

## HUMOROUS PHASES OF THE LAW.

themselves to be humbugged." A doctrine previously enunciated in substance by Butler:

"Doubtless the pleasure is as great  
Of being cheated, as to cheat."

And by *The Spectator*: "There is hardly a man in the world, one would think, so ignorant, as not to know that the ordinary quack doctors, who publish their great abilities in little brown billets, distributed to all who pass by, are, to a man, impostors and murderers; yet such is the credulity of the vulgar, and the impudence of those professors, that the affair still goes on, and new promises of what was never done before are made every day."

The principle of *Fetridge v. Wells* was less dubiously illustrated in *Hobbs v. Francois*, 19 How. 567. The plaintiff manufactured a cosmetic powder called "Meen Fun," and represented on his labels that it was "patronized by Her Majesty the Queen," and that the plaintiff's place of business was in London. It appearing that the article was really manufactured in New York, a motion for an injunction against the defendant's manufacture of a similar article, by the same name, was refused, the court remarking: "Her Majesty the Queen is probably ignorant of its virtues or even of its existence." And again, in *Fowle v. Spear*, 7 Penn. L. J. 176, the complainant applied for an injunction to restrain the defendant from using wrappers, labels and bottles resembling those used by him in his business of selling "Wistar's Balsam of Wild Cherry." It was claimed, by the complainant's wrappers, that his preparation was a specific for nearly every imaginable disease. This was too much for the court, who observed: "It is not the office of chancery to intervene, by its summary process, in controversies like this; '*non nostrum tantas componere*,'" which, being translated, we suppose must mean "it is not ours to decide about a nostrum."

*Curtis v. Bryan*, 36 How. 33, is an entertaining case in several particulars. Previous to 1844, Mrs. Charlotte N. Winslow prepared a composition for children teething, which she used with success. In that year she gave the receipt to her son-in-law, the plaintiff, who commenced its manufacture and sale under the name of "Mrs. Winslow's Sooth-

ing Syrup," and, with the approval of Mrs. W., he made that his trade-mark, and the article has achieved an extensive and valuable reputation under that appellation. In 1867, the defendant commenced the manufacture and sale of a preparation of similar appearance, put up in similar form, and denominated "Mrs. H. M. Winslow's Soothing Syrup for children teething." On the petition of the plaintiff, the defendant's conduct was enjoined, it appearing that his claim to any use of the name of "Winslow" was false and fraudulent. Long before the defendant commenced his manufacture, the original mother Winslow had passed to the silent tomb, but whether her passage thither had been, or might have been, in any way soothed by the administration of her own charmed mixture, the report does not show. The case is worthy of remark in several particulars. To begin, it shows the tender interest that the law takes in infants. The chancellor and courts of equity are the guardians of infants, and the jealous protectors of their rights. In this case, the court declared that its wards should not be imposed on by pseudo-Mrs. Winslows; that their slumbers should not be broken by any such fraudulent devices, and that the court having cut its own eye-teeth, would not allow the normal development of the infantile teeth to be interfered with by Mr. Bryan and his pretended Mrs. Winslow. Again, the case discloses the unexampled spectacle of a mother-in-law doing something handsome for her son-in-law, and finally we should note that, although Mother Winslow had gone, as is confidently hoped, where there is no "wailing or gnashing of teeth," yet the plaintiff continued to advertise that "Mrs. Winslow, an experienced nurse and female physician, presents to the attention of mothers her soothing syrup;" that the defendant claimed that this was a false representation, and that the court would not protect the plaintiff in a fraudulent monopoly of the name of the departed nurse; but that the court held that the objection was technical, that they would not look too intensely into tenses, and, the defendant being guilty of fraud, it did not lie in his mouth to make the objection. So Mother Winslow can rest in peace; her son-in-law can go on selling the mixture undisturbed, and thousands of young mothers, when they