

commit any injury to a man's land in throwing water upon it, without being obliged to give him any compensation; that they may collect all the water and throw it on his land as a reservoir, so long as they do it for the purpose of improving the road.

No power is conferred upon them to do any such injurious act. No provision is made for compensating any person injured by this performance of their statutable duties. In the absence of any such power the court held it impossible to accede to the defendants' argument—the Chief Justice saying: "It may be quite possible that the defendants have the right to raise or lower the level of this road, and that no remedy is given to persons injured or inconvenienced thereby; but it is a totally different matter when the acts complained of amount to an interference with the natural flow of water, or to the gathering of scattered waters into one course, and causing them to flow upon adjoining lands."

Another case had already been tried between the same parties, the declaration there charging the injuries almost in the same language as in this case, except that negligence is also charged in this action. The defendants pleaded not guilty by statute, and after verdict for the plaintiff, the court affirmed the right to recover. Wilson, J., says: "I cannot conceive what right they can have to drain all the surface water of any particular area against the land of another, and to drain it in part or altogether to the destruction of plaintiff's farm, although they may have done their work in the most skilful and scientific manner, and though it may have been absolutely necessary to drain in this manner for the making of a good road."

ON JUDICIAL EXPRESSION.

While borrowing an idea from the treatise of the late Mr. Coode, on "Legislative Expression," we have no intention of dipping more deeply into legal matters than is warranted by the state of the thermometer. We fully appreciate being in the midst of vacation, which some miserable sinners in England think should be abolished, because banks, &c., have no such seasons of intermitted exertion. Against this short-sighted view, we quote the opinions of Alderson, B., expressed with his usual felicity, though in a somewhat extra-judicial manner:

"My holidays, my holidays!

'Tis over, and now I am free
From the subtle draughtsman's tangled maze,
As he weaves the vacation plea.

My holidays, my holidays!

Now beneath the tranquil night,
And the twilight walk, and the upward gaze
At those distant orbs so bright;
While the swelling wave 'mid the pebbles plays,
And breaks with a gleam of light."

Let subtle draughtsmen weave their mazes, pending vacation; all sensible lawyers will hail this time of emancipation.

True to our severe legal instincts, we have managed to find, even in professional reading, some matters not unsuited for the relaxation of holiday hours. In looking over our recent exchanges, we note a few remarkable utterances of the United States Bench, that have suggested some passages from the sayings and doings of English judges; and our *olla podrida* is now before our readers.

In *Everhart v. Searle*, the Supreme Court of Pennsylvania, on the 13th May, 1872, decided the question that a person who is the agent for the sale of certain land cannot also act as agent for the purchase of that land, and by consequence cannot recover anything for his services in purchasing. This, by the way, is in principle the same thing as was decided by Wilson, J., in *The Ontario Bank v. Fisher*, 4 P. R. 22, where he held that a city principal could not represent as agent in the same case attorneys on opposite sides. However, in the Philadelphia case, Thompson, C. J., announces his judgment by saying:

"The case before us is rather novel. It involves a question, whether the same person may be an agent in a private transaction for both parties, without the consent of both, so as to entitle him to compensation from both or either. We have the authority of Holy Writ for saying that 'no man can serve two masters; for either he will hate the one and love the other, or else he will hold to the one and despise the other.' All human experience sanctions the undoubted truth and purity of this philosophy, and it is received as a cardinal principle in every system of enlightened jurisprudence."

This sort of citation appears to be much relished by the American judges. Thus, in *Henshaw v. Poster*, 9 Pick. 317, Parker, C. J., after referring to the maxim, "*Qui hæret in literâ hæret in cortice*," says "'The letter killeth, but the spirit maketh alive,' is the most forcible expression of Scripture." In