped a "double-decked" car-load and the defendants refused to accept this, contending that "a single-decked" car-load should have been shipped. There was conflicting evidence as to the meaning given in the trade to the term "car-load of hogs," and it was shown that the hogs were shipped sometimes in one way and sometimes in the other.

Held, Hagarty, C. J. O., dissenting, that the plaintiff had the option of loading the car in any way in which a car might be ordinarily or usually loaded, and that, he having elected to ship a double-decked car-load, the defendants were bound to accept. (Judgment of the County Court of Middlesex reversed.—*Hanley* v. *Canadian Packing Co.*, Court of Appeal, Feb. 26, 1894.

Trial—Jury—Improper conduct of defendant—No objection taken at trial—Motion for new trial.

During the trial of an action for libel the defendant published in his newspaper a sensational article in reference to the trial. The plaintiff's solicitor was aware that the article had come to the hands of one or more of the jury, but did not bring the matter to the notice of the Court, or take any action in respect thereto, and proceeded with the trial to its close. The jury brought in a verdict for the defendant. Upon a motion by the plaintiff to the Divisional Court for a new trial on the ground of improper conduct towards and the undue influence upon the jury:—

Held, that it was too late to take the objection, which should have been made at the trial.—*Tiffany* v. *McNee*, Chancery Division, Sept. 16, 1892.

Evidence—Survey—Plan—Description.

The description of a lot prepared for and used by the Crown Lands Department in framing the patent is admissible evidence to explain the metes and bounds of that lot.

The plan of survey of record in and adopted by the Crown Lands Department governs on a question of location of a road, when the surveyor's field notes do not conflict with the plan and no road has been laid out on the ground. (Judgment of the Common Pleas Division reversed).—*Kenny* v. *Caldwell*, Court of Appeal, Feb. 26, 1894.

RAILWAY DECISIONS.

Railway company—Broken gate—Liability for horses killed on railway—Negligence—Owner of horses not owner of adjoining land —Horses on land without permission.

Appeal by the defendants from the decision of Dubuc, J.

From the evidence it appeared that the plaintiff from time to time obtained permission from his father to pasture stock on the land of the latter. But that permission was only temporary, not permanent. The plaintiff stated that he had had stock at his father's the previous winters by arrangement, showing that any permission was temporary and just renewed from time to time. There was no evidence to warrant the finding of the jury that the animals were on the land of Matthew Ferris by his permission. Unless they were so, the plaintiff could not recover against the defendants.

Held, it was not enough for the plaintiff, to entitle him to claim the benefit of s-s. 3 of s. 194 of the Railway Act, 51 Vic., c. 99, as amended by 53 Vic., c. 28, s. 2, to show merely, that the owner of the adjoining land from which his animals got upon the track would not have objected to their being on his land, and would not have treated them as trespassing, had he known they were there. He must go further than this. He must adduce evidence from which it can be reasonably found or inferred that the animals were on the adjoining land with the prior leave and consent of the owner, and under such circumstances that the owner could not say they were there unlawfully and trespassing. As there was not any evidence upon which a jury as reasonable men might find a verdict for the plaintiff, a non suit should be entered.—*Ferris* v. *Canadian Pacific Railway Co.*, Queen's Bench, Manitoba, March 10, 1894.

PARTNERSHIP IN CRIME.

Reference has often been made to a suit (real or imaginary) at the instance of a highwayman against his partner in business to recover a share of profits. The doubt, frequently expressed, as to whether such an action was ever brought into court has now been set at rest by Sir Frederick Pollock and Mr. Hubert Hall of the Record Office. Hitherto the authenticity of the story has rested on the report contained in the *European Magazine* for May, 1787, vol. I, 360, which, under the title of Everet v. Williams, is quoted at length by W. D. Evans in the appendix to his translation of Pothier on Obligations, published in 1806 (vol. II, 3.) We are told by Evans that Lord Kenyon, in Ridley v. Moore, 1797 (appendix to Clifford's Report of Southwark Election), referred to this case of Everet v. Williams as an actual one, but that on examining the [Record] Office, he (Evans) had not found it supported, and had therefore treated it as a suppositious illustration of a general principle applicable to illegal contracts. Lindley, in his work on Partnership (5th ed., p. 93), gives a short report of the case abridged from Evans, but states " there is some doubt whether it actually occurred. Real or fictitious, it is," he says, " a good illustration of an illegal partnership of the class in question." Pollock, in his work on Contracts (5th ed., p. 263, note), refers to the matter thus: " Lord Kenyon once said, by way of illustration it appears, that he would not sit to take an account between two robbers on Hounslow Heath. May not the legend have arisen from this? The case was cited with apparent gravity by Jessel, M. R., in Sykes v. Beadon, 1879, 11 Ch. D. 170, at page 195." The suggestion here made that Lord Kenyon started the story is disproved by the dates, for Lord Kenyon spoke in 1797, while the *European Magazine* report appeared ten years earlier. So recently as April last Sir Frederick Pollock was sceptical. As editor of the *Law Quarterly* he says: " We still decline to believe the story, and can only suppose it took rise from some otherwise forgotten jest or hoax in an equity draftsman's chambers." But in the current number of the *Law Quarterly* Sir Frederick is obliged to admit that " truth is stranger than fiction." The dates of the orders following on the bill are given by the *European Magazine* and by Evans; but although the search of the latter in the Record Office did not result in the discovery of the originals, these have now been found by Mr. Hall, and are substantially

in the terms published in 1787. The orders being accurate, it is no more than a fair inference that the terms of the bill itself are those given by the *European Magazine*. For the details of the case we must refer our readers to Evans as above cited, or to the current *Law Quarterly Review* (vol. XXXV, 197). The following brief summary will however be of some interest: It appears that in 1725 one Joseph Everet, of the parish of St. James's, Clerkenwell, sued Joseph Williams in the equity side of the Exchequer Court. The bill recites an oral partnership between the defendant and the plaintiff, who was "skilled in dealing in several sorts of commodities," and that the parties had "proceeded jointly in the said dealings with good success on Hounslow Heath, Finchley, Blackheath, and other places," where they had dealt with several gentlemen for "divers watches, rings, swords, canes, hats, cloaks, horses, bridles, saddles, and other things," which were had for little or no money after "some small discourse" with the owners. The rest of the bill is in the ordinary form of a partnership account, the bill itself being signed by one Jonathan Collins as counsel. The court seems to have considered itself the victim, along with the defendant, of a practical joke, for on the 30th of October, 1725, upon the motion of the defendant's counsel, the matter was referred to the deputy remembrancer "for scandal and impertinence," with instructions to him to report with all convenient speed. On the 29th of November it was ordered "that a messenger or tipstaff of this court do forthwith go and attach the bodies of Mr. William White and Mr. William Wreathock, the plaintiff's solicitors, and bring them into court to answer the contempt of this court." In the end White and Wreathock were each fined £50, and committed to the custody of the warden of the fleet until their fines were paid. Collins, the plaintiff's counsel, was ordered to pay the defendant such costs as the deputy should tax. The defendant, although absolved from any connection with this hoax, does not appear to have been a spotless character, for according to the *European Magazine*, he was hanged at Maidstone in 1727. The plaintiff was hanged at Tyburn in 1730; while Wreathock, one of the plaintiff's solicitors, was in 1735 convicted of robbing Dr. Lancaster, but was reprieved and transported.—*Scottish Law Review.*

PAYMENT OF DIVIDENDS BY COMPANY.

The decision of the Court of Appeal in *Verney* v. *The General and Commercial Investment Trust* (*Lim.*) is one that may readily give rise to misapprehension unless its scope and effects are clearly grasped. The action was a friendly one, brought with a view to obtain the opinion of the Courts on the question whether—there being an excess of the receipts over the expenditure of an investment company—the directors might lawfully declare a dividend although the market value of the investments had depreciated. Mr. Justice Stirling and the Court of Appeal answered this question in the affirmative. The following points deserve notice: (1) The particular decision in this case turned upon the peculiar constitution of the company in question. It was not an ordinary trading concern. It was not a sharebroking company. It was purely and simply a company for dealing with investments, and its memorandum and articles of association, in the view of the Courts, showed that the transaction was a division of profits, and not a return of capital under the guise of such a division. (2) While holding that the declaration of the proposed dividend was legal, the Courts did not express any opinion as to commercial prudence or propriety. (3) The general effect of the decision, taken in conjunction with such cases as *Lee* v. *The Neuchâte Asphalte Company*, is to establish the proposition that there is nothing in the Companies Acts to declare illegal under all circumstances the declaration of a dividend on an excess of profits over expenditure, although there has been a depreciation of capital. These Acts are substantially silent on the question of payment of dividends, and so long as there is no insolvency, and the receipts exceed the expenses of management, the matter is left by the Legislature, as one of commercial prudence, to the business instincts of shareholders and directors.—*Law Journal.*

JUDGES' WILLS.

It is related of Serjeant Maynard, who flourished as a 'black-letter lawyer' in the days of William III, that he deliberately worded his will in ambiguous terms, so that several legal questions which had vexed him in his lifetime might be settled in Court after he was dead. It is abundantly clear that this disinterested notion was not entertained by Sir James Stephen in the disposition of his wealth. 'This is my last will. I give all my property to my wife, whom I appoint sole executrix.' No testa-

mentary disposition could be much simpler. The will is the shortest a judge has ever been known to make. The occupant of the Bench who most closely approached Sir James Stephen in his testamentary conciseness was Lord Mansfield, who wrote his will on half a sheet of note paper. This economy of labour and space was all the more remarkable because the testator disposed of property of the value of half a million pounds. Having provided for a few specific legacies to friends, he gave the residue of his possessions to his nephew in these unusual terms: 'Those who are dearest and nearest to me best know how to manage and improve, and ultimately, in their turn, to divide and subdivide the good things of this world, which I commit to their care, according to events and contingencies which it is impossible for me to foresee or trace through all the mazy labyrinths of time and chance.' In striking contrast to the shortness and directness of Sir James Stephen's testament are the prolixity and eloquence of a judge who enjoyed a large measure of fame in the seventeenth century. This is the rhetorical fashion in which the Earl of Dorset, who succeeded Lord Burleigh in the office of Lord Treasurer, gave a very simple gift to his wife: 'I bequeath to Cecilie, Countess of Dorset, my most virtuous, faithful, and dearly-loved wife, not as any recompense of her infinite merit towards me, who for incomparable love, zeal, and hearty affection ever showed unto me, and for those her so rare, reverent, and many virtues of charity, modesty, fidelity, humility, secrecy, wisdom, patience, and a mind replete with all piety and goodness, which evermore shall and do abound in her, deserveth to be honoured, loved, and esteemed above all the transitory wealth and treasure of this world, and therefore by no price of earthly riches can by me be valued, recompensed, or requited; to her, therefore, my most virtuous, faithful, and entirely loved wife—not, as I say, as a recompense, but as a true token and testimony of my unspeakable love, affection, estimation, and reverence, long since fixed and settled in my heart and soul towards her, I give, etc.' Such manifestations of personal feeling, in which it was once the custom of testators to indulge, have now almost disappeared from wills. They are occasionally to be found in the testamentary productions of persons who dispense with professional assistance; but, as a rule, even home-made wills consist of what those who make them are pleased to regard as business-like statements of their wishes. Judges rarely draw their own wills. They

know too well the truth of Lord St. Leonards' words: 'It is quite shocking to reflect upon the litigation which has been occasioned by men making their own wills.' It is a remarkable fact that the very man who wrote these words committed the error he condemned. Lord St. Leonards is the only Lord Chancellor whose will has been the immediate subject of litigation. It was not, however, on account of the obscurity of its phraseology, but because of its disappearance, that the will acquired the notoriety it possesses. It was understood that the distinguished jurist, who died in 1875 at the advanced age of ninety-four, had spent not a small part of his latter years in making an equitable disposition of his wealth, and it was known that he kept the precious document in a box. At his death the carefully prepared will was missing, and the most diligent search failed to discover it. His daughter, who had often perused it in his presence, was fully acquainted with its provisions, and Sir James Hannen, with the subsequent approval of the Court of Appeal, allowed her to give evidence as to its contents. It was decided that the contents of a lost will may be proved by the evidence of a single witness, though interested, whose veracity and competence are unimpeachable, and that when the contents of a lost will are not completely proved probate will be granted to the extent to which they are proved. At the conclusion of his judgment the President of the Probate, Divorce, and Admiralty Division pointed the moral of this extraordinary case by directing the attention of the public to the fact that the Legislature had provided a remedy for the secure custody of wills. 20 & 21 Vic., c. 77, s. 91, provides that upon the payment of a small fee the wills of living persons may be deposited at the registry of the Probate Court. Anybody who so deposits his will is quite free to alter it, but the system has, for some reason not apparent, failed to commend itself to the public, and the 'convenient depositories' established by the Act have been allowed to disappear from among the practical things of life.—*Law Journal* (London).

GENERAL NOTES.

THE IMPRISONMENT OF CHILDREN.—On March 7, a child of seven was confined in Holloway Prison by order of justices of the Bromley Petty Sessional Division of Kent. The imprisonment was on remand only, on a charge of stealing lead, and the

child was, in fact, detained in the prison infirmary, and the matter at once reported to the Home Office, which on March 8 requested the justice to release the child on his father's recognisances, which was done. A question on the subject was asked in the House of Commons, and in answer the Home Secretary stated that it had been pointed out that a child of seven was quite unfit for detention in prison, and he had directed a police officer to go bail for the child in question if no one else could be found. Such imprisonment is clearly inconsistent with modern notions, with the Home Office circular of 1880, and with the provisions of the Reformatory Schools Act of 1893.—*Law Journal.*

CURIOUS ACTION AGAINST A MEMBER OF PARLIAMENT.—In the City of London Court, before Mr. Julian Robins, deputy judge, an action was brought by Alexander Chaffers against Sir Reginald Hanson as M.P. for the City of London, to recover nominal damages for refusing to present a petition to the House of Commons praying for the removal of Lord Esher from his position as Master of the Rolls. The plaintiff stated that, as one of the constituents of the city, he claimed the right to petition Parliament through his member to redress a grievance which could only be removed by the House of Commons. Lord Farnborough had laid down certain principles which showed that the plaintiff was justified in bringing this action. His right to petition Parliament affects the fundamental principles of the Constitution of this country. In his petition he charged Lord Esher with being a false and deliberate liar, and having committed a misdemeanour of the deepest malignity.—The deputy judge: You must not talk like that.—The plaintiff: I have a right to. I can prove it, and I will state it in every court that I can get into. Lord Esher is a common liar!—The deputy judge: I shall not allow you to stay here if you talk like that.—The plaintiff: Several important members of the House have said that my petition ought to be presented. I sent it to Lord Herschell, but he returned it saying that he could not do anything in the matter having regard to his lordship's position.—The deputy judge: Why not take it to Mr. John Burns?—The plaintiff: I took it to Mr. Keir Hardie and he said, 'Go to your own representative.'—The deputy judge: He wanted to shift the responsibility. I must hold that there is no jurisdiction and that no cause of action will lie. Judgment must, therefore, be entered for the defendant. There are 670 other members to whom you can go.