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NOTES.

THE HIGHWAYMAN'S CASE (*Everet v. Williams*).

TRUTH is stranger than fiction. The story of a highwayman filing a Bill in Equity for an account against his partner, which we had always doubted (*ante*, p. 105), is correct after all.

A learned correspondent has sent us an extract from the European Magazine for May, 1787, vol. i. 360, which sets out the Bill and the orders made. As the orders are dated, we have been able to procure a collation of the originals, which we owe to the kindness of Mr. Hubert Hall, of the Record Office.

The Bill was in the Equity side of the Exchequer. John Everet, of the Parish of St. James's, Clerkenwell, and Joseph Williams were the parties. Apparently it was filed before 1725, and it has not been identified; but, as the orders are there, we have no reason to mistrust the copy of the Bill in the European Magazine.

It 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, where they dealt with a gentleman for a gold watch;' and that defendant had informed plaintiff that Finchley 'was a good and convenient place to deal in, and that the said commodities were very plenty at Finchley aforesaid,' and that if they were to deal there 'it would be almost all gain to them.' Further recitals show how the parties accordingly 'dealt with several gentlemen for divers watches, rings, swords, canes, hats, cloaks, horses, bridles, saddles, and other things to the value of £200 and upwards;' and how there was a gentleman at Blackheath who had several things of this sort to dispose of, which defendant represented 'might be had for little or no money, in case they could prevail on the said gentleman to part with the said things;' and how, 'after some small discourse with the said gentleman,' the said things were dealt for 'at a very

cheap rate.' The Bill further recites that the parties' joint dealings were carried on at Bagshot, Salisbury, Hampstead, and elsewhere, to the amount of £2000 and upwards; and that the defendant would not come to a fair account with the plaintiff touching and concerning the said partnership. The Bill, which concludes with a prayer for discovery, an account, and general relief, purports to be signed at the foot by counsel, one Jonathan Collins.

We now give the orders of the Court, corrected from the originals:

Exchequer (Orders, vol. 34), Mich. T. 12 Geo. I, 1725 (No. 43), Saturday, October 30, 1725.

Middlesex. Between John Everet, plaintiff, and Joseph Williams, defendant. By English Bill. Upon the motion of Mr. Serjeant Girdler [of Counsel] with the defendant, praying that the Bill filed in this cause might be referred to John Harding, Esq., Deputy Remembrancer of this Court, for scandal and impertinence; and that he may examine into and report the same to this Court with all convenient speed, which is this day ordered by the Court accordingly.

[On Nov. 13 the Bill was dismissed with costs on the plaintiff's application.]

Monday, Nov. 29, 1725. Upon the motion of Mr. Serjeant Girdler¹ of Counsel with the defendant, praying that the report of John Harding, Esq., Deputy Remembrancer of this Court, made in this cause the 24th of November instant, whereby the said Bill is reported both scandalous and impertinent, might be confirmed; when upon reading the said report, and on hearing of Mr. Philip Ward and Mr. Welden of Counsel with the plaintiff; and upon reading the said report and the plaintiff's Bill; it is this day ordered by the Court, that the said report shall be, and is hereby confirmed; and that it be referred back to the said Deputy Remembrancer to tax the defendant his full costs in this cause, and that a messenger or tipstaff of this Court do forthwith go and attach the bodies of Mr. William White and Mr. William Wreathock, and bring them into Court to answer the contempt of this Court. Brompton, *pro deft.*

Wednesday, December 6, 1725. Whereas, by an order of this Court, made the 29th day of November last, the tipstaff was ordered to take into his custody and bring into this Court William White and William Wreathock the plaintiff's solicitors in this cause—reflecting upon the honour and dignity of this Court; and the said William White and William Wreathock being now brought

¹ Girdler was a real serjeant. The Incorporated Law Society's records do not go far enough back to verify the persons named as solicitors.

into Court, this Court upon consideration had of the premises, doth fyne the said William White £50, and the said William Wreathock £50, and commit them to the custody of the Warden of the Fleet until they pay the said fynes: and it is ordered by the Court that Jonathan Collins, Esq., whose hand appears to be set to the said Bill, do pay the defendant such costs as the Deputy shall tax, and the Court declares the indignity to the Court as satisfied by the said fynes, and the Deputy not to consider the scandal in the taxation. *Ayrs, pro def.*

It is further stated in the European Magazine that John Everet, the plaintiff, was executed at Tyburn in 1730; Joseph Williams, the defendant, at Maidstone in 1727; and that William Wreathock, one of the solicitors, was in 1735 convicted of robbing Doctor Lancaster, but was reprieved and transported.

Our correspondent refers, for something like a parallel, to the observations of Manwood J. in 1571, in an action on the case on the Statute of Winchester, 13 Eliz. 1, against the men of the Hundred of A, for damages sustained by the plaintiff by highway robbery.

Referring to a similar case within his own knowledge, in which Counsel actually set up a plea prescribing for a right of robbery, Manwood J. says—'When I was a servant to Sir James Hales, one of the Justices of the Common Pleas, one of his servants was robbed at Gadds Hill, within the Hundred of Gravesend, in Kent, and he sued the men of the Hundred upon this Statute, and it seemed hard to the inhabitants there, that they should answer for the robberies done at Gadds Hill, because robberies are there so frequent, that if they should answer for all of them, that they should be utterly undone. And Harris, Serjeant, was of Council with the inhabitants of Gravesend and *pleaded for them, that time out of mind, &c., felons had used to rob at Gadds Hill, and so prescribed,* and afterwards by award they were charged' (2 Leon. Rep. 12).

The learned reader is invited to note up his 'Lindley on Partnership,' p. 93, 5th ed., accordingly.

An interesting article on the new Italian school of 'Private International Law,' by Mr. M. J. Farrelly (a contributor to this present number), appeared in the April number of the *Juridical Review* (Edinburgh). The exposition suffers somewhat from the inevitable condensation of a review article; but there is quite enough to awaken intelligent curiosity, which is the main point. Mr. Farrelly comments on the unhappy effect of Bentham's and Austin's narrow and pragmatistical definitions in divorcing English from Continental legal thought. We are now beginning to learn