to the trees and replace those that had died, also to take half payment in fruit. The defendant paid into court $18.00, as full payment for the proportion of the apple trees that had lived. T. E. W. & Co. had failed to replace the dead ones. The learned judge asked for evidence from plaintiff that the note was taken by him without notice of the facts set up in defence.

The plaintiff thereupon called evidence to prove that the note was bought before maturity for value and contended that where defendant had only shown a partial failure of consideration, the onus of proving notice was thrown on the defendant. Also, that if he did prove notice, it would not be a defence, and was proceeding to read authorities on both points, when the Judge stopped him, and would not allow authorities to be read, stating that he wished to get to the bottom of the case. In obedience to the ruling of the Court, the plaintiff was called, and swore that he bought the note *bona fide* without notice, and for good value. The Judge then asked plaintiff what he paid for these notes from T. E. W. & Co. He replied that he bought the whole lot for $800 at a discount, or shave of 20 per cent.; that it was his business, and he considered he had paid as much as the paper was worth.

The Judge then asked plaintiff to compute what he paid for this note sued on, at a shave or discount of 20 per cent., and expressed his intention of giving judgment for that amount. It was contended that the plaintiff was entitled to full amount of note and interest since maturity, at six per cent., and it was proposed to cite authority, but the Judge gave judgment for $21.60, being 80 per cent. of amount of note, interest on that since maturity of note and costs.

The above is a synopsis of a case decided on the 11th March last.

If this is law, all old ideas as to the free transfer of negotiable securities are at an end. The banks had better close their doors.

On the question of the *onus probandi* raised in the above case, I proposed when stopped to cite the following authorities: *Berry* v. *Alderman*, 14 C. B. 95; *Fitch* v. *Jones*, 1 Jur. N. S. 854; *Whittaker* v. *Edmunds*, 1 M. & R. 445; *Mills* v. *Barber*, 1 M. & W. 425; Byles on Bills, pp. 189 *et seq.*, and cases there cited.

As to the question whether a *bona fide* holder of a note for value without notice, can maintain an action for the full amount of note, I deemed the law so well established that no authority was required; however, I was prepared to cite the cases mentioned in Byles on Bills, p. 267 *et seq.*

Now, sir, the judgment of the learned judge above reported, has been explained to me on the ground that it was an equitable one, and that the Division Court Act gives such powers to Division Court Judges. I do not think it does, and if it does, it should, in my humble opinion, be amended.

As to the judgment being an equitable one, I think there can be only one opinion about that, always excepting the opinion of His Honor. The question, to my mind, is simply this—whether it is more equitable to protect an innocent purchaser for value in the practice of a legitimate business, than to protect a careless and not altogether innocent maker of a note such as the one above described. I might mention here that the defendant was a literate man, and signed his own name.

I may be wrong in my views of the above judgment. If I am—and I am open to conviction—I shall be glad to be put right by you, sir, or any of the readers of your valuable journal.

I am, yours, &c.,

JAMES CRAIG.

Renfrew, May 4th, 1881.

[We confess, if the case is correctly stated, and at present we must presume it is, that we should have decided the case differently. Neither law nor substantial justice seems to warrant the finding.—ED. L. J.]

To the Editor of THE CANADA LAW JOURNAL.

Married Women.

SIR,—A correspondent signing himself a "Barrister," in the December number of the LAW JOURNAL, refers to the then recent decision of V. C. Malins of *Pike* v. *Fitzgibbon*, as being opposed to the decision of our Court of Appeal in *Lawson* v. *Laidlaw*, 3 App. R. 77, and warns the profession and County Court judges to be