been any dissent, after the long line of cases which had been actually decided, and for this reason, no doubt, Justice MILLER does not go fully into a review of them. And this is made the more plain by the confession of sovereign power in the United States, even if not expressly, but only necessarily implied from the language of the Constitution, which is made in the dissenting opinion, *supra*, pages 696–7.

The uncertainties which this judgment will eventually remove are presented by Justice LAMAR (dissenting) as merely a construction of the law in pursuance of which Neagle acted. From this narrowness of view, no doubt the Chief Justice and Justice LAMAR failed to apply to one of the two important questions into which this construction is divided by Justice MILLER, the rule to which they assented in the *Original Package Case*. That is, in the latter case, these Justices construed a power conferred upon Congress, without any words affecting the States, to be so exclusive as to prevent the States from acting, even if Congress should refuse to act. But here, the executive power, broadly conferred upon the President amongst other things, but not in terms exclusively for the faithful execution of the laws, would be restrained to such ways and means as have been specifically indicated by Congressional action. That has not been the rule of construction since MARSHALL, in *McCulloch* v. *Maryland* (see the quotation, *supra*, pages 423, 706), pointed out that a Constitutional necessity was not an absolute necessity, nor one to be remedied by the most simple and direct means alone, but by those which were useful and advantageous. In other words, the question of necessity related to the end and only to that extent controlled the means.

Want of space near the close of a volume, compels the postponement of an examination into the executive power, and the rights and duties of United States Marshals. The latter will assume a greater importance in the event of the passage of an act or acts of Congress, further regulating the election of Representatives in Congress.

JOHN B. UHLE.

ABSTRACTS OF RECENT DECISIONS.

CONTRACTS.

Public policy forbids the organization of an association for the purpose of increasing the price or decreasing the production of a commodity in general use, such as candles, and a claim based upon an agreement under which such an association has been formed, can receive no aid from a court of justice. *Emery* v. *Ohio Candle Co.*, S. Ct. Ohio, May 6, 1890.

DECEIT.

Diligent inquiry as to the truth or falsity of representations made by a person seeking to exchange certain stock of a corporation owned by him, for property of another, need not be made by the the latter, in order to enable him to maintain an action of deceit based upon the falsity of such representations. *Cottrill* v. *Crum*, S. Ct. Mo., May 19, 1890.

DEEDS.

Covenant of warranty is not constituted by a *habendum* clause in the following form: "to have and to hold the said land unto the said grantee, his heirs and assigns, forever, as a good and indefeasible estate in fee-simple," nor does the word "grant," when used alone, constitute such a warranty. *Wheeler* v. *Wayne Co.*, S. Ct. Ill., April 22, 1890.

Delivery after grantor's death of a deed previously executed, in pursuance of instructions given to his agent, conveys no title. *Weisinger* v. *Cocke*, S. Ct. Miss., May 5, 1890.

Voluntary conveyance from father to a favorite son, who has remained at home and managed the father's farm for many years, is not void as induced by undue influence, although obtained by the son by threatening to leave his father if the deed was not given, where the father, though of advanced age, feeble health and impaired memory, was sound in mind and not so influenced by his son as to be deprived of freedom of will. *Burt* v. *Quisenberry*, S. Ct. Ill., March 31, 1890.

FIRE INSURANCE.

General agent of an insurance company, having authority "to transact the business of insurance" within a State, may bind the company, after a loss, by a parol waiver of conditions as to proofs of loss, notwithstanding a provision of the policy that a waiver shall be void unless in writing and endorsed thereon. *Phœnix Ins. Co. of Brooklyn* v. *Bowdre*, S. Ct. Miss., May 5, 1890.

TELEGRAPHS.

Erection of poles and stringing wires by a telegraph company along a highway already dedicated to the public, is an additional servitude, and constitutes a taking of private property for public use; the public have merely the right of passage along and over a highway, the absolute property remaining in the owner of the soil from whom the right of passage was secured. *Western Union Tel. Co.* v. *Williams*, S. Ct. App. Va., March 27, 1890.

WILLS.

Devise over, after a devise to the wife of testator of all his estate with "full and ample authority to dispose of the whole of it as she pleases," of any property not alienated by her before her death, will take effect upon whatever property has not been so disposed of. *McCullough's Adm'r* v. *Anderson*, Ct. App. Ky., April 10, 1890.

Devise to wife of all testator's estate, "to have and to hold the same for her own use and benefit, and also to make such disposition of the same that she, in her judgment, may deem best, should it become necessary that a part or all should become necessary for the support of herself and W." was followed by a provision that, after the death of the wife, "any and all property remaining unused shall be given to said W."; the wife took only a life estate, with a power of disposition for the purpose mentioned, and the devise over was valid. *Miller's Admr.* v. *Potterfield*, S. Ct. App. Va., May 18, 1890.

JAMES C. SELLERS.