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In *Nantel* v. *Binette*, reported in the present issue, an important question of prescription was decided by Mr. Justice Taschereau, the learned judge holding that arrears of interest under a judicial condemnation are only prescriptible by thirty years. Since that judgment was rendered Mr. Justice Cimon has decided in the same way in *Jetté* v. *Crevier*, Montreal, Oct. 30.

It seems probable that the sentiment of the Canadian Parliament, as expressed in the Weldon Extradition Act of last session, will not prevail in the face of the inaction of the United States Senate. The fourth clause of the Act states that its provisions shall not come into force with respect to fugitive offenders from any foreign state until after the Governor-General's proclamation has been issued declaring the Act to be in force and effect as regards such foreign state. It is stated on authority from Ottawa, that no proclamation will issue until it is seen whether or not the Senate of the United States will ratify the new extradition treaty agreed to between Great Britain and the United States this summer, and which was the chief cause of Sir Julian Pauncefote's visit to England. If the Senate assents to the treaty it may or may not be necessary then to have any legislation on the subject by the Parliament of Canada.

Lord Fitzgerald, who recently brought up, in the House of Lords, the subject of a Court of Criminal Appeal (see p. 273), died in Dublin, Oct. 16. The deceased was born in that city in 1816, and called to the Irish bar in 1838. In 1852, he entered Parliament as liberal member for Ennis. In 1855, he was appointed Solicitor General for Ireland, and the following year Attorney General. In 1860 he was appointed third Justice of the Queen's Bench, Ireland. He presided at the trial of Parnell and others for seditious conspiracy in January, 1881. In May, 1882, Mr. Justice Fitzgerald was appointed a Lord of Appeal in ordinary, with a life peerage. The London *Times* says: "He was learned and temperate; his fairness was proverbial; his dignity was such as to enhance that of the bench of which he was a member. Of a keen intelligence, but genial and courteous in the extreme, his society was eagerly sought for, and all that he said had weight. He had a plentiful supply of Irish humour, though he fortunately never posed as a humorist on the bench. His experience of Ireland and his love for the country were great."

LAW AS AN EDUCATOR.

Lord Justice Lindley delivered an inaugural address, on October 9, in connection with the new session of the Law Department of Owens College, Manchester. The learned judge said that law was a branch of that larger subject which went by the name of ethics or morals, and the rules of it were not to be found, at all events in England, in a pocket volume of 500 pages. "Every Man his own Lawyer" would soon take them to their solicitors' offices in trouble. The rules were to be found in Acts of Parliament running back to Magna Charta and in legal decisions filling volumes upon volumes. No student need be appalled, however, by the number of books he would find in a law library. Nine-tenths of them would never need consulting at all by most students. Law was a collection of rules, and each rule was to be studied by itself, but there were principles underlying them which could be mastered, and which might enable them to solve difficulties as they arose with more or less success. He had been a law student for forty years, and he intended to be one as long as his brains would work. Law was to him an engrossing subject. It was a succession of problems arising out of human conduct, the solution of which had to certain minds, of which his was one, a very great charm. He advised students to read foreign as well as English text books and to pursue their studies scientifically, by which he meant that they must not only read the rule but master its history. If they did not do

that they would find their minds crammed with rules which would be of very little use to them. They must study law as they studied other sciences, inductively and deductively. The mechanical part they would have to learn in a solicitor's office or a barrister's chambers, but there was a great deal which they could learn in these classes. It was said that the law as a profession was not what it used to be, and that it was hardly worth entering upon now. He believed, however, that that was a mistake. There never was a time, as far as his knowledge went, when so much had been and was being done to render the law free from technicality and to make good sense and reason and love of truth and justice prevail. He advised young lawyers always to master their facts, and never do anything when they were angry. They should never advise an appeal on the day they lost a case. He would like to see law studied more as a branch of a liberal education; and in conclusion he urged that electors should be shown how great a responsibility rested upon them in voting for candidates for Parliament or such bodies as county councils.

SUPREME COURT OF CANADA.

OTTAWA, June 14, 1889.

British Columbia.]

WALKEM v. HIGGINS.

Libel — Innuendo — Damages — Unnecessary Appeal — New Trial.

W., a judge of the Supreme Court of British Columbia, and formerly a premier of the Province, brought an action against H., editor of a newspaper published in Victoria, B.C., for publishing in said paper the following article, alleged by W. to be libellous, copied from an Ottawa paper:

"Extract from the *Daily British Colonist*, "published at Victoria, B.C., on the 20th day "of November, 1889.

"THE MCNAMEE-MITCHELL SUIT.

"In the sworn evidence of Mr. McNamee, defendant in the suit of *McKenna* vs. *McNamee*, "lately tried at Ottawa, the following "passage occurs: 'Six of them were in part-"'nership (in the Dry Dock contract) out in "'British Columbia; one of them was the "'premier of the Province.' The premier of "Province at the time referred to was Hon. "Mr. Walkem, now a judge of the Supreme "Court. Mr. Walkem's career on the bench "has been above reproach. His course has "been such as to win for him the admira-"tion of many of his old political enemies. "But he owes it to himself to refute this "charge. We feel sure that Mr. McNamee "must be laboring under a mistake. Had "the statement been made off the stand, it "would have been scouted as untrue; but "having been made under the sanctity of an "oath, it cannot be treated lightly nor "allowed to pass unnoticed."

The innuendoes alleged to be contained in this article were, shortly, that W. corruptly entered into the partnership with McNamee while holding offices of public trust and thereby unlawfully acquired large sums of public money, that he did so under cloak of his public position and by fraudulently pretending that he acted in the interest of the Government, that he committed criminal offences punishable by law, and that he continued to hold his interest in the contract after his elevation to the bench.

On the trial a verdict was found for the plaintiff, with $2,500 damages, and the defendant obtained from the full court two rules *nisi*—one for leave to enter a non-suit, or judgment for him, and the other to have the judgment entered on the verdict set aside and a new trial ordered. Both rules were discharged and the defendant, by order of a judge of the Court below, brought two appeals to the Supreme Court of Canada.

Held,—that though the article was libellous it was incapable of all the innuendoes attributed to it, and the consideration of these innuendoes should have been distinctly withdrawn from the jury, which was not done.

Per Strong, Fournier, Taschereau and Gwynne, JJ., that though the case was improperly left to the jury, yet he suffered no prejudice thereby, other than that of excessive damages, and the verdict should stand on the plaintiff's filing a consent to have the damages reduced to $500.

Per Ritchie, C.J., that there had been a mistrial, and in order to avoid a new trial

the consent of both parties to a reduction of damages was necessary.

Per Gwynne, J., that two appeals were not necessary, and in any event the appeal on the rule for leave to enter a nonsuit should be dismissed with costs, and only one bill of costs should be taxed.

Christopher Robinson, Q.C., and *Bodwell* for the appellant.

S. H. Blake, Q.C., and *Gormully*, for the respondent.

OTTAWA, June 14, 1889.

New Brunswick.]

MILLER v. STEPHENSON.

Goods sold and delivered—Evidence—To whom was credit given—Direction to jury—Withdrawal of evidence from jury—New trial.

In an action against McK. and M. for goods sold and delivered, the plaintiff swore that he had sold the goods to the defendants and on their credit, and his evidence was corroborated by the defendant Mc.K. The defence showed that the goods were charged in plaintiff's books to C. McK. & Co. (the defendant McK. being a member of both firms), and credited the same way in C. McK. & Co's books, and that the notes of C. McK. & Co. were taken in payment, and it was claimed that the sale of the goods was to C. McK. & Co.

The trial Judge called the attention of the jury to the state of the entries in the books of the plaintiff and of C. McK. & Co, to the taking of the notes, and to all the evidence relied on by the defence, and he left it entirely to the jury to say as to whom credit was given for the goods.

Held,—affirming the judgment of the Supreme Court of New Brunswick, that the case was properly left to the jury, and a new trial was refused.

Appeal dismissed with costs.

Weldon, Q.C., and *C. A. Palmer* for appellant.

McLeod, Q.C., and *A. S. White* for respondent.

OTTAWA, June 14, 1889.

New Brunswick.]

CANADIAN PACIFIC RAILWAY CO. v. WESTERN UNION TELEGRAPH CO.

Telegraph Company — Incorporated in the United States—Power to operate line in Canada—Sole right of operating over line of Canadian railway —Agreement therefor—Violation of railway charter—Restraint of trade.

In 1869 the European & North American Railway Company entered into an agreement with the Western Union Telegraph Company, a company incorporated in the State of New York with the right of constructing lines of telegraph and operating the same in the State, by which agreement the telegraph company was granted the exclusive right of constructing and operating for 99 years a line of telegraph over the road of the railway company from Boston, Mass., to St. John, N.B. In 1888 the latter road was operated by the New Brunswick Railway Company under lease from the St. John & Maine Railway Company, and the Canadian Pacific Railway Company in that year undertook to establish a telegraph line from Montreal to St. John, and run the same over that portion of the road controlled by the Western Union Company, lying between Vanceboro', Maine, and St. John. The Supreme Court of New Brunswick sitting in Equity made a perpetual injunction restraining the Canadian Pacific Company and the New Brunswick Railway Company from interfering with their exclusive right in building the said line. On appeal to the Supreme Court of Canada from the decree ordering the issue of such injunction:

Held,—Gwynne, J., dissenting, that the fact of the company being a foreign corporation empowered by its charter to construct and operate telegraph lines in a foreign country, does not prevent it from enforcing the agreement for an exclusive right of operating such lines in Canada, and the injunction should be maintained.

Per Gwynne, J., that such a power vested in a foreign corporation might be very prejudicial to the interest of the inhabitants of Canada, and should not be recognized nor given effect to in the courts of this country.

Held, also, that the agreement with the telegraph company did not create a monopoly in favor of that company, and was not an

agreement in restraint of trade and commerce.

Appeal dismissed with costs.

Weldon, Q.C., and *Ferguson* for appellants.

Hector Cameron, Q.C., and *Barker, Q.C.*, for respondents.

OTTAWA, June 14, 1889.

Quebec.]

J. W. MITCHELL v. CHARLES HOLLAND, es qual.

C.C.P. Art. 19—*Right of suit by Trustees—Promissory notes given as collateral—Prescription of notes will not prescribe the debt.*

The appellant, who was trustee for certain creditors of a certain commercial firm of Robert Mitchell & Sons, sued the respondent and alleged a transfer to him, by notarial deed dated 1st December, 1877, by John Ross Mitchell, of a sum of $4,7-0.20 due by the respondent as and for the price of certain immovable property in the city of Montreal, sold to him by the said John Ross Mitchell, by notarial deed dated the 5th January, 1877, and registered, and also a transfer to appellant of certain promissory notes signed by the respondent for the same amount, and representing the said price of sale, and which were to be in payment thereof only if paid at maturity.

The respondent was a party and intervened in the deed, and declared himself subject to the conditions therein contained.

To this action the respondent pleaded that appellant had no action as trustee under Art. 19, C.C.P., and that the price had been paid by the two promissory notes which were now prescribed.

Held,—affirming the judgment of the Court below, that Art. 19, C.C.P., is not applicable to trustees in whom property has been vested by a registered deed and to which deed the defendant was a party. *Burland* v. *Moffatt*, 11 Can. S.C.R. 76, and *Browne* v. *Pinsonneault*, 3 Can. S.C.R. 102, distinguished.

2. That the notes in question were given merely as collateral for the price of sale of the property, and therefore the plea of prescription cannot be maintained.

Appeal dismissed with costs.

McCord for appellant.

H. Abbott, Q.C., and *Lonergan* for respondent.

COUR DE CIRCUIT—COMTÉ DE TERREBONNE.

ST. JÉRÔME, 10 octobre 1889.

Coram TASCHEREAU, J.

W. B. NANTEL v. MAXIME BINETTE.

Prescription—Arrérages d'intérêts résultant d'un jugement.

JUGÉ:—*Que les arrérages d'intérêts résultant d'une condamnation judiciaire ne se prescrivent que par trente ans.*

Différentes questions étaient soulevées en cette cause, la principale étant celle de savoir si les arrérages des intérêts d'un jugement sont soumis à la prescription de cinq ans (article 2250, C.C.) ou à celle de trente ans (article 2265, C.C.)

Le jugement décide en faveur de la dernière de ces prescriptions, et les *considérants* sont comme suit:—

"Considérant que quoique l'article 2250 du Code Civil édicte que les arrérages de rente, ceux de l'intérêt, ceux des loyers et fermages, et en général tous arrérages de fruits naturels se prescrivent par cinq ans, cette prescription n'a pas lieu pour les arrérages d'intérêts résultant d'une condamnation judiciaire, attendu que par l'article 2265 du même code, la condamnation en justice forme un titre qui ne se prescrit que par trente ans, quoique ce qui en fait le sujet soit plus tôt prescriptible; que les intérêts judiciaires, tout comme le capital, font le sujet de condamnations en justice tant pour le passé que pour l'avenir, et restent conséquemment soumis à la prescription trentenaire, distincts en cela des intérêts ordinaires et non alloués par sentence judiciaire, auxquels s'applique la prescription de cinq ans;

"Considérant qu'en France, avant la mise en force du Code Napoléon, la jurisprudence constante des parlements ne soumettait les intérêts judiciaires qu'à la prescription de trente ans, et que même sous l'empire du droit nouveau, qui ne contient pas des dispositions analogues à celles de notre article 2265, les opinions des commentateurs et les arrêts des cours sont partagés sur la question de savoir si ces intérêts sont prescriptibles par cinq ou trente ans, et qu'un grand nombre d'auteurs et d'arrêts ne les soumettent qu'à

la prescription trentenaire, comme dans l'ancien droit qui est le nôtre. (Dalloz, *Répertoire*, Nos. 1080 et 1081, et arrêts et auteurs y cités; XXI Duranton, No. 434; II Vazeille, 612; Proudhon, *usufruit*, No. 234; *et les arrêts suivants*:—Bourges, 18 mars 1825; Paris, 2 mai 1816; Agen, 18 mars 1824; Agen, 4 février 1825; Paris, 21 décembre 1829; Rennes, 22 décembre 1836; Paris, 26 mars 1831; Paris, 2 juillet, 1831; Bordeaux, 13 mars 1820; Lyon, 4 février 1825);

"Considérant que conformément à cette doctrine qui est celle de notre droit, les intérêts alloués par le jugement du 17 avril 1883 n'étaient pas menacés de prescription lorsque le demandeur a porté la présente action, qui n'a pas de but utile et n'est pas fondée en droit," etc., etc.

Jugement pour le défendeur.

W. B. Nantel, pour le demandeur.

Prévost & Mathieu, pour le défendeur.

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*SUPERIOR COURT—MONTREAL.**

Master and servant—Public carter—Negligent driving—Accidental employment—Responsibility—Art. 1054, *C.C.*

The defendants, a firm of coal merchants, were in the habit of hiring public carters, carrying the corporation license, for the cartage and delivery to customers of their coal, such carters being paid so much per load, and being free to take one or more loads as they pleased. It appeared that one of these carters, while carrying a load of defendants' coal to a customer, had, through negligent driving, inflicted severe bodily injuries on the plaintiff.

Held:—That such carter was not a servant of the defendants or one for whom they were responsible under Art. 1054, C. C., but an independent contractor in the nature of a private carrier. *Loiselle* v. *Muir*, Davidson, J., June 28, 1889.

Expertise in foreign country—Arts. 322-340, *C. C. P.*

The plaintiffs moved that an *expertise*, ordered by an interlocutory judgment, be referred to experts in England, on the ground that competent experts could not be obtained in Canada or the United States.

Held:—That apart from the inconvenience and expense of such a reference, the requirements of articles 325, 333 and 334, C. C. P., appear to place insuperable difficulties in the way of executing an *expertise* abroad. *Muir* v. *Providence Ins. Co.*, Davidson, J., June 28, 1889.

* To appear in Montreal Law Reports, 5 S.C.

UNITED STATES CIRCUIT COURT.

CALIFORNIA, October, 1889.

Coram SAWYER, Ch. J., and SABIN, D. J.

In re NEAGLE.

Constitutional Law—Power of Government to protect Federal Judges on way to Court.

Where reasonable ground existed for apprehension of deadly violence on the part of T. toward an associate justice of the United States on his way to hold a circuit in a State, and the attorney-general of the United States in consequence instructed the United States marshal of that district to take proper measures to protect his person, and the marshal deputed N. a special deputy to attend and guard him on his journey, and T. made a violent attack on the justice's person, at a railway station in that State, in the course of his journey to hold such court, N., after warning T. to desist and notifying him that he was an officer, and T. not desisting, but being apparently about to repeat his attack or draw a weapon, N. shot and killed him, held, that the Federal Circuit Court had jurisdiction and authority to discharge N. on habeas corpus from detention by the State authorities.

Application for the discharge of David Neagle upon a writ of *habeas corpus*.

On the 3rd of September, 1888, certain cases were pending in the Circuit Court of the United States for the District of California, between Frederick W. Sharon, as executor, against David S. Terry and Sarah Althea Terry, his wife, and between Francis G. Newlands, as trustee, and others, against the same parties, on demurrers to bills to revive and carry into execution the final decree of the court in the suit of *William Sharon* v. *Sarah Althea Hill*, and were decided on that day. That suit was brought to have an

alleged marriage contract between the parties adjudged to be a forgery and obtain its surrender and concellation. The decree rendered adjudged the alleged marriage contract to be a forgery, and ordered it to be surrendered and concelled. The decree was rendered after the death of William Sharon, and was therefore entered as of the day when the case was submitted to the court. By reason of the death of Sharon it was necessary, in order to execute the decree, that the suit should be revived. Two bills were filed, one by the executor of the estate of Sharon, and the other, a bill of revivor and supplemental, by Newlands as trustee for that purpose.

In deciding the cases, the court gave an elaborate opinion upon the questions involved. See *In re Terry*, 36 Fed. Rep. 419.

Shortly before the court opened the defendants came into the court-room and took their seats within the bar at the table next to the clerk's desk, and almost immediately in front of the judges, less than twelve feet distant, the defendant David S. Terry being at the time armed with a bowie-knife concealed on his person, and the defendant Sarah Althea, his wife, carrying in her hand a small satchel, which contained a revolver of six chambers, five of which were loaded. The court at the time was held by the justice of the Supreme Court of the United States, allotted to this circuit, who was presiding; the United States circuit judge of this circuit, and the United States district judge of the district of Nevada, called to this district to assist in holding the Circuit Court. Almost immediately after the opening of the court the presiding justice commenced reading its opinion in the cases mentioned, but had not read more than one-fourth of it when the defendant Sarah Althea Terry arose from her seat and asked him, in an excited manner, whether he was going to order her to give up the marriage contract to be concelled. The presiding justice replied: "Be seated, madam." She repeated the question, and was again told to be seated. She then cried out in a violent manner that the justice had been bought, and wanted to know the price he held himself at; that he had got Newlands' money for his decision, and everybody knew it, or words to that effect. It is impossible to give her exact language. The judges and parties present differed as to the precise words used, but all concurred as to their being of an exceedingly vituperative and insulting character.

The presiding justice then directed the marshal to remove her from the court-room. She immediately exclaimed that she would not go from the room, and that no one could take her from it, or words to that effect. The marshal thereupon proceeded toward her to carry out the order for her removal and compel her to leave, when the defendant David S. Terry arose from his seat, evidently under great excitement, exclaiming, among other things, that "no living man shall touch my wife," or words to that import, and dealt the marshal a violent blow in his face. He then unbuttoned his coat and thrust his hand under his vest, where his bowie-knife was kept, apparently for the purpose of drawing it, when he was seized by persons present, his hands held from drawing his weapon, and he himself forced down on his back. The marshal then removed Mrs. Terry from the court-room. Soon afterward Mr. Terry was allowed to rise, and was accompanied by officers to the door leading to the corridor on which was the marshal's office. As he was about leaving the room, or immediately after stepping out of it, he succeeded in drawing his knife, when his arms were seized by a deputy marshal and others present, to prevent him from using it, and they were able to take it from him only after a violent struggle.

The petitioner, Neagle, succeeded in wrenching the knife from his hand, whilst four other persons held on to the arms and body of Terry, one of whom held a pistol at his head, threatening at the same time to shoot him if he did not give up the knife. To these threats Terry paid no attention, but held on to the knife, actually passing it during the struggle from one hand to another.

Mr. Cross, a prominent attorney, who, on that occasion, sat next to Mrs. Terry, a little to her left and rear, testified that just before she arose to interrupt Judge Field, she nervously fingered at the clasp of her satchel,

about nine inches long, and tried to open it; and not succeeding, in consequence of her excitement, she hastily sprang to her feet and interrupted the judge, as stated above. Knowing that she had before drawn a pistol from a similar satchel in the master's room, he concluded at this time that she was trying to get her pistol out, and consequently held himself in readiness to seize her arm as soon as it should appear and endeavour to prevent its use until he could get assistance, his right arm being partially disabled. For one occasion in master's office, see *Sharon* v. *Hill*, 11 Sawy. 123. A loaded revolver was afterward taken from this satchel by the marshal. For their conduct and resistance to the execution of the order of the court, the defendants Sarah Althea Terry and David S. Terry, were adjudged guilty of contempt and ordered to be imprisoned, the former for thirty days and the latter for six months.

In consequence of the imprisonment which followed, various threats of personal violence to Justice Field and the circuit judge were made by Judge Terry and his wife. Those threats were that they would take the lives of both of those judges; those against Justice Field were sometimes that they would take his life directly, at other times that they would subject him to great personal indignities and humiliation, and if he resented it they would kill him.

These threats were not made in ambiguous terms, but openly and repeatedly, not to one person, but to many persons, till they became the subject of conversation throughout the State and of notice in the public journals. Reports of these threats through the press and through the United States marshal of the United States for the northern district of California, and United States attorney, reached Washington, and in consequence of them the attorney-general thought proper to give instructions to the marshal to take proper measures to protect the persons of those judges from violence at the hands of Terry and his wife.

On the return of Judge Field from Washington, to attend his circuit in June last, the probability of an attack by Judge Terry upon him was the subject of conversation throughout the State, and of notices of some of the journals in the city of San Francisco. It was the general expectation that if Judge Terry met Judge Field violence would be attempted upon the latter.

In consequence of this general belief and expectation, and the fact that the attorney-general of the United States had given instructions to the marshal to see that the persons of Justice Field and of the circuit judge should be protected from violence, the marshal of the northern district appointed the petitioner in this case, David Neagle, to accompany Mr. Justice Field, whilst engaged in the performance of his duties and whilst passing from one district to another within his circuit, so as to guard him against the threatened attacks. He was specially commissioned as a deputy by Mr. Franks, whose instructions to him were that he should protect Justice Field at all hazards, and, knowing the violent and desperate character of Judge Terry, that he should be active and alert and be fully prepared for any emergency, but not to be rash; and in case any violence was attempted from any one, to call upon the assailant to stop, and to inform the assailant that he was an officer of the United States.

Judge Terry was a man of great size and strength, who had the reputation of being always armed with a bowie-knife, in the use of which he was specially skilled, and of showing great readiness to draw and use it upon persons toward whom he entertained any enmity or had any grievance, real or fancied.

On the 8th of August, 1889, Justice Field left San Francisco for Los Angeles, in order to hear a *habeas corpus* case which was returnable before him at that city, on the 10th of August, and also to be present at the opening of the court on the 12th, and was accompanied by Deputy Marshal Neagle, the petitioner. Justice Field heard the *habeas corpus* case on the 10th of August. On the 12th of August he opened the Circuit Court, Judge Ross sitting with him, and delivered on the latter day an opinion in an important land case, and also an opinion in the *habeas corpus* case. On the following day the court heard an application for an injunction in an important water case from San Diego county.

No other cases being ready for hearing before the Circuit Court, he took the train on Tuesday, the 13th, at 1:30 o'clock in the afternoon, for San Francisco, where he was expected to hear a case then awaiting his arrival immediately upon his return, being accompanied by Deputy Marshal Neagle. On the 14th, between the hours of 7 and 8 o'clock in the morning, the train arrived at Lathrop, in San Joaquin county, which is in the northern district of California, a station at which the train stopped for breakfast. Justice Field and the marshal at once entered the dining-room, there to take their breakfast, and took their seats at the third table in the middle row of tables. Justice Field seated himself at the extreme end, on the side looking toward the door. The deputy marshal took the next seat on the left of the justice. What subsequently occurred is thus stated in the testimony of Justice Field:

"A few minutes afterward Judge Terry and his wife came in. When Mrs. Terry saw me, which she did directly she got diagonally opposite me, she wheeled around suddenly, and went out in great haste. I afterward understood, as you heard here, that she went for her satchel. Judge Terry walked past, opposite to me, and took his seat at the second table below. The only remark I made to Mr. Neagle was: "There are Judge Terry and his wife." He remarked: 'I see them.' Not another word was said. I commenced eating my breakfast. I saw Judge Terry take his seat. In a moment or two afterward I looked round and I saw Judge Terry rise from his seat. I supposed at the time he was going out to meet his wife, as she had not returned, so I went on with my breakfast. It seems, however, that he came round back of me—I did not see him—and he struck me a violent blow in the face, followed instantaneously by another blow. Coming so immediately together, the two blows seemed like one assault. I heard 'Stop, stop,' cried by Neagle. Of course I was for a moment dazed by the blows. I turned my head round and I saw that great form of Terry's with his arm raised and his fist clinched to strike me. I felt that a terrific blow was coming, and his arm was descending in a curved way, as though to strike the side of my temple, when I heard Neagle cry out, 'Stop, stop; I am an officer.' Instantly two shots followed. I can only explain the second shot from the fact that he did not fall instantly. I did not get up from my seat, although, it is proper for me to say, that a friend of mine thinks I did; but I did not. I looked around and saw Terry on the floor. I looked at him and saw that particular movement of the eyes that indicates the presence of death. Of course it was a great shock to me. It is impossible for any one to see a man in the full vigor of life, with all those faculties that constitute life, instantly extinguished, without being affected, and I was. I looked at him for a moment, then rose from my seat, went around and looked at him again, and passed on. Great excitement followed. A gentleman came to me whom I did not know, but I think it was Mr. Lidgerwood, who has been examined as a witness in this case, and said: 'What is this?' I said: 'I am a justice of the Supreme Court of the United States. My name is Judge Field. Judge Terry threatened my life, and attacked me, and the deputy marshal has shot him.' The deputy marshal was perfectly cool and collected, and stated: 'I am a deputy marshal, and I have shot him to protect the life of Judge Field.' I cannot give you the exact words, but I give them to you as near as I can remember them. A few moments afterward the deputy marshal said to me: 'Judge, I think you had better go to the car.' I said: 'Very well.' Then this gentleman, Mr. Lidgerwood, said: 'I think you had better.' And with the two I went to the car. I asked Mr. Lidgerwood to go back and get my hat and cane, which he did. The marshal went with me, remained for some time, and then left his seat in the car, and, as I thought, went back to the dining-room. (This is, however, I am told, a mistake, and that he only went to the end of the car.) He returned, and either he or some one else stated that there was great excitement; that Mrs. Terry was calling for some violent proceedings. I must say here, that dreadful as it is to take life, it was only a question of seconds whether my life or Judge Terry's life should be taken. I am firmly convinced that had the marshal delayed two seconds both he and myself would have been the victims of Terry."

[To be continued.]