complexion, hair and skull. Linnæus makes four divisions, founded on the color of the skin,—First, European, whitish; second, American, coppery; third, Asiatic, tawny; and fourth, African, black. Cuvier makes three,—Caucasian, Mongol, negro. Others make many more, but none include the white or Caucasian with the Mongolian or yellow race; and none of those classifications, recognizing color as one of the distinguishing characteristics, include the Mongolian in the white or whitish race.

"Neither in popular language, in literature, nor in scientific literature do we ordinarily, if ever, find the words 'white person' used in a sense so comprehensive as to include an individual of the Mongolian race. Yet, in all, color, notwithstanding its indefiniteness as a word of description, is made an important factor in the laws adopted for the determination and classification of the races."

The opinion is evidently in accordance with the law, for the report of congressional proceedings at the time the Act was under discussion, leaves no doubt as to the intention of the legislature. The late Senator Sumner in 1870, endeavored to have the word "white" struck out of the naturalization law, but the alteration was opposed on the very ground that it would admit the Chinese to citizenship. Senator Morton expressly declared—"This amendment involves the whole Chinese problem," etc. The opponents of Chinese naturalization gained the victory. The Judge, therefore, in refusing the petition, was only obeying the will of the legislature, and until the law is changed, the judgment must stand unchallenged.

A CHAPTER OF BLUNDERINGS ON AND OFF THE BENCH, AND OF THEIR CAUSES AND REMEDIES.

[Continued from p. 366.]

I might go on with these cases—but why? If the reader wishes to see more of the doctrine and of the authorities, he can find the references, with some further views, elsewhere. *

Nor need we here enquire how far this Massachusetts doctrine has found favor in other states. I have seen no case elsewhere in which it has been adopted on any thoughtful consideration or investigation. There is a Rhode Island case in which one was indicted for selling adulterated milk, contrary to a statute prohibiting such sale in general terms; and, said the learned judge of the appellate court, the defendant asked the instruction to be given the jury "that there must be evidence of a guilty intent on the part of the defendant, and of a guilty knowledge." This request was refused, and the court very properly held the refusal to be right. The learned judge, however, added: "Our statute, in that provision of it under which this indictment was found, does not essentially differ from the statute of Massachusetts; and in Massachusetts, previous to the enactment of our statute, the Supreme Judicial Court had determined that a person might be convicted although he had no knowledge of the adulteration; the intent of the Legislature being that the seller of milk should take upon himself the risk of knowing that the article he offers for sale is not adulterated." For this observation he refers to a case,* from one of the reporter's head-notes to which he copies it; but the court simply holds that guilty knowledge need not be alleged and proved against a defendant, to convict him. This determination was right, though made in Massachusetts; and the learned judge well adds: "We think our statute should receive the same construction." † Whether this or any other court, will at a future period follow the Massachusetts doctrine, where it departs from what is generally held elsewhere, no one can tell in advance. There is a single Wisconsin case, not much considered, adopting more nearly the Massachusetts view. ‡ But, as I have said, the general doctrine is the other way. §

The capacity of the human mind to adapt itself to any sort of sinuous position is a remarkable phenomenon in man. Without it, who could be happy in our crooked world? We all admire Blackstone; and specially pleasing it is to note, in reading him, how, in his eye, everything connected with the English law is rosy

* 1 Bishop's Cr. Law, secs. 297—312, 440, 441, 874, 1074—1076; 2 *Ib.* 664, 693, 922; Bishop's Stat. Cr., secs. 132, 351, 355—359, 632, 663—665, 730, 820—825, 877; 12 Am. Law Rev. 469, the article to be mentioned in my text.

* The Commonwealth v. Farren, 9 Allen, 489.

† The State v. Smith, 10 R. I. 258.

‡ The State v. Hertfiel, 24 Wis. 60. As to which, see Bishop's Stat. Cr., sec. 1022, note.

§ See the places cited a few notes back, where the authorities will be found collected.