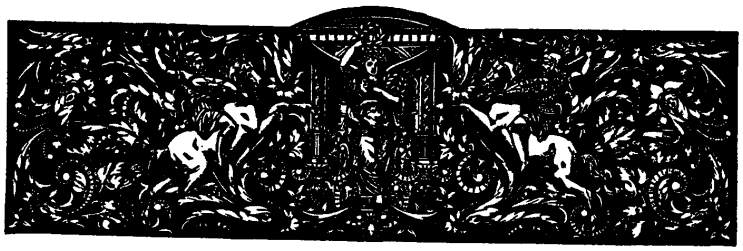

LITIGANT.

THE crier observed the friendly features and stalwart form of Mr. Greenleaf and cried: *Oyez, oyez, all persons having business before the honorable court will draw nigh and give attention, court is now in session;* on the morrow whether the sun shone in all its effulgence, or whether its joyous beams were obscured by cloud, or whether the rain poured, or whether the hail pelted, or whether the snow impeded, weather fair or weather foul, the crier observed Mr. Greenleaf, and cried *oyez, oyez;* on the morrow the crier noted Mr. Greenleaf was not missing and cried his perfunctory proclamation, and so on the successive morrows, week upon week, month upon month, year upon year, decade upon decade. It is not said, that his honor did not stiffly incline his head towards the litigant, take his seat and direct the call of the calendar. Courtesy was due to the litigant, not that his sister Nancy was the wife of the Chief Judge but that he supplied largely the grist which kept the judicial mill grinding. This, the tradition, I more than suspect, exaggerates the fact, yet is not an extravagant exaggeration.

From September, 1793, to July, 1795, Mr. Greenleaf frequently was here on visits from New York. In 1804, he came to Washington to remain. He came to assert the title, the claim of title, the equity in title to every square foot vested in him, in his assignees, or in his legal representatives.

Mr. Greenleaf, evidently, was bred to mercantile pursuit. In the race for riches he was well on the course at the time I first find him, his twenty-third year. He then with a partner embarked

in commerce and side speculation in American bonds and lands, conservatively in the latter compared with his later ventures. His real estate transactions required of lawyers, opinions and formulation of instruments, which to an extent familiarized him with the law. When Mr. Greenleaf came to Washington to litigate it does not appear that he had taken a degree or a course of study yet it does appear he was well versed and mentally equipped for practice. His legal papers—affidavits, contracts, pleas, stipulations—are neatly penned, appropriately endorsed, aptly even elegantly expressed and in marked contrast to the papers of the lawyers of that day, roughly written, ofttimes on scrap of sheet, crossed and scratched, added to and subtracted from; and who if they used an unlucky expression not yet dry upon the paper promptly obliterated the same with the pen and sometimes more effectively with the thumb. This, their slipshod method, too, in cases the issue of which was tens of thousands. It is noteworthy that not once did Mr. Greenleaf ever call himself a lawyer or designate himself by a lawyer's title.

For nearly forty years Mr. Greenleaf appeared in law court and in chancery, with suits for ejectment and bills for injunction and account; for he was the aggressor and took the initiative. He was his own lawyer and reversing the adage had no fool for a client. That he ably assisted himself is attested by the fact that in all of his six cases appealed to the Supreme Court of the United States to which he was party, plaintiff or defendant, he was successful; and in the seven cases, four consolidated into one, appealed by the trustees of the *aggregate fund*, he was also successful, although in some of the latter not to the entire contention. Of the thirteen opinions, Chief Justice Marshall delivered three, Justice Johnson, six, Justice McLean, one, Justice Story, two, and Justice Washington, one. Before the tribunal of last resort and sometimes before the original court, Mr. Greenleaf had the cooperation of eminent counsel. The *first* cause, Chancery Docket 1, No. 1, filed March 24, 1801, Pratt and others against Duncanson and Ward, is a Greenleaf case; The first session of the original court, Kilty, Chief Judge, Marshall and Cranch, Assistant Judges, was held March 23, 1801 at the Capitol.

The deeds from Greenleaf to the various assignees and trustees under the bankruptcy proceedings were recorded in the

states where they arose but *not* in the District of Columbia. Under the statutes in force in the District no estate passed without the deed was enrolled in the county where the land lies within six months from its date. So that the deeds of Greenleaf for creditors affecting any estate or equity vested in him in this District were mere nullities—and being discharged from debt reposed the same in him exempt from involvement.

The bankruptcy litigation was conducted by Mr. Greenleaf on a shrewd system. The assignee and trustee were of his choice. The trustee Cranch, December 28, 1803, executed to Greenleaf the amplest authorization, as did, April 4, 1804, the assignee, Miller.

Pratt and others trustees of the *aggregate fund* constituted January 18, 1804, and April 8, 1805, Greenleaf their attorney-in-fact with plenary powers.

When Mr. Greenleaf affixed his signature to stipulation or compromise it took this formidable shape:

JAMES GREENLEAF.
JOHN MILLER, Junr Assignee
& Trustee of the Estate of
James Greenleaf under the
Insolvent Law of Pennsylvania
and Bankrupt Law of the
United States
by his Attorney in fact
JAMES GREENLEAF.

WILLIAM CRANCH, Trustee of
the Estate of James Greenleaf
under the Insolvent Law of
Maryland
by his Attorney in fact
JAMES GREENLEAF.

Henry Pratt
John Miller, Junr } (who survived Thomas W. Francis)
John Ashley
Jacob Baker
Assignees of the joint and separate
Estate of Robert Morris, John
Nicholson & James Greenleaf
by their Attorney in fact
JAMES GREENLEAF.

PRATT AND OTHERS *against* DUNCANSON AND WARD.
PRATT AND OTHERS *against* LAW AND CAMPBELL.
LAW *against* PRATT AND OTHERS.
CAMPBELL *against* PRATT AND OTHERS, DUNCANSON AND WARD.

Morris, Nicholson and Greenleaf to Law, December 3, 1794, gave their bond with condition to convey in fee simple within ninety days 2,400,000 sq. ft., he having paid them five pence Pennsylvania currency per square foot for the same. On the day following an agreement was executed by which Morris, Nicholson and Greenleaf covenanted that if Law within eighteen months should be displeased with his purchase, the consideration would be returned with interest; and Law covenanted that if within that time he determined to keep the land he would within four years from time of such determination cause to be built on every third lot, or in that proportion, one brick building at least two stories high. On March 10, 1795, Law made the purchase absolute, and Morris, Nicholson and Greenleaf agreed that Law could select under the contract of December 4, from any squares in which they had right of selection, and also agreed to mortgage to Law other squares which were in their possession until they could give him good title to such property as he might select. Pursuant to this last agreement September 4, 1795, the mortgage was executed. Law received in round numbers nearly 2,000,000 sq. ft., but before Morris, Nicholson and Greenleaf could perfect title to the balance of Law's selection they made an assignment, June 26, 1797, to Pratt and others, trustees.

Morris, Nicholson and Greenleaf to Duncanson by a second mortgage, September 12, 1795, secured the mortgagee against the return of certain accommodation drafts.

Campbell secured an execution against Morris and Nicholson and under it bought certain properties embraced in the mortgage to Law. Law released these to Campbell without the sanction of the mortgagors.

Morris and Nicholson were disposed to treat Law justly, and so, too, Greenleaf; the former prior to legal hostilities, the latter, in their direction and progress; they, all, were willing to concede even more than they thought his due. It appears then on either side to have been an honest difference of opinion. Law insisted on strict exaction.

Mr. Morris to Mr. Nicholson, November 27, 1796, writes:

The account you give of Mr Laws Conduct grieves me much both for his sake and your own—You know that my mind has ever been opened to the eccentricities of his Character & that my feelings frequently revolted at the inconsistencies he was guilty of, but still believing, as I always have done that he poſsessed an excellent heart, it was my earnest desire that we should finish our business with him on terms entirely to his liking, if poſsible to be done even with ſome ſacrifices on our part if necessary—This is still my Wish if the Commiſsioners will release us from the obligation of the building clause in our Contracts ſo far as Mr. Laws Lotts are concerned I have no Objection to release him but if they insist that a House must be built upon every third Lot, he must do it—We cannot—we neither coaxed or forced him into the Contract—he made the bargain with Mr. Greenleaf without our intervention, and the signing of it was his own voluntary act—I agree therefore with you that we are to make his Titles in strict Conformity with the Article of Agreement, and then should he refuse to deliver up and release the mortgage, we must compel him by a ſuit in Chancery to do it, altho' such a measure will be diſtreſsing to my feelings, yet if right and Justice require it must be done.

An elaborate computation, a scheme of compromise, seemingly fair, is endorsed on this letter:

E. B. Caldwell, Esq

Sir,

I was unfortunate in not finding you at your house or office, at several times calling both yesterday & today. The foregoing is the proposal I would make to Mr Thomas Law, on the part of those for whom I act, and which I trust he will have the wisdom to accept, but if not accepted, he will please distinctly to understand, that the disposition the present overture evinces, for conciliation and settlement with Mr. Law, is in no wise to be construed as impairing any of the rights of those for whom I act, or as yielding any strength or countenance to what is contended for, or to any poſsible claims or pretended claims either present or future on the part of your client.

I am respectfully,

Sir,

Yr very obt Serv.

JAMES GREENLEAF.

City of Washington, Aug 5, 1809.

To this proposal this reply:

I should not consider myself Justifiable in troubling my father by information of any proposals of Pratt Francis &c: except the proposals were founded upon this equitable principle, that my father should have the right of selecting from their property lots to the value of those he selected from Carroll's property, & to the amount of his damages sustained by the detention of the 464,000 sq. ft now unconveyed.

JOHN LAW

Mr. Justice Johnson who delivered the opinion speaks of this celebrated cause as "intricate and voluminous" and of "the formidable bulk of 900 folios!" It takes 45 pp. of the Supreme Court report.

The trustees contended that Law had failed to comply with the covenant to build on every third lot or in that proportion and that the failure was to their detriment. However the court decided that Law was not restricted to specific lots on which to build; his choice, therefore, extended over the whole and the obligation was not complete until the whole was conveyed to him; and that, Law was originally induced to enter into stipulation in consideration of similar stipulations by Morris, Nicholson and Greenleaf with the Commissioners and that their failure was an excuse in part for desisting in building.

The trustees sought to enjoin Duncanson from foreclosing. At the solicitation of Ward, who held some of the drafts, Duncanson had permitted foreclosure acts proceed so far as advertisement. It developed that Greenleaf had paid the drafts in Ward's possession and that the mortgage should have been released.

The trustees' contentions for the release from Law's mortgage, to compel Law to complete selection, and to vacate Law's releases to Campbell were denied.

Law had received 1,873,087⅜ sq. ft. leaving 526,912⅝. The court allowed him this at original purchase price 5 p. Pa. currency per sq. ft. $29,272.92 and interest from January 1, 1797, to January 16, 1816, $33,371.13, in all, $62,644.45.

Campbell was charged with that proportion of this amount as the property released to him by Law bore to all embraced in the mortgage.

The consolidated cause, Pratt and Law, was in activity over fifteen years. It is perhaps the most voluminous in the chancery files. It contains material for a new chapter and a comprehensive one in a history of early Washington.

PRATT AND OTHERS *against* CARROLL.

The legal engagement began by the challenge of Greenleaf and acceptance by Carroll, photographically reproduced. After the jollification, September 26, 1796, Nicholson, and perhaps Morris did some additional work on the twenty buildings in a desultory manner. In May, 1797, Carroll seized the houses; he

made no effort to preserve them. The bill was filed December 19, 1804. Plaintiffs claimed specific performance of contract. The Supreme Court because of the delay of seven years in instituting litigation refused except on modified terms. Upon the mandate of court for further proceedings the shrewd Greenleaf as agent and attorney-in-fact for complainants in the management and conduct of the suit to have the trial in Alexandria made oath, July 6, 1814, that from the complicated and ramified nature of disputes concerning city property formerly belonging to Morris, Nicholson and Greenleaf, great number of its citizens have become directly or colaterally interested and that he was in the predicament of bias and that there was no reasonable prospect of unprejudiced hearing. Carroll was charged with rents and interest thereon $28,267.20; damages $19,000.00; interest thereon $570.00; in all $47,837.20. The trustees were charged with penalty for 14 houses @ £100=£1400=$3,733.33 and interest thereon $4,256.00; in all $7,989.33. Net amount against Carroll $39,847.87.

As a witness Judge Cranch was cautious. And, but and if hedged his replies. He was ever on guard not to overstate or overstep and left a loop-hole to effect an escape. To exhibit his reservation an answer on the twenty buildings case, not at all exceptional, is quoted:

> On the 26th of September, 1796, *to the best of his recollection* being the time mentioned in the contract for building the said houses Morris and Nicholson made a great barbecue in the street in front of the buildings, at which according *to the best of this deponent's recollection* more than two hundred people were present, upon the occasion of completing the erection of the buildings; at which barbecue the said Morris and Nicholson and this witness were present, and also the defendant Carroll, *as this witness verily believes, but of that fact this witness has not now a distinct recollection, nor whether he heard* the said Carroll *say* anything upon the subject of the buildings; *but if the said Carroll had been absent or if he had expressed* dissatisfaction at the buildings, *this witness thinks it would have made a strong impression upon his memory; his impression*, on the contrary always was, that said Carroll was at that time *of opinion* that Morris and Nicholson had done that the contract required and was willing to trust to the interest of Morris and Nicholson as a sufficient motive to induce them to complete the houses.

CORPORATION OF THE CITY OF WASHINGTON *against* PRATT AND OTHERS.

This tax sale case establishes an equitable precedent. It decides that the lot be assessed to the true owner; that the lien

on each lot is distinct and the advertisement separately state it; that the excess a lot produces be applied to taxes on other lots of the owner.

GROENVELD *against* GREENLEAF.

The Rotterdam trustees instituted this cause to define and defend their vested rights under the conveyance of Bourne, attorney, July 29, 1795. Greenleaf answered that the land security stipulated was 4,455 sq. ft. for one thousand guilders or 668,250 sq. ft. for one hundred and fifty thousand guilders and that the conveyance carried 1,316,250 sq. ft. The trustees, Pratt and others, answered that the conveyance to complainants was inoperative; that July 10, 1795 (only nineteen days previous) Greenleaf contracted with Morris and Nicholson to sell them all his holdings; that in pursuance of the agreement Greenleaf executed a deed; that Morris and Nicholson assigned to them; that they were unadvised of the conveyance to complainants; that they sued out an attachment in Prince George's County, Maryland, against the property of Greenleaf; that a sale was made by the Sheriff to William H. Dorsey and he acting in their behalf made a deed to them; that they pursued this course to extinguish every scintilla of claim or interest possibly then remaining in Greenleaf. This answer is signed by the trustees.

The compromise is in the handwriting of Greenleaf and corresponds with the decree which gives a comparatively small number of lots to the United States and provides for a sale by David A. Hall and a division of proceeds, one half to complainants, the remaining half to Greenleaf and *aggregate fund* trustees.

ROGERS *against* CROMMELIN.

Greenleaf's loan contracts with Daniel Crommelin and Sons are dated January 31, April 14, 17, 21, 1789, October 1, November 1, 1789, November 15, 1790, March 1, June 15, October 1, 1791, February 15, and August 1, 1792. Greenleaf alleges the bankers were bound to render regular statements of receipts of interest on the pledged securities; that they annually rendered such statements until January 30, 1796; that because of his failure in business they discontinued the practice; that although frequently requested so to do, they finally after a lapse of ten

years upon persuasions and threats have submitted a crude mass of accounts false, fictitious and fraudulent, in which it appears many of the securities have been sold. He charges the sales were made below current rates and were *pro forma* and only transfers to the bankers. He claims, the securities, adequate to reimburse the principal in the first instance, have progressively risen in value. Greenleaf recites that November 21, 1796, he assigned to Daniel Greenleaf and Thomas Dawes, junior, so much of the property pledged with Daniel Crommelin and Sons as was necessary to discharge certain endorsements in Boston on his behalf. That, August 19, 1797, he for the benefit of certain creditors assigned to William Cranch the right to adjust and settle finally all concerns with the bankers. That, August 20, 1798, Greenleaf and Dawes, junior, transferred their trust to Daniel Dennison Rogers and William Smith of Boston.

The decree in this cause is that Greenleaf shall confirm in the trustees, Godfrey, Schimmelpenninck and Crommelin, the fee to the lots described in the conveyance originally intended as a mortgage except the excess over 2,632,590 sq. ft. and that Daniel Crommelin and Sons shall deposit with trustees named sixty thousand dollars to be invested in U. S. 6% stocks and three hundred and thirty-five shares of the stock of the Bank of the United States to be distributed as an accounting from January 14, 1794, upon lines prescribed particularly shall result.

Greenleaf's contentions were evidently correct. The complainants' pleadings and papers are all in the chirography of Greenleaf. The phraseology is scholarly, the penmanship like engraving, the punctuation and capitalization faultless, showing that errors in these respects in his letters are through carelessness.

These Greenleaf cases are those I deem the more important. It has been extravagantly said, if the papers in the cells of the City Hall which bear the litigant's name were on the Capitoline heights touched with the torch, they would be a beacon to the ten miles square. One of the Greenleaf cases at the point I looked had run seventeen years and the course was not then complete.

A literary sketcher discusses Greenleaf's litigious career and drifts into a comparison with *Jarndyce and Jarndyce*. The

famous fiction may have its prototype in that familiar to us. It is not for me to deny that the novelist's creation is not suggested, somehow or somewhat, by Greenleaf's continuous court contention. In Greenleaf's last year, when Dickens, 1842, found here the Barmecide Feast, he might too have found the skeleton of his story, for he must have heard of our celebrities, the things remarkable of them, then, of course, of Greenleaf and of Greenleaf's litigation. A decade after and appears, 1853, Bleak House, built by a romantic turn and twist of the perennial procrastination of the court of the Lord High Chancellor, the High Court of Chancery; and the author opens it by putting the heroine in training: where? "Greenleaf"—"Greenleaf."

That which follows in this chapter might appropriately with the heading CLAIMANT form another.

For many years advertisements in the *Intelligencer* appear with such frequency as to be almost continuous. They have Mr. Greenleaf's signature, a few times with the string of assigneeships, already quoted, generally "Attorney in fact for all the Assignees and Trustees or the joint and separate estates of R. Morris, J. Nicholson and J. Greenleaf." That Greenleaf should have become the guardian of the effects of his former associates and antagonists is a trick of fate.

In the *Intelligencer* of February 27, 1804, is the initial insertion. It invites persons having business with the subscriber as agent of the estates of Morris, Nicholson and Greenleaf or who wish to buy a part of the *aggregate fund* property in his absence to call on Capt. Thomas Tingey, Wm Cranch, Esq., or Mr. Samuel Eliot, jr.

In the *Intelligencer* of April 27, that year, is the formal announcement of his appointment as attorney for the trustees of the *aggregate fund.*

Of the North American Land Company, Mr. Greenleaf was secretary and attorney-in-fact. In the *Intelligencer* of January 25, 1812, is a call upon all persons, former agents, clerks or registers of public office to return title papers to him at Philadelphia; and, August 23, 1823, a notice of a stockholders' meeting at the company's office, No. 177 Pine street.

These advertisements were many times offerings to the public for purchase of property under the trusts—vast tracts

*Bleak House, Chapter III

of the North American Land Company, acreage near Alexandria and on the Eastern Branch between the two bridges, and numerous lots, some improved, in the city of Washington. The subscriber had lots to dispose of in every ward, sites for ice houses, for truck gardens, for brick plants, for all practical availability.

The subscriber had his vexations with destructive tenants as landlords of the present do, and he fearlessly did that which the latter would hesitate to do:

> For Rent. House * * * recently occupied by Benjamin King. The disgraceful state of dilapidation in which the premises were left by the last occupant, will be repaired by the subscriber, and the yearly rent charge shall be only one hundred dollars, to a good and careful tenant.

The *Intelligencer* was the vehicle of his *Cautions*. Mr. Greenleaf claimed all that he could by any pretext claim. He watched every move antagonistic and attempted to thwart it by a *Caution*. His defense was unique; his weapon, effective. As sure as a notice of sale under conflicting title appeared as sure his *Caution* did likewise; and simultaneously. Somehow, sometimes he was advised in advance and had his *Caution* with the publishers in readiness for the first notice. These *Cautions* frequently defeated sales, no doubt, and in one instance numerous consummations of accepted bids at auction. In this latter case, the trustees threatened through the prints suits for damages against the claimant, which no more feezed him than the baying dog disturbs the moon.

These *Cautions* provoked replies, angry and lengthy, which the writers confidentially expected would squelch the claimant, whose calm rejoinders so surprised them they subsided into silence. Some of the cautionary notices and the correspondence which ensued are quoted. Not only they contain historic incident, yet more the methods and motives of Greenleaf.

The claimant supplements the Stoddert *Caution*:

> I lament extremely that it is at the hazard of exciting much enmity and ill-will, that I shall occasionally be obliged to awaken long dormant, but important and just claims on the part of the assignees of the joint and separate estates of Robert Morris, John Nicholson and James Greenleaf.

Mr. Greenleaf correctly conjectured. His measures to protect his own and entrusted rights brought him disfavor although of magnetic qualities.

At the time of Greenleaf's tilt with the Commissioners Mr. Stoddert was a merchant at Georgetown and president of its bank—the Columbia. From May, 1798, to March, 1801, he was Secretary of Navy, the first in that station, and after, Acting Secretary of War. Perhaps to the letter duel he gave passing thought and the multitudinous and momentous affairs of state dispelled it from mind otherwise he did not profit by the Commissioners' discomfiture.

The full controversy is in the Appendix. The argument of Mr. Stoddert is plausible however false is the assertion the law in question passed in the forenoon and the Commissioners delayed their signatures until night when a message was received announcing its passage. It is questionable if the distance between the Capitals in the hours could have been made. The Commissioners had the utmost confidence in Morris, Nicholson and Greenleaf's responsibility and upon it alone four months later granted a credit of one thousand lots. Mr. Stoddert intimates that Greenleaf's cautions are bluffs and that "the assignees are not men to suffer their money to be thrown away in idle and hopeless pursuits." Litigation did ensue and last as long as Mr. Stoddert's light burned and a quarter of a century after it burned out.

Judge Morsell was appointed by decree of the court to sell the lots of the Tontine Company. The judge, May 10, 1826, did advertise them for sale and that same day, in the same paper, in the same column, was the claimants' *Caution*. The claimant instituted a chancery cause to enjoin; this legal fire burned many years; the ostensible plantiff, the assignee, Miller, passed away, Mr. Greenleaf became an old man, the fire smouldered and died.

The *Caution* which follows was called out by an advertisement of Dr. John Ott to sell one of the Seven Buildings. The fact that the claimant had thirteen cases before the Supreme Court of the United States and had thirteen successes there is an assurance that any claim he made must have had some title and deters from asserting anything to the contrary, convincing circumstantiality notwithstanding. Morris and Nicholson continued the Seven Buildings, square 118, after the general transfer to them by Greenleaf. They were grievously mistaken as to ownership if they so substantially improved another's property. I find in a letter of Morris that this row was commenced

by General Stewart and Major Moore, and if so, Greenleaf had an interest; in another letter, he contradicts.

National Intelligencer, July 25, 1811.

CAUTION.

The *range of houses* known by the name of the "*Seven Buildings*" situate on square No. 118 in the city of Washington (part of which is advertised to be sold at auction on the 29th inst.) is the property of the Several assignees of my estate, or of some or one of them—the houses in question and the lots on which they are erected with several other lots in the same square, were excepted from my general conveyance to Morris and Nicholson—public acknowlegement was made by them of such exception—and the commissioners of the city of Washington (in whom the *legal* estate then vested) were duly informed of the said exception—the unwarrantable circumstances under which possession of said property has been *juggled* from the rightful owners, and *shew of title* has been vested in certain pretended mortgagees whose interests about that time became intimately mingled with the interests of the then commissioners of the city, or of some or one of them, are matters not proper for communication through the channel of a newspaper—a sufficiency however will appear, by reference to the public record, to convince any doubting mind that the most disgraceful artifice has (by several palpably fictitious conveyances) been practised to cover a defective title as to the property in question, and thereby to impose on the unwary and incautious.

All persons concerned are therefore hereby cautioned and forewarned not to purchase the said Seven Buildings or any of them, or any of the Lots or parts of Lots on which they stand, or any of the Lots in square No. 118, which on the original division of that square were alloted to the commissioners of the city, as the same will be contested in equity by

JAMES GREENLEAF, Attorney
in fact for all the assignees of
his former estate.

ALLENTOWN, PENN. July 17.