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JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, 30 March, 1895.

Present:—The LORD CHANCELLOR, LORD WATSON, LORD HOBHOUSE, LORD MACNAGHTEN, LORD SHAND, LORD DAVEY, SIR RICHARD COUCH.

FORGET (plaintiff in Court of first instance), appellant, and OSTIGNY (defendant in Court of first instance), respondent.

Gaming contract—Speculative stock transactions—Art. 1927 *C. C.—Broker—Prescription.*

HELD:—1. *Where shares in joint stock companies were purchased and sold by a broker for a customer, the remuneration of the broker being a fixed commission, and in every case the shares purchased and sold were delivered to or by the broker, and the price of them paid or received as the case might be, the fact that the contracts were entered into by the customer in furtherance of a speculation, that he never asked for delivery to him of any of the shares purchased, and that he furnished the broker with only a small portion of the money required for purchases, the broker obtaining the rest by pledging the shares, did not constitute such purchases and sales gaming contracts within the meaning of article* 1927 *of the Civil Code, so as to deprive the broker of an action against the customer for the balance due on the transactions.*

2. *Where, after transactions between a broker and a customer which gave rise to a balance against the customer, were closed, the latter instructed the broker to enter into a further transaction in his behalf and acquiesced in the profit made thereby being placed to the credit of his general account, prescription was interrupted as to such balance.*

This was an appeal from a judgment of the Court of Queen's Bench for Lower Canada (appeal side), rendered on the 27th of September, 1893, affirming (Mr. Justice Hall dissenting) a decision of Mr. Justice Pagnuelo.

LORD HERSCHELL, L. C.:—

The appellant is a member of the Montreal Stock Exchange.

The action which has given rise to this appeal was brought to recover a sum of $1,926.87, the balance alleged to be due from the respondent in respect of certain contracts entered into by the appellant on his behalf and by his directions for the purchase and sale of the shares in various joint stock companies. The respondent pleaded first:—that the claim was prescribed by lapse of time, and secondly:—that the transactions which gave rise to it were gambling transactions on the rise and fall of shares, and that therefore the action could not be maintained.

In view of this latter defence it is necessary to state the facts with some particularity. The transactions between the parties commenced with the purchase by the appellant in December 1882, of 25 shares of the Montreal Street Railway Company. Additional shares were subsequently purchased in the same undertaking. Purchases were also made of the shares of other companies. The price paid for the shares purchased was debited to the respondent by the appellant with ¼ per cent. commission added. The shares so purchased were sold from time to time and the proceeds were credited to the respondent less a commission of ¼ per cent.

It is not in dispute that all these transactions were entered into at the instance and on behalf of the respondent. When a purchase of shares was to be made he furnished the appellant with a small portion of the purchase money which would be required: thus in the case of the first transaction to which allusion has been made he paid $62.50. In every case delivery of the shares was obtained by the appellant from the member of the

Stock Exchange from whom he purchased and the shares were duly paid for. The money necessary for this purpose beyond that supplied by the respondent was raised by the appellant by means of loans from a Bank, the shares serving as security. The loans needed for the respondent's transactions were not always raised specifically upon the shares purchased for him. The appellant acted as broker for many clients, and the advances which were required for the purpose of completing contracts entered into on their behalf were raised by hypothecating to a Bank their several securities and obtaining the advance of a lump sum.

When the shares purchased for the respondent were sold they were redeemed from the Bank and delivered to the purchaser. In respect of the advances obtained from the Bank, the appellant charged the respondent 1 per cent. more than the interest for which he had made himself liable to the Bank. If between the time of the purchase and that of the sale of particular shares dividends were paid upon them these dividends were credited to the respondent.

It should be added, as reliance is placed upon the fact, that the respondent was a bank clerk with a salary of $900 to $1,000 a year.

It is conceded that the only law prevailing in Canada upon which the respondent can rely for the purpose of establishing that the appellant is not entitled to recover the sum claimed is Article 1927 of the Civil Code of Lower Canada. It is in these terms:—

"There is no right of action for the recovery of money or any "other thing claimed under a gaming contract or a bet."

In order therefore to sustain his defence it was incumbent on the respondent to show that the money sought to be recovered was claimed under a gaming contract or a bet. The learned Judge who tried the case, and on appeal the Court of Queen's Bench for Lower Canada (Hall, J., dissenting), thought he had made this out—hence the present appeal.

The defence turning upon the question whether the claim is founded upon a gaming contract it is essential to ascertain the exact nature of the obligation relied on by the appellant. Unless there was a gaming contract between the parties to this action so that the appellant in order to make good his claim must rely on such a contract the defence obviously fails.

What then was the nature of the contract between these parties?

The appellant was employed by the respondent as his mandatary or agent to make certain contracts of purchase and sale on his behalf. The contracts made, which were unquestionably within th authority given by the respondent, were certainly not gaming contracts as between the parties to them. They were real transactions, the shares purchased and sold were in every case delivered and the price of them paid or received as the case might be. All this is not in dispute. The appellant having entered into these contracts as agent for the respondent the latter was *primâ facie* bound to indemnify the former against any liability incurred in respect of them. He was on the other hand exclusively entitled to the benefit of them. If the shares purchased increased in value the result was a gain to the respondent and did not involve any loss to the appellant. If on the other hand the shares decreased in value while the respondent sustained a loss no gain resulted to the appellant. In neither contingency therefore did the respondent's gain involve a loss to the appellant. His remuneration was in any event a fixed commission of $\frac{1}{4}$ per cent. It would be of course an abuse of language to apply the term "bet" to such a transaction. Their lordships cannot think that it is any more legitimate to speak of it as a gaming contract between the appellant and the respondent.

In the courts below much stress was laid on the fact that the respondent was known to the appellant to be a bank clerk with a small salary and possessed of little other means. This was regarded as bringing home to him the knowledge that the respondent had in view not investment but gambling. The other circumstances mainly relied on were that the respondent never asked for nor received delivery of any of the shares purchased; that the purchase money was raised by a loan procured by the appellant; that the respondent was not in a position to furnish the whole of the purchase money and in fact only provided the appellant with a small margin.

It may well be that the appellant was aware that in directing a purchase to be made the respondent did not intend to keep the shares purchased but to sell them when, as he anticipated would be the case, they rose in value; that his object was not investment but speculation. To enter into such transactions with such an object is sometimes spoken of as "gambling on the Stock

Exchange;" but it certainly does not follow that the transactions involve any gaming contract. A contract cannot properly be so described merely because it is entered into, in furtherance of a speculation. It is a legitimate commercial transaction to buy a commodity in the expectation that it will rise in value and with the intention of realizing a profit by its re-sale. Such dealings are of every day occurrence in commerce. The legal aspect of the case is the same whatever be the nature of the commodity, whether it be a cargo of wheat or the shares of a joint stock company. Nor again do such purchases and sales become gaming contracts because the person purchasing is not possessed of the money required to pay for his purchases, but obtains the requisite funds in a large measure by means of advances on the security of the stocks or goods he has purchased. This also is an every day commercial transaction. For example: a merchant who has to pay the price of a cargo purchased before he re-sells it obtains in ordinary course the means of doing so by pledging the bill of lading.

Much stress was laid on the fact that the respondent never asked for delivery of any of the shares purchased and that the appellant never tendered such delivery. The question whether a contract is intended to be executed by delivery according to the obligations expressed upon the face of it, is no doubt an important test for determining whether it is a real one or only a gambling arrangement under the guise of a commercial contract.

In the Act passed by the Dominion Parliament in 1888 (51 Vict., cap. 42) with a view of putting down what were then known as "bucket shops" it is provided (Section 1) that:—
"Every one who..... with the intent to make gain or profit by
"the rise or fall in price of any stock of any incorporated or
"unincorporated company or undertaking.....or of any goods,
"wares or merchandise, makes.....any contract or agreement,
"oral or written, purporting to be for the sale or purchase of
"any such shares of stock, goods, wares or merchandise, in res-
"pect of which no delivery of the thing sold or purchased is
"made or received, and without the *bona fide* intention to make or
"receive such delivery; and every one who acts, aids or abets in
"the making or signing of any such contract or agreement is
"guilty of a misdemeanour."

A proviso was however added in the following terms:—"but

" the foregoing provisions shall not apply to cases where the " broker of the purchaser receives delivery, on his behalf, of the " article sold, notwithstanding that such broker retains or " pledges the same as security for the advance of the purchase " money or any part thereof."

Their lordships think this proviso was enacted by way of precaution only, inasmuch as they cannot doubt that where a real contract of purchase has been made and carried out by a broker on behalf of a principal, delivery to the broker is delivery to the principal just as much as if it had been actually made to himself.

In the present case the respondent might at any time, on tendering the balance due in respect of any of the shares purchased, have required the appellant to deliver them to him. As has been pointed out he received the dividends upon them, and any increase in their value enured exclusively for his benefit, whilst if there were a diminution of value the loss was exclusively his.

It is unnecessary to inquire whether in pledging the securities of his clients for a lump sum to raise the moneys which he was authorised by them to raise, instead of obtaining separate loans on their several securities, the appellant was acting within the authority conferred upon him, for it does not seem to their lordships to have a material bearing upon the question whether the contract sued on was a gaming one.

The decisions in the English courts are of course not authorities upon the construction of the article of the Canadian Code. But the words of the English Statute relating to gambling contracts (8 & 9 Vict. c. 109) do not differ substantially from those found in the Code. That Statute renders null and void all contracts by way of gaming and wagering. The English authorities may therefore well be referred to as throwing light on the question what constitutes a gaming contract.

The case of *Thacker* v. *Hardy*, (L.R. 4 Q.B. Div. 685,) in the Court of Appeal in England, was very similar to that under consideration. The plaintiff was a broker who purchased and sold stocks and shares on the Stock Exchange for the defendant by his authority. He sued the defendant for commission and for an indemnity in respect of certain contracts into which he had entered pursuant to the defendant's instructions. The defence was founded upon 8 & 9 Vict., c. 109, s. 18.

Lindley, J., held, and his judgment was affirmed by the Court of Appeal, that the plaintiff was entitled to recover.

Bramwell, L. J., said:—"The bargains made by the plaintiff "upon behalf of the defendant were what they purported to be; "they gave the jobber a right to call upon the broker or the "principal to take the stock, and they gave the broker the right "to call upon the jobber to deliver it."

He further said:—"I will assume that that was the nature of the bargain between the parties, and that by its terms the prin- "cipal would be entitled to call on the broker to re-sell the "stock, so that, instead of taking and paying for it, the prin- "cipal would have to pay only the differences. In my opinion "that bargain does not infringe the provisions of 8 & 9 Vict., c. "109, which was directed against gaming and wagering; for "the principal might take the stock which has been bought for "him, and hold it as an investment."

He points out too that there is no gaming and wagering in a transaction of the kind now in question. The passage is as follows:—"The broker has no interest in the stock, and it does "not matter to him whether the market rises or falls; but when "a transaction comes within the statute against gaming and "wagering, the result of it does affect both parties. In the "case before us, the broker does not wager at all."

Cotton, L.J., laid down what in his view was of the essence of a gaming contract in these terms:—"The essence of gaming "and wagering is that one party is to win and the other to lose "upon a future event, which at the time of the contract is of an "uncertain nature—that is to say, if the event turns out one "way A. will lose, but if it turns out the other way he will win. "But that is not the state of facts here. The plaintiff was to "derive no gain from the transaction: his gain consisted in the "commission which he was to receive, whatever might be the "result of the transaction to the defendant. Therefore the "whole element of gaming and wagering was absent from the "contract entered into between the parties."

Even where a person is employed to enter into gambling contracts upon commission, it has been held by the courts of this country that if he makes payments in pursuance of such employment, he can recover such payments from his principal, that the implied contract of indemnity is not, in such a case, in itself a gaming or wagering contract and is therefore not null and void. The intervention of the legislature was considered necessary in order to invalidate such contracts and by the Gaming Act, 1892,

any promise express or implied to pay any person any sum of money paid by him in respect of a contract rendered null and void by 8 & 9 Vict. c. 109, or to pay any sum by way of commission or reward for any services in relation thereto is rendered null and void.

With regard to the plea of prescription the facts stand thus. After the transactions which gave rise to the debit balance against the respondent were closed, he, in October 1885, sent to the appellant $100 as margin for the purchase of ten shares in the Bank of Montreal. He received notice in February, 1886, that these shares had been sold at a profit of $150 and he acquiesced in this sum as well as the $100 which he had sent in the previous October being placed to the credit of his general account. The learned Judge who tried the case came to the conclusion that under these circumstances the plea of prescription could not prevail. This view was concurred in by the Court of Queen's Bench and their Lordships see no reason to differ from the decision thus arrived at.

For the reasons which have been given their Lordships think that the judgments of the Courts below ought to be reversed, and that judgment should be entered for the appellant for the sum claimed, with costs in both the Courts below.

As regards the costs of this appeal, inasmuch as the appellant was allowed to prosecute it, notwithstanding the small amount at stake, upon the ground that it involved a question of wide general interest, especially to those following the appellant's calling, their Lordships think that the appellant should under the peculiar circumstances bear the costs of the appeal on both sides.

They will humbly advise Her Majesty in accordance with the opinion they have expressed.

Judgment reversed.

Mr. Fullarton, Q.C., and *Mr. English Harrison*, for the appellant.
Mr. Alexander Young for the respondent.

SUPREME COURT OF CANADA.

OTTAWA, 15 January, 1895.

Nova Scotia.]

WRAYTON v. NAYLOR.

Sale of land—Sale by auction—Agreement as to title—Breach of—Determination of contract.

W. bought property at auction, signing on purchase a memo-

randum, by which he agreed to pay ten per cent. of the price down, and the balance on delivery of the deed. The auctioneer's receipt for the ten per cent. so paid stated that the sale was on the understanding that a good title in fee simple, clear of all encumbrances up to the first of the ensuing month, was to be given to W. After the date so specified, W., not having been tendered a deed which he would accept, caused the vendor to be notified that he considered the sale off and demanded repayment of his deposit, in reply to which the vendor wrote that all the auctioneer had been instructed to sell was an equity of redemption in the property; that W. was aware that there was a mortgage on it, and had made arrangements to assume it; that a deed of the equity of redemption had been tendered to W., and that he was required to complete his purchase. In an action against the vendor and auctioneer for recovery of the amount deposited by W.,

Held, reversing the decision of the Supreme Court of Nova Scotia (26 N. S. Rep. 472), that the vendor had repudiated the agreement evidenced by the memorandum signed by W. and the said receipt, and that W., being entitled to a title in fee clear of encumbrances, was not bound to accept the equity of redemption, but could consider the contract determined and recover his deposit.

Appeal allowed with costs.

Harris, Q.C., for appellant.
Borden, Q.C., for respondents.

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11 March, 1895.

Nova Scotia.]

MURDOCH v. WEST.

Contract—Specific performance—Agreement to perform services—Relationship of parties.

M., on his father's death, at the age of three years, went to live with his grandfather, W., who sent him to school until he was sixteen years old, and then took him into his store, where he continued as the sole clerk for eight or nine years, when W. died, and M. died a few days later. Both having died intestate, the administratrix of M.'s estate brought an action against the representatives of W. for the value of such services rendered by M., and on the trial there was evidence of statements made by W. during the time of such service, to the effect that if he (W.)

died without having made a will, M. would have good wages, and if he made a will he would leave the business and some other property to M.

Held, reversing the decision of the Supreme Court of Nova Scotia (25 N. S. Rep. 172), Gwynne, J., dissenting, that there was sufficient evidence of an agreement between M. and W. that the services of the latter were not to be gratuitous, but were to be remunerated by payment of wages or a gift by will, to overcome the presumption to the contrary arising from the fact that W. stood *in loco parentis* towards M. There having been no gift by will the estate of W. was therefore liable for the value of the services as estimated by the jury. *McGugan* v. *Smith* (21 Can. S. C. R. 263), followed.

Appeal allowed with costs.

Ross, *Q. C.*, for appellant.

Borden, *Q. C.*, for respondent.

Ontario.]

11 March, 1895.

TOWNSHIP OF OSGOODE v. YORK.

Municipal law—Ditches and Watercourses Act R. S. O. (1887) *c. 220—Owner of land—Meaning of term "owner."*

By sec. 6 (*a*) of the Ditches and Watercourses Act, Ont. R. S. O. (1887) ch. 220, any owner of land to be benefited thereby may file a requisition with the clerk of a municipality for a drain, provided he has obtained "the assent in writing thereto of (including himself) a majority of the owners affected or interested. C. who was in occupation of land by permission of his father, who had the legal title therein, filed a requisition for a drain through said land and a number of other lots, among them being lots of which Y. was assessed as owner. Before the proceedings were begun by C., however, Y. had conveyed portions of his land to his two sons. Permission for the drain having been granted, and an award having been made by an engineer and confirmed by the judge, Y. and his sons brought an action to have the construction of the drain prohibited on the ground that the assent of a majority of owners had not been obtained. It was admitted that if C. was an owner under the Act, and the sons of Y. were not, there was a majority.

Held, affirming the decision of the Court of Appeal (21 Ont. App. R. 168) which had reversed the judgment of the Divisiona

Court (24 O. R. 12) that the assessment roll was not the test of ownership under the statute; that an owner therein meant the holder of a real and substantial interest; that C., a mere tenant at will, was not an owner; and that the two sons of Y. were, having the title in fee of a part of the land affected or interested.

Quære. C., who filed the requisition, not being an owner, would the proceedings have been valid if there had been a sufficient majority without him, or must the person instituting the proceedings, be, in all cases, an owner under the statute?

Appeal dismissed with costs.

Henderson & MacCracked, for appellants.
O'Gara, Q. C., and *MacTavish, Q. C.*, for respondents.

Ontario.]

11 March, 1895.

TOOTH v. KITTREDGE.

Statute of Limitations—Partnership dealings—Laches and acquiescence—Interest in partnership lands.

A judgment creditor of J. applied for an order for sale of the latter's interest in certain lands, the legal title to which was in K., a brother-in-law and former partner of J. An order was made for a reference to ascertain J.'s interest in the lands and to take an account of the dealings between J. and K. In the Master's office K. claimed that in the course of the partnership business, he signed notes which J. indorsed and caused to be discounted, but had charged against him, K., a much larger rate of interest thereon than he had paid, and he claimed a large sum to be due him from J. for such overcharge. The master held that as these transactions had taken place nearly twenty years before, K. was precluded by the Statute of Limitations and by laches and acquiescence from setting up such claim. His report was overruled by the Divisional Court and Court of Appeal on the ground that the matter being one between partners, and the partnership affairs never having been formally wound up, the statute did not apply.

Held, reversing the decision of the Court of Appeal and restoring the master's report, that K.'s claim could not be entertained; that there was, if not absolute evidence, at least a presumption of acquiescence from the long delay; and that such presumption should not be rebutted by the evidence of the two partners con-

sidering their relationship and the apparent covenant between them.

Appeal allowed with costs.

Gibbons, Q. C., for appellant.
Fraser, for respondent.

Ontario.]

11 March, 1895.

MICHIGAN CENTRAL RY. CO. v. WEALLEANS.

Railway Company—Lease of road to foreign company—Statutory authority.

In 1882 the Canada Southern Railway Company, by written agreement, leased a portion of its road to the Michigan Central for a term of 21 years. While the latter company was using the road, sparks from an engine set fire to and destroyed property of W., who brought an action against the two companies for the value of the property so destroyed. An insurance company which had paid the amount of a policy held by W. on the property so destroyed was joined as a plaintiff. At the trial, plaintiffs were non-suited in favour of both defendants, it being admitted that the fire was not caused by negligence, and the Divisional Court sustained such non-suit, holding also that the insurance company had no *locus standi*. On further appeal the Court of Appeal dismissed an appeal by the insurance company and by the plaintiff as against the C. S. Ry. Co., but allowed the plaintiff's appeal as against the Michigan Central, holding that the C. S. Ry. Co. had statutory authority to make traffic arrangements only with a foreign company, and could not give the latter running powers over its road. The Michigan Central then appealed to the Supreme Court.

Held, reversing the decision of the Court of Appeal (21 Ont. App R. 297), that under 35 V., c. 48, s. 9 (an act relating to the C. S. Ry. Co.) and sec. 60 of the Railway Act of 1879, the C. S. Ry. Co. could lawfully lease its road to a foreign company, and the injury to W.'s property having occurred without any negligence on the part of the officers or servants of the Michigan Central, which was lawfully in possession of the road of the C. S. Ry. Co. under said agreement, the Michigan Central was not liable for such injury.

Appeal allowed with costs.

Saunders, for the appellants.
Moss, Q. C., for the respondent.

Ontario.]

11 March, 1895.

TOWN OF CORNWALL v. DEROCHE.

Municipal corporation—Negligence—Repair of street—Accumulation of ice—Defective sidewalk.

D. brought an action for damages against the Corporation of the Town of C., for injuries sustained by falling on a sidewalk where ice has formed and been allowed to remain for a length of time.

Held, Gwynne, J., dissenting, that as the evidence at the trial of the action showed that the sidewalk, either from improper construction or from age and long use, had sunk down so as to allow water to accumulate upon it, whereby the ice causing the accident was formed, the corporation was liable.

Held, per Taschereau, J.—Allowing the ice to form and remain on the street was a breach of the statutory duty to keep the streets in repair, for which the corporation was liable. 21 Ont. App. R. 279 and 23 O. R. 355 affirmed.

Appeal dismissed with costs.

McCarthy, Q. C., & Leitch, Q. C., for appellants.

Moss, Q. C., for respondent.

Ontario.]

11 March, 1895.

HEADFORD v. MCCLARY MANUFACTURING CO.

Negligence—Workman in factory—Evidence—Questions of fact—Interference with, on appeal.

W., a workman in a factory, to get to the room where he worked, had to pass through a narrow passage, and at a certain point to turn to the left while the passage was continued in a straight line to an elevator. In going to his work at an early hour one morning, he inadvertently walked straight along the passage and fell into the well of the elevator which was undergoing repairs. Workmen engaged in making such repairs were present at the time, with one of whom W. collided at the opening, but a bar that was usually placed across the front of the shaft was down. In an action against his employers in consequence of such accident,

Held, affirming the decision of the Court of Appea (1 Ont. App. R. 164) and of the Divisional Court (23 O. R. 335), Strong,

C. J., *hesitante*, that there was no evidence of negligence of the defendants to which the accident could be attributed, and W. was properly non-suited at the trial.

Held, per Strong, C. J., that though the case might properly have been left to the jury, as the judgment of non-suit was affirmed by two Courts it should not be interfered with.

Appeal dismissed with costs.

Gibbons, Q. C., for appellant.

Nesbitt & Grier, for respondent.

'RIDING THE CIRCUIT.'

The Lord Chief Justice has been combining pleasure with business on the South-Eastern Circuit by riding from one assize town to another on horseback. There was a time, of course, when horse-riding was the only means of travelling the circuit—when men spoke of 'riding the circuit' instead of 'going the circuit.' The late Serjeant Pulling refers in 'The Order of the Coif' to an address delivered by Chief Justice Dyer to a number of new serjeants in 1579, in which he advised them 'to be discreet, to ride with six horses and their sumpter on long journeys, to wear their habit most commonly in all places at good assemblies, and to ride in a short gown.' The custom of 'riding the circuit' gradually fell into desuetude as the number of coaches was increased. It was far from uncommon, however, in the days of Sir John Byles. This distinguished lawyer was accustomed not only to ride the circuit, but also to arrive at Westminster Hall on horseback; and the name of 'Bills' was bestowed upon the horse, so that members of the Bar might speak of 'Byles on Bills,' and indicate the close relationship that existed between the judge and his steed. Up to the reign of Charles II, the judges rode in procession to Westminster Hall on the opening day of each term, and oftentimes the cavalcade was imposing, the judges and advocates being accompanied by a retinue of men in livery. 'In my way thither,' wrote Mr. Pepys in his Diary, 'I met the Lord Chancellor with the judges riding on horseback, it being the first day of the term.' Such a procession might probably be a formidable business to most of the present occupants of the Bench, but it is likely they would prefer the restoration of this mode of proceeding to the halls of justice to the revival of the method that preceded it. Until

midway in the sixteenth century the judges were mounted on mules, after the fashion of bishops and abbots. John Whiddon, a judge of the Common Pleas in 1553, is said by Dugdale to have been the first judge to appear in the procession on 'horse or gelding.' When judges rode to the Courts on horseback the pageantry of the law was rather more substantial than it is in our own time, when the judges ride to the Royal Courts of Justice on the opening day of the Michaelmas Sittings in broughams and landaus, and when it is customary for them to enter an assize town by the railway, and to be driven from the station to their lodgings amid the mere relics of ancient pomp. It is recorded that when Lord Bacon first rode to Westminster Hall he was arrayed in a gown of purple satin, and was preceded by a large body of clerks and inferior officers of Chancery, students of the law and serjeants, and followed by a long array of nobles, Privy Councillors, and judges. The last occasion on which there was a procession of judges on horseback was when the Earl of Shaftesbury, who held the Great Seal for a short time in the reign of Charles II., paid his first visit to Westminster Hall in state. The custom had disappeared for some considerable time, but he had 'an early fancy, or rather freak, the first day of the term to make this procession on horseback, as in old time the way was when coaches were not so rife.' So writes Roger North, who, after describing the large number of people who assembled to witness the cavalcade, adds: 'Being once settled to the march, it moved, as the design was, statelily along; but when they came to straights and interruptions, for want of gravity in the beasts, or too much in the riders, there happened some curvetting which made no little disorder. Judge Twisden, to his great affright, and the consternation of his grave brethren, was laid along in the dirt, but all at length arrived safe, without loss of life or limb in the service. This accident was enough to divert the like frolic for the future, and the very next term after they fell to their coaches as before.' Some of the present occupants of the Bench occasionally arrive at the Royal Courts of Justice on horseback, but no accidents have been known to disturb their journeys. Other judges were less fortunate. Lord Campbell was once thrown from his steed while returning from the Guildhall, and Sir Cresswell Cresswell was killed by a fall from his horse; but the fatal accident occurred in Hyde Park, and not in connection with his duties as a judge.—*Law Journal (London)*.

GENERAL NOTES.

SIR HENRY JAMES.—We congratulate Sir Henry James most cordially, and yet not without a certain sense of pain, on his accession to the peerage as Lord Aylestone of Hereford, and his promotion to the Chancellorship of the Duchy of Lancaster. The Bar will be the poorer for his loss, and, without any disparagement of, or reflection upon, the very able lawyer and politician who has once more ascended the woolsack, it may be permissible to regret that Sir Henry James' supreme act of self-sacrifice in 1886 in refusing the Chancellorship because of his views on the subject of Home Rule has not, in the whirligig of political fortune, been rewarded at the last by the attainment of the legitimate object of every lawyer's ambition. But Sir Henry James has his reward in the esteem and admiration of every member of the profession which he adorned. By accepting the Chancellorship of the Duchy of Lancaster and a peerage Sir Henry James has brought to a close a professional career of great eminence and long duration. The son of a surgeon at Hereford, he was born in 1828, and was educated at Cheltenham. He was called to the Bar at the Middle Temple in 1852, his success as a student forming a fitting prelude to his prosperous career in the Courts. The forensic arena in which he won his spurs was the Mayor's Court, but it was not long before he established a reputation in the Courts at Westminster. In 1867 he was appointed 'Postman' in the Court of Exchequer, a position which derived its value from the precedence of its occupant in reference to motions, and its name from the place in the Court in which he sat. Within seventeen years of being called to the Bar he was added to the ranks of Her Majesty's Counsel, and the same year he obtained a seat in the House of Commons as the member for Taunton—the constituency he continued to represent until 1885, when he was returned by the electors of Bury. In September, 1873, he was appointed Solicitor-General; two months later he was promoted to the office of Attorney-General, which he held for four months. When Mr. Gladstone returned to power in 1880 Sir Henry James again became first law officer of the Crown, and identified his name with the passing of the Corrupt Practices Act. He succeeded Sir Charles Hall as Attorney-General to the Prince of Wales, and has been chairman of the representative body of the Bar.—*Law Journal* (*London*).