

HUMOROUS PHASES OF THE LAW.

Grouped under "Trade Marks" we find many amusing instances of names, descriptions and devices which have been deemed likely to deceive the careless public from their similarity to other names, descriptions and devices which have gained a reputation.

Under the title of "Newspaper Law," Mr. Browne briefly treats, not of the law which the newspapers lay down, which (he says) is sometimes very bad, but rather of the law which is supposed to apply to them in regard to their utterances and to their contracts with subscribers. In theory the newspapers are responsible in damages for what they publish when they exceed the limits of reasonable free speech; but in practice, through the favor of the jury, which they are so accustomed to decry and abuse, their privilege frequently degenerates into unrestrained license. Courts on the other side of the line have held that the fact that the plaintiff is a candidate for office is no mitigation in an action for libel: (*Sanderson v. Caldwell*, 45 N. Y. 398); and we have here a number of expressions, more strong than elegant, which juries have shown editors that they should not use concerning public men. Some of our Canadian editors should study these. Irony is not always safe, even when used by one newspaper man about another. It may be libelous to falsely accuse one of poverty: (*Moffat v. Caldwell*, 3 Hun. 26).

Mr. Browne tells editors and publishers how far they may let their spleen, or their imagination, or their desire to turn a penny by sensational articles, carry them with theoretical safety, and how much further the favor of modern juries will suffer them to strain their utterances. It is not a libel if a writer, in consequence of his caligraphy, is made to say nonsense.

Under "Practical Tests in Evidence," we have the case of a dispute as to the goodness of some beer, for the price of which an action was brought. The court adjourned to taste the beer; if it was good the defendant was to pay, otherwise not. The clerk never re-

corded the verdict! Photographs are often used to establish personal identity, or to show the appearance of persons or places, and on questions of hand-writing. In the case of *Cowley* the clerical superintendent of the "Shepherd's Fold," convicted of starving one of the lambs, photographs were held admissible showing the appearance of the lamb when received from the gentle shepherd's hands, and his appearance, in the normal condition of *avoidupois*, before entering the fold: (*Cowley v. People*, 83, N. Y. 464). A living likeness has sometimes been used in evidence. In *State v. Smith*, 54 Ia. 104, in a prosecution for bastardy, it was held allowable to exhibit the alleged bastard child, two years old or more, to the jury, and permit them to determine as to the family resemblance between such child and the alleged putative father. But where the child was only three months old this was not allowed, because of the peculiar immaturity of the features of an infant of that age: (*State v. Damsforth*, 48 Ia. 43).

Sergeant Ballantyne, in his "Experiences," tells a story quite *apropos* of such cases of an occurrence at the Marylebone Police Court. The Sergeant was appearing for a client who was suggested to be the father of an infant; he says: "Mr. Broadrip (the magistrate) very patiently heard the evidence, and notwithstanding my endeavours, determined the case against my client. Afterwards, calling me to him, he was pleased to say, 'You made a very good speech, and I was inclined to decide in your favour, but you know I am a bit of a naturalist, and while you were speaking I was comparing the child with your client, and there could be no mistake, the likeness was most striking.' 'Why, good heavens,' said I, 'my client was not in court. The person you saw was the attorney's clerk.' And such truly was the case."

In this chapter on "Practical Tests," Mr. Browne might have referred to the case mentioned by Mr. Ballantyne, where a tailor sued Sir Edwin Landseer for the price of a coat