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Curtis Tocqueville Gogol Busch
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The Humorous Story of Farmer Bumpkin's Lawsuit

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the
HUMOUROUS STORY
of
FARMER BUMPKIN'S LAWSUIT:

by
RICHARD HARRIS,
barrister-at-law,
author of "hints on advocacy," etc., etc.

SECOND EDITION.

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p. v PREFACE TO THE SECOND EDITION.

Considering the enormous interest which the Public have in “a more efficient and speedy administration of justice,” I am not surprised that a Second Edition of “Mr. Bumpkin’s Lawsuit” should be called for so soon after the publication of the first. If any proof were wanting that I had not overstated the evils attendant on the present system, it would be found in the case of *Smitherman v. The South Eastern Railway Company*, which came before the House of Lords recently; and judgment in which was delivered on the 16th of July, 1883. The facts of the case were extremely simple, and were as follow:—A man of the name of Smitherman was killed on a level crossing of p. vithe South Eastern Railway Company at East Farleigh, in December, 1878. His widow, on behalf of herself and four children, brought an action against the Company on the ground of negligence on the part of the defendants. The case in due course was tried at the Maidstone Assizes, and the plaintiff obtained a verdict for #400 for herself and #125 for each of the children. A rule for a new trial was granted by the Divisional Court: the rule for the new trial was discharged by the Court of Appeal. The Lords reversed the decision of the Court of Appeal, and ordered a new trial. New trial took place at Guildhall, City of London, before Mr. Baron Pollock; jury again found for the plaintiff, with #700 *agreed* damages: Company thereby saving #200. Once more rule for new trial granted by Divisional Court: once more rule discharged by Court of Appeal: once more House of Lords reverse decision of Court of Appeal, and order *second new trial*. So p. vii that after more than four years of harassing litigation, this poor widow and her children are left in the same position that they were in immediately after the accident—except that they are so much the worse as being liable for an amount of costs which need not be calculated. The case was tried by competent judges and special juries; and yet, by the subtleties of the doctrine of contributory negligence, questions of such extreme nicety are raised that a third jury are required to give an opinion *upon the same state of facts* upon which two juries have already decided in favour of the plaintiff and her children.

Such is the power placed by our complicated, bewildering, and inartistic mode of procedure, in the hands of a rich Company.

No one can call in question the wisdom or the learning of the House of Lords: it is above criticism, and beyond censure; but the p. viii House of Lords itself works upon the basis of our system of Procedure, and as that is neither beyond criticism nor censure, I unhesitatingly ask, *Can Old Fogeyism and Pettifoggism further go?*

RICHARD HARRIS.

Lamb Building, Temple,
October, 1883.

p. ix PREFACE TO THE FIRST EDITION.

When Old Fogyism is being lowered to his last resting place, Pettifoggism, being his chief mourner, will be so overwhelmed with grief that he will tumble into the same grave. How then to hasten the demise of this venerable Humbug is the question. Some are for letting him die a natural death, others for reducing him gradually by a system of slow starvation: for myself, I confess, I am for knocking him on the head at once. Until this event, so long wished for by all the friends of Enlightenment and Progress, shall have happened, there will be no possibility of a Reform which will lessen the needless expense and shorten the unjustifiable delay which our present system of legal procedure occasions; a system which gives to the rich immeasurable p. xadvantages over poor litigants; and amounts in many cases not only to a perversion of justice but to a denial of it altogether.

Old Fogyism only tinkers at reform, and is so nervous and incompetent that in attempting to mend one hole he almost invariably makes two. The Public, doubtless, will, before long, undertake the much needed reform and abolish some of the unnecessary business of "judges' chambers," where the ingenuity of the Pettifogging Pleader is so marvellously displayed. How many righteous claims are smothered in their infancy at this stage of their existence!

I have endeavoured to bring the evils of our system before the Public in the story of Mr. Bumpkin. The solicitors, equally with their clients, as a body, would welcome a change which would enable actions to be carried to a legitimate conclusion instead of being stifled by the "Priggs" and "Locusts" who will crawl into an honorable profession. It is impossible to keep them out, but it is not impossible to prevent their using the profession to the injury of their clients. All respectable solicitors would p. xibe glad to see the powers of these unscrupulous gentlemen curtailed.

The verses at the end of the story have been so often favourably received at the Circuit Mess, that I thought an amplified version of them in prose would not be unacceptable to the general reader, and might ultimately awaken in the public mind a desire for the long-needed reform of our legal procedure.

RICHARD HARRIS.

Lamb Building, Temple,
July, 1883.

p. xiii ADVERTISEMENT.

On the 4th of December, 1882, Our Gracious Queen, on the occasion of the opening of the Royal Courts of Justice, said:—

“I trust that the uniting together in one place of the various branches of Judicature in this my Supreme Court, will conduce to the *more efficient* and *speedy* administration of justice to my subjects.”

On April 20th, 1883, in the House of Commons, Mr. H. H. Fowler asked the Attorney-General whether he was aware of the large number of causes waiting for trial in the Chancery Division of the High Court, and in the Court of Appeal; and whether the Government proposed to take any steps to remedy the delay and increased cost occasioned to the suitors by the present administration of the Judicature Acts.

The Attorney-General said the number of cases of all descriptions then waiting for trial in the Chancery Division was 848, and in the Court of Appeal 270. The House would be aware that a committee of Judges had been engaged for some time in framing rules in the p. xivhope of getting rid of some of the delay that now existed in the hearing of cases; and until those rules were prepared, which would be shortly, the Government were not desirous of interfering with a matter over which the Judges had jurisdiction. The Government were now considering the introduction of a short Judicature Act for the purpose of lessening the delay. — *Morning Post*.

[No rules or short Judicature Act at present!] [0a]

On the 13th April, 1883, Mr. Glasse, Q.C., thus referred to a statement made by Mr. Justice Pearson of the Chancery Division: “The citizens of this great country, of which your Lordship is one of the representatives, will look at the statement you have made with respectful amazement.” The statement appears to p. xvhave been, that his Lordship had intended to continue the business of the Court in exactly the same way in which it had been conducted by Mr. Justice Fry; but he had been informed that he would have to take the interlocutory business of Mr. Justice Kay’s Court whilst his Lordship *was on Circuit*; and, as it was requisite that he should take

his own interlocutory business *before the causes set down for hearing*, "all the Causes in the two Courts must go to the wall"!!! His Lordship added, that it would be necessary for him to rise at 3 o'clock every day (not at 3 o'clock in the *morning*, gentle reader), because he understood he should have to conduct the business of Mr. Justice Kay's Chambers as well as his own. — *Morning Post*.

On the 16th April, 1883, Mr. Justice Day, in charging the Grand Jury at the Manchester Spring Assizes, expressed his disagreement with the opinion of the other Judges in favour of the Commission being so altered that the Judge would have to "*deliver all the prisoners detained in gaol*," and regarded it as "a waste of the Judge's time that he should have to try a case in which a woman was indicted for *stealing a shawl worth 3s. 9d.*; or a prisoner charged with stealing *two mutton pies and two ounces of bacon*." — *Evening Standard*.

p. xxiii“*He never suffered his private partiality to intrude into the conduct of publick business. Nor in appointing to employments did he permit solicitation to supply the place of merit; wisely sensible, that a proper choice of officers is almost the whole of Government.*” —
Burke.

p. xxiv *Extract from Notice of the Work in The Saturday Review, September 15th, 1883: —*

“*He was obviously quite as eager for a good battle in Court as ever was Dandy Dinmont.*”

p. 1 CHAPTER I.

The beauty of a farm yard on a Sabbath day, and what a difference a single letter will sometimes make in the legal signification of a sentence.

It was during the Long Vacation—that period which is Paradise to the Rich and Purgatory to the Poor Lawyer—to say nothing of the client, who simply exists as a necessary evil in the economy of our enlightened system of Legal Procedure: it was during this delightful or dismal period that I returned one day to my old Farm-house in Devonshire, from a long and interesting ramble. My excellent thirst and appetite having been temperately appeased, I seated myself cosily by the huge chimney, where the log was always burning; and, having lighted my pipe, surrendered my whole being to the luxurious enjoyment of so charming a situation. I had scarcely finished smoking, when I fell into a sound and delicious sleep. And behold! I dreamed a dream; and methought:

It was a beautiful Sabbath morning, in the early part of May, 18--, when two men might have been seen leaning over a pigstye. The pigstye was situated in a p. 2 farm-yard in the lovely village of Yokelton, in the county of Somerset. Both men had evidently passed what is called the “prime of life,” as was manifest from their white hair, wrinkled brows, and stooping shoulders. It was obvious that they were contemplating some object with great interest and thoughtful attention.

And I perceived that in quiet and respectful conversation with them was a fine, well-formed, well-educated sow of the Chichester breed. It was plain from the number of her rings that she was a sow of great distinction, and, indeed, as I afterwards learned, was the most famous for miles around: her progeny (all of whom I suppose were honourables) were esteemed and sought by squire and farmer. How that sow was bred up to become so polite a creature, was a mystery to all; because there were gentlemen’s homesteads all around, where no such thoroughbred could be found. But I suppose it’s the same with pigs as it is with men: a well-bred gentleman may work in the fields for his living, and a cad may occupy the manor-house or the nobleman’s hall.

The Chichester sow looked up with an air of easy nonchalance into the faces of the two men who smoked their short pipes, and uttered ever and anon some short ejaculation, such as, "Hem!" "Ah!" "Zounds!" and so forth, while the sow exhibited a familiarity with her superiors only to be acquired by mixing in the best society. There was a respectful deference which, while it betrayed no sign of servility, was in pleasing contrast with the boisterous and somewhat unbecoming levity of the other inhabitants of the sty. These people were the last progeny of this illustrious Chichester, and numbered p. 3 in all eleven—seven sons and four daughters—honourables all. It was impossible not to admire the high spirit of this well-descended family. That they had as yet received no education was due to the fact that their existence dated only from the 21st of January last. Hence their somewhat erratic conduct, such as jumping, running, diving into the straw, boring their heads into one another's sides, and other unceremonious proceedings in the presence of the two gentlemen whom it is necessary now more particularly to describe.

Mr. Thomas Bumpkin, the elder of the two, was a man of about seventy summers, as tall and stalwart a specimen of Anglo-Saxon peasantry as you could wish to behold. And while I use the word "peasantry" let it be clearly understood that I do so in no sense as expressing Mr. Bumpkin's present condition. He had risen from the English peasantry, and was what is usually termed a "self-made man." He was born in a little hut consisting of "wattle and dab," and as soon as he could make himself heard was sent into the fields to "mind the birds." Early in the November mornings, immediately after the winter sowings, he would be seen with his little bag of brown bread round his neck, trudging along with a merry whistle, as happy as if he had been going home to a bright fire and a plentiful breakfast of ham, eggs, and coffee. By degrees he had raised himself to the position of ploughman, and never ploughman drove a straighter or leveller furrow. He had won prizes at the annual ploughing and harrowing matches: and upon the strength of ten and sixpence a week had married Nancy Tugby, to whom he had been engaged off and on for eleven years. Nancy was a frugal housewife, and worked hard, morning, noon and night. She was quite a treasure p. 4 to Bumpkin; and, what with taking in a little

washing, and what with going out to do a little charing, and what with Tom's skill in mending cart-harness (nearly all the cart-harness in the neighbourhood was in a perpetual state of "mending"), they had managed to put together in a year or two enough money to buy a sow. This, Tom always said, was "his first start." And mighty proud they both were as they stood together of a Sunday morning looking at this wonderful treasure. The sow soon had pigs, and the pigs got on and were sold, and then the money was expended in other things, which in their turn proved equally remunerative. Then Tom got a piece of land, and next a pet ewe-lamb, and so on, until little by little wealth accumulated, and he rented at last, after a long course of laborious years, from the Squire, a small homestead called "Southwood Farm," consisting of some fifty acres. Let it not be supposed that the accession of an extra head of live stock was a small matter. Everything is great or little by relation. I believe the statesman himself knows no greater pleasure when he first obtains admission to the Cabinet, than Tom did when he took possession of his little farm. And he certainly experienced as great a joy when he got a fresh pig as any young barrister does when he secures a new client.

Southwood Farm was a lovely homestead, situated near a very pretty river, and in the midst of the most picturesque scenery. The little rivulet (for it was scarcely more) twisted about in the quaintest conceivable manner, almost encircling the cosy farm; while on the further side rose abruptly from the water's edge high embankments studded thickly with oak, ash, and an undergrowth of saplings of almost every variety. The old house was spacious for p. 5 the size of the farm, and consisted of a large living-room, ceiled with massive oak beams and oak boards, which were duly whitewashed, and looked as white as the sugar on a wedding cake. The fireplace was a huge space with seats on either side cut in the wall; while from one corner rose a rude ladder leading to a bacon loft. Dog-irons of at least a century old graced the brick hearth, while the chimney-back was adorned with a huge slab of iron wrought with divers quaint designs, and supposed to have been in some way or other connected with the Roman invasion, as it had been dug up somewhere in the neighbourhood, by whom or when no one ever knew. There was an inner chamber besides the one we are now in, which was

used as a kitchen; while on the opposite side was a little parlour with red-tiled floor and a comparatively modern grate. This was the reception room, used chiefly when any of the ladies from "t'Squoire's" did Mrs. Bumpkin the honour to call and taste her tea-cakes or her gooseberry wine. The thatched roof was gabled, and the four low-ceiled bedrooms had each of them a window in a gable. The house stood in a well-stocked garden, beyond which was a lovely green meadow sloping to the river side. In front was the little farm-yard, with its double-bayed barn, its lean-to cow-houses, its stables for five horses, and its cosy loft. Then there were the pigstyes and the henhouses: all forming together a very convenient and compact homestead. Adjoining the home meadow was a pretty orchard, full of apple, pear, cherry and plum trees; and if any one could imagine that Mr. and Mrs. Bumpkin had no eye or taste for the beautiful, I would have advised that ill-conditioned person to visit those good people of a Sunday morning after "brakfast" when p. 6the orchard was in full blossom. This beautiful picture it was not only Mr. and Mrs. Bumpkin's special joy to behold, but their great and proud delight to show; and if they had painted the blossoms themselves they could not have felt more intense enjoyment and satisfaction.

There was one other feature about the little farm which I must mention, because it is one of the grandest and most beautiful things in nature, and that is the magnificent "Old Oak" that stood in the corner of one of the home fields, and marked the boundary of the farm in that direction. If the measure of its girth would be interesting to the reader to know, it was just twenty-seven feet: not the largest in England certainly, notwithstanding which the tree was one of the grandest and most beautiful. It towered high into the air and spread its stalwart branches like giant trees in all directions. It was said to be a thousand years old, and to be inhabited by owls and ghosts. Whether the ghosts lived there or not I am unable to say, but from generation to generation the tradition was handed down and believed to be true. Such was Mr. Bumpkin's home, in my dream: the home of Peace and Plenty, Happiness and Love.

The man who was contemplating Mr. Bumpkin's pigs on this same Sunday morning was also a "self-made man," whose name was Josiah Snooks. He was not made so well as Bumpkin, I should

say, by a great deal, but nevertheless was a man who, as things go, was tolerably well put together. He was the village coal-merchant, not a Cockerell by any means, but a merchant who would have a couple of trucks of "Derby Brights" down at a time, and sell them round the village by the hundredweight. No doubt he was a very thrifty man, and to the extent, so some people said, of nipping the poor p. 7in their weight. And once he nearly lost the contract for supplying the coal-gifts at Christmas on that account. But he made it a rule to attend church very regularly as the season came round, and so did Mrs. Josiah Snooks; and it will require a great deal of "nipping" to get over that in a country village, I promise you. I did not think Snooks a nice looking man, by any means; for he had a low forehead, a scowling brow, a nobbly fat nose, small eyes, one of which had a cast, a large mouth always awry and distorted with a sneer, straight hair that hung over his forehead, and a large scar on his right cheek. His teeth were large and yellow, and the top ones protruded more, I thought, than was at all necessary. Nor was he generally beliked. In fact, so unpopular was this man with the poor, that it was a common thing for mothers to say to their children when they could not get them in of a summer's evening, "You, Betsy," or "You, Jane, come in directly, or old Snooks will have you!" A warning which always produced the desired effect.

No one could actually tell whether Snooks had made money or merely pretended to possess it. Some said they knew he had, for he lived so niggardly; others said the coal trade was not what it was; and there were not wanting people who hinted that old Betty Bodger's house and garden—which had been given to her years ago by the old squire, what for, nobody knew—had been first mortgaged to Josiah and then sold to him and "taken out in coals." A very cunning man was Snooks; kept his own counsel—I don't mean a barrister in wig and gown on his premises—but in the sense of never divulging what was in his sagacious mind. He was known as a universal buyer of everything that he could turn a penny out of; and he sold everybody whenever p. 8he got the chance. Such was the character of old Snooks.

How then came our good guileless friend Bumpkin to be associated with such a man on this beautiful Sunday morning? I can only

answer: there are things in this world which admit of no explanation. This, so far as I am concerned, was one.

"They be pooty pork," said Mr. Bumpkin.

"Middlin'," rejoined the artful Snooks.

"They be a mighty dale more an middlin', if you come to thic," said the farmer.

"I've seen a good deal better," remarked Snooks. This was always his line of bargaining.

"Well, I aint," returned Bumpkin, emphatically. "Look at that un—why, he be fit for anything—a regler pictur."

"What's he worth?" said Snooks. "Three arf crowns?" That was Snooks' way of dealing.

"Whisht!" exclaimed Bumpkin; "and four arf-crowns wouldn't buy un." That was Bumpkin's way.

Snooks expectorated and gave a roar, which he intended for a laugh, but which made every pig jump off its feet and dive into the straw.

"I tell 'ee what, maister Bumpkin, I doant want un" — that was his way again; "but I doant mind giving o' thee nine shillings for that un."

"Thee wunt 'ave un—not a farden less nor ten if I knows it; ye doant 'ave we loike that, nuther—ye beant sellin' coals, maister Snooks—no, nor buyin' pigs if I knows un."

How far this conversation would have proceeded, and whether any serious altercation would have arisen, I know not; but at this moment a combination of circumstances occurred to interrupt the would-be contracting parties. First, Mrs. Bumpkin, who had been preparing the Sunday dinner, came across the yard with her apron full of cabbage-leaves and potato-peelings, followed by an immense number of chickens, while the ducks in the pond clapped their wings, and flew and ran with as much eagerness as though they were so many lawyers seeking some judicial appointment, and Mrs. Bumpkin were Lord High Chancellor of Great Britain; and they made as much row as a flock of Chancery Barristers arguing