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NEGLIGENCE.

A curious point arose in a case (*Brown* v. *Pennsylvania Railroad Co.*), decided May 6, by the Common Pleas, in Pennsylvania. A foot was found at a public railway crossing, in a hole at the side of the track, between one of the rails and the planking of the carriage way used for the passage of vehicles. The foot was that of a girl of 14 who, a short time previously, had been sent by her mother on an errand which obliged her to cross the track. There was no direct evidence to show how the accident happened. The girl was seen by one witness, standing between the rails, in a stooping position, as if doing something with her shoe or foot, and a moment or two afterward she was struck by the engine, and her body torn to pieces. How the foot got into the hole did not appear; and the question was whether the mere fact of the foot being found in that position was evidence enough to go to the jury as to whether the accident was occasioned by the Company's negligence. The judge at the trial thought the evidence insufficient, and the plaintiff was nonsuited; but on a rule to take off the non-suit, this decision was reversed. The Court observed: "The law presumes that every one injured, through the love of life, and the instinct of preservation, did all they could to prevent an accident, and it would therefore appear to follow that if any theory can be assigned save concurrent negligence, for the cause of the accident, the question as to the negligence of the defendant must be left to the jury." Reference was made to the case of *Lehigh Valley R.R.* v. *Hull* (61 Penn. St. 361), in which it was held that if a man be found dead at a railroad crossing, having been killed by a train, the question whether he was lawfully on the railroad, and whether his own negligence contributed to his death, must be submitted to the jury.

A SKETCH OF THE CRIMINAL LAW.

Sir James Fitzjames Stephen, author of the "Digest of the Criminal Law of England," in an article in the *Nineteenth Century* under the above caption, gives a summary view of the English criminal law. This sketch may well serve as a complement to the late Chief Justice Sewell's paper on the sources of our civil law, which we lately reproduced. It may be observed that this article in the *Nineteenth Century* is stated by Mr. Justice Stephen to be an abridgment of a History of the Criminal Law on which he has been engaged for many years, and which, it is probable, will shortly appear. The article is as follows:—

The Criminal Law may be considered under two great heads, Procedure and the Definitions of Offences. In a systematic exposition of the law such as a penal code, the part which defines crimes and provides for their punishment naturally precedes the part which relates to procedure, inasmuch as the only purpose for which the latter exists is to give effect to the former; but in a historical account of the growth of a body of law as yet uncodified, an account of the law of procedure naturally precedes an account of the laws of crimes and punishments, because the institutions by which the law is administered have been as a matter of fact, and in the earlier stages of legal history must be in most cases, the organs by which the law itself is gradually produced. Courts of justice are established for the punishment of thieves and murderers long before any approach has been made to a careful definition of the words "theft" and "murder," and indeed long before the need of such a definition is felt. For these reasons I begin this sketch of the criminal law by giving some account of the English courts of criminal jurisdiction. I then pass to the procedure observed in them, and thence to the definitions of crimes with which they have to deal.

The ordinary criminal courts in England are:—

(I.) The Queen's Bench Division of the High Court of Justice.
(II.) The Assize Courts.
(III.) The Central Criminal Court.
(IV.) The Courts of Quarter Sessions.

Each of these Courts has its own history. The administration of justice in England came, by steps which I need not try to trace, to be regarded as one of the great prerogatives of the King—perhaps as his greatest and most characteristic prerogative; and one of the most striking