

nine times in the delivery of about thirty judgments, whilst the remaining judges altogether appear to have only dissented on two occasions. This perhaps was indicative of their extreme modesty and diffidence. In the Supreme Court dissent may almost be said to be rampant. Whilst the Bench and Bar may have their harmless and playful vacation jokes about such matters, there is a serious side to the situation, in this, that the public are apt to lose confidence in the administration of justice when the uncertainty of law is thus unnecessarily forced upon their attention. We admit that there are difficulties in the way and some reasons against it, but might it not in this view of the matter be desirable, and thereby perhaps save many appeals, if only the judgment of the court as a whole should be delivered, and that all dissent should be thrashed out or known only in the judges' consultation room. Most certainly this should be so in courts of final resort. The Supreme Court, for example, would, we submit, lose nothing in respect and authority if such a rule should be enforced.

*AVIATION AND WIRELESS TELEGRAPH AS RESPECTS
THE MAXIMS AND PRINCIPLES OF THE
COMMON LAW.*

The maxim *cujus est solum ejus et usque ad coelum*—whose is the soil, his it is even to the sky—did not, when we took our common law from England, carry any thought of human occupation of the superincumbent air, unless by structures attached to the soil. It was intended, as we think the common law, viewed as a system, demonstrates, to indicate that the owner of the soil had the right to forbid the plane above him being used to his detriment.

But movement across this plane was not conceived to be injurious actually or technically to any right of the owner of the surface below. The word surface itself in distinguishing an upper from a nether estate in land implies a several sort of enjoyment.