SIBIAL KROORDER

THE ORGAN OF THE NORTH CAROLINA BAPTISTS-DEVOTED TO BIBLE RELIGION, EDUCATION, LITERATURE AND GENERAL INTELLIGENCE.

Volume 38.

RALEIGH, N. C., WEDNESDAY, JANUARY 28, 1898.

Number 30

The Biblical Recorder.

PUBLISHED EVERY WEDNESDAY.

OFFICE:

118 (up stairs) Fayetteville Street, Raleigh, N. C.

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Talks About Law-No. 10.

BY JUDGE B. W. WINSTON.

SOME DAMAGE CASES.

John William Smith, an Englishman, has written a favorite law book on the subject of contracts. In style it is simple and easy; but it is accurate, very clear and strong. One, not a lawyer, can do no better than to

He says that if we except the law of real property and of crime and causes, then arising in the Court of Exchequer, the whole practice of our courts of common law may be distributed into two classes, contracts and torts. He then proceeds to treat of the former; while we will, in a modest way, consider some principles underlying the

A tort is a civil wrong or injury. To speak generally, wherever there is a wrong, the law provides a remedy. The amount recovered is spoken of as damages.

Without seeking to classify, let us begin in the middle and illustrate by cases determined by our courts.

Dodson owned a dog that he considered sheep and poultry. Dodson's dog sucked one of Mock's hen's eggs, and caught one of his sheep. Thereupon Mock shot and killed the dog. Dodson sued Mock for damages for killing the dog. Mock set up as a defence the facts above. But the court, Judge Gaston, said that it was no justification; and so Dodson recovered damages. The Judge remarked that "it is not denied that a dog may be of such a ferocious disposition or predatory habits as to render him a nuisance to the community, and if suffered to go at large, may be killed by any person."

But Judge Pearson, in a later case, questioned this last exposition of the law.

But in a case that occurred about the same time, the court held that if a man kill a dog that had destroyed two of his sheep and is prowling around to kill others, he is not answerable in damages. "It hath al ways been taken for the law, that a sheep stealing dog, found lurking about where sheep are kept, incurs the penalty of death."

Judge Pearson's review of Judge Gaston, no doubt, had much to do with the passage of our present statute, which makes the owner of a sheep-killing dog indictable, if he knows that the dog kills sheep, and then lets it run at large. So that this question is

set at rest. But the question of the right of a man to kill a chicken eating sow is still an open one. In the year 1858, in New Hanover, Mr. Nixon was the owner of a fine brood of chickens. Mr. Morse owned a sow that had been known to eat one chicken and to chase another. One fine morning, Mr. Nixon saw the old sow prowling around near his fence, where his chickens usually ranged, and. his patience being threadbare, he shot and killed

Result: Morse sued him for damages. The Judge below charged the jury that if they believed the sow was of a predatory character and had the reputation of a chicken eating hog, the defendant had the right

to kill her. Up went the case to the supreme court. Our highest court said that the superior court was in error. They say that the position that a chicken eating hog is a public nuisance and can be killed by any one, would lead to monstrous consequences; and they further held that what's law for the dog is not law for the hog. At all events a

new trial was granted.

Back went the case again. This time new evidence was offered. It appeared that the old sow was seen with Nixon's duck in its mouth. Nixon chased the sow. She dropped the duck. Then the sow "put out" after the duck again, and while in hot pursuit, Nixon

case ever ended. But the law was and is settled, and is this: The owner of the duck had a right to shoot and kill the sow, if it was necessary to do so, to protect the duck.

The knowledge that the owner of the sow
had of its bad qualities ought to have induced him to keep her up, and if she was killed, it was in consequence of his own default. "Damnum absque injuria," as the law Latin bas it.

So much for dogs and hogs. But how about a vicious bull? In 1850, John Nixon's bull gored Joseph Cockerham's horse. Nixon was sued to recover damages. The court say that if Nixon knew that the bull was vicious and turned it loose, he was responsible for all damages that the bull did.

How about injuries sustained in passing over bad bridges and roads? Suppose that a wagon and team break through a bad county bridge and the team are drowned, and the wagon lost, who pays the bill? No one, at all.

But. if it is a town or city bridge, you get full damages. The distinction is this: Towns and cities are granted unusual privileges about markets, and police and fires and other things, and so they must be very careful. Down in Newbern, last year, a gentleman fell on a side-walk and broke his arm He sued the city and claimed that he fell because of the city's negligence in letting fish scales and slime stay on the side walk. The jury took this view, and he recovered five hundred dollars; which our court said, on appeal, was right.

How about horses running away because of unusual noises and sights, such as drums and fireworks? and how about injury to people from the discharge of fireworks?

Two neighbors in Boston, a few years ago, were celebrating with the Grant Club. Each stood in his own house. One shot Roman candles and the other sky rockets. The stick of one sky rocket accidentally put out the eye of the neighbor's boy. Suit for

damages, and damages recovered.

In Massachusetts and in New York, it is held, and North Carolina would no doubt so hold, that the whole business of exploding crackers on the streets on any day is unlawful.

In 1825 in this State, a boy beat a drum and caused a horse to run away, and the owner recovered damages.

But it is to be remembered that one has the right to pursue his usual and lawful occupation, in the usual way, and if a horse take fright and do damage, on account of it, the law gives no damages to the owner. Once upon a time a man's horse took fright at the elephant belonging to a circus, which was travelling along the highway. The horse ran and destroyed its owner's buggy. right to the public road, and that if the elephant behaved himself and was properly driven, no damages were recoverable.

For example, if a military company were drilling, and it were necessary to beat the drum and play the fife, horses must not interfere. So if a horse is frightened and runs away because the railroad engine blows for the station or for any other necessary purpose, the owner can get no damages.

But if the railroad has its cars at an unusual and unnecessary place and thereby the horse is frightened and does damage, the owner has a good cause of action. For example, Dr. Hassell, one day in 1890, was going out of Williamston, riding in his buggy. A box-car was not in its usual or proper place, but projected two feet at a bridge at a public crossing. The Doctor's horse took fright, ran away, smashed the buggy and injured the Doctor. The jury gave him five hundred dollars damages, and our court said that it was right. So if the engine blows in order to frighten the horse, the railroad is liable.

Suppose that a farmer has cotton to ship. He carries it to the depot and leaves it, and says to the agent that he will get his bill of lading in a day or two, and, before he gets it and before he tells the agent where the cotton is to be sent, it is burned, whose loss is it? Not the railroad's, if they have used ordinary care in keeping it, for they are not yet common carriers. But, if the bill of lading is given out and the relation of common carrier exists, then the railroad would be responsible for the loss. This case has just occurred in our State.

Again, suppose that you have some fine hogs or poultry, and you go the city and engage to sell them for a fancy price. You put them on the railroad and ship them to the purchaser, and they are lost or destroyed, what damages do you get, the market value of the property, or the price at which you sold them? Well, this depends. If you have told the railroad that you have sold the property to be delivered at such a time and at such a price, and they fail to deliver as agreed, you recover, as damages, the amount that you were to be paid; but unless you make such a contract with the railroad, your damages would be the market price.

A very funny case occurred at Haw River in Alamance county a year or two ago. Several parties made up their minds that they would go and see the circus to be held at Hillsboro. So they went to Haw River and bought railroad tickets to Hillsboro. The trains came along, and being already full of passengers, gave Haw River the "go by."

duck again, and while in hot pursuit, Nixon shot and killed the pest.

Still the lower court, taking the case from Judge Pearson, charged the jury that the defendant was not warranted in killing the sow. This time the defendant appealed, and he got a new trial, and the case went back again; and the books do not say if the

about seven hundred dollars, it was re-

ported. Let us see a moment what is meant by this word "punitive." Whenever, generally speaking, an injury is done to your person, in a wilful, careless and grossly negligent way, the law says that you may have not only compensatory damages, but that the guilty party must be made to suffer pun-ishment for his bad conduct.

For example, if a railroad conductor un-

lawfully puts a passenger off the cars, and suit is brought against the company to re-cover damages for the act of the conductor. an important inquiry would be, How did the conductor deport himself in putting you

If he was careless and insulting and blunt in his manner, and did you more violence than was necessary, the company would have to pay vindictive or punitory damages. But if he behaved himself in a becoming manner, with no carelessness or malice or recklessuess, the damages would be only enough to compensate you for your loss. Of course, if you were in the wrong, that is to say, had no ticket, or no proper ticket, or were behaving in such a way as to be a nui-sance and were put off, you would get no

A year or two ago, a man named Young sued the telegraph company to recover punitive damages. They had greatly wounded his sensibilities, he claimed, by not delivering a telegram in time, and he was not able to be present at the death bed of his wife.

The court said that if the company was really careless in delivering such a message, it was a case for punitive damages. But the funny part of the matter was that Young dropped his suit because the telegraph company, before the second trial, found out that Young had wife No. 2 living when wife No. 1 died. The jury would, no doubt, have thought that he had no sensibilities to hurt.

If a mill owner order an important piece of machinery and it does not come according to contract time, damages may be recovered; but not anticipated profits on the mill, if the machinery had arrived in time. These would be speculative damages. reasonable rent and insurance, during the period of suspension, in addition to supply ing the defective parts of the machinery, would be the measure of damages, say the court in the leading case of Boyle vs. Reeder in 1st Iredell's Law.

In Moore county in 1879, Roberts and Cole were neighbors, and had a division fence which they agreed, should be kept up in this way: Roberts to repair his separate half, Cole his half. Cole failed to keep up his half, and stock ate up Roberts' crop. Suit for damages. What was the measure, aink you? Profit on the crop if made? No This would be speculative. It would be the cost of repairing the fence and such sum as would pay the damage done the crop when Roberts first discovered the injury. You see a man cannot "make" damages for himself. If he can prevent further loss, it is his duty to do so.

But we must conclude with a damage case for selling liquor to a minor. If a liquor seller do this, the boy's father or his guardian, if the father be dead, can sue the liquor seller, and by our statute he can recover, not only what damage the liquor has done the boy, but also damages by way of pun-ishment, which shall not be less than twenty dollars in each case and may be five thousand dollars. In some States the law makes the liquor seller liable for all the injury that any drunken man does while drunk with that particular dealer's intoxicants. But we have no such statute in North Carolina.

Charity.

"Above all things have fervent charity among yourselves: for charity shall cover the multitude of sins." 1 Pet. 4: 8.

I. "ABOVE ALL THINGS."

Here "Charity," or christian love, is commended as the most important of all the christian graces. In 1 Cor. 13: 13, it is said: "Now abideth faith, hope, charity, these three; but the greatest of these is charity." No other christian graces can exist without love. No one can have "faith" or "hope" who does not love God. The christian life begins in love. It can grow and strengthen in no other soil but love. Love lifts us higher than any other grace. It allies us to God. It makes us like him: "God is Love." Therefore, we should put love and keep it "above all things."

II. "HAVE FERVENT CHARITY AMONG YOUR-SELVES."

"Fervent charity,"—glowing, sincere love, not only to God, but "among yourselves" as brethren.

Hundreds of times in the Bible christians are exhorted and commanded to love one another. But perhaps no command is more constantly and universally disregarded. It would be a difficult thing to find a church all of whose members really love each other. In how many churches could you find twenty members who sincerely love each other as christians because they are christians?
There may be a kind of dead peace and lifeless harmony. There may be no open
breaches or broils. They may meet and
work together in a cold and heartless way.
But there is no brotherly love to warm and

brethren in Christ-are open enemies of each other. They work against each other. If in church work one proposes a measure, the other will oppose it. They go about like buzzards smelling for foul things to say

against each other.

Instead of "having fervent charity among themselves," they are full of hatred; and are so living as to stab the cause of Christ, to give the lie to their own profession of faith, and to be stumbling blocks in the way of sinners.

The command, "have fervent charity among yourselves," implies that christians can and ought to love one another. If we are christians we have a new nature of love.
"God is love," and we partake of his nature.
Love is of God; hatred is of the devil. If
we are God's children we must love. But
says one, "I have enemies. They are doing me wrong. How can I love them?" If you are a christian you have love. Love is mighty. It can drive out hatred and conquor enemies.

Sigismund, a king of Poland, captured in war a number of enemies. He kept them alive. His friends reproached him because he did not destroy his enemies. "I have destroyed them," he said. "I have by kind-ness destroyed their enmity, and made them

my loving friends."

Bro. Richard Peed, a deacon of Flat River
Union Baptist church, Granville county, N. C., once had a neighbor who for some cause became his bitter enemy. This neighbor was prostrated by a long spell of sickness amid the severity of winter. His wife and children suffered for fire wood. Bro. Peed took his hands and wagons and cut and hauled wood all day for the sick man. He then cut it the proper lengths for the fire then cut it the proper lengths for the fire places, and piled it on the porch where his wife could easily get it. This man ever afterwards was Bro. Peed's warm friend. Love conquored him. If christians differ, they should conquor each other with love, and have "fervent charity among them-

III. "FOR CHARITY SHALL COVER A MULTITUDE OF SINS."

Charity is a broad, thick cover. It can hide a "multitude of sins." If we have love, we will not always be looking for faults in our brethren. If they have faults, we would rather not see them. But if we are obliged to see them, we will want to hide them if possible, hoping they will soon

be given up.

All christians have faults. None are perfect. Perhaps all have a "besetting sin" that "easily overcomes them." Sam Jones says, "When God converted me he showed me what a miserable, vile sinner I am. er since then I have felt more like pitying other sinners than abusing them."

If fault-finding christians could just see their own many and great faults, it would make them more charitable towards the faults of their brethren, and they would rather hide them than expose them.

As no one is perfect, it is wrong to condemn a brother and say he is no christian because he has faults. Travelling on the train, I heard a preacher and a lawyer discussing christian character. The lawyer was puz zied by the fact that christians were so im perfect. The preacher said: "You must not judge christians alone by their faults; you must judge them by the general aim and trend of their lives. When you lawyers want to prove a man's character you ask the witness, 'Do you know—not the particu-lar—but the general character of this man I' If his general character is good, he stands in court. So we should judge christians. They may have some faults, but they may have many virtues. They may be striving to diminish their faults and increase their virtues. If christians, this is their daily aim and desire. As far as it is wise, we should throw the mantle of charity over the faults of christians, and magnify their virtues."

It is better to be impeffect and conscious of it, and struggling against it, than to be satisfied with our own self righteousness. A brother may think himself to be good, much better than his brother. But while he boasts of his goodness, as the Pharisee, his despised brother may be praying, as the Publican, "God be merciful to be a sinner;" and may "go down justified rather than the

It would be easier to cover the faults of our brethren if we loved them more and knew them better. As a rule, the brother you dislike is not near as bad as you think he is. If you would let him explain his acts they would appear in a very different light. If you show him that he has wronged you, he will readily confess the wrong and beg forgiveness. If christians would deal thus with each other there would not be so many

faults needing covering.

Love does hide a multitude of sins. Here is a father and mother. They have a way-ward, reckless boy. He has plunged into degrading and ruinous sins. But his parents do not see many of his faults. Those they do see they would palliate or cover. Why? He is their boy. They love him.

If we are God's children, he loves us in a spite of all our faults.

spite of all our faults.

If parents can love a reckless boy-if God can love such sinners as we are-ought we not to love each other as brethren, in spite

of faults, and because we are brethren?

In Psalms 32: 1, 2, God in mercy says to us if we are christians: "blessed is he whose trangression is forgiven, whose sin is covered. Blessed is the man unto whom the Lord imputeth not iniquity."

When we remember how much of sin and imperfection God has forgiven and covered

in us, let us cherish that obristian charity that will, as much as possible, hide the

faults of our brethren.

O for more "charity" among brethren.

"Charity suffereth long, and is kind; charity envieth not. Seeketh not her own; is not easily provoked, thinketh no evil. Beareth all things, believeth all things, hopeth all things, endureth all things." J. A. STRADLEY.

Death's Doings in North Carolina.

Scarcely more than a year has passed since I left the home and friends in my native State, and already of those who have gone away, not to a land of heathen darkness, but to the land of eternal light and joy, the list is rapidly lengtheuing.

On that last Sunday morning when I parted from the loved friends at Moravian Falls, I stepped in to say good bye to old Mrs. Spainhour and her daughter, Mrs. Hemphill. They had just moved into a new cottage where they hoped to spend together their declining years of widowhood. The old sister said to me, as I took her hand in parting, that she would never live to see me again. But almost the first letters brought news, not of her death, but of that of her daughter, Mrs. Hemphill. For nearly thirty years a widow, she had long lived among the good people of that community, in her quiet and unobtrusive way doing good to all around her, and filling a place in the little church which must now remain vacant.

Only a few mails came till one brought the news that her mother was gone, even as she said. Raised in that mountain country in the early days of the century, she lacked the advantages of education; but she was ever alive to its importance, and was careful that her children should have as much as circumstances would allow. Her influence on the educational interests of a large section was great, exerted through her children, several of whom have attained eminence as teachers, and all are helpers in every good word and work.

A little later came word that there was a vacant place in the circle of friends at Wake Forest; Prof. Beckwith had passed beyond the news that her mother was gone, even as

Forest; Prof. Beckwith had passed beyond mortal sight. He will be greatly missed from the College, where his scholarship won him the respect of the boys, his contagious enthusiasm made them zealous in their work in the class-room, while his noble chara ter and his devoted piets work for him their and his devoted piety won for him their sin-cere affection. Even more, his churches will miss him, for his preaching power and pastoral gifts eminently fitted him for the work of the ministry. I was expecting to hear that he had left the school-room to give his whole time to the ministry.

The months that followed brought word that numerous other homes were desolate at Wake Forest, and that among those who had gone out from that community of good people were Mrs. Wingate and Mrs. Royall, full of years and full of usefulness; Mr. Simons, young, active and energetic; the Misses Fort, modest, pious, useful; Mrs. Gill, so recently gone to the new home now

Once more, the last mail tells me that two more of my special friends have gone to the better land. Away back in the later sixties, N. B. Cannaday took me with him to Forestville to spend a night in the home of Dr. Vann In all the years that have followed, I have felt that I could always count him

I have felt that I could always count him my friend, always ready to help according to the need. But now he is gone, and for me North Carolina is poorer, and one of the warmest friends and supporters of the College will no more be heard in its behalf.

But none of these deaths bring a feeling of deeper personal bereavement than that of A. T. Denny. Several years ago he revealed to me his impressions which I saw were leading him to the ministry. The last conversation I had with him revealed similar versation I had with him revealed similar impressions which I thought would bring him to China. Both as boy and man, he was noted for his fidelity to his convictions of duty. Pious, earnest, zeslous, faithful, I had hoped for him a long life of userulness. But God is wiser than we; may he give us who remain zeal and fidelity proportioned to our responsibility.

G. W. GREENS.

The Bible.

Other books may fascinate the intellect; by this alone can you cleause the heart.

They who cease to reverence God's writ-ten word lose one of the most elevating, one of the most comforting influences of human

Other books may make you learned, or eloquent, or subtle; this book alone can make you wise unto salvation.

Read your Bibles! Fill your whole souls with the thought of Christ, make of him not only a Redeemer, but a Brother; not only a Savior, but a Friend.

only a Savior, but a Friend.

In other literatures may trickle here and there some shallow runnel from the "an emptiable fountain of wisdom," and even these, alas! turbid too often with human passions, fretted with human obstanles, and choked at last in morass or sand; but in this book, majestic and fathomiess, flows river of the water of life itself, process out of the throne of God and the Lan Frederick W. Furrar.

Never think that God's deli denials. Hold on; hold fant h