The Legal News.

Vol. XIV. AUGUST 29, 1891. No. 35.

In the City of London Court, on Sept. 2, before Judge Kerr, in the case of *Baggs* v. *Hodgson*, an important question was raised affecting the liability of restaurant proprietors for the loss of their customers' property. The defendant was the owner of the Raglan Hotel, Aldersgate Street, and the plaintiff (according to his solicitor's statement) went there to take his lunch. While there the defendant's wife, who assisted him in the business, asked the plaintiff to let her move his coat from where he had placed it behind the chair to some other place which would be more convenient, and make room for other customers who had come in. The plaintiff demurred to that being done, but the request was repeated, and then he allowed his coat to be moved. The defendant's wife hung the coat up, but afterwards it could not be found. It had been stolen, and the plaintiff therefore asked to be recompensed for the loss he had sustained. The question turned on the relationship existing between the plaintiff and the defendant, and whether they stood in the position of guest and innkeeper. The defendant's solicitor said the defendant's establishment was a restaurant. On the question of law the defendant could not possibly be held liable for the loss of the plaintiff's overcoat. His Honor said the plaintiff did not go as guest to an innkeeper. He went for his lunch, and that was all the difference. The law gave the plaintiff no remedy for the loss he had suffered. There must be judgment for the defendant, with costs. The above decision is rather incomprehensible. It certainly could not be sustained under our law, and we may refer to the analogous case of *Bunnell* v. *Stern*, before the New York Court of Appeals, to show that in New York State a different conclusion was arrived at. In *Bunnell* v. *Stern*, a customer took off her wrap in a shop in order to try on a cloak, and it was held that the shopkeeper was responsible for the wrap. The Court remarked: "Under the circumstances we think it became the defendants' duty to exercise some care for the plaintiff's cloak, because she had laid it aside upon their invitation, and with their knowledge, and without question or notice from them, had put it in the only place that she could (on the counter)."

The Green Bag has the following anecdote relating to circumstantial evidence:—"Some years ago, in one of our smaller New England cities, there occurred a succession of fires, evidently of incendiary origin. They were clearly the work of the same hand, and so skilfully executed that for a long time no trace could be found of their author. Every one was alarmed, every one was on the watch, and a large reward was offered for the detection of the 'firebug.' Private and public buildings were set on fire, the churches were not spared, and in no instance could a motive be assigned for the act. At last an attempt failed, and by the side of the building was found a wooden box filled with combustible material on which kerosene had been poured. In the box was found a St. Paul newspaper. The detective employed to work up the case found that only one man in the place received this paper, a carpenter, a man of good family and irreproachable character, with some property, apparently inoffensive, and one of the last persons to be suspected of crime. In his absence his shop was examined, and it was found that the boards of which the box had been made had been sawed from boards still in the shop, as was shown by putting the parts together, when every little vein in the two parts matched, as no pieces if the world were hunted over would do if they had not once been part of the same board. It was noticed also, that the nails had been driven into the boards with a hammer having a dent on its face, and a hammer with this same dent was found in the shop. The man was arrested, and though not a particle of direct evidence could be found against him, the three circumstances—the St. Paul newspaper, the matching of the boards, and the dent in the hammer—so impressed the jury, one member of which was a carpenter, that he was convicted, and was without doubt guilty, as all, even

his nearest friends, came to believe. The only explanation of his crime was that he was a monomaniac on the subject of fires; and he was sentenced to a long term of imprisonment, with compassion for the man, but to protect the community. It was regarded as an illustration of the remark that circumstantial evidence is often more convincing than direct; for in this case the only chance for doubt was that another person than the carpenter used his shop, which was not for a moment contended by his attorney."

SUPERIOR COURT.

BEAUHARNOIS, June 27, 1891.

Before BELANGER, J.

In re WILSON & MCGINNIS, Insolvents;
and MACLAREN et al., Petitioners.

Insolvent, Examination of—Art. 775, *C. C. P.*

HELD:—1. *That an insolvent cannot be compelled to appear for examination under Art.* 775, *C. C. P., before his abandonment has been contested.*

2. *That a judge sitting in Court may revise an ex parte order granted by himself in chambers.*

An ex parte application had been granted in Chambers for an order, to have the insolvents appear before the Court for examination under Art. 775, C. C. P. On the return day they appeared by counsel, and presented a petition asking that the order granted in Chambers be revised, no contestation of their abandonment having been filed, and the delay mentioned in Art. 773, C. C. P., having expired no contestation could now be filed.

PER CURIAM:—I see no objection to revising this order; the insolvents had not been notified of its presentation, it was granted *ex parte*, and no contestation of their abandonment had been filed; moreover, the delay for contesting has expired. It would be therefore useless, were it practicable to enforce it. I have already decided in a previous case that an insolvent can only be held to appear for examination after contestation of his abandonment (*bilan*), and I see no reason to change this opinion. Order revised.

Maclaren, Leet, Smith & Smith for petitioner.

McCormick, Duclos & Murchison for insolvents.

(R. L. M.)

ENGLISH *CAUSES CELEBRES.*

BANKS *v.* GOODFELLOW (1870, L. R. 5 Q. B. Div. 549).

Banks v. *Goodfellow*, to the exclusion even of *Regina* v. *Macnaghten*, is the *cause célèbre* of the English law of lunacy.

The younger Holmes, in one of his admirable lectures on the common law (p. 108), has pointed out that the capacity and the responsibility of the insane ought not to be determined by any 'external standard' which leaves their 'personal equation' out of account. In the English lunacy law this just and wholesome doctrine was for a long time lost sight of, and the civil capacity and the criminal liability of persons affected with mental disease were ascertained by the application of different and contradictory tests: (1) Any, the least, delusion was fatal to *testamentary* capacity (*Waring* v. *Waring*, 6 Moo. P. C. 341; *Smith* v. *Tebbitt*, 36 Law J. Rep. P. & M. 97; L. R. 1 P. & M. 398). The argument in favour of this curious theory, for whose vitality Lord Brougham and Lord Penzance were responsible, was put in this way: 'To constitute testamentary capacity soundness of mind is indispensably necessary; but the mind, though it has various faculties, is one and indivisible. If it is disordered in any one of these faculties, if it labours under any delusion arising from such disorder, though its other faculties and functions may remain undisturbed, it cannot be said to be sound. . . . Testamentary incapacity is the necessary consequence' (*Banks* v. *Goodfellow*, *ubi sup.* at p. 559). (2) On the other hand, the *criminal* responsibility of the insane was determined first by the 'wild beast' theory, promulgated by Mr. Justice Tracy, according to which only that degree of mental disease which reduced the intelligence of a prisoner to the level of the mental endowments of an infant or a wild beast was regarded as a valid exculpatory plea; then by Lord Mansfield's 'right and wrong in the abstract' theory; and finally by the 'rules in *Macnaghten's Case*,' which made the test of responsibility the prisoner's knowledge not of the general ethical distinction between right and wrong, but of the wrongness and

illegality of the act for whose commission he was being tried. (3) Again, the *contractual* capacity of the insane was ascertained by quite different *criteria*, derived first from the civil law, then from feudal policy, and lastly from equity jurisprudence. It is obvious that beneath these conflicting doctrines there lay one and the same fallacy—the assumption that general standards, external to individual characteristics and peculiarities, could with propriety be applied to the shifting and then imperfectly apprehended phenomena of mental disease. *Banks* v. *Goodfellow* gave this fallacy its deathblow. This was an action of ejectment, the result of which depended on the validity of the will of one John Banks, and the material facts were as follows: Banks had been confined in a lunatic asylum as far back as 1841. Discharged after a time from the asylum he remained subject to certain fixed delusions; he had conceived a violent aversion towards a man named Fetherstone Alexander, and, notwithstanding the death of the latter, he believed that this man still pursued and molested him; the mere mention of Alexander's name was sufficient to throw him into a state of violent excitement. Banks also frequently believed that he was pursued by devils, whom he thought to be visibly present. These delusions were shown to have existed between 1841 and the date of the will (1862), and also between that date and the testator's death in 1865. It was admitted that at certain times the testator was incapable of making a valid will. But he was proved to have been rational at the time of giving instructions for, and at the time of signing, the testament in issue, and the manner in which he disposed of his property—viz. bequeathing it to a favourite niece—evinced no traces of insanity. It was strongly urged, however, that, 'though the delusions under which the testator laboured might not have been present to his mind at the time of making the will, yet, if they were extant in his mind so that, if the subject had been touched upon, the delusions would have recurred, he was of unsound mind, and therefore incapable of making a will.' But the Court of Queen's Bench, in a masterly judgment delivered, and obviously prepared, by Chief Justice Cockburn, repelled this contention, and held that, as the testator's delusions were quite foreign to the subject-matter of the will, and neither had nor could have had any influence upon its provisions, they were not fatal to his testamentary capacity. 'It is essential,' . . . said the Chief Justice, , . . 'that a testator shall understand the nature of the act and its effects; shall understand the extent of the property of which he is disposing; shall be able to comprehend and appreciate the claims to which he ought to give effect; and, with a view to the latter object, that no disorder of the mind shall poison his affections, pervert his sense of right, or prevent the exercise of his natural faculties, that no insane delusion shall influence his will in disposing of his property, and bring about a disposal of it which, if the mind had been sound, would not have been made.' The decision revolutionized the substantive law of lunacy. Of course it settled once and for all the criterion of testamentary capacity in mental disease. (Cf. *Boughton* v. *Knight*, 1873, 42 Law J. Rep. P. & M. 41; L. R. 3 P. & D. 64). But it did, and is doing, much more than this. It has come to govern, by way of analogy, the law as to the capacity of the insane to marry (*Durham* v. *Durham*, 1885, L. R. 10 P. Div. 80, overruling *Hancock* v. *Peaty*, 1867, 36 Law J. Rep. P. & M. 57; L. R. 1 P. & D. 335, which corresponds to *Waring* v. *Waring* in this branch of the law); it has made its influence felt in the law of contract, so that we find a man held competent to grant a lease of a farm which he insanely believed to be impregnated with sulphur, and wished to get rid of on that ground, because the delusion sharpened his faculties (*Jenkins* v. *Morris*, 1880, 49 Law J. Rep. Chanc. 392; L. R. 14 Chanc. Div. 674). It is telling upon 'the rules in *Macnaghten's Case*' themselves. Finally, it directed the attention of the legal world, to the facts that capacity and responsibility cannot be determined rightly by the application of rigid general rules, and that the only true test of soundness of mind for legal purposes consists in analysing the *act* and at the same time steadfastly regarding the mental and moral constitution of the *actor*.—*Law Journal* (*London*).

THE OUTLOOK FOR LAW STUDENTS.

The following is extracted from an address delivered by Mr. F. K. Munton to the members of the Law Students' Debating Society, at the Law Institution, London, February 24, 1891:—

To approach the subject of the outlook for law students, we must see what is the present state of the practice of the law, whether it is falling or increasing, and how stand the chances, having regard to the existing number of members and those daily coming into the profession, of earning a living by means of it. I daresay it is known to almost everybody here that the solicitor, as we see him, is of comparatively modern growth. Very few, indeed, of the oldest firms in London date back more than a century, and certainly the importance of any solicitor at that time, whether he ultimately founded a firm or not, was very little, compared to the position which he occupies at the present day. If we read the dramatists of the eighteenth century we shall see the view that was then taken of the solicitor, but, as I have to apply myself to the outlook, there is little time to go into the past. I will content myself with merely quoting—what I daresay has been heard by many in this room—the remark of Dr. Johnson, who said: 'I should be sorry to speak ill of any person in his absence, but I believe the gentleman in question is an attorney.' It represented pretty fairly the public view in those times, nor was it altogether unnatural, for at that period the solicitor in the general way was entirely uneducated. He passed no examinations whatever. He got into the profession by merely serving his time, and nine out of ten solicitors of a century since were persons who were almost utterly ignorant of the general law of the land, relying in that respect upon the assistance of the bar, who at that time held a very different relative position. The bar and the solicitors together now form a joint honourable profession, and let us hope, since the Law Society has inaugurated a system (which I had the honour to initiate in a paper I read on the subject), by which scarcely anything affecting the bar is attempted without consultation, that such course of action will be strengthened and improved as we go on. Not till 1844, or thereabouts, was there any examination for solicitors. It is said that just one question or so was asked, as a matter of form, before a man was admitted, and probably many of you have heard the story, though some of our young friends have not, of an old judge and a young man who was about to become a solicitor. The old judge asked the young man how he would advise a person to act under certain complicated circumstances he named. The candidate in question, not having the remotest idea about it, after a little consideration, put on a grave face, and said: 'My lord, I think, in a case like that, the first thing I should do would be to draw 10*l.* on account of costs.' Said the old judge to the master: 'He will do, pass him,' and he passed accordingly. Let us now look to the statistics, and consider the probabilities of solicitors as a whole being able to earn anything like a comfortable subsistence by means of the law. I find that the proportion of the solicitors admitted thirty years ago was about the same as it is now—that is to say, in England there is one solicitor to about 2,500 of the population. The population has increased since that time something like 50 per cent., and the number of solicitors has increased at about the same rate. This would be all very well if the business kept pace with the increased number of inhabitants, but those who have had an opportunity of studying the matter know that in the High Court during the last few years there has relatively been a very appreciable decrease of work, and, though of course in the manifold affairs of this country, and having regard to its increasing importance among nations, there must always be a very large amount of business for men of our class to perform, it is a fact that during the last few years there has been the relative decrease just adverted to. I do not know whether it has occurred to many of the younger members of this society to examine into the matter, but it is a fact that if all the cases actually tried in the Courts from one year's end to the other were distributed equally among the solicitors, there would not be half a case apiece; moreover, if all the members of the bar practised there would not be one trial

apiece for them! It is true, as regards the bar, that a large number of gentlemen go there without any idea of practising, and it is very difficult to ascertain the precise proportion of men ready to take cases if offered. With regard to the business of a solicitor, everyone familiar with the work of the profession knows that at least three-fourths of it has nothing to do with litigation. I mean that if the business of the solicitors of England and Wales were taken from end to end such would be about the average of non-litigious work. The bulk of the business is that of advisers and diplomatists. Now I ask how many men are there who come into our branch of the legal profession and study during the statutory period, and perhaps come out well at the end, who thoroughly appreciate that the chief duty they will have to perform lies in attending to such matters as do not necessarily require an acute knowledge of the technicalities of the law. I do not think that point is sufficiently considered by those who enter the profession. The subject was to some extent recognized by a gentleman who died a short time ago and left a legacy to provide a prize for the candidate best versed in the direction to which I have referred, but he did not, I think, go far enough. I do not underestimate the need of the legal and other examinations; on the contrary, I hope that the high standard will be continued. As to honours, I think that it is a very excellent thing to try for them, and I speak gently upon this because I was fortunate enough to get a place myself in my day, though I certainly never derived a single client thereby. So far as it goes, it is a pleasure to dwell upon, and I counsel every man going up for his examination to endeavour to get a prize, for the extra knowledge thereby acquired, even if he be unsuccessful, is very valuable. I have, however, known men who have come straight from the test brimming over with honours, literally packed with law, but as to whom it has been found almost impossible to unpack a single bit to meet some commonplace emergency. It is a great fallacy to suppose that because you can pass your examination well, or even get honours, that you are likely to get work or be able to perform it when you do get it. Now there are several positions in which men find themselves on coming into our profession. There are those who have what I may call a legal family pedigree, others have influential commercial and business relations, and some have plenty of money. The man with the family business already made is not a person one need particularly legislate for, though he has to keep his eyes open, but mere possession of good business connections do not make it all certain that a solicitor will succeed if he is simply learned in law. I look upon tact as the most important qualification, and this can only be acquired by diligent observation and the study of your fellowman. I remember an occurrence some twenty years ago which will illustrate in a small way what I want to impress upon you when I say how little mere legal skill or abstract knowledge of the law will assist, compared to some knowledge of mankind—a position that might occur to any of you at any time. As all the parties are dead, I am not disclosing secrets, but about the period I name I was engaged in a case of some importance, involving a considerable sum of money, which was set down for trial and in the list to be heard on a certain day. The afternoon before, at the very last moment, my client was in great distress of mind because he discovered that the names of third persons would have to be published to their detriment, and he resolved under any circumstances he must drop from the fight before incurring heavy further expense, and, in the emergency, the animosity being intense, there was apparently only one course—viz. to withdraw the record, which he instructed me to do, and pay the adversary's costs. Much disheartened, of course, I drove off to achieve the purpose. The official closing hour was at hand, and just as I arrived at the door I ran against my opponent, who struck me as looking remarkably gloomy, and it passed through my mind, though I was close run for time, that I had better just see if he would say anything to me before I showed my hand. I am not going to speak too much about myself, but I studied that man's face —he, too, has long since passed away—and assumed as gay an air as possible, and this

attitude achieved startling results. As a fact, my nonchalance induced him to open a conversation, saying: 'I am glad to meet you, and'—well, to finish that story, if I had made a mess of it I might have withdrawn the record, whereas that afternoon ended by our mutually signing an order to stay on payment by his client to mine of half the debt and the whole of the costs. All this was largely due to being careful not to show alarm at a critical moment. There are many others, no doubt, who might have done the same, and I only give it as an example. I want to urge that, however much you may know of law, unless you school yourself to meet positions such as I have referred to, your education as a solicitor is deficient. Now what is it that busy firms want every day in business, and which it is so difficult to get? If one advertises for an admitted clerk, the profession is so overstocked that one has innumerable answers, the remuneration asked being humiliatingly small, indicating clearly that the demand does not equal the supply; but with the answers it is no easy thing to find a candidate who thoroughly appreciates that something more is wanted of him than abstract law. I honestly believe that there are a hundred firms in London who have openings ready for clerks at good salaries if they could find more men who apply their minds to acquiring the qualities to which I have alluded. They cannot be attained at once, but from beginning to end such qualifications should be part of a young man's study. When a brother-solicitor asks me whether I know of any good all-round man, he means a man who will rise to the situation and meet an emergency. Perhaps I may venture to say that I am entitled to speak a little on this subject, having had a long and somewhat varied experience. In my opinion there are many things essential to a young man getting on in our profession. In the first place it is necessary to be very polite. This may seem a needless suggestion, but I declare I have met men in the legal profession who, if they are giving a mere extension of time to which one is perfectly entitled, assume an air about it as though they were conferring a great favour. Firmness and politeness are not at all inconsistent. Some people, however, are painfully polite. There is a story of a very old solicitor, now dead, a regular money-lender, habitually remarkable for his politeness. He was so smooth that even when he refused a loan the person went away under some sense of gratitude. We all know that there are men who can refuse a favour more pleasantly than others grant one. This unduly polite solicitor on an occasion, when a young man went there, very hard up, for a loan, said: 'Well, my friend, how much do you want?' '100*l*,' said he. 'Certainly,' said the solicitor, 'but I shall want a little security.' The young man, who thought he was getting on very nicely, said: 'Well, to say the truth, the only security I can really offer is myself.' The old solicitor said: 'Oh! that will do. Come along,' and, taking him up a passage to an open iron door, said: 'Please go in there, that is where I keep my securities.' But to be serious, politeness in the transaction of business is very important, especially to young men. The next essential is the cultivation of a business memory—not automatic repetition, but a system whereby you can recall the salient features of a matter throughout its progress. Then many young men do not sufficiently acquire the art of listening. It is a thorough art to listen properly, and I believe that in the conduct of business careful listening to what your adversary says, in order that you may thoroughly grapple the point, is a thing often disregarded. I am not pointing at anybody in particular, but there are some people who are so full of what they are going to state themselves that they do not apply their minds at all sufficiently to what their adversary says. I desire to impress upon law students that to learn to listen is almost as important as learning to speak. It is supposed by many that after they have studied the law they are fit to be advisers and diplomatists without further ado. Before you can become a useful legal adviser, you must throw yourself into at least one or more other pursuits. You want to mix with the world, and get a practical knowledge of men and manners, for a successful solicitor and a man of the world are one and the same thing. I must not occupy the time by tell-

ing more stories, though the remark I have just made reminds me of something worth relating. Some years ago I put an advertisement in the principal journals, and, wishing to draw attention to my personal views, I stated that only those who had some qualification to be called 'men of the world' need respond. Would you believe that I had a letter of four or five pages from one candidate, seemingly an educated man, in which he said he had been to America, India, the colonies, and a number of other places, adding, 'so I hope that I have established my claim to being something of a man of the world.' To return for a moment to statistics and the chances in the future, we must remember that in this country any man can become a solicitor who goes through the needful process, and opens an office, and puts on a door-plate, the latter often proportionately large to the smallness of the business. This sort of thing cannot be done on the other side of the Channel. There the number of solicitors is limited. Every district has its allotted number, and although you may go through your articles, you must wait till somebody dies, or in some way or another depend upon the shoes of another person. In France there is a large class of persons called 'hommes d'affaires' who perform a substantial share of the business which we as solicitors perform. We are in fact the 'hommes d'affaires' here. The men in France who devote themselves to that particular office are often first-rate diplomatists, but know very little law. I do not say that their duties are precisely like some of those which we perform. Such advisers, however designated, must always be in demand, for in this world of ours it is impossible for those who are engaged in anything like a large way to personally manage many matters connected with their affairs, and they must have a 'man of business' to attend to them. That 'man of business' in this country is a solicitor, and the 'business' which so largely falls upon the shoulders of the solicitor requires many of the qualities I have named to perform it satisfactorily, quite irrespective of the needful knowledge of law. I do not myself see how it is possible for all those who are daily admitted to our profession to earn anything like a substantial subsistence therefrom, and I have come to the conclusion, and I always say it whenever I get the opportunity, that the time has gone past in this country for sending men into the ranks of solicitors merely because it is an honourable calling. With regard to the bar, men intending to practise as advocates mostly show an aptitude for the business they are going to undertake, whereas a man is often articled to a solicitor without having any aptitude whatever for acting as an adviser. Of course the position is less serious for a young man who has a business already made for him, and who has only to hang up his hat in the office to start work, but even then he must nowadays, as I have said before, possess some practical ability to keep his inheritance going. Those of us who remain in the profession will, I think, see litigation decrease more and more. Few people like litigation. I suppose we shall never have a complete code in this country, but the decisions of the judges during the present generation have gone far to supply a code which in a measure tends to decrease contentious work. I believe, for example, that there have been fewer actions with regard to bills of exchange since the law on that subject has been codified. To my mind, however, the cardinal cause of decrease of litigation is the delay and uncertainty in the trial of actions. The ill-judged parsimony of the Treasury on the one hand, resulting in an insufficient staff to try cases, and the extraordinary and remarkable want of organisation on the other, produce deplorable delay and uncertainty. Though, thanks to the Law Society and the Bar Committee, some useful rules are now in operation to soften down things, men are ready to settle their disputes on almost any terms rather than have to hang about from week to week and month to month in the Courts of law waiting for a hearing. It may be said by some that we are going to improve all these things. I have a very strong impression that the present system will last as long as I shall remain in the legal profession, and probably a great deal longer. There are too many conflicting interests in the way. Those who have any commercial business will support

me when I say this, that every effort is made to avoid going into Court at all, not that people want arbitration *per se*—indeed, many dislike it—but it is choice of evils.

[Concluded in next issue.]

GENERAL NOTES.

CHURCH BELLS.—The *Pall Mall Gazette* has recently inserted a multitude of letters complaining of the noise of church bells in terms which show that the writers are *bona fide* sufferers. Have they any and what remedy at law? The point is one singularly bare of authority. The well known case of *De Soltau* v. *Held*, 21 Law J. Rep. Chanc. 153, in which both damages were recovered and an injunction granted, is, we believe, the only one to be found in the books on the subject. But in that case the offending bells belonged to a Roman Catholic chapel, and Vice-Chancellor Kindersley appears to have drawn a great distinction between the bells of such a chapel and the bells of a 'church in law,' to which 'bells are an appendage recognized by law, the special property in which is vested in the churchwardens for the benefit of the parishioners at large.' We cannot think, however, that the bells even of a parish church might legally be rung to excess. The churchwardens, we should imagine, could only authorize a reasonable user of them. It may be observed that in the chapter of the Introduction to the Prayer-book 'concerning the service of the Church,' it is provided that 'the curate that ministereth in every parish church or chapel shall say morning and evening prayer in the parish church or chapel where he ministereth, and shall cause *a bell* to be tolled thereunto a convenient time before he begin, that the people may come,' &c.—*Law Journal.*

DAMP BEDS.—The mischief wrought by damp beds unfortunately does not usually react upon its heedless originators. The sole sufferer is the luckless occupant, who, forgetful of the buyer's *caveat* and all that it implies, buries himself within the chill of the half-dried bedclothes. In a recent instance, in which the law was appealed to, the tables were turned. The plaintiff, who, with his family, had for several days occupied a room in a seaside restaurant, was then told that the apartment was let and he must accept another. Here the trouble began. Illness, with its expenses, followed, and the final cost, incurred in consequence of his too unceremonious host, amounted to 150*l*. An action so unusual and a verdict so consonant with sanitary principles deserve to be kept in remembrance. It is to be hoped that their obvious teaching will not be forgotten by any who live by housing their fellow-men. As regards the latter, however, the maxim which inculcates prevention is still the best. Not even a money fine will always atone for the injury done by avoidable illness. *Caveat emptor*, therefore, notwithstanding. Let the traveller, however weary and inclined to sleep, first be careful that his bed is dry. In any case of doubt the use of an efficient warming-pan, or, if needful, even a change of bedding, should be insisted on, and the further precaution of sleeping between blankets rather than sheets is in such cases only rational. —*Lancet.*

'SIGNED, SEALED, AND DELIVERED.'—Referring to Stock Exchange customs and transfers, it has been proposed to our M. P. members that they should compass the doing away of those foolish little seals which we are all accustomed to affix to transfers, and without which no executed and attested transfer is really valid. What do they convey, it is asked, but the usages of a bygone age, before free education taught everybody to write? The gummed paper seals are symbols of the seals which our forefathers carried on their sword-hilts, and with which they transacted their business by affixing the seals—an equivalent to their signatures—to any document. Indeed, with one end or the other of their swords they used to settle everything in those happy days. In order that the words 'signed, sealed, and delivered' may be carried out exactly we are required to stick bits of red paper on a transfer. Perhaps, it is suggested, the Stock Exchange committee would recognise all transfers as good delivery which have not these dabs of coloured paper upon them. At any rate, if the Stock Exchange committee will not carry out this reform, Parliament is to be asked to do so, with, of course, the usual concomitants of delay and bitter discussion. The agitators for this reform seem to forget that they are reflecting severely on their forefathers, who, when they established the custom in question, must be presumed to have understood their own purpose.—*Mr. Uttley in London Law Journal.*

GAMBLING CONTRACTS.—That a Stock Exchange speculative contract, when made in the ordinary way through a broker and jobber, is perfectly good in law, was decided by the Court of Appeal in *Thacker* v. *Hardy*, 48 Law J. Rep. Q. B. 289, in which it was held that a broker employed by his principal to speculate was entitled to an indemnity against losses incurred in the course of the speculation authorized, and also to commission. But it was pointed out by Lord Justice Bramwell that *Grizewood* v. *Blane*, 11 C. B. 526, in which a Stock Exchange speculative contract was held bad, was unaffected by this decision, the reason for the distinction being that in *Grizewood* v. *Blane* the transaction took place between two principals. In *Beriro* v. *Thalheim*, which we recently noted, the Recorder of London has followed *Grizewood* v. *Blane*, and applied it to a new state of facts. Two young men, it seems, had agreed to combine their forces in speculation, the profit, if any, to be shared, and the loss, if any, to be shared also. A loss having been sustained, 'the defendant said that he admitted making the agreement to speculate, but when he found that the stocks were going down he asked the plaintiff to close the account and open a "bear" account, which the plaintiff declined to do, "because he was certain the stocks would recover." The transactions eventually terminating in loss, the plaintiff sued for half of it according to contract, but the recorder ruled that he must be nonsuited, as the contract was purely a gambling one, 'like a horse race or wagering on two drops of rain running down a window pane.' On the whole, we think that the recorder is right, but it would be satisfactory to have the judgment of a Court of Appeal on *Grizewood* v. *Blane*, especially as Lord Justice Cotton appears to have disapproved of that case in *Thacker* v. *Hardy*.—*Law Journal.*