

VI

THE FRAUD OF A DERBY

Why, what an intricate impeach is this !

And I was ta'en for him, and he for me.

Comedy of Errors, Act V, Sc. 1.

Castigatque auditque dolos subigitque fateri.

Æneid, VI, 567.

IN the month of September last a Judge of the High Court was engaged for many days in trying a series of Turf frauds. The prisoners were convicted of conspiracy and of obtaining stake moneys by false pretences in relation to certain races in which horses had been substituted for those originally entered. Complicated and tedious as were the charges, they recalled to the minds of many readers the most famous case of fraud which has ever stained the annals of horse-racing. It is an old story : but perhaps its importance in the long tale of racing life deserves that it should be rediscovered from its burial in the dust-heap of drowsy documents.

The race for the Derby of 1844 was won by a horse called Running Rein. This animal was subsequently proved to have been a four-year-old whose real name was Maccabæus, and who was disqualified. The race and the stakes were awarded to the second horse, Orlando, the property of

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Colonel Peel, brother of the Prime Minister of the day.

Jonathan Peel was a notable figure on the Turf. He was the fifth son of the first Sir Robert Peel, whose baronetcy had been conferred upon him by Mr. Pitt in recognition of a large subscription to the Loyalty Loan and his equipment of a regiment of volunteers at a crisis in the French War. Possessing more geniality than his father and more manners than his eminent brother, he joined at a very early age a marching regiment as an ensign. He soon entered upon the sport of racing, and, as often happens, his betting ventures as a youth were in striking contrast to the modest wagers of his riper years. It is told of him that he was once a guest at a regimental mess when the presiding officer blustered that he would take 5,000 to 100 about a horse for the forthcoming St. Leger, knowing that it was quite unlikely that any officer of the regiment would accept the offer. To the gallant Colonel's consternation, a voice from the end of the mess table called out, "Done, sir; I will lay you fifty hundreds to one." The layer was Lieutenant Peel, and wry was the face of Sir John Byng at being snapped up by a subaltern in this cool fashion. However, the honour of the regiment required that the bet should be booked. Peel won some small races with his two-year-olds in 1823, and in 1824 Fille de Joie, a filly he had bred, ran second in the Oaks to Lord Jersey's Cobweb.¹ In the year of

¹ The *Dictionary of National Biography* states that Peel's filly was named Phantom! This blunder on the part of the compiler of the memoir of General Peel is due apparently to the fact that

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the Reform Bill he won the Two Thousand Guineas with Archibald, a small horse of exquisite quality and a great favourite with the public. His next classic was the sensational Derby of 1844.

Among the two-year-olds of 1843 was a reputed one named Running Rein. He was described as by the Saddler—Mab by Duncan Grey, a bay with four black legs, and a few grey hairs on the forehead not amounting to a star.¹ The colt ran in two races at Newmarket during the Second October Meeting. He won a £50 plate, beating twelve others in a canter. In the Clearwell the next day, won by Colonel Peel's Zenobia, he was not placed. At this, his first appearance on the race-course, he was evidently regarded with suspicion—indeed, the Turf chronicler of the day called him "that disputed animal"—and, after winning his race, the Duke of Rutland, who was second with Crenoline, objected to the owner receiving the stakes on the ground that the winner was a year older than he ought to be. There is no doubt that Lord George Bentinck suspected the colt, and that he instigated the Duke to lodge the objection. A fortnight after the race the Stewards—Lord Stradbroke, Mr. Greville and Mr. Thornhill—investigated the objection. They took the evidence of a boy named Kitchen, who professed to identify the horse as the Saddler colt which

the sire of Cobweb was Phantom (the Derby winner of 1811), and that the sire's name in the race record, following after Cobweb's name, was mistaken by the writer for that of the second in the race.

¹ According to the evidence at the subsequent trial there was practically no difference in the colour or marking of Running Rein and Maccabæus. There was some question about scars on the fore legs, but it came to little or nothing.

HOW THE SECRET GOT OUT.



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had been foaled in 1841 at Mr. Cobb's stud farm at New Malton, in Yorkshire. Lord Stradbroke and his colleagues then proposed that the colt's mouth should be examined, but the owner, Levi Goodman, in strong language, refused point-blank to allow it.¹ In spite of this most suspicious circumstance the Stewards over-ruled the objection.² "There is little doubt," wrote another sporting scribe, "that objection will be taken when Running Rein comes to the post again. Anyone may be excused for forming an opinion that Running Rein is a three-year-old, for a more furnished two-year-old I never saw." Although the decision was in favour of the horse, all bets were paid under protest.

Some of the legitimate competitors for the Blue Riband of 1844 were thought to be animals of considerable merit. The Ugly Buck, a colt by Venison out of a Plenipotentiary mare, ran only once as a two-year-old, when he won the Molecomb Stakes at Goodwood. He was then reserved for the Two Thousand Guineas, which he won, but not with that ease which his Derby admirers expected. His favouritism for the great race was throughout challenged by Ratan, a colt by Buzzard, bred and owned by Crockford, the owner of the gaming-house in St. James's Street. He had won a race at Ascot on his first appearance, and in the autumn carried a penalty to victory in the Criterion. It only remains to notice that

¹ This was subsequently proved at the trial in court.

² This decision was set aside by a resolution of the Jockey Club at their general meeting on July 6, 1844, and the Duke of Rutland's Crenoline was declared the winner of the Plate.

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Colonel Peel had two candidates engaged : Orlando, a bay horse by Touchstone out of Vulture, a rather soft mare, and Ionian. The former was beaten in his race at Ascot into second place, but he subsequently won the July Stakes at Newmarket and the Ham Stakes at Goodwood. He was a singularly handsome horse of conspicuous quality. He fell lame, ultimately, in running for the Gold Cup at Ascot and was retired to the stud. As a sire he was very successful, and his son, Teddington, was probably one of the best horses who ever won the Derby. Alec Taylor, who trained Teddington, was wont to say that he was the fastest horse he ever had in his stable. At the same time Orlando's stable companion Ionian commanded more admirers. This horse was by Ion out of Malibran by Whisker. At the Craven Meeting he had won a match and had carried off the Chesterfield Stakes in brilliant style. For the Epsom race he stood at much shorter odds than Orlando.

A few days before the Derby the Stewards of the Epsom meeting—Baron de Tessier and Sir G. Heathcote—were served with a protest signed by Lord George Bentinck, Mr. Bowes and John Scott against the inclusion of Running Rein in the Derby field. Thereupon the Stewards asked the then owner of the colt, Mr. Anthony Wood, a corn merchant of Epsom, to produce either the servant of the breeder or such other evidence as would establish the identity of the horse. On the Saturday before the race the Stewards appear to have been satisfied with the evidence tendered, and they directed that the colt should be allowed to start. They, however, informed the owner

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and his friends that they must be prepared for another scrutiny, as probably they would be required to prove their declarations in a court of law.

It was a large field for the great race on May 22nd, no less than twenty-nine horses coming under the orders of the starter. The Ugly Buck was favourite at 9 to 4, with Ratan supported at 5 to 2. Running Rein, whose condition was greatly admired, started at 10 to 1, the rest of the field being quoted at much longer odds. Before the race the Stewards assembled the jockeys and warned them that any infraction of the rules of starting would be visited with the extreme penalty. At three o'clock the flag fell, and Leander¹ made the running at a great pace with the Ugly Buck in close attendance, followed by Running Rein. When half a mile had been covered Leander was seen to falter, and the horse was pulled up, as he had broken his off hind leg. Running Rein then rapidly passed his horses and took a clear lead, followed by the Ugly Buck. Enveloped in a cloud of dust, they came round Tattenham Corner, at which point the race began in earnest. It was then seen to be a struggle to catch the rider in the white jacket. The Ugly Buck was beaten, and Colonel Peel's pair followed the leader home. Orlando made a gallant effort; he got within half a length of Running Rein, but could not sustain the pressure, and Mr. Wood's horse won

¹ There was much controversy at the time concerning this animal. Conflicting veterinary reports were made as to his age, and the horse, having been destroyed and buried after his accident, was subsequently exhumed.

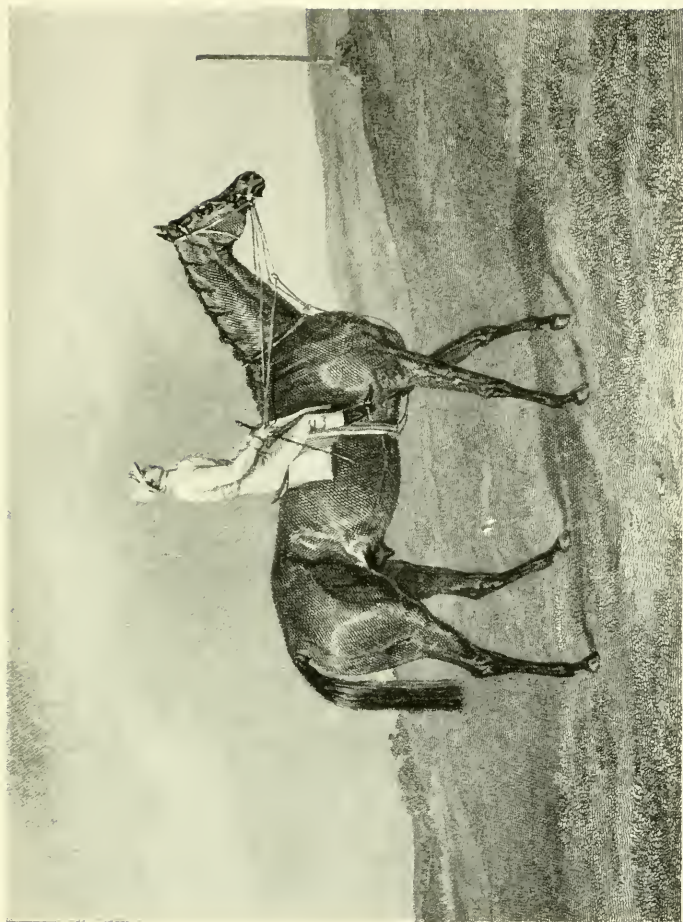
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comfortably by three parts of a length. Ionian, two lengths away, was third.

That a protest would be raised against the winner was at once realized, and the general opinion was loudly asserted that the Derby would have to be run over again, and this time within the narrow precincts of Westminster Hall. The settlement of bets over the race was postponed, and the successful holders of lottery tickets were deeply concerned as to the doubtful issue of their interests. Meantime, odds of 2 to 1 were laid, on Orlando getting the race. On the other hand it was believed that if Running Rein kept the verdict the owner and his friends would win upwards of £50,000.

Immediately after the race Colonel Peel entered an objection and claimed the stakes, following this up by serving a writ on Messrs. Weatherby, the stakeholders, for £4,250. Upon this the solicitor to the owner of Running Rein addressed a letter to the Stewards of the Jockey Club asking them to appoint twelve o'clock on the following Monday in order to hear the objection to the qualification of the Derby winner. The Stewards accordingly communicated with Colonel Peel, who then offered to refer the question of qualification to a barrister who should be nominated by the Lord Chief Justice, and who, according to the provisions of a recent Act of Parliament, would be able, as an arbitrator, to examine witnesses upon oath. Peel also informed the Stewards that he had commenced process against Messrs. Weatherby for the Derby stakes. This invitation to arbitration was, however, declined by the owner of Running Rein,

RUNNING REIN, 1844.



RUNNING REIN.

(1844)

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and the Stewards, in view of the legal action taken by Colonel Peel, declined jurisdiction, and stated that, so far as they were concerned, the matter was at an end. The next step in the proceedings was that Messrs. Weatherby obtained an interpleader rule, and it was ordered that the stake money should be paid into court, that the owner of Running Rein should be the plaintiff in the action and Colonel Peel the defendant. The order also settled the terms of the issue to be tried.

On July 1st the trial took place in Westminster Hall before a special jury. It was well staged: indeed, it was the event of the season, for England dearly loves a *cause célèbre*. The avenues to the Court of Exchequer were blocked by an eager and expectant public. To hear "the Derby cause" came the leaders of a brilliant society. The magnates of the racing world were there, conspicuous among them being the commanding figure of Lord George Bentinck in all the "majestic frivolity" of attire which distinguished that age. In the imposing array of counsel on either side were men celebrated for their talents and learning and destined to reach the highest posts of their profession. Cockburn,¹ whose musical voice and

¹ With Cockburn in the case were Edwin James, whose career was to prove at once a success and a tragedy, and Lush, who later sat with his leader in the Court of Queen's Bench, and was afterwards raised to the Court of Appeal. Counsel with the Solicitor-General were Martin (afterwards Baron Martin), S. Wortley and Rawlinson. Martin, who had an intimate and complete knowledge of the Turf, was able to instruct his leader in all the technical details of the case. The conferences at which Lord George Bentinck and Martin were present with Thesiger must have been entertaining and interesting.

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dignified bearing are still a pleasing memory, and who was afterwards Lord Chief Justice of England, led for the plaintiff. The defendant, Colonel Peel, was represented by the Solicitor-General, Sir Frederick Thesiger. As Lord Chancellor, some years later, he sat in Cabinet with his client in Lord Derby's Administrations. The judge was Alderson, Baron of the Exchequer.¹ For fourteen years he had been an ornament of the Judicial Bench. A judge of humane character and of some literary taste, he combined a strong Churchmanship with the religious sentiments of a liberal and enlightened mind. He had some acquaintance with the business of racing, for at times he had been the guest of John Scott, the famous trainer at Whitewall, at whose hospitable board he had put questions about the art of riding, the condition of horses and the supply of stable-boys.

The pleadings were opened to the effect that an issue had arisen between the plaintiff and the defendant in which the former maintained the affirmative of the question whether a certain horse called Running Rein, who had won the last Derby Stakes at Epsom, was a colt by the Saddler out of Mab, foaled in 1841. Cockburn then addressed the jury in the familiar style of those days. He pledged himself to establish a case in his client's favour as clear as ever was done in a court of justice, and boldly asserted that the truth was with the plaintiff. He proceeded to give the history of Running Rein. He said that Abraham Levi Goodman, a trainer,

¹ Thirteen years later Baron Alderson's daughter became the wife of the late Lord Salisbury.

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had bought him in 1841 as a foal in Yorkshire, and after keeping him at his own stables in Foley Place and later in Dorset Square, had sent him to Finchley and thence to Haine's stables in Langham Place on September 24, 1842. From Langham Place Running Rein was dispatched to Epsom to one Smith, who was engaged to train him. Goodman and Smith disagreed, and the colt was moved to Sutton, and was there trained until the autumn of 1843, when he was due to run at Newmarket. He ran there in Goodman's name in two races, but, shortly afterwards, Goodman, being indebted to the plaintiff, allowed the latter, on payment of £200, to take the colt with his engagements in satisfaction of the debt. From Newmarket the colt was sent back to Epsom, and remained in training there until the Derby. Cockburn confessed that he could not call Goodman, and that he must admit that this important witness was a person of bad character. He concluded his address by saying that the Jockey Club was the proper authority for trying the issue, and that "a court of justice was desecrated by being made arbiters in such a case"!

After four witnesses had been called to identify the horse and to prove the sequence of events narrated by counsel,¹ the learned Baron showed his hand. "Is the horse here?" he exclaimed. The Solicitor-General intervened, "Your Lordship made an order for us to inspect him, but we have been refused permission." Then the Judge: "I sit here as a Court of Conscience, and the jury will feel with me that the production of the horse

¹ Some of these witnesses were badly shaken in cross-examination.

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and his examination is indispensable. After this notice I shall expect to see him, and I should like to look at his mouth myself." ¹

Cockburn having assured the Judge that there would be no objection to produce the animal, the case proceeded. Five more witnesses gave evidence, some of identification, and some concerning the movements of the horse in London and in the neighbourhood. Towards the end of his evidence Smith, the Epsom trainer, related how the day before the Judge's order for inspection was made he had allowed Running Rein to be fetched from his stable in conformity, as he alleged, with the verbal orders of the owner. Then the Judge raged. "Justice demands the production of the horse." "I'll tell you," addressing the plaintiff's counsel, "what makes an impression on my mind, and that is your anxiety to conceal the horse." "But, my Lord," began James. The Judge cut him short. "Produce your horse!" he cried. One more witness, and the plaintiff's case closed.

The Solicitor-General then addressed the court on behalf of Colonel Peel. After the usual professional comment on his opponent's difficulties, and the unfortunate character borne by some of his witnesses, he entered upon a long and elaborate narrative of the events which he undertook to prove. The horse that won the Derby was really Maccabæus—a colt by Gladiator out of a mare

¹ In a rather clever poem, entitled *The Exchequer Epic*, the poetaster refers to this utterance of the Judge:

"Mr. C., where's the colt?" Baron Alderson cried,
"I WILL see his mouth, and I won't be denied."

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by Capsicum. He was bred by Sir G. Ibbetson in April 1840. In the month of September 1841 he was offered for sale by Mr. Tattersall at Doncaster and was bought by Goodman. He was entered for the Derby of 1843. After Doncaster the colt was first lodged with a farmer named Worley at Sywell, near Northampton, and was then sent to a place in the occupation of Higgins, who was Goodman's accomplice, where he remained until September 1842, and was there known as Maccabæus. Thence he was walked to London, and on September 24th was stabled in Langham Place. Here the fraud was perpetrated,¹ and the Gladiator colt (Maccabæus), under the name of Running Rein, on September 27th was dispatched to Epsom, while the real Running Rein (the Saddler colt) was hidden away at Finchley. Maccabæus—henceforward Running Rein—was kept at Epsom and trained there until he was sent to Newmarket in the autumn of the following year, to fulfil the real Running Rein's engagements.

Goodman, in order to account for Maccabæus' existence, resorted to another deception. There was an Irish horse called Goneaway. In July 1842 Goodman, after inquiring about the colour of the animal, paid the owner, Mr. Ferguson, of Rossmore Lodge, County Kildare, £500 for the use of this three-year-old,² who was dispatched

¹ So, too, the Judge at the close of the trial: "The pinch of the case is what was done at the stable in Langham Place, for there is no doubt that the colt that left Langham Place for Epsom to be trained became Running Rein."

² Lord George Bentinck travelled to Ireland to see Mr. Ferguson about this transaction with Goodman, and even traced the purchase of the dye which Goodman had used.

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to England in January 1843 and was taken to the stable in Langham Place. Goodman, with dye and other treatment, altered the appearance of the horse to conform to that of Maccabæus,[†] and ran him as a three-year-old under the name of Maccabæus at the Epsom Spring Meeting, when, with 7 st. on his four-year-old back and a hot favourite, he was beaten by a neck. Goodman intended to run the horse in the Derby, but the owner, becoming acquainted with the contemplated fraud, interfered, and frustrated this second scheme of impersonation.

Evidence was then called to prove the sale of Maccabæus as a yearling in 1841 and his delivery to Goodman and Higgins; while the age of the colt was further established by proof of the entries at Messrs. Weatherby's office.

It was now past seven o'clock, and the court adjourned. The following morning it was evident that the proceedings were about to take a sensational turn. The plaintiff was observed to approach Colonel Peel with a letter in his hand, and counsel held agitated consultation until interrupted by the arrival of the learned Judge. Cockburn then rose and informed the court that he could not produce the Derby winner. He had been taken away from the trainer's stable. Then the Judge burst out: "Why doesn't he set a policeman to find him? If the horse has been taken away against the owner's will, it is a clear case of horse-stealing, and if I try the parties who have removed him at the Old Bailey I will transport them for

[†] The horse had a white pastern, which Goodman painted a dark colour.

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life to a dead certainty." Turning to Cockburn : "What's to be done now? You cannot produce a horse you haven't got." Still the case dragged on. Worley, the farmer who had charge of the horse in September 1841 as a yearling, had not a shadow of a doubt that he was the animal he saw win the Derby, and his evidence was corroborated by another witness. The Judge then asked Cockburn how, after this identification, he could proceed with the case, and the embarrassed lawyer, having admitted that his client had written a letter to Colonel Peel saying that he now felt that some fraud had been committed and that he would withdraw from the inquiry, consented to a verdict for the defendant.

There was an incident at the trial which gave rise to some comment. Although Lord George Bentinck had been subpœnaed by the plaintiff, Cockburn at the opening of the proceedings applied that he should withdraw from the court. To this arbitrary request the Judge declined to assent. Then Cockburn, in his address to the jury, thought fit to assail the noble lord, who was his own witness, in language of asperity and indecency. He charged Bentinck with being not only the real promoter of the litigation, but also accused him of acting as attorney and policeman and of tampering with the witnesses, whom, he averred, Bentinck had clothed, fed and paid. On the evening of the first day of the trial Bentinck addressed a most polite and temperate letter to Cockburn imploring that he might have an opportunity of denying these accusations in the witness-box. At the conclusion of the case Cockburn referred to Bentinck's

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request. The reasons he gave for not complying with it were considered at the time to be weak and unconvincing, but they were upheld by the Judge, who asserted the traditional privilege of learned counsel to speak according to his instructions. The next morning *The Times*, in the best style of leading-article criticism, thundered against Cockburn's conduct, and derided the wide extent of the privilege of the Bar which had been claimed. The article accused Cockburn of culpable carelessness in making the charges, uncompensated as they were by any adequate *amende* in the sequel of the proceedings. Two or three days later Cockburn made a statement in court withdrawing the imputations on Bentinck's character.¹

The speedy action of his friends must, however, have been some solace to Bentinck's wounded feelings. On the evening after the trial a meeting was called at which the following resolution was passed: "That the noblemen and gentlemen of the Jockey Club and several proprietors of race-horses interested in the honour and prosperity of the Turf intend to present Lord George Bentinck with a piece of plate to mark their sense of the immense service he has rendered to the racing community by detecting and defeating the

¹ See the *Greville Memoirs*, vol. v. p. 256. Although Greville and Bentinck were not on speaking terms at the time, the former pays a high tribute to the energy and ability displayed by his cousin in exposing the fraud. Greville, who was in court on both days, writes that the Running Rein parties had no idea that Colonel Peel's friends had got up their case so perfectly, and also that the trial was over before it was half developed in evidence. There is authority for saying that the attorney in the case declared of Bentinck that there was "no sum he would not give to secure the professional assistance of such a coadjutor."

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attempted fraud exposed in the late trial in the Court of Exchequer." Although the subscriptions were limited to £25 each, a very large sum was rapidly raised. Bentinck declined a personal gift, but the money subscribed was at his request made the nucleus of the Bentinck Benevolent and Provident Fund for Trainers and Jockeys, which is maintained and administered at the present day by the authorities of the Jockey Club. Official approval of Bentinck's services was also recorded in a resolution agreed to by the members of the Jockey Club at their general meeting held in Old Burlington Street on July 6, 1844.

Besides promulgating the result of the race consequent upon the decision of the court, the Stewards, having been asked as to the day when the Epsom account should be settled, recommended Monday, July 8th, for this purpose, and ordered that notice to this effect should be posted at Tattersalls.

La commedia è finita. Wood, the dispossessed owner, protested his innocence. The scoundrel Goodman and his confederates fled the country. Nothing more was seen in public of the mystery horses. The story goes in Northamptonshire that Worley, who owned and farmed Sywell House Farm—not far from the birthplace of the Derby winners of 1827 and 1847, Mameluke and Cossack—had an interest in Maccabæus, and that after the Derby the horse was taken to Sywell, where he was destroyed and buried. There is also a legend that at nightfall the ghost of the murdered horse used to haunt the road leading

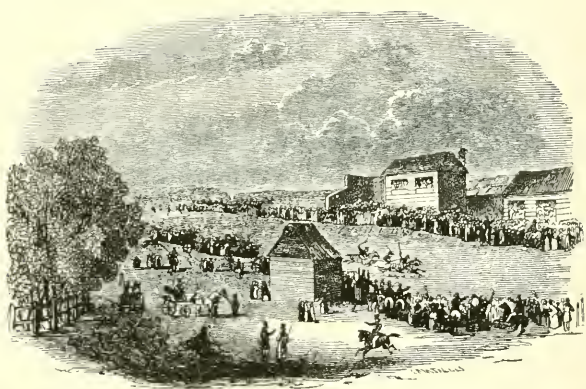
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to the farm.¹ The difficulty in accepting this romantic tale is that Worley gave evidence at the trial in favour of Colonel Peel's contention (see *ante*), which is not easy to reconcile except upon the supposition that in self-protection he turned, in effect, Queen's evidence.

And so Orlando was legally declared the winner of the Derby of 1844, while Ionian, also the property of Colonel Peel, was placed second in the race and Bay Momus third. The mention of Ionian recalls an incident greatly to the honour of the gallant officer. He had laid Lord Glasgow 10,000 to 100 against Ionian. In the spring of the year 1844, when he tried the horse, he was astonished to find that he was nearly as good as Orlando. Thus embarrassed, he proceeded to cover his money at some sacrifice, and, this done, he invited Lord Glasgow to give his own orders to Ionian's jockey.

These two were firm allies. Lord Glasgow bequeathed his race-horses to Peel, and the last winner that Peel had he called Peter, a sobriquet given to Lord Glasgow by his intimate friends. Four months after Peter's victory Peel died at his house at Twickenham in the eightieth year of his age. Among sportsmen he was the kindest, gentlest and most honourable. His political career as Member of Parliament for forty-two years and as a most capable Secretary of State for War was passed without an enemy. But his heart was at Newmarket.

¹ The writer is indebted for this statement to that distinguished soldier and excellent sportsman, Field-Marshal Lord Grenfell, who lived for some years in the neighbourhood of Sywell.



THE RUN IN OVER THE ROUND COURSE,
NEWMARKET.

THE RUN IN OVER THE ROUND COURSE, NEWMARKET.

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Sixty years ago a group of horsemen might have been seen on the Heath—the Admiral on his well-known hack, Lord Glasgow, blunt of speech and quaint in dress, and Lord Exeter. They are joined by General Peel, an erect figure without the lightest overcoat, although the air bites shrewdly as the wind whistles over the Flat. It is the season when the votaries of the Turf come to great decisions and commit great mistakes. Absorbed in the passionate pursuit of the moment, they watch the issue of a trial from a spot where the roll of the famous plain swells like a wave into the distance—

Quam Ditis nomine dicta
Fossa secat.

The scene is strangely changed since those days, and Newmarket, with its stands and crowds, can hardly be recalled as Peel knew it.

Peel's name stands high on the record of winning owners; but it is found in a better list—in the list of those honest and straightforward men who have proved by their example of honour and integrity that racing is not necessarily a doubtful trade nor the race-course the exclusive haunt of the professional gambler.