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Talks About Law.—No. 7.

BY JUDGE R. W. WINSTON.

THE STATUTE OF FRAUDS.

All contracts to sell or convey any lands or any interest in or concerning them, shall be of no effect, unless such contract, or some memorandum or note thereof, shall be put in writing and signed by the party to be charged therewith, or by some other person by him thereto lawfully authorized.

In 1863, Chas. Craig left Wilmington for Nassau. Before going, he executed a deed to Thomas Craig, his brother, to a tract of land. Charles alleged that Thomas paid him nothing for the land, and that it was verbally agreed, at the time of the execution of the deed, that if Charles came back to the State, Thomas should give up the land. Charles returned from Nassau. He demanded the land back. Finally Charles sold the land to Bonham. Bonham sued Thomas Craig. But he did not recover the land. Having knowingly conveyed the land, it cannot be shown, by word of mouth, that there was an agreement to recovery. If Charles had alleged and proven that Thomas defrauded him, or deceived him into executing the deed, equity would have relieved him.

"Received, April 21st, 1863, of George Thornburg five hundred dollars on account of sale of my Lenoir lands owned by myself and J. W. Trauseau." Signed by William Masten.

The same land was soon afterwards sold to pay Masten's debts. But Thornburg sued Masten for a deed, and contended that the little receipt contained the contract. Masten's lawyer replied that the "consideration" of the contract was not expressed. But our Court held that the consideration need not be expressed in the memorandum of the contract.

Away up in Haywood county in 1872, a Mr. McCracken sued another Mr. McCracken. The cause of action was that the plaintiff had agreed, by word of mouth, to erect a mill-dam, saw-mill and fixtures on the lands of the defendant; that he did so; and that the defendant had agreed, also by parol, to convey certain lands to the plaintiff in consideration thereof. The action was not to recover the land, but damages for breach of the contract. But, say the Court, "What is the difference between compelling one to part with his property and mulcting him with damages if he tries to exercise ownership over it?" So he recovered no damages.

Now suppose that your agent signs your name to a contract to convey land, and he had no written authority to do so, does this bind you?

In October, 1880, the North State Mining Company, through Eames, its agent, agreed to buy certain mineral lands in Ashe county. The agent delivered, in part payment, certain drafts; these were not paid, and suit was brought to recover on them. The defendant denied that it contracted, and pleaded the statute of frauds. But the Court said that the defendant must pay and that the agent can bind the principal, although the principal's name is not mentioned in the writing, and even if no writing, authorizing the agent to buy, were shown. This leads us very near to a principle of law exemplified daily. How is a man who bids and buys at an auction sale of land, bound? He signs no writing.

Down in Edgecombe in 1866, the auctioneer said, "Put it down to James S. Long;" whereupon the clerk of the sale enters on his sale list, in the presence of Long, "Rayner tract to James S. Long at \$40 per acre."

Now, how is Long bound? Well, the advertisement of the sale is the "memorandum of the contract"; then, the auctioneer is the agent of the buyer and enters the bid in his presence. So the purchaser is bound, notwithstanding the statute of frauds.

So it has been held that a judgment may be assigned by parol; and then the parol purchaser may have execution to issue, and under it the land be sold.

Again, one party may sign a writing relating to land and thereby become bound in law, while the party with whom he contracts may not have signed and will not be bound.

Very often one person, relying on the word

of another, will build a house on that other's land, before a deed is executed. Then, perhaps, the land-owner dies, or refuses to execute the deed. What remedy has the aggrieved party? He cannot get the land because the statute is in his way. Equity, that guardian of the oppressed, steps in, and says to the land-owner, "You shall not hold and enjoy the land, thus improved, without compensation for the additional value which these improvements have conferred on the property; it is against conscience that one man shall be enriched to the injury of another, induced by his own act."

Suppose there be two or more writings that contain the contract, can you offer parol evidence to connect the writings? No, you cannot. Unless the writings themselves show their connection with the subject matter, you cannot connect them by word of mouth.

Another interesting question arose: One can bind himself with respect to a contract relating to land only by some writing, can he abandon such a contract by word of mouth? Yes. Our Court say "that this opinion that a parol discharge of a written contract within the statute of frauds is available in equity to repel a claim upon that contract, to which the mind of Lord Hardwicke came so reluctantly, is since firmly established by many authorities."

So much for this one section of this famous statute, which is said to owe its origin to Sir Matthew Hale, its object being to "prevent the facility to frauds and the temptation to perjury held out by the enforcement of obligations depending for their evidence upon the unassisted memory of witnesses."

Its consideration has carried us somewhat into the niceties of the law; but the knowledge is not unimportant. However, our next "talk" will be more chatty.

Thoughts.—No. 7.

BY SCATTERHEAD.

"They shall mount up with wings as eagles."

Satan is the fountain head of all meanness. He is very industrious, and this is about all the good we can say of him. He uses all of his endeavors to keep this world in a perpetual storm, arising from his hellish rage, in order to envelop the earth in midnight gloom and "Egyptian darkness." But thanks be unto our God there is a sure, peaceable and quiet habitation far above the murky mists and thundering storms of the valley, engendered by Satan's fury, and that dwelling place is in God. "Lord, thou hast been our dwelling place in all generations."

It is said of the eagle that it soars above the storm-cloud and rests its pinions in the peaceful calm, where it can look down upon the raging storm and feel secure from danger. The true christian, like the eagle, mounts up above the world, and the trials and afflictions cannot harm him, because his dwelling place is in the most high God, whose will it is to lift up his children to the "heights of peace and trust." "The name of the Lord is a strong tower, the righteous runneth into it and is safe." A very safe dwelling place indeed, and Satan and all his imps combined cannot batter down the fortress. Sometimes we stray off from home, our God, our abiding place, and Satan wounds us with his darts. We are promised safety only when we are abiding in our God. It takes some very big storms to drive some christians into their place of refuge, but the Father wants his children to stay at home, without their wandering away, and then have to be driven back by a furious storm. Afflictions and trials will generally make a christian travel very fast towards his only place of safety. Many christians are very well satisfied to remain in their tower while Satan is "spending his shafts" and bellowing around.

Some christians, as soon as the storm is over and all looks very pretty below, soon find themselves midst the things of the world, trying to drink in its pleasures, and very soon they'll forget about "their refuge and strength," and their communion will be broken, and very soon they will be into some kind of meanness, and then it won't be very long before they'll see that they have lost something they once enjoyed—some say religion, but David said it was not salvation that he lost when he had committed such great sins against his God, but that he lost the joy of salvation. If David had gone and fought his enemies as he was accustomed to do, he would not have fallen into temptation, and would have been saved from much bitterness of soul. Satan is a very busy fellow around an idle christian.

I'll say right here, some church members who live very crooked lives, are very ready to show up David's sins, in order to excuse or justify their wicked conduct. If they would only repent like David, the Lord, and christians, too, would be exceedingly glad to excuse them. Let us endeavor "to mount up as on eagle's wings," and strive to stay up in company with the Lord Jesus and be occupied with him only. The christian dwells in a secret place—a hidden place. What a glorious and exalted privilege to be hidden "with Christ in God"—safely and sweetly hidden from the annoyances of earth. We need to set our "affections on things above, not on the earth." We ought to remember that we are not citizens at this world, but foreigners—our citizenship is in heaven, from "whence also we look for the Lord Jesus Christ, who shall change our vile bodies." If we are true

christians, everything will grow more and more unsuited to us in this vale of sorrow, as we are here only as "exotics," and we must bear up to things adverse to our heaven-born natures as best we can till the appearing of our Lord, or till we shall "fall asleep in Jesus." Christ alone must be the object of our affections "over all and in all." He alone can satisfy the cravings of our hearts. Let us endeavor to see naught but Jesus, and ever behold his lovely face from which "streams the light of knowledge of the glory of God." He is the object of our faith, hope and love. Let us strive to know more of that heavenly joy and rich blessedness which comes from seeing Jesus only. When we are beholding him we are kept at peace midst the howling tempests of this mortal life. In him we have all we need. "Unto you, therefore, which believe, he is precious." We must drop self and let our souls soar into God's presence, so that we may have our hearts and minds centered upon our Saviour, ever rejoicing in him with "joy unspeakable and full of glory." Christ Jesus was the object Paul was pressing on to while he was working and suffering for him—"counting all things but dross for the excellency of the knowledge of Christ Jesus." He had something in Christ more than the world could give, and he ever "pressed toward the mark for the prize of the high calling of God in Christ Jesus." Dwelling in the presence of our Lord, we can always be enabled to rejoice, even if the "fig tree does not blossom, and there is no herd in the stalls," for by faith's eye we "look upon things not seen but eternal." May we by God's grace live above the corroding cares of the world, and may we ever "look unto Jesus the author and finisher of our faith." If we walk with our Lord, our prayers will always be in accordance with his will, our lives will be fruitful, and we will be much used by the Master for his glory and in leading souls to him. May we dwell in the presence of our King and be prepared to do his service.

Lovable Christians.

There is no line of eulogy in the Bible that is more to be coveted than this single line, "the disciple whom Jesus loved." The original possessor of this precious encomium was John the evangelist, and the inspired writer of five wondrous books of holy Scripture. There is a very false conception of him in many minds, as if he were a mild, effeminate person, lacking in all the robust qualities of an athletic manhood. On the contrary, he was peculiarly bold and energetic and outspoken—one of two "sons of thunder." He was a man of flaming zeal for his Master's glory, and of red hot hatred for everything false and wicked. And yet he was the author of three marvelous love letters which have the effusive sweetness of the pressed honeycomb. There seems to have been a peculiar inner sympathy between Jesus Christ and this favorite disciple; he penetrated more fully into his Master's mission, understood more deeply his Master's character, and partook more of his Master's spirit than any other of the twelve. He was the planet that rode nearest to the sun. That "leaning on the breast of Jesus" at the paschal supper had a meaning in it; it meant that John's heart drew so strongly to Christ's heart that their outward embrace was as natural as the kiss of a husband and a wife.

John might have sat for that portrait which Paul afterward painted when he described the christian character as possessing "whatsoever things are true, whatsoever things are just, whatsoever things are honest," and then adds as a finishing touch, "whatsoever things are lovely and are of good report." This word "lovely" does not occur elsewhere in the New Testament. It signifies what is dear to any one, and the phrase "things of good report" signifies that which wins admiration and approval. We might paraphrase the expression, and render it—"be lovable; so live as to win converts to your Master." Every christian is, or ought to be, a representative of Jesus Christ before the world. He has been well styled "the world's Bible"—and is about the only Bible that thousands ever look at. It should be the aim of every follower of Christ to be a living epistle, not only legible but attractive to all who study him. Is this always so? Is the religion of every good man and good woman truly lovable? We fear not. Some men's piety has quite too much of the flavor of the "old Adam" still lingering about it. Others sour their religion with the acidity of censoriousness, and their conversation sets every one's teeth on edge. After an hour's talk with them, you find yourself almost insensibly prejudiced against some of the best people of your acquaintance. A fly has been dropped by these censorious dyspeptics into every pot of fragrant ointment, and a smirch has been left by their uncharitable tongues on the fairest characters. There is quite too much lemon and too little sugar in the composition of such people to make them agreeable to anybody. Only half converted themselves, they convert no one else.

Somewhat akin to these are a class of knotty and crabbed christians whom everybody respects, and almost nobody loves. In my early ministry I had a most conscientious and godly-minded officer in my church who rigidly practiced whatsoever things were true and whatsoever things were just, and whatsoever things were honorable. He was honest to a farthing, and devout to the very core. I never knew him to do a wrong

deed, and I scarcely ever knew him to do a pleasant one. There was a deal of good, solid and most excellent meat in him, but no one liked to prick his fingers in coming at it. The rugged old chestnut bur christian might have been a great power in the church; but even the children in the street were afraid to speak to him; and so he went sturdily on his way to heaven, praying and working and growing as he went, reminding me of his famous countryman, Thomas Carlyle. If there had been a few drops of the Epistle of St. John distilled into him, he would have made a grand specimen of a christian, and probably he has become sweeter and mellowed by this time in the warm atmosphere of heaven. That good man did more than make a mistake, he committed a sin by destroying a large part of his influence for winning others to Christ. As a soldier has no right to wet his powder or to blunt his sword when he goes into battle, so no christian has a right to make his religion offensive when he might make it attractive. His personal influence is a trust and a talent which he is bound to use for his Master. "He is wise that winneth souls," and no one of us is likely to win anybody until we have won both their respect and their affections. Influence is never to be gained by compromising with other people's sins, or conniving at their wrong-doings; trimmers and time-servers are only repaid with contempt. The price of permanent love is fidelity to the right of an unselfish aim to do good to others.

A lovable christian, therefore, is one who hits the golden mean between easy, good-natured laxity on the one hand, and stern or uncharitable moroseness on the other. He is sound and yet sweet; he is all the sweeter for living much in the sunshine of Christ's countenance. He never incurs suspicion or contempt by compromising with sinful prejudices, nor does he herpel people by doing a righteousness in a cruel or bigoted fashion. The blessed Jesus is our model here as in everything else. Was not his sinless and ineffable majesty of holiness that awed his followers at the same time that his gentle benignity inspired their deepest loyalty and affection? If Jesus were now upon our earth the most wretched outcasts would be drawn to him; and the lowliest beggar child would be glad to climb upon his knee and to kiss that sad, sweet countenance of purity and love. There would be nothing in this derogatory to his dignity as the Son of God. Christ Jesus was love incarnate. By as much as he abhorred sin he loved sinners, and sought to save the guiltiest. He never spurned the vilest from his presence. When hard-hearted Pharisees scoffed at him for eating with publicans and sinners, his reply was that he came into the world for that very purpose—to seek and to win and to save those who were lost. Let us copy Christ. Let us learn from him how to combine the most unbending sense of justice, purity and loyalty to God with the lovable attractions of a sunny face, and kind words, and cordial courtesy, and unselfish sympathy with the most sinful as well as the most suffering.

Who are the best loved people in the community? I answer unhesitatingly they are the unselfish. They are those who have drunk deepest of the spirit of Christ Jesus. They are those who have the most effectually cut that cursed cancer of self out of their hearts, and filled its place with that love that "seeketh not its own." This beautiful grace sometimes blooms out in most unexpected places. It was illustrated by the poor lad in the coal mine when a fatal accident occurred, and a man came down to relieve the sufferers, and the brave boy said to him, "Don't mind me; Joe Brown is a little lower down, and he's a'most gone; save him first!" There are enough "Joe Browns" who are lower down in poverty, and ignorance, and weakness and in want than we are, and christianity's first duty is to save them. It was to save sinners from sinking into the deeper pit of hell that Jesus died on Calvary. He who stoops the lowest to rescue lost souls will have the highest place in heaven. Will it not be these unselfish spirits who will have John's place up there on the Saviour's bosom and will be "the disciples whom Jesus loves?"—Dr. T. L. Cuyler, in the Independent.

God's Help.

Human love may change. The friendship of last year has grown cold. The gentleness of yesterday has turned to severity. But it is never thus with God's love. It is eternal. Our experience of it may be variable, but there is no variability in the love. Our lives may change; our consciousness of his love may fade out, but the love clings forever; the gentleness of God abides eternal. "For the mountains shall depart and the hills be removed; but my kindness shall not depart from thee, neither shall the covenant of my peace be removed, saith the Lord that hath mercy on thee." There is never a moment, nor any experience, in the life of a true christian, from the heart of which a message may not instantly be sent up to God, and back to which may not instantly come. God is not off in some remote heaven merely. He is not away at the top of the long, steep life-ladder, looking down upon us in serene calm and watching us as we struggle upward in pain and tears. He is with each one of us on every part of the way. His promise of presence is an eternal present tense: "I am with thee." So "Thou, God, seest me" becomes to the believer a most cheering and inspiring assurance. We

are never out of God's sight for a moment. His eye watches each one of us continually, and his heart in his eye. He comes instantly to our help and deliverance when we are in any need or danger.—Bills of Pasture.

The Situation—A Crisis.

In the last RECORDER was a statement in figures about the contributions of the Baptist churches connected with our Convention for State, Home and Foreign Missions from the session in Shelby to September 1st, 1891, and from the session in Goldsboro to September 1st, 1892. From this statement it is seen that the churches have given more for Home and Foreign Missions this year than they gave last year; but for State Missions they have not given so much. This falling off in State Missions has made it very hard on some of our missionaries who have been almost wholly dependent on the Board. That the pastors and churches may know just how it is with these faithful men I give a private letter just received from one of them:—

Rev. C. Durham, Raleigh, N. C.:

DEAR BROTHER:—I am very sorry to write to you this time, but I can't live on air. It was my bad fortune to have nothing to depend on when I came here except what I should make. I had no cash on hand. I am becoming very much in the condition of a man who finds it necessary to improve his finances or move to another place or else suffer. I don't see how I can remain here much longer with no money. Surely I know that the Board is trying to do the best it can with nothing with which to do. But I am now compelled to make some turn somehow, for I can't many days stay here as it is. If the Board can't pay me anything I shall be compelled to seek some other means of support. For nearly five months I have had to live on \$63.81 and credit and furnish a house, for I have a family. I don't want to complain. But I can't see my way much further. Bills are over due, and duns are things that I can't convert into effective sermons.

I appreciate the circumstances of the Board, I think, so don't be too harsh at my complaint, but let me hear whether I may depend on any money and how soon.

Fraternally,

We cannot, my brethren, afford to neglect our own State Mission work. There is too much involved in it for us to allow it to fall behind. For sixty years this work has been supported, and from year to year enlarged, until now we have missionaries in almost every destitute section of the State. Through this work the foundation has been laid for our present and future denominational prosperity. From January 1st, 1893, to May 1st, 1893, can be given by pastors and churches to collections for Home and Foreign Missions. This will bring in these funds before the Southern Baptist Convention in May next. But September, October and November should be given to collections for State Missions.

Brethren, please do not forget, or neglect, or postpone attention to State Missions. We must not carry a debt to the Convention this year.

C. DURHAM.

The Door Unlocked.

Some time ago I wanted to enter a strange church with a minister a little before time for service. We procured a key, but tried in vain to unlock the outside door with it. We concluded we had the wrong key, and sent to the janitor for the right one. But he came and told us the door was already unlocked. All we had to do was to push, and the doors would open. We thought ourselves locked out, when there was nothing to hinder us from entering. In the same way we fail to enter into love and fellowship with God. The door we think is locked against us. We try to fit some key of extraordinary faith to open it. We try to get our minds wrought up to some high pitch of feeling. We say we have the wrong key, must feel more sorry, must weep more. And all the time the door is ready to open, if we but come boldly with humble earnestness to the throne of grace. We may enter freely at once, for his heart is not shut against us. We must enter without stopping to fit our key of studied faith, for his mercy says, "Whoever will may come." We must enter boldly, trustingly, not doubting his readiness to receive us just as we are. He is willing already, and we must not stop to make him willing by our prayers and tears.

—Exchange.

You will not be able to go through life without being discovered; a lighted candle cannot be hid. There is a feeling among some good people that it will be wise to be very reticent, and hide their light under a bushel. They intend to lie low all the war time, and come out when the palms are being distributed. They hope to travel to heaven by the back lanes, and skulk into glory in disguise. Rest assured, my fellow christians, that at some period or other, in the most quiet lives, there will come a moment for open decision. Days will come when we must speak out, or prove traitors to our Lord and to his truth. You cannot long hold fire in the hollow of your hand, or keep a candle under the bushel. Godliness, like murder, will out. You will not always be able to travel to heaven by the back lanes.—Spurgeon.