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WESTERN VINDICATOR.

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ORIGINAL.
Manual Labor against Law, Medicine, and Divinity.

CHARGE TO THE JURY BY JUDGE STERNE.

[Reported expressly for the Vindicator.]
GENTLEMEN OF THE JURY: The Plaintiff, Manual Labor, has brought this suit against the Defendants, Law, Medicine, and Divinity, in order to try his title to and recover the services of a large class of persons held by the defendants, called pettifoggers, quack doctors and sleepy preachers.

It is an action of trover. Trover, in general use, means simply finding; but it is a technical term and its legal significance is much more comprehensive than its general. In law it means finding and converting the thing found to the use of the finder. The word is of French origin, retained in English law only to mystify the uninitiated. In former times, all the acts of Parliament and all the English law-books, were written either in French or bad Latin for that sole purpose. Instead of murraining, then, that this and some other words and phrases are still used for so unworthy an object, we should congratulate ourselves that there are so few, showing clearly that the time is not far distant when all such barbarities will be compelled to give place to pure English, and one can read the law without stumbling over these obstructions.

The gist of the action lies in the conversion or the appropriating by the finder to his own use the thing found; for the mere finding of a thing which has been lost or stolen is not actionable. Indeed the finding is understood to be a fiction, allowable in this action, in order to make it available in all cases where a party seeks to recover property which he claims, but which is in another's possession and use. The present plaintiff, Manual Labor, had his option either to use this form of action or to sue out that famous writ of *habeas corpus*. In that case he would have claimed the bodies of the persons set forth in the pleadings as pettifoggers, quack doctors, and sleepy preachers.

But you will observe at a glance that his remedy, even if he had been successful, would not have been complete; for, owing to the character of the persons whose services are claimed, it would be quite possible to have their bodies without having their services, (a thing rather to be avoided than sought) so that he would have been compelled, perhaps, to resort to the vagrant acts in order to enforce their services. But in this action of trover, he claims their services, and if successful, will recover not only their services but their bodies also, as incidental. All this shows how nice and subtle a science is the law, and yet how potent is it when properly administered for the redress of wrongs—giving the successful party even more of justice than he specially claims.

The issue which you are to decide, gentlemen of the jury, is this: Do the services of that class of persons called pettifoggers, quack doctors, and sleepy preachers, of right belong to the plaintiff, Manual Labor? There is no denial on the part of the defendants that they hold a class of persons such as are described; nor is it denied that it is a very numerous class. Mr. Law admits that at least three-fourths of all those nominally in his service are pettifoggers. Medicine allows that one-half of his employees come under the

head of quack doctors; and Mr. Divinity thinks that about two-thirds of his servants are of the dull or sleepy sort. If you should find a verdict for the plaintiff you will take these figures as expressing the quantum or amount which he ought to recover, unless you are of opinion (with the court) that they are manifestly too small, in which case you will increase them *ad libitum*.

The plaintiff founds his claim upon a very ancient law, so ancient, indeed, that it has almost been forgotten by modern nations; but it is one of those unchangeable laws enacted in the councils of Heaven, binding on every individual of the human race without regard to color or condition. It is this: "Every individual is commanded to employ his talents in that field of labor in which they can accomplish the greatest amount of good." This is a duty each one owes to himself, to his country, to the world, and to God. None are above, none are beneath its provisions.

Apply this law, gentlemen of the jury, to the case in hand, and the question becomes simplified and practicable. Would the services of the persons specified be more usefully employed in the fields of Manual Labor than they are in the fields of Law, Medicine, and Divinity?

Two very important witnesses have been introduced by the plaintiff to prove the affirmative: Mr. Agriculture and Mr. Mechanic Arts, venerable persons, who have long stood at the head of the two principal departments of industry carried on by Manual Labor. There has been no attempt made to impeach their testimony, and the court takes the liberty to remark that during all the years of its professional service, it has never seen any witness give more unequivocal, artless, and sensible testimony than they have given, nor any witness whose dignified and gentlemanly deportment was so entirely unexceptionable to the court.

Mr. Agriculture testifies that his department, including the various subdivisions, is of almost unlimited extent, affording ample scope for the useful employment of all the persons whose services are claimed; that the disproportion between producers and non-producers is the principal cause of the starvation prices now paid for flour, grain, fruit, vegetables and other necessities of life, which disproportion would be greatly lessened if the services claimed were transferred from the defendants to the plaintiff; that the various sub-divisions of his department afford fields where not only the muscles and sinews, but the variety of tastes and talents which pettifoggers, quacks and sleepy preachers may be supposed to possess, could be most advantageously employed; that the exercise required in his business, directed as it should be by careful attention and judgment, is highly conducive to the health of body and soundness of mind of each individual engaged; that this pursuit is eminently productive of solid peace, comfort, and independence, compared with which, the honors and emoluments even of a successful professional career, are in his opinion but dress.

Mr. Legality, the counsel for the defendants in his cross examination, took occasion to ask the witness two or three questions which the court thinks should be characterized as captious—not to use a harsher term. For instance, "if Cain was not the first husbandman, we have any account of and what was his character as a peaceable and law-abiding citizen?"

The witness admitted that Cain was the first man of whom history speaks directly as being "a tiller of the ground," but that Abel, who "was a keeper of sheep," was also engaged in a branch of this department, and that though Cain slew Abel, it appears that he did it not in a fair fight at least, in the heat of passion, which showed less malignity of heart than if he had murdered him by slow degrees, with poi-sonous drugs, which he probably would have resorted to had he been a quack; and had he been a pettifogger, he would likely have first cheated him out of his substance and then worried the life out of him with vexatious law-suits and law tricks.

Mr. Legality then asked, "what became of old Noah, after he took it into his head to become a husbandman and planted a vineyard?" The court, gentlemen of the jury, was shocked at the levity with which this grave, scriptural subject was treated, and felt compelled to interpose its authority, and therefore directed the witness not to answer; though, undoubtedly, if he had been permitted, considering his ready wit

and most commendable familiarity with the scriptures, as exhibited in his previous answer, Mr. Legality would have been greatly wrosted. Your good sense, gentlemen of the jury, will show you at once that the insinuation conveyed in the question that Noah's accidental intoxication was the legitimate result of his engaging in agricultural pursuits is uncalled for and absurd; I may say, a monstrous *non sequitur*.

We will next notice the testimony of Mr. Arts. He testifies that his department also is divided into a very great number of branches, in some one of which it is hardly possible that the services claimed, however various the taste, skill, or talent of the classes may be, could not be employed to great advantage; that those of the professions who delighted in building air-castles, could be better engaged in building substantial edifices and useful structures; those lawyers who are fond of making long, windy, or gassy speeches, would be better employed in making wind instruments, mills, or gas-works, which would be of great benefit to the country; that the quacks manufacture bread pills, apply ointments to stiffened joints and try to patch up broken or worn-out constitutions, would be much better employed in making loaves of bread, greasing machinery, and repairing broken furniture or worn-out garments; and the sleepy preachers, instead of wasting their time in pounding away on the souls of men and women, might be profitably engaged and find lasting delight in using their flat hammer on the soles of boots and shoes, and their drowsy powers would find more constant and useful occupation in the conductorship of sleeping cars on the night trains.

Both witnesses testify that under the present unequal division of labor their operatives are compelled to toil a greater number of hours in a day than is for their best interest, and that should the change be made, which is sought by the plaintiff in this suit, all the work required to be done, could be accomplished under the eight-hour system, by which the physical, intellectual, social, and moral condition of mankind would be very greatly improved.

Such in substance is the plain, direct and positive testimony of these grave and truthful witnesses. On the other hand the counsel for the defendants argue that each individual has a natural right to enter that field of labor or that profession to which he is most inclined, an argument such as we might reasonably expect Mr. Law would use, and even Mr. Medicine, but how Mr. Divinity could be drawn into its support is beyond the court's apprehension. They further say, that pettifoggers are of very great advantage to the legal profession; in that they stir up a multitude of contentions and law-suits; that quacks supply what seems to be a great natural desire of the people, namely: to be humbugged, and that the dull or sleepy preachers manage thus to earn a living, when, if this means were taken from them, they doubtless would become paupers.

It cannot be denied, gentlemen of the jury, but that there is much truth in these propositions, and to what extent you will allow them to counterbalance the testimony which has been offered by the witnesses, is a difficult matter for you to determine, were it not for the legal rule that mere statements of counsel cannot be taken as *conclusive evidence*; and you will also remember that the mere utterance of a truth does not necessarily constitute an argument, *pro or con*, because the truth uttered may have no application to the question in hand. The court, however, is not at liberty to argue the case on either side, or even to intimate an opinion as to the merits of the cause, or preference for either party, and though the court does not deny having its preference and even its strong bias, it will indulge the hope that no expression has been dropped by which the jury can infer which party has the court's sympathy.

The New Yorkers keep up their pet over the success of Boston's Jubilee. One New York paper has it that Gilmore is "insane," and that the "Peace Jubilee was the freak of a madman," and another asserts that he has become stone deaf, which is more probable.

Prince Henri of Bourbon has married Miss Payne, an American heiress. He has not renounced his position as a candidate for the Spanish throne. He is the Duke of Seville, cousin of ex-Queen Isabella.

An Act Entitled "An Act Concerning Townships."

[Passed April 6th, 1869.]

SECTION 1. The General Assembly of North Carolina do enact, That the Districts reported by the Commissioners of the following counties of the State to the present session of the General Assembly, are hereby approved, and said Districts, in obedience to Article second, sections three and four of the Constitution, to wit: Craven, Granville, Halifax, New Hanover, Chatham, Cumberland, Davidson, Duplin, Edgecombe, Franklin, Guilford, Iredell, Johnston, Mecklenburg, Northampton, Orange, Randolph, Rockingham, Rowan, Warren, Wayne, Alamance, Alexander, Albemarle, Anson, Ashe, Beaufort, Brunswick, Cabarrus, Caldwell, Camden, Carteret, Catawba, Clay, Cleveland, Columbus, Currituck, Davie, Forsyth, Gaston, Greene, Harnett, Henderson, Haywood, Hertford, Hyde, Jones, Le-noir, Lincoln, Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, Onslow, Pasquotank, Perquimans, Person, Richmond, Rutherford, Sampson, Stanley, Stokes, Surry, Transylvania, Tyrrell, Union, Watauga, Wilkes, Wilson, Yadkin, Yancey and Caswell, shall have corporate powers and shall be known as Townships by the boundaries and by the name respectively designated in said reports; but the said districts may be altered or divided, or new Townships may be erected by the County Commissioners in the manner specified in sub-division fifteen, section eight, of an act of the General Assembly, entitled "An act concerning the government of counties," and ratified the fourteenth day of August, Anno Domini, eighteen hundred and sixty-eight.

SEC. 2. All acts of proceedings by or against a Township, in its corporate capacity, shall be in the name of the Board of Trustees of the Township.

SEC. 3. The Board of Trustees of each Township shall consist of a Clerk and two Justices of the Peace, except as otherwise provided in this act in respect to Justices of the Peace, in those Townships in which Cities and Towns are situated.

SEC. 4. In every Township in which any City or Town is situated, or which may consist of a City or Town, the number of Justices of the Peace to be selected shall be two more than the number of Wards in such City or Town, or in case such City or Town is not divided into Wards, then one additional Justice for each five hundred inhabitants, or if there be less than five hundred inhabitants one additional Justice; for the purpose of obtaining the number of inhabitants in any such City or Town, the corporate authorities shall have power to take a census thereof.

SEC. 5. The first election for Township Boards of Trustees, shall be held on the first Thursday in August, eighteen hundred and sixty-nine.

SEC. 6. Such election shall be held in all respects under the rules and regulations now prescribed by law, at such place in each Township as the County Commissioners may designate, and the return thereof shall be made to the Board of Commissioners of each County, who shall declare the result of said election, and within five days thereof, shall notify the persons receiving the majority of votes in each Township, of their election.

SEC. 7. The persons who are elected at such election shall appear, within five days after service of notice, before the County Commissioners and qualify by taking and subscribing an oath of office, which oath shall be filed with the Clerk of the Board of Commissioners.

SEC. 8. The Board of Commissioners is authorized to make all appeals to the Superior Court of the County.

SEC. 9. The persons chosen at the first election under this act, shall continue in their office till the first Thursday in August, eighteen hundred and seventy-one, and their successors shall be elected in the regular manner for said biennial term.

SEC. 10. At the time and the manner authorized by this act for the election of Township Boards of Trustees, there shall be held an election for one County seat in each Township, who shall give bond and security in such reasonable sum as the Board of Trustees may deem sufficient, the not less than five hundred dollars, nor more than two thousand dollars, and take the oath of office as now prescribed by law.

SEC. 11. The Board of Trustees shall have power to purchase and to hold for the use of the Township, such real estate as they may deem necessary, not to exceed one acre and to erect thereon a Township house which shall be as near central in location as may be, and for the purpose of buying such property and erecting such building, they are authorized, if they deem it expedient, to lay an ad valorem tax upon all the property in the Township, with the approval of a majority of the qualified voters of the Township, to be given at an election to be held for that purpose, under the directions of such Trustees.

SEC. 12. The Board shall have power to appoint town meetings, and to adjourn from one to another.

SEC. 13. A majority of the Trustees shall constitute a quorum.

SEC. 14. The Board of Trustees shall have authority, within their respective Townships, to lay, alter, repair, or discontinue highways; to establish and settle ferries; to build and keep up bridges, subject to sub-division eleven, section eight of the before-recited acts concerning the government of counties; to lay off or discontinue cartways; to appoint overseers of highways; to allow and contract for the building of toll bridges, and to license the erection of gates across highways. This authority shall be exercised under the rules, regulations, restrictions and penalties, in all respects, prescribed and imposed in chapter one hundred and one of the Revised Code, upon the Justices of the late County Courts. The Clerk of the Board shall perform the duties therein enjoined upon the Clerk of the late County Court; and the Township Constable shall perform the duties imposed in said chapter on the Sheriff.

SEC. 15. In all cases of the exercise of authority under the preceding section, there may be an appeal by either party from the decision of the Township Board of Trustees to the Board of Commissioners of the County, whose decision in the case shall be final; and, on every appeal, the Clerk of the Board of Trustees shall transmit to the Commissioners all the papers in the case, and the parties shall be allowed to be heard before the Commissioners *de novo*.

SEC. 16. The Township Board of Trustees shall assess the taxable property of their Townships, and make return to the County Commissioners for revision, as may be prescribed by law.

SEC. 17. The Board of Trustees of each Township shall make out a written report, upon the condition of the roads and bridges in their respective Townships, to the County Commissioners, at least ten days before regular terms of the Superior Courts of the County.

SEC. 18. The Board of Trustees shall audit all accounts against the Township, as directed in section ten of the act concerning the government of Counties; and shall cause semi-annual publications of all accounts, so audited, to be posted at the Township house, or other place of meeting, if there be no Township house, and at three other public places in the Township.

SEC. 19. The Board of Trustees shall have power to lay and collect all taxes which may be required to defray the necessary expenses of the Township, and the Township Constable shall collect all taxes so laid and assessed.

SEC. 20. The Clerk of the Board of Trustees shall record all the proceedings of the Board, in a book to be provided for that purpose, and keep all its papers, and hold them open to the examination of all persons, except on the Sabbath; disburse all moneys belonging to the Township, under the order of the Board, and making proper vouchers therefor, and making quarterly returns to the Board, if required, of all his receipts and disbursements.

SEC. 21. Each Justice of the Peace, who is a member of the Board, shall receive two dollars *per diem* for each day's attendance upon the meetings of the Board; and the Clerk shall receive the same *per diem*, with such additional compensation for his duties as Clerk as the Board may allow.

SEC. 22. The Commissioners of any county not included in this act, shall have power to designate their present election precincts, as Townships, for school and assessment purposes, until a proper survey is made and a report of the same is made to this body.

SEC. 23. All laws in conflict with the provisions of this act are repealed, and this act shall have force from the day of its ratification.

JO. W. HOLLIDAY,
Speaker House of Representatives.
TOD R. CALDWELL,
President of the Senate.

TENNESSEE.

Important Decision by the Court of Appeals—Registrars can be Removed by Senter—Municipal Imbroglio at Nashville—The Canvass—Senter Chances still Further Improved.

NASHVILLE, July 8.—A special to the *Banner* from Brownsville says: The Supreme Court reversed the decision of Chancellor Smith, of Memphis, who decided that the Governor had no power to remove registrars. Even if such decision had not been rendered Senter would have been elected. As it is, he has now absolute control of the whole registration and election business, so that Stokes might as well be out of the race.

The canvass is still going on briskly, each candidate confining himself mainly to wholesale abuse and denunciation of the other. The epithets of liar and traitor are handled with the utmost vigor, and still pistols and coffee have been mentioned only once, and then "in a Pickwickian sense."

The Virginia election has enhanced Senter's strength if anything were wanting.

NASHVILLE, July 8.—Governor Senter recently removed the registrar of Knox county, and appointed G. W. Weaver to the place. Chancellor Temple has enjoined Weaver from serving.

The motion to dissolve the injunction and dismiss Receiver Bass, so as to restore the city government to the late authorities, was further argued before Chancellor East to-day. The argument was left unclosed.

MEMPHIS, July 8.—The Supreme Court at Brownsville to-day reversed the decision of the Chancery Court of this city, Boughner, recently appointed Registrar, from exercising the functions of his office. This gives Governor Senter power to remove any Registrar.

In the United States District Court, to-day, in the suit of George Gill and others to recover the value of fifteen hundred bales of cotton, seized on board the steamer Decatur during the war, by government officials, the jury returned a verdict in favor of the claimants. The cotton at that time was worth about \$1.25. The case will probably go to the Supreme Court.

NASHVILLE, July 9.—The candidates for Governor spoke at Lebanon yesterday, and lay over till Monday. Gov. Senter is in Nashville, and will dispose of public business needing immediate attention. He is sanguine of his election. He has recently appointed a number of new registrars, and will continue to make changes wherever necessary to secure full registration.

Gen. Stokes went home from Lebanon, but will be here to-morrow evening. His friends report him in good health, and confident of success.

NASHVILLE, July 10.—A large number of citizens of all parties called on Governor Senter as a mark of respect. Sheridan, register for this county, was removed to-day, and Ed. Mulloy appointed in his place.

The *Maryville Republican*, a Stokes paper, has changed its position and is now for Senter. The *Republican* is owned by a colored man named Scott, who discharged his white editor and placed his own son in charge of the paper, hence the change. During the war Scott published the *Colored Tennessee*, a weekly paper, in Nashville. The Stokes County Convention met here to-day and nominated candidates for Senator and Representatives. One of them is a colored man.

MISSISSIPPI.

The Yerger Case—Testimony of Defence Closed—Rebutting Testimony.

JACKSON, Miss., July 8.—The counsel for the prisoner announced to the Military Commission to-day that they had closed their case. They would have summoned Colonel Hodge, from Newport, Kentucky, and three other witnesses, all of whom were expected to testify to the prisoner's insanity, but it was thought that further testimony on this point was unnecessary, especially as it would be attended with delay.

The Government called two witnesses in rebuttal. Mr. Thos. Green, banker, testified that Col. Yerger had had banking transactions with him. Witnesses never suspected his insanity, and never heard it mentioned in the community. Had known him ten or fifteen years, and regarded him as a man of more than ordinary intelligence. Saw the difficulty with Col. Crane. Yerger was greatly excited, but never thought of such a thing as his being insane until it was introduced in evidence before the commission. Saw Col. Yerger engaged in a difficulty a few years ago with Capt. Martin, opponent of the late Governor, in the case the capitol, about the close of the war. After a shot or two the captain screened himself behind the pillars of the capitol, but Col. Yerger stood exposed, cocked his pistol, and shot as fast as he could. He was quite cool, and called on his opponent to come out and fight fairly. Yerger was much less excited on that occasion than he was in the Crane difficulty.

Angelo Mizza, keeper of one of the largest saloons in Jackson, had known Col. Yerger for twenty years. Knew him to drink; had seen him under the influence of liquor, but never drunk; had never heard insanity imputed to him.

The Government may probably close the rebutting testimony on Friday.

JACKSON, Miss., July 9.—The new organ of the National Republican party made its appearance to-day. It boasts the name of Judge Dent for Governor, and says it will be truly national in all its aims, yielding a hearty and unqualified support to the administration of President Grant, and urging a strict adherence to the reconstruction acts, and endeavor to bring about such wise and reasonable action on the part of the people of Mississippi as will place them in full accord with Congress and the nation, and will advocate universal suffrage and amnesty upon a basis of civil and political equality to all.

Judge Dent's nomination on the Grant platform meets with warm approbation and general applause.

The Elections in 1869.

The political parties in a number of States are busily preparing for elections to be held next fall. The canvass is already active in Tennessee and Texas, and in time other States will take their turn. The following are the States and Territories which hold elections this year and the principal officers to be elected:

Kentucky, Aug. 2—Treasurer and Legislature.
Alabama, Aug. 2—Members of Congress.
Tennessee, Aug. 6—Governor, State officers and Legislature.
Montana, August 10—Delegate to Congress.
Vermont, Sept. 7—Governor, State officers and Legislature.
Maine, Sept. 13—Governor and Legislature.
Pennsylvania, Oct. 12—Governor, Judge, and Legislature.
Ohio, Oct. 13—Governor, State officers and Legislature.
Iowa, Oct. 12—Governor State officers and Legislature.
California, Oct. 20—Judges of Supreme Court.
New York, Nov. 2—State officers, Judges and Legislatures.
New Jersey, Nov. 2—Legislature.
Massachusetts, Nov. 2—Governor, State officers and Legislature.
Minnesota, Nov. 2—State officers and Legislature.
Wisconsin, Nov. 2—State officers and Legislature.
Mississippi and Texas (dates not ascertained)—Governor, State officers and Legislature.

A Sunday school teacher at Minneapolis offered five cents a piece for all the potato bugs the children would bring him. The first evening cost him \$132 for the missionary fund and he quit.

The Quaker City, which sailed from New York last week on a supposed filibustering expedition, has been seen off the Jersey coast, "standing off and on." "People ask, 'What does it mean?'"

A disease, supposed to be leprosy, has appeared among the swine in the vicinity of Hamilton, Canada. It is the real article of Hebrew antiquity, and this is said to be its first manifestation in this country.

Hon. Jack Hamilton, who aspires to be Governor of Texas, promises, in case of his election, not to pardon any fairly convicted criminals. With such a pledge, and a vigorous judiciary, half of Texas would soon be in jail.