

CORRESPONDENCE.

SUPREME JUSTICE FIELD AND HIS SUCCESSOR

Washington, D. C., September 22, 1897.—The session of the Supreme Court which begins next week, will probably be the last in which Justice Stephen J. Field will sit upon the bench. Judge Field will be eighty-one years old on the 4th of November. His health has been very poor for several years. He is exceedingly nervous, and he now seldom goes about without a servant. Mentally, however, he appears to be as strong as ever, but he feels that the work of the court is telling upon him, and that he ought to retire. I called by appointment upon him one morning during the last days of President Cleveland's administration, and had a chat with him about himself in regard to an interview. He received me at 9 o'clock in the morning. He had risen at 6:30, and he was still pegging away at his work. He was clad in dressing gown and slippers, the gown having been put on over his pajamas. During my call he furnished me with a large amount of material about himself and his career, among other things, loaning me a volume he had written concerning his early life, which is intended entirely for private circulation, and which has never been sold in book stores. He told me that he intended to retire very soon, but gave me to understand that he did not propose to allow President Cleveland to have the pleasure of appointing his successor if he could help it. Every one knows that Judge Field has been one of the most noted Democrats of the United States. He has been several times spoken of as a possible candidate for the presidency, and the statement that he did not want a Democratic President to fill his place by appointment will seem strange. It is not strange to those who understand the inside history of matters connected with the Supreme Court. The truth is that Justice Field was very badly treated by President Cleveland. When Chief Justice Waite died, petitions came in from the lawyers from all parts of the country asking that Judge Field be made Waite's successor. Many of the legal organizations passed resolutions to this effect, but President Cleveland stepped aside and chose Melville N. Fuller, a Chicago lawyer, who has as yet hardly achieved a national reputation. This was a very bitter pill to Justice Field's friends, and you can easily see why he was not anxious to oblige the President. During my call upon Judge Field I asked him why he thought Cleveland had chosen Fuller. He replied that he had no personal knowledge of the President's mind on the matter, but that he had understood from a number of reliable sources that Cleveland at that time was very anxious for a second nomination. In order to secure this, he had to build up his strength in the northwest and in the region about Chicago. A new chief justice was to be appointed, and the appointment was used to this end. Vilas, who was then in the cabinet, advised Cleveland that Fuller had many friends, and that he could be of great service to the administration and Judge Field was told that it was for this reason chiefly that the appointment was made.

Another reason why Judge Field has not retired is his desire to be the oldest justice the Supreme Court of the United States has ever had in point of

service. By the end of November he will have been thirty-four years and six months on the bench, and will have sat there longer than any other supreme justice since the organization of the court. He told me his term had already exceeded that of Justice Story, who was supreme judge thirty-three years and five months, and that he might probably retire after having passed the term of Justice Marshall, who served thirty-four years and five months. According to law a supreme judge having served ten years has the right to retire at the age of seventy and his salary is continued for the remainder of his life. Justice Field would have received his \$10,000 a year during the past eleven years had he done no work and another judge would have been appointed who would have received an equal amount. He has in reality given Uncle Sam during this time a present of \$110,000 in work. After he leaves the court he will probably devote himself to putting together his recollections of the Supreme bench. He has wanted to do this for years, and has collected a vast amount of material with this view. He thinks it will take him about three years to complete the book, and although he is past four score I doubt not that he will attempt it.

This book of Judge Field's when it is completed will read like a romance. That which he has already written for private circulation, which he gave me to look over, is as full of adventure as one of the books Henty writes for boys. It covers the world, beginning in Massachusetts, then jumping to Turkey and drifting around Cape Horn to the exciting scenes of early California. When Justice Field was only thirteen he went to Smyrna to visit his sister, the mother of Justice Brewer. He visited Athens and studied there the modern Greek and learned to speak it fluently. He had a lot of experiences during cholera times in Asia Minor and then came back to New York to study law with his brother, David Dudley Field. Next he went to Paris, and while there read the news that gold had been discovered in California. He struck a bee line for America and took a ship for the Golden Gate.

He landed in San Francisco with \$10 in his pockets and had to pay out seven of these to have his trunks taken up from the wharf. He slept on the floor that night in a room for which he was to pay \$35 a week rent, and his breakfast the next morning, the cheapest he could find, cost him \$2. The result was that his first day in California was begun with \$1 in his pocket. He was then thirty-three years old, and he says that notwithstanding his lack of funds he felt happy and hopeful. He had, however, only \$1 left and he needed money at once. His first earnings came from a lot of old newspapers which he had brought along to read on the voyage. He had sixty-four of these, and gave them to a man to sell, with the understanding that he was to divide the profits. New York papers were then worth \$1 apiece in San Francisco, and the man peddled them out, getting \$64 for the lot. He gave the future Supreme Court justice half, and when young Field found that jurymen got \$8 a day, and that the average workman was often paid as much as \$16 a day, the prospects seemed brighter. His next step was to collect a note of \$400 which belonged to David Dudley Field. He saw the sign of the maker of the note, and learned that the man had grown rich in California. He

called upon him and began to talk about the country, without saying anything about the note. "Ah!" said the man, "you will like it out here; this is a glorious country. I have already made \$200,000."

"Is that so?" said Mr. Field. "I am very glad to hear it, for I have a note of my brother's, David Dudley Field, here against you," and he thereupon showed him the note. The man's face fell, but he had been blowing to such an extent about making money that he could not refuse to pay. He looked the note over, and then at last, in a sharp tone, said: "That's my signature," and he thereupon paid the full amount with interest.

Somes of the most interesting stories in Judge Field's recollections will relate to these early California days. For years he was in danger of his life. He had many enemies and he was a fighter from the beginning. At one time a man named Judge Turner swore he would drive Field into the Yuba river. Field was advised to buy a shotgun and kill Turner on sight. He replied, however, that he would not do that, and that he could only act in self-defense. He bought, however, a couple of revolvers and practiced firing at a mark by shooting through his clothes, holding the pistol in his pocket. He says that he soon acquired considerable skill, and was able to hit a small object across the street. He thinks he could have hit a man easily and could have killed at almost every shot. He then sent a warning to Turner, saying that he would not avoid him nor would he seek any collision with him, but that if he dared to attack him or came near him in a threatening manner he would kill him. Judge Turner upon learning of Mr. Field's skill with a revolver, did not seek to carry out his threats. He was justice of the court, however, and he disbarred Field from practice. Shortly after this Justice Field was elected to the legislature. Here he was in such danger that he had to have his pistols always at hand in the drawer of his desk in the legislative hall. He also practiced in courts where every lawyer carried a pistol or a bowie knife, and was once challenged by a judge to fight a duel. He accepted the challenge, and as he had the choice of weapons, stated that the fight should be held in a room twenty feet square, each man to have a Colt's revolver and a bowie knife. The two principals were to use the revolvers first and then the bowie knives. These terms the challenged party would not consent, and the duel was off. I could give a dozen more stories of a similar kind covering Judge Field's career up until 1863, when President Lincoln appointed him to his place on the Supreme bench.

It is generally thought that Justice Field's successor has already been chosen, and that the future judge will probably be the present attorney general, Joseph McKenna and President McKinley have been intimate for years. They served together in the House of Representatives, and it was stated at the time of McKenna's acceptance of the attorney generalship that the President meant to promote him to the Supreme bench in case a vacancy occurred during the next four years. Attorney General McKenna has the right situation geographically in respect to the appointment. He comes from California, and in a legal way he is well qualified for the position. He is now fifty-four years of age, and is in his physical and intellectual prime. He is a very dignified man, and he would look well in a Supreme Court gown. He stands as straight as one of the big trees of Mariposa, and he dresses so correctly that he makes you think of Pitt Crawley in Vanity Fair,