The Legal News.

VOL. X. SEPTEMBER 3, 1887. No. 36.

An Act of the Imperial Parliament (50 & 51 Vict., ch. 25), which received the royal assent on Aug. 8, is of some interest. The object is to permit the conditional release of first offenders in certain cases. It applies to convictions for larceny or false pretences, or any other offence punishable with not more than two years' imprisonment before any Court. If no previous conviction is proved, and it appear to the Court that, having regard to the youth, character, and antecedents of the offender—these conditions are cumulative and not alternative—to the trivial nature of the offence, or to any extenuating circumstances, it is expedient that he be released, he may be released on recognisances, with or without sureties, to come up for judgment and be of good behaviour, but he may have to pay costs. It is provided that the offender or his surety must have a fixed place of abode or regular occupation.

In the case of the convict Lipski, cable despatches made it appear that the Home Secretary had been overruled by the Queen, and his discretion interfered with. The *Law Journal* puts the matter in its true aspect: "The appeal made to the Queen personally on behalf of the condemned person was a much more serious subject of regret in the case. It met, as might have been expected, with the rebuff it deserved—that is, it was referred to the proper quarter like a misdirected letter. Any personal interference by the Sovereign with the exercise of the prerogative of mercy is now altogether unconstitutional. An invitation to Her Majesty, however well meant, and however palliated by the desperate nature of the occasion, to exercise her prerogative in accordance with her own personal feelings, is to insult the Sovereign's appreciation of her duties." The *Law Journal* makes the suggestion that the Home Secretary should have the power of treating acts prejudicial to the exercise of his jurisdiction in these matters as contempts of Court.

A correspondent of the *Law Journal* gives the following information concerning Crown windfalls:—A remarkable return recently presented to the House of Commons, styled 'Crown's Nominee Account,' shows the receipts and expenditure of the Treasury solicitor during the past year in the administration of estates reverting to the Crown by reason of the owners thereof dying intestate without known kin, from lapsed legacies, etc. The receipts amounted to £148,789 10s. 6d., the largest sum yet received in one year since the passing of the Treasury Solicitor Act, 1876, under which these estates are administered. The totals for the ten years amounted to nearly one million sterling, thus:—

	£	s.	d.		£	s.	d.
1877...	127,876	9	11	1882...	141,077	10	8
1878...	139,769	9	3	1883...	45,414	14	4
1879...	140,879	3	5	1884...	64,093	17	5
1880...	56,448	13	11	1885...	67,218	19	8
1881...	64,827	5	10	1886...	148,789	10	6

THE LAW OF NEGLIGENCE.

The case of *Wakelin* v. *The London and South-Western Railway Company*, 56 Law J. Rep. Q. B., 229, is one of those cases on evidence which are worth reporting when they reach the House of Lords, but not before. Dealing as it does with negligence, a subject on which opinion is very apt to vary according to the temperament of those who discuss it, at the hands of lawyers coming from the three corners of the United Kingdom, it suggests that, in spite of Lord Selborne and other reformers, the existence of the House of Lords as a final tribunal is a very great advantage to English law. On a subject of this kind, the Irishman is apt to be sympathetic, the Scotchman to be hard, and the Englishman to be business-like; and it is useful to have representatives of all those qualities when questions have to be decided which, although they are laid down by judges, really are questions of fact. In this case there was no conflict of nationality as there was in *Walker* v. *The Midland Railway Company*, when the law lords last year were divided, Irishmen against Scotchmen and Englishmen, on the question whether a man who walks into a service-room in a hotel, and falls down a lift, has any case against the innkeeper. The present case deals

not only with the evidence of negligence, but with the relation of negligence to contributory negligence and the onus of proof, topics which come to the surface daily in the Courts, and on which authoritative views are of great practical value. When the case was before the Court of Appeal, some demur was made in the profession to certain observations of the Master of the Rolls, which were supposed to suggest that the plaintiff must in some cases negative contributory negligence. His words, however, hardly bore that construction, and the case, with great discretion, was at that stage not reported; but the words used now afford a text for the illustration of the views of the law lords.

The facts in question were brief and bare. They concerned a public level crossing on a part of the defendant's railway between Chiswick Station and Chiswick Junction. Mr. Wakelin lived in a cottage which was ten minutes walk from the crossing. He left his home after tea-time on the day in question, and his body was found on the down line the same night. Those were really all the material facts. On the part of the company it was admitted that Mr. Wakelin was killed by one of their trains. This, as Lord Halsbury pointed out, only admitted that his death was due to contact with the train, but whether he ran against the train or the train against him was left in doubt. There was evidence that from eight in the evening to eight in the morning, a watchman was in charge of the gates; but, as the exact hour of the occurrence does not seem to have been fixed, nor was there any indication one way or the other that the absence of a watchman affected the event, this fact was not material. It appeared, too, that the railway was so placed that a man standing on the down side near the line would have seen a down train approaching a mile off. It was probably this fact that struck the Master of the Rolls, and gave rise to the double view, so to speak, of the case which he took. In considering the question whether there was evidence of negligence on the part of the company, it was of course open, and, in fact, imperative, not to overlook the characteristics of the place where the event happened. This, however, would not be to insist that the plaintiff must show that he has not been guilty of contributory negligence, but rather to understand the conditions of the situation to see whether the defendants' servants had been guilty of negligence. Mr. Justice Manisty allowed the case to go to the jury, who gave the plaintiff, Mr. Wakelin's widow, £800. Mr. Justice Manisty must not be taken to have had an opinion on the question whether there was evidence of negligence. He was simply carrying out his own invariable practice, common with other judges, and especially appropriate in this case, of taking the verdict of the jury to save the parties a possible new trial, and leaving the unsuccessful party to his remedy in the Court. Probably no lawyer would form the opinion that on these facts there was evidence fit to be left to the jury. The judges in the Divisional Court set aside the verdict and entered judgment for the defendants, and this decision was affirmed by the Court of Appeal. In fact, the only glimmer of reason to be found in the verdict was the vague impression that if a railway train and a passer-by came into collision, the train being the bigger and the least likely to be hurt, is most likely to have been in the wrong. The rest was purely the usual prejudice for a widow and against a rich corporation.

Lord Halsbury contented himself almost entirely with discussing the actual question in point, but Lords Watson and Fitzgerald entered to some extent into the more general discussion which the case had raised. After pointing out that there must be both negligence on the part of the defendant and an absence of negligence on the part of the plaintiff to entitle him to succeed, he proceeds to distribute the burden of proof, and puts it on the plaintiff to show the defendant's negligence, and on the defendant to show plaintiff's negligence in the first instance—that is, subject to the defendant being able to show some *primâ facie* evidence of negligence in the plaintiff which, unexplained, would amount to contributory negligence. At the same time he points out the source of the error that the plaintiff need deal with contributory negligence at the onset, by observing that in many cases it is impossible to separate the facts tending to show the defendant's negligence from those tending to show the plaintiff's.

There is nothing, it is said, in *The Dublin &c., Railway Company* v. *Slattery*, L. R. 3 App. Cas. 1,155, having a contrary tendency. Lord Watson, however, cites with apparent approval, a passage in Lord Hatherley's opinion in that case which seems to require comment. 'If such contributory negligence be admitted by the plaintiff, or be proved by the plaintiff's witnesses, while establishing negligence against the defendants, I do not think that there is anything left for the jury to decide, there being no contest of fact.' It may be that there is no contest of fact, but there may be a contest of inference: and Lord Hatherley's words are only true when the plaintiff's negligence is of such a kind that he practically killed himself. When there are cross-charges of negligence, each supported by reasonable evidence, it does not follow that the plaintiff must fail, as the jury may find that the plaintiff's negligence was not a *sine qua non* of his damage. An acquaintance with Nisi Prius would have saved Lord Hatherley this mistake. Lord Fitzgerald is the only peer who directly deals with the *dicta* of the Master of the Rolls. He attributes to the Master of the Rolls the opinion that the plaintiff must give 'affirmative evidence of the negative proposition that he did not negligently contribute to the accident.' Lord Fitzgerald desires to guard himself against being supposed to assent to it. He adds, what Lord Halsbury had already hinted, that the difficulty is probably a matter of words. In regard to the question of pleading, Lord Fitzgerald is right in saying that the rule under Lord Campbell's Act is the same as in other claims of negligence. The difference arises, however, under the Judicature Act. Before that Act, the defence of contributory negligence might be raised on a plea of 'not guilty;' since that Act, it is usual to plead contributory negligence. The passage from the shorthand note of the judgment of the Master of the Rolls does not, we think bear the possible meaning attributed to it by Lord Fitzgerald—that, if on the evidence, the jury might really find for either party, the case must be withdrawn from the jury. What Lord Esher meant, and probably what he said, was merely that in such a case the rule that the plaintiff must on the whole, make out his case, applies to guide the jury.—*Law Journal* (London).

COUR D'APPEL D'ORLEANS.

11 juin 1887.

Présidence de M. DUBEC.

CAMILLE HABERT v. ADRIEN HABERT.

Propriété—Immeuble—Dessus—Dessous — Maison—Cave—Présomption de l'art. 552 *C. civ. —Preuve contraire.*

La disposition de l'art. 552 *C. civ.*, (*C. C. B. C.* 414), *aux termes duquel la propriété du sol emporte celle du dessus et du dessous, n'établit qu'une présomption de droit, qui peut être detruite même par de simples présomptions contraires.*

Spécialement une cave, établie à la fois sous deux maisons voisines, n'est pas nécessairement la propriété commune des propriétaires de ces deux maisons. L'un de ces propriétaires est recevable à prétendre et à administrer la preuve, soit par titre, soit même par simples présomptions que la dite cave est, en totalité, sa propriété exclusive.

LA COUR,

Considérant que, par exploit du 10 juillet 1884, Camille Habert a assigné Adrien Habert pour se voir déclarer seul propriétaire de la cave existant dans son magasin; qu'il se fonde, pour établir sa propriété, sur l'adjudication par licitation qui lui a été faite, le 23 novembre 1884, de la maison comprenant ce magasin; que la cave litigieuse n'ayant pas été spécialement désignée au cahier des charges, Camille Habert invoque l'art. 552 C. civ., aux termes duquel la propriété du sol emporte celle du dessus ou du dessous;

Considérant qu'Adrien Habert se prétend, de son côté, propriétaire de la cave revendiquée par son frère, comme ayant toujours fait partie de la maison, située à Mer, qui lui a été attribuée par acte de partage intervenu entre lui et Camille Habert devant Fleury, notaire à Avaray, le 20 novembre 1879; que cet acte renferme cette énonciation: "cave sous le bâtiment, dont la descente se trouve dans l'escalier;" que cette mention est insuffisante pour donner elle-même à Adrien Habert la propriété de la cave en tant qu'elle existe dans la maison de Camille Habert;

Mais attendu qu'il résulte des documents de la cause qu'au jour du partage, 20 novembre 1879, et antérieurement à cette époque, la cave dépendant de la maison, attribuée à Adrien Habert, se composait de deux parties : l'une située sous cette maison ; l'autre sous la maison voisine ; que ces deux parties communiquaient par un passage voûté à ce spécialement destiné, pratiqué dans le passage commun, de 1 m. 30 c. de largeur et de 1 m. 90 c. de hauteur, construit en maçonnerie ; que cette cave était entourée, dans toute son étendue, d'un mur en maçonnerie, d'une épaisseur de 60 cent. environ ; que ce mur ne formait des deux parties qu'une cave unique réunie à la maison d'Adrien Habert ; qu'enfin la maison voisine n'avait avec cette cave aucune communication ;

Considérant qu'Adrien Habert a toujours eu la jouissance exclusive de cette cave depuis le partage de 1879 ; que, si cette jouissance a pu être considérée par l'appelant comme ayant lieu, de la part de son frère, à titre d'usufruitier, elle a perdu à ses yeux, ce caractère, le 23 septembre 1883, date de la cessation de l'usufruit ; que, pendant plus de trois années, depuis cette époque jusqu'au jour du procès, Adrien Habert a donc joui exclusivement de la cave comme propriétaire, au vu et au su de l'appelant ;

Attendu que l'art. 552 C. civ. invoqué par ce dernier, n'établit qu'une présomption de droit qui peut être détruite par des présomptions contraires ; qu'il résulte des constatations ci-dessus faites, non-seulement des présomptions qui annihilent celle de l'art. 552 ; mais encore la preuve que, malgré les termes insuffisants de la désignation de la cave dans l'acte de partage de 1879, la commune intention des parties contractantes a été de comprendre cette cave entière dans les dépendances de la maison attribuée à Adrien Habert ; que, s'il en avait été autrement, les contractants auraient indiqué la séparation de cette cave, comme ils ont indiqué, avec grand soin, toutes les autres séparations de la maison voisine ; qu'on ne s'explique pas comment cette cave n'aurait pas été comprise dans la désignation très exacte du cahier des charges du 23 novembre 1884, si elle avait dû être réunie, pour une portion, aux biens à adjuger ; qu'enfin il a été stipulé dans l'acte du 20 novembre 1879, que l'adjudicataire prendrait les biens dans l'état où ils se trouveraient au moment de l'entrée en jouissance tels qu'ils se poursuivraient et comporteraient à cette époque, et qu'il est à remarquer que les parties avaient une connaissance particulière de la maison dont se poursuivait et comportait la cave en litige ;

Par ces motifs,

Confirme.

NOTE.—V. conf. sur le principe : Cass. 30 novembre 1853 (S.54.1.679—J. du P. 55.2.576—D.54.1.17) ; 24 novembre 1869 (S.70.1.32—J. du P. 70.50—D.70.1.274).

THE AUTHORITY OF A GENTLEMAN'S GARDENER.

At the Halifax County Court, on June 14, before His Honour Judge Snagge, the case of *Eastwood* v. *Wheelwright* was heard, and it was decided that a gardener has no implied authority to pledge his master's credit for plants and flowers. This was an action brought by Charles Eastwood, nurseryman, to recover from J. G. Wheelwright, banker, Halifax, the sum of 7*l.* 8*s.* for goods sold and delivered under the following circumstances : In 1883, Mr. Wheelwright, who has somewhat extensive gardens and conservatories attached to his house, had a gardener of the name of Robinson, who ordered goods, chiefly consisting of greenhouse plants, from the plaintiff to the amount of 7*l.* 8*s.* The invoice was made out to Mr. Wheelwright, but was sent to Robinson, 'care of Mr. Wheelwright,' and was never brought to the notice of Mr. Wheelwright until some two months afterwards, when Robinson showed it to him. Mr. Wheelwright at once told him that he had never had any transaction with Eastwood, ordered Robinson to return the goods, and declined to pay for them, but made no communication to the plaintiff until July, 1884, when an invoice was for the first time sent by plaintiff direct to the defendant, after Robinson had left defendant's service. The defendant then returned the invoice, and denied all liability for any goods supplied to Robinson.

Evidence was adduced on behalf of plaintiff to show an express authority, which was

denied by defendant. Plaintiff's counsel contended that there was a usage amongst gardeners to purchase plants on credit for their master, and that it came within the scope of their authority as being incidental to their employment; and further, that as soon as the defendant became aware of the invoice, although sent to Robinson, it was a duty incumbent upon him to have at once communicated with the plaintiff and repudiated his liability, and that by his not having done so, he had adopted the contract of his servant and was therefore liable.

His honour gave judgment for the defendant, holding that, even if such a usage did exist, it would be most unreasonable, and in the present case, fraudulent, as from the evidence it appeared that the gardener was receiving a handsome commission from the nurseryman; and further, that it did not come within the scope of a gardener's authority to purchase valuable plants, such as those the subject of the action, without his master's express instructions, which in this case he found had not been given. And on the second point, that there was no obligation on the part of Mr. Wheelwright to communicate with the plaintiff on seeing the invoice in Robinson's hand, and that the defendant had done nothing by which he could be deemed to have adopted his servant's contract.

The plaintiff's counsel asked for leave to appeal, which the judge granted on the first point, but refused on the second.—Verdict for defendant, with costs.

THE UNITED STATES SUPREME COURT.

Chief Justice Waite came to the Supreme bench in the maturity of his powers—he was fifty-seven years of age—and so vigorous is his constitution, physically and mentally, that although he has now passed his seventieth birthday, he shows as yet no indications of the approaching feebleness of age. As he walks along Pennsylvania avenue in Washington, where he may be seen almost any fine day on his way between his home and the Supreme Court room at the capitol, his step is as light and as springy as that of a boy; and when he reads a carefully prepared opinion in a complicated case, it bears evidence in every line, not only of the most patient research and close analysis, but also of growing rather than of waning powers. In personal appearance Chief Justice Waite is not imposing—a man who is only of medium height rarely is—but there is a substantial solidity about his figure that makes him far from the reverse. There is no stoop to his broad shoulders, and he carries erect his large, well-formed head, covered as it is with hair that is now iron gray. His face is reflective and genial, with well marked features, and keen, piercing eyes. He impresses a stranger as being a clean-cut, positive, determined man. His charming simplicity of manner and quiet, unassuming demeanor make a deeper impression of his greatness than any conscious assumption of dignity could do. There is something that satisfies our ideas of the highest propriety in the manner in which the chief justice lives in Washington. His house is a comfortable, large brick edifice in an eminently respectable but not ultra-fashionable quarter of the national capital. The interior is that of the residence of a man of culture and ample means (not great wealth, as the world goes to-day); with spacious rooms about whose furnishing and ornamentation there is an air of homelike repose. Judge Waite's "den," as he calls his workshop, is in the second story over the dining-room, well-lighted, ventilated, and tastefully carpeted and papered. A bright fire in the grate casts a warm glow throughout the apartment, when the season requires it, and a rich rug in front of it invites the visitor to a siesta in one of the great easy chairs. But it is not a place for idleness, as the piles of legal-looking papers that rise from the desk and peep out from the drawers testify, and the law-books arranged in rows in the book-cases on the sides attest. The spaces of the walls are occupied by engraved portraits of chief justices, his predecessors, and large photographs of Webster, Clay, Grant, Hayes, and other public men. A large stuffed owl, that emblem of wisdom, looks down as if it was the guardian spirit of the place. Here the chief justice does his work. Rising early, a cup of coffee is brought to his study, and with that mild stimulant

alone, he applies himself closely until his breakfast hour, ten o'clock; and returning, does not generally leave his desk until it is time to go to the capitol to be present at the opening of the Supreme Court at noon. Members of the Supreme Court and their families constitute the most select circle of official society in Washington, and the social exactions upon the chief justice are very great. Scarcely an evening passes during the fashionable season that his presence is not demanded at a reception, or a dinner or a party, and during the winter he gives a series of entertainments himself. These are marked by a cordial hospitality and refined absence of display that are more impressive than any extravagance. It is a high social honor to be a guest of the chief justice.

When Mr. Lincoln selected Mr. Miller for a place upon the Supreme bench, which became vacant in 1862, he was already one of the prominent lawyers of the west, although only about a dozen years had passed since his admission to the bar; and so well and favorably known was he in Washington that the senate unanimously confirmed his nomination on the day on which it was received, and without reference to a committee, a compliment rarely paid to a man not previously a member of the senate. While perhaps not so profoundly learned in some departments of the law as several of his colleagues, Justice Miller is distinguished among American jurists for the quickness and accuracy with which he seizes upon the essential points of an involved controversy and clears away what is immaterial or confusing. His judgment is almost unerring. But it is for the long series of remarkably able opinions upon constitutional questions, written and delivered during the past twenty-four years, that Justice Miller is best known. In their breadth, scope of argument, and clearness of statement they rank with those of Chief Justice Marshall. To him was assigned the duty of preparing the first decision of the court involving the thirteenth, fourteenth and fifteenth amendments to the Constitution; and adopted by the court, his opinion stands as one of the few that may be called anchors of the government. Justice Miller is not as methodical in his habits of thought and work as some of his associates. He generally makes his pen wait upon his inclination, but when he takes a seat at his desk he works with wonderful rapidity, completing his task in the least possible time. But this does not prove an absence of the most careful research and mature reflection, for he frequently goes carefully over the whole ground of a case, gets his authorities, and reaches the conclusions before he puts pen to paper. Then he writes his opinion very rapidly, and in a bad hand. A stranger in Washington, to whom one of the justices of the Supreme Court was pointed out on Pennsylvania avenue, said he thought he must be a judge when he saw him. "They are generally pretty large," he said, "when they get on the Supreme bench, and they get bigger after they sit, like a hen on her eggs. Whether it is the sitting that makes them large, or the brooding, or whether they were of the Plymouth Rock breed to begin with, I cannot say." Justice Miller contributes his share to the avoirdupois of the court. Though of only middle height, his form is well filled, and he surpasses in physical vigor many a younger man. He has an immense head, bald on the top; a clean-shaven ruddy face from which he cannot drive, if he would, the evidence of his refined, sympathetic, sensitive nature. His Washington house is on Highland Place, overlooking the Thomas statue, and one of his nearest neighbours is Secretary Bayard. The mansion is an imposing one of brick and brown stone, with tower and Mansard roof, richly and tastefully but not extravagantly furnished. The study is in the basement, a large room crowded with book-cases, big sofas, lounges and easy chairs. Justice Miller is not a hermit in his workroom; he seems more at home entertaining his friends there than in the drawing-room above. He and Mrs. Miller enjoy great social popularity, and entertain generously and with good taste.

The lives of few public men have been so varied and stirring as that of Justice Field. Sent to Greece at the age of thirteen that he might perfect himself in the study of language, he returned after nearly three years in Athens and Smyrna, to enter Williams College, from

which he was a graduate in 1837. His preceptor in law was his distinguished brother, David Dudley, with whom he remained in New York until 1848, when he again visited Europe. Returning in 1849, he joined the "Argonauts," who sought their fortunes in the gold fields of California, and upon his arrival there was elected the first alcalde of Marysville. In administering the old Mexican laws in the midst of a disorderly state of society, Mr. Field had many an exciting adventure. A member of the California Legislature in 1850, he may be said to have been almost the father of the judiciary system, and of the civil and criminal codes of procedure in the new State. In 1857, he went upon the Supreme bench of California, and in 1859 became chief justice of the State. During this time he did the State almost inestimable service by his influence in securing the passage of the law placing real estate titles on a solid basis, and by decisions on the subject, in which he delivered the opinions of the court. He became associate justice of the United States Supreme Court in 1865, and in the last twenty-two years has steadily grown in the respect of his colleagues, the bar and the country. He was a candidate for the democratic nomination for president of the United States in 1880. Justice Field's residence is on First street, east, facing the capitol and grounds. It is a historic house, being part of the building erected by citizens of Washington for the accommodation of Congress while the capitol was being rebuilt after its destruction by the British in 1814. In front of it James Monroe and John Quincy Adams were inaugurated presidents of the United States, and within its walls Henry Clay resided three terms as speaker of the House. Subsequently it became a boarding-house, and there dwelt together Jefferson Davis, Robert Toombs, Alexander Stephens; and John C. Calhoun, who died there. During the war it was used as a military prison, but when peace was restored it was re-modeled into three dwellings, one of which was purchased by Senator Evarts, another by General McKee Dunn, of the army, and the third by Cyrus W. Field, who presented it to his brother, the associate justice. The library, where Justice Field does his work, is in an annex, also fronting the capitol and park, and is well furnished with books, while the walls are covered with portraits, either engravings or photographs. The justice himself is tall, stoops slightly, has an unusually large head (bald on the front and top), and a full beard. He wears gold spectacles constantly, and carries his age so lightly as to look at least twenty years younger than he really is. His extensive travels and varied experience make him a most entertaining conversationalist upon almost any subject.

Justice Bradley is still upon the bench, and is the oldest member of the Supreme Court, having been born at Berne, near Albany, New York, in 1813. His early education was very limited, but his thirst for knowledge was insatiable, and it is related of him that when he was a charcoal-burner in the Helderberg mountains he used to go to Albany upon a load of coal, studying Latin on the way. He was once asked what he intended to do when he grew to manhood, and replied that he had not made up his mind whether he would be president of the United States or chief justice of the Supreme Court. Justice Bradley lives in the house once owned by Stephen A. Douglas, at the corner of Second and I streets in Washington, which in its day was one of the most imposing private residences in the national capital. The great ball-room added by Mrs. Douglas is now used by the judge as his library, which contains the best private collection of law-books in the country. He is a genial, companionable man, and when he and Mrs. Bradley give a dancing party, his library is temporarily converted once more into a ball-room. The brilliant lights and splendid costumes, the hum of merry voices, the music, and the rhythmic movement of the dancers are in strange contrast with the long rows of law-books, each in its formal sheepskin cover.

Justice Harlan is a good representative of the best type of the Kentucky soldier, statesman and jurist. He organized the 10th regiment of United States Kentucky Volunteers, of which he became colonel. Promoted to the rank of brigadier-general for meritorious service, the death of his father made it

necessary for him to resign his commission in 1863, and in doing so he wrote: "I beg the commanding general to feel assured that it is from no want of confidence either in the justice or ultimate triumph of the Union cause. That cause will always have the warmest sympathy of my heart; for there are no conditions upon which I will consent to a dissolution of the Union; nor are there any conditions consistent with a republican form of government which I am not prepared to make in order to maintain and perpetuate that Union." In person, Justice Harlan is a man of commanding presence, with a powerful and admirably built frame, large head and impressive countenance. He is a close student and careful judge, a jurist of constantly growing powers, and an eloquent and forcible speaker. Justice Harlan formerly kept house in Washington, but for five years after the death of his daughter, Mrs. Linus Child, he and Mrs. Harlan did not go into society. During a portion of this time he resided in the country a few miles from Washington, but has lately bought some land in the city, and is now building himself a house.

Justice Matthews is a man of versatile genius, a brilliant lawyer, an effective speaker, and is developing rare qualities as a judge. He is still in the prime of his mature powers, and ought to be good for many years of valuable and honorable service. He has been married a second time since his appointment in the judiciary, and lives in Washington in a style befitting his position.

Justice Gray physically is the giant of the Supreme Court, towering above all his associates, large men as they almost all are, and possessing an intellect as powerful and as finely developed as his frame. His appointment and that of Judge Blatchford have more than preserved the court from deteriorating—they have actually raised the average of ability in it. Justice Gray is the only bachelor in the Supreme Court, but he keeps house in Washington, on Rhode Island avenue, his sister spending the winter with him, and assisting him in the discharge of his social duties.

Justice Samuel Blatchford, of New York, is the junior member of the court in length of service, but not in years or experience. For more than a third of a century his name has been familiar to the bar of the country as the compiler of some of the most important law reports, and for twenty years he has sat upon the bench where he has been distinguished for his learning and the clearness and correctness of his decisions. His first experience upon the bench was as judge of the District Court, in 1867. In 1878 he was made, by President Hayes, judge of the United States Circuit Court, and during the four years that he served in that capacity it became necessary for him to render decisions in a number of very important cases. All these decisions were remarkable for their ability, and very few of them were reversed on appeal. Justice Blatchford is very wealthy, and at his Washington residence on the corner of Fifteenth and K streets entertains during the season with great elegance and very refined taste. Mrs. Blatchford, who is the daughter of Eben Appleton, of Boston, and a sister-in-law of Daniel Webster's daughter Julia, is a lady of the old school.—*American Magazine, August.*

GENERAL NOTES.

Mme Roy exerce le métier original et lucratif de cousine des blessés.

La brave femme se promène tous les jours dans les rues de Paris à la recherche d'accidents. Quand elle a le bonheur de voir la foule s'amasser auprès de la boutique d'un pharmacien, elle se hâte d'accourir. Elle s'approche de la vitrine du pharmacien et examine si la personne blessée à laquelle on prodigue des soins, à encore sa connaissance. Puis, après cette petite enquête, elle se précipite dans la boutique:

—Mais c'est Hector, s'écrie-t-elle, mon pauvre cousin Hector!...

Et elle embrasse le malheureux. Puis se retournant vers les personnes présentes:

—Je suis la cousine du blessé, dit-elle... Je vais l'emmener à son domicile... Eugénie, sa pauvre femme, doit être bien inquiète!...

On hèle un fiacre. On y dépose le blessé, auprès duquel monte la cousine. Chemin faisant Mme Roy fait main basse sur le porte-monnaie et les objets de valeur qu'elle trouve sur son compagnon.

Elle donne ensuite l'ordre au cocher de la voiture:

—Reconduisez seul le blessé à son domicile, dit-elle... Moi, pour ne pas perdre de temps, je vais aller chercher tout de suite le médecin.

Elle descend. Et le tour est joué!

Poursuivie pour vol au préjudice d'un pauvre diable d'épileptique, Mme Roy a été condamnée à trois mois de prison.

Ce n'est pas cher.—*Gaz. du Palais.*