

Original Paper

Labourers

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Abstract

The autor, adopting the comparative labour law perspective, gives an insight into the classic reading by Emily Bronte, telling about the suffered living in the English country side of late 1800.

Keywords

labour, wuthering heights, master and servants

1. Introduction

In times of transactions it is important to focus on the selected topic from different disciplinary perspectives; this is one of the reasons why I find of interest to reflect over labour law as a subject matter from also the perspective of classic literature, which is an operation that makes possible to transpose the topic toward an imaginative context being significant for present times also, because of any classics' capability to give to the human dimension an out of time point of observation.

The story told in *Wuthering Heights*, written by Emily Bronte, regards the living and the suffered loving of a couple of families, and particularly the suffered love of Catherine Earnshaw (the passionate girl amused by literature) and Heathcliff (the terrible orphan led), takes place in a country side of Great Britain and it is dated 1783-1802, when the industrial revolution was just beginning to explode, giving weight to trade union of workers, and to competition amongst classes of labourers as well; what is reported in the book is a story of single persons separation, rather far from the matter of classes separation.

At that time any domestic labour relationship was based upon the relation master-servant, while the role of intellectual workers, medical doctors, lawyers, clerical educators, magistrates, although socially important, was still marginal according to resisting feudal structures where in dominant was the connection between land-owners on the one side, typically playing the role of masters, and their servants on the other side, while tenants did collocate themselves within such a dominant logic.

Later in 1875, the Master and Servants Acts are abolished in Great Britain (Note 1); these stood to set

criminal sanctions on employed servants who would breach their duties, while the reformed law brought dependent labour toward its modern features, fully centered on civil remedies, and thus linking to any responsibility as ascertained in the place of work the consequence of compensation with damages, except for cases of serious accident that changed the matter in one of tort, being relevant at criminal law. So we find the legal origin of dependent labour amongst cases and statutes regarding personal domestic relation, instead that amongst the rulings over the (roman) *locatio operarum*, as it happened in European continental law; the *locatio operarum* establishes a contract to work independently from a bilateral personal relationship. This is relevant to be remembered while we observe the exercising of directive and disciplinary powers across any story told in a common law context, wherein the employer power is the expression of the master as a sort of *pater familias* running the economic organization; while in the ancient *locatio operarum* the possibility to alienate the work from a person to another, on the part of the locator, put the employer in position to deal over the work to be done indirectly. The personal relation between the master and the servants shaped necessarily any order, as well as the discipline to be followed to perform the whole of employment. So the one that could be called master and employer in ancient common law was regularly the lord owing lands and houses wherein the service was asked to be executed, and in the book by Emily Bronte we have plenty of sentences from which we appreciate this type of direct relation, as well as the absence of any different way to enter dependent employment.

From her narrative we know that the wage of a priest was then of twenty sterlin per year, so that some of those use to earn few money more elsewhere, by teaching children or farming a bit of land themselves (Note 2); but we are also made aware of the fact that there were possibilities to increase in richness for men in business (Note 3), till a simple young stable led, without any relatives standing and watching over his back, could think to arrive to own a couple of large farm and to exercise his power over the servants there employed, which is the case of the protagonist in *Wuthering Heights*.

II. From a labour law perspective we read that the main role played in the story is performed by the housewife called Nelly (Note 4), the storyteller, the woman who workes for both the involved families (the Earnshaw and the Linton) by doing any chore she is asked to—doing the nanny, preparing meals, helping in the farm and bringing horses as well (Note 5)—and whose intellectual contribution is the reporting to a foreign new tenant (Mr. Lockwood, who asks her to be entertained during his staying in the house in spread times), about the troubled love story she witnessed in those past three decades while living there.

Nelly is not at the service of the foreign tenant already—and from few expressions he uses to take distance from the people just met there, he possibly could have decided to actually not continue the tenancy—and she reports facts and comments as she was a neutral spectator to the accidents and disputes as happened to the apparent landlord and to his beloved, and his victimas well, Catherine. Nevertheless, on how carefully she is asked to reports about facts and imagined intimate feelings, we know by Mr. Lockwood disappointment at her trying to skip a period of three years from the

storytelling of Catherine Earnshaw's life, at which he rather direct Nelly to continue minutely: *"No no, I'll allow nothing of the sort! You are acquainted with the mood of mind in which, if you were seated alone, and the cat licking its kitten on the rug before you, you would watch the operation so intently that puss's neglect of one year would put you seriously out of temper"*.

Nelly performs the storytelling not only by going into details very carefully, but also by taking a reliable distance from the protagonists' disputes, which is what can be appreciated for an intellectual contribution. At the same time, it results clear by the reading of some short other voices intervening in the narrative (Note 6), and by Nelly's narrating in first person, that the teller also contribute to make the story be happening, meaning that she determines the story, in the act of telling it.

Wuthering Heights hill, and the neighborhood, is the place where relevant facts of the novel happen and where we find details concerning some of the typical British common law context that surrounds them. Wuthering Heights hill is where the novelled story begins, at the house of Earnshaw ancient family; for a length of twenty years the story continue at a place called "the Grange", builded about six miles distant from Wuthering Heights, that is precisely the Linton family's house. This is a place of farmed lands as well, although belonging to a magistrate, Edgar Linton, who will marry Catherine Earnshaw in March 1783, thus making moving the girl from her place of childhood.

What is here researched must patiently be captured from a narrative that is fully centered on intimate and emotional descriptions, amongst the main historical facts that are painted with taste for confusing different characters—using identical names for different persons, different voices to play the storytelling, and the technique of temporal shifts that bring the reader ahead, back and forward again, included in the afterlife (Note 7).

Nelly, as a housewife, tells that it is against her inclination that she moved away from Wuthering Heights to follow Catherine by her new home: *"when I refused to go, an when she found her entreaties did not move me, she went lamenting to her husband and brother. The former offered me munificent wages; the latter ordered me to pack up—he wanted no women in the house, he said, now that there were no mistress"* (...) *"and so, I had but one choice left, to do as i was ordered"*.

The Earnshaw ancient family experienced a failing period, once the old father died and the first of his two children, Catherine's brother Hindley, rapidly falled into despare and into a disordered life (Note 8).

Such a decadence is temporarily coincident with the arrival at Wuthering Heights of the child without a surname, Heatcliff, who is told to be just found in Liverpool by Catherine's father during one of his journeys, then brought home, assigned the maintaining of the stable, and nevertheless treated by Mr. Earnshaw as a son, because of his good character at comparison with natural son and daughter.

Contrarily to some commentators and readers (Note 9), who appreciated the novel as a deeply suffered love of a woman, Catherine, for two men opposite the one to each other, the rude led Heatcliff, on the one side, and the gentle magistrate Edgard Linton on the other, a more important social impact on the reading public is to be found in the telling about a guy who, having no familiar references and scarce

attitude to studying, by way of personal character and passion, violently arrive to win over his enemies and to reach the social position he lacks to have, having been discriminated thereafter. It is individual will and passion for life fighting against the common sense and the common religious culture, to many extent, what gives the story its rhythm: the protagonists struggle to find their own living motivation (and working motivation, never forget we are in a Great Britain greatly influenced by the protestant view) in real facts, personal direct confrontation, against oriented interpretations provoked by the suggestion of literature, wherein illusions and reality melt and hard it becomes to face with.

Infact, we know that the farm in Wuthering Heights is mastered by Heathcliff at the time when the story starts to be reported by Nelly, in 1802, being then already died Hindley Earnshaw (Catherine's brother) and his wife and having grown up his son Hareton (in 1802 twenty four years old) with more affection for Heathcliff than for his natural father: both Nelly and Hareton, together with the "vinegar-faced" preacher Joseph and another housewife named Zillah, refer to him as the one possessing lands and houses, while the tenant, who calls Heathcliff landlord too, is about to take a room at the Grange. No matter if Heathcliff already shows some signs of madness, since Nelly does not consider him as ill.

Joseph works in the house since the time the old Mr. Earnshaw was still alive, and, contrarily to other servants, together with Nelly, resists during the years of Hindley's tyranny since he wanted "*to hector over tenants and labourers; and because it was in his vocation to be where he had plenty of wickedness to reprove*", in that we can imply that he gains authority much from his preaching then from his labour position.

At this late time of the history, the young Catherine Linton, who is not Catherine Earnshaw, but Catherine and Edgard Linton's daughter, is accused by Heathcliff to be useless and worthless, to live on his charity, while only the others (Hareton, Joseph, Nelly, Zillah), effectively work to earn their bread; she is referred to be as his daughter-in-law, since Heathcliff too, on his part, got married with a member of the Linton's family, precisely with Catherine's husband sister (Isabella).

The place is described as a large farmed one, with a barn, twelve ships at least, some horses, and cows to be milked, rabbits (as those already dead that Mr. Lockwood mistakes for a pillow), many dogs just supposed to be not for the enjoyment of inhabitants. Preacher Joseph does not miss to garden some land him too (as we discover when he got furious at seeing how Catherine and Hareton autonomously decide to import some plants and flowers from the Grange to the Heights).

The farming activity is the prevalent one at both the properties; only late in the story we discover that Catherine's husband too, Mr. Edgard Linton, is a magistrate (as previously his father is known to have been), while earlier we could have only guessed him to be not much akin to country labour from his physical aspect. Nelly too has her own fellow servants at the Grange, which looks like a richer house-estate than the Heights.

III. Nelly, once we ascertain her position in respect to Heathcliff as a master, can be told to be a dependent worker according to the so called "control test", which is the only factor to test the quality of dependency in ancient labour law in England, but she could not be told as such from another modern

way of testing labour dependency, that is the mutuality of obligation test (Note 10): she does not recognize Heatcliff as her master indeed, while she recognises Mr. Linton as her late master (Note 11), and since the relation lacks in presenting recognition to service the former, a proper employment relation would not be told in place between them.

Familiar relationships determine the assignment of roles and employment, and during the work, also personal attitude and religious concerns do have an impact: the young Catherine Earnshaw esteemed herself as a woman and as the mistress of both Nelly and Joseph, but considering the former as almost a friend, thus a peer to take counselling from for her personal doubts, and later, her daughter, Catherine Linton, being yet an adolescent, already feeling in position to speak out her disappointment in comparing the caring manner of her natural father to those of her father-in-law Heatcliff, does not miss to defend herself from the violence of this latter, for example by invoking black magic *“to make a clear house of it. The red cow didn’t die by chance, and your rheumatism can hardly be reckoned among providential visitations!”*.

Nelly often tempts to induce both Heatcliff and Catherine Earnshaw—who she sees to grow up from childhood—to act the opposite they use to do, whenever they assume unreasonable manners, and she direct them as she meant her own role to them as that of an educator, even when they are two adults, by provoking a moral weakness on them, or invoking social and religious punishment, for example when she predicts the possibility for Heatcliff to be not accepted in the church cemetery once death, notwithstanding his will to have a place there instead.

Moral despair is constantly connected with physical diseases, and it determines strictly the happening of the story, where morality is essentially meant religiously by the involved protagonists, although interpreted very differently from each of them; while no active role is played by the medical doctor, a much more influential and rather negative impact on the protagonists’ actions is played by the preacher Joseph, who uses to reports literally words from the Bible to discipline any bad conduct, particularly that of the lively Catherine.

The doctor, whose name is Dr. Kenneth, is called not before there is prove of great danger for life, for someone being just about to die, till it seems he plays the role of a sexton or of a grave digger more than that of someone giving advice for staying healthy; indicatively, Nelly beg for him to come when she sees Catherine’s scene of delirium at her brother *“lavisched on her a torrent of scornful abuse and bid her to get in her room immediately, or she shouldn’t cry for nothing”*, at which Nelly adds another order for Catherine to obey, before calling the doctor indeed. By the way, Nelly defines Catherine’s brother Hindley as her foster brother, in this finding reason to tolerate his awful behavior more than others.

As it use to happen to doctors in the course of human history (with the exception of those who make any miracles, until they have found specific protection and recognition within a public or private mastering or institution), Dr. Kenneth too do not gain much of a consideration for his profession, as we know from when he is told to be crammed *“head-downmost in the Blackhorse marsh”* without any

express motivation by Hindley Earnshaw. Exceptionally he goes for a visit at the Grange to cure Catherine, already having guessed that the girl feelings for another man then her husband might be the reason for her becoming sick; right when he starts to investigate over the girl state of health, by doing queries to her same age servant Nelly, he is interrupted by the storyteller, who prefers to take distance from facts that she just finds scaring. When Catherine recovers, after being watched over, day after day, by her patient husband, the doctor *“knew no limits in gratitude and joy”* although having remarked that *“what he saved from the grave would only recompense his care by forming the source of constant future anxiety, in fact, that his health and strength were being sacrificed to preserve a mere ruin of humanity”*.

Heatcliff appears at Wuthering Heights as an orphan, possibly refused from Spain or America or as a little pirate, found in Liverpool by Mr. Earnshaw, and such an entrance had an impact over the family equilibrium negatively: particularly remarking the negativity of the new family asset are both Nelly and Joseph, *“the self-righteous pharisee that ever ransacked a Bible to rake the promises to himself and flying the curses on his neighbours”*. Joseph, in his acquired role of family mentor, highlights a rising internal conflict and claims for more rigid ruling over children, Hindley and Catherine, while grumbling out tales about the dangerous new couple.

At that time the farm was still mastered by the old Mr. Earnshaw, and when he died and his mastering was replaced by his son Hindley, a friendship between his daughter Catherine and Heatcliff is in place already: Hindley's wife (the one who dies once given birth to their only son named Hareton), rather than Hindley himself, finds Catherine's short alliance: her affection tired soon *“and when she grew peevish, Hindley became tyrannical”*. Hindley tries to separate his sister from the servant led, and severely uses his authority to harm both of them (*“few words from her, evincing a dislike to Heatcliff, were enough to rouse in him all his old hatred of the boy, he drove him from their company to the servants, deprived him of the instruction of the curate, and insisted that he should labour out of doors instead, compelling him to do so, as hard as any other lad on the farm”*). Catherine suffers from her brother's wicked and villain ways to rule over and, once had the chance to be hosted at Lintons' home after a little accident, having started flirting with Edgar Linton, soon chooses him to Heatcliff.

Edgar Linton then asks her to get married in return, at the detriment of Heatcliff who thus *“loses friend, and love, and all”* as Nelly wants to precise.

But the young mistress Catherine confesses to Nelly that she knows the choice to engage with Edgar is wrong at heart, although necessary to the benefit of Heatcliff indeed: *“Nelly (...) did it never strikes you that, if Heatcliff and I married, we should be beggars? Whereas, if I marry Linton, I can aid Heatcliff to rise, and place him out of my brother's power”*. According to the girl purposes, the magistrate shall forget his antipathy for Heatcliff and tolerate him, while Nelly alerts her that she is giving the worst motive to marry someone. Catherine insists that she *“is” Heatcliff, that he's always always in (her) mind—not as a pleasure to (herself) but as (her) own being*”, therefore, to speak about their separation, is just impracticable; she further clarifies her secret by saying that she has no business to

marry Edgar Linton than she have to be in heaven, and “*if the wicked man in there had not brought Heatcliff so low, she shouldn’t have thought of it*”.

IV. Dramatically, Heatcliff will never accept this condition; moreover, the “secret” is apparently been heard by him, who, on his part, already had taken distance from his girl friend, after claiming her to be spending more time with Edgard than with him, and so having left her to his contender.

There after the young led disappears, and moved somewhere else that Nelly does not know, and that for sure she does not like to tell. The tenant suggests that the lad, then became his landlord, might be gone in Europe for achieving some education; perhaps Heatcliff has not gone that far in those three years, but what matters is that, when he comes back, he presents himself to Nelly, as well as to Catherine (then became Mrs Linton) and to Edgard, in a completely different attitude, acting as a respected and respectful sir, a rather gentle man; by the voice of Catherine we acknowledge that, playing by cards, he won some money from her brother Hindley, who let him enter into the game once been told how he lived and what he did. Since he means to offer liberal payment for permission to lodge again at the hill, it is certain that he disposes of much money, and Hindely is so greedy to forget how basely he persecuted him in the past, which rises the danger that Heatcliff could have assumed a calculated, apparently respectful, behavior, just in order to make profit from him, which is what results to be happening.

While Hindley Earnshaw conducts a disordered life, drinking and playing cards, missing to act as a good master to his farm, nor as a good father to his only son Hareton, Heatcliff is told to keep open the gates to the Earnshaw’s incomes, which he now is in position to account, by consuming for himself and presenting himself to the little Hareton as a friend, while inducing Hindley to walk outland gossiping with the neighbours’ wife. This is how the preacher Joseph judges the management to be, till considering necessary to call in the police in order to prevent further arms, since Mr. Hindley Earnshaw does not fear any tribunal full of magistrates, nor any saints (“*he’s noan feard uh Bench uh judges, norther Paul, ur Peter, nur Jhon, nor Matthew, nor noan of them, nut he!*”).

Soon after being back at the Heights, Heatcliff takes his chance into the Lintons’ business family too: in order to revenge on Catherine’s choice, cruelly abuse of Edgard Linton’s sister Isabella, who felled in love with him, is convinced to leave from home, against the express warning from her brother to not make any deal with him, till getting married and then giving birth to a child. Sadly, it is dated approximately fifth teen days after marriage a letter from the bride, sent to Nelly, expressing the maximum of regret for having followed Heatcliff, who had showed her plainly his brutality henceforth.

Wuthering Heights is the awkward place that Isabella Linton is assigned for her new home, and where she get accustomed to work as an housewife herself, notwithstanding Joseph’s disappointment at the idea of having so for himself, not only the two masters already standing (Hindley and Heatcliff, living under the same roof although hating each other) but one maistress more, giving orders (“*Joseph beheld—her—style of cookery with growing indignation*” (...)) and because she asked a mug for the little Hareton to drink the new milk from his own recipient, rather than from the common gallon pitcher

that he play with more than to drink from “*the old cynic chose to be vastly offended at this nicety*” repeatedly opposing that the child was wholesome and wandering how she “*could fashion to be so concited*”.

In the common law domestic management what matters is the playing of different roles inside the community; once accepted them—at Wuthering Heights as well as at the Grange—the acting of any irrational manner is barely tolerated in the case of children, and rather oppressed in the case of women, according to a masculine type of society wherein irrationality is only to be comprehend as a male reaction or a male demand. Nelly, as a housewife, but also as a servant capable to play both the male and female companion to masters and mistress, survives by assuming a reacting and rather neutral position in respect to the hard dispute that she witness, a dispute that, in the first time, sees the victory of cold rationality and violence, represented by Heathcliff’s way of action, upon tolerance and education to traditional values. Catherine Earnshaw dies immediately after giving birth to her daughter Catherine Linton, unable to cope with Heathcliff trying to take his revenge.

V. In the second time of the history the perspective will be reversed in the acting of the new generation—represented by Hareton and Catherine—who are determined by the legacy of the past.

From a rational point of view, although the first to fail in maintaining the business in good order has been Hindley Earnshaw, who missed to follow any moral precept and started playing out his incomes, the one who, by justifying his own behavior upon his feelings for Catherine, kept on denying both the temporal law, that was represented by the girl’s being married to another man, as well as a basic Cristian precept as that to get married because of love, at the detriment of all the people around, has been Heathcliff. The led combining from Liverpool, coherently with his own violent choices, about his afterlife declares to Nelly that he “*desires to be buried in the churchyard (...) notice that the sexton obeys to my directions concerning the two coffins! No minister need come; nor need anything be said over me—I tell you, I have nearly attained my heaven; and that of others is altogether unvalued, and uncovered by me!*” and in case such a will is not respected, Nelly is ordered to remove the corps secretly, and, neglected she it, “*you shall prove, practically, that the dead are not annihilated!*”.

Such a prevalence of a stereotyped male society is to some extent opposed, from a legal point of perspective, from Edgar Linton’s decision regarding his own testament: in order to prevent from Heathcliff taking over the property, which fact is made possible because of his marriage with his sister Isabella, Edgar disposes that the whole estate should be put in the hands of trustees, rather than in those of his daughter, who then will eventually pass it to her children, if she had any.

The person who set himself in power to order over everything—and everybody—affluent to Edgar Linton’s heritage, thus likely the one being nominated as a trustee, after his death, is the lawyer Mr. Green, who will result to be also the lawyer who Heathcliff refers to later on (but finally Heathcliff is told to waive to the idea of submitting testament).

Mr. Green gives all the servants at the Grange, but Nelly, notice to quit, and means his own authority until determining the place of the magistrate’s scorp to lay in, which should have been, according to

him, the chapel of his family, rather than beside his wife, settled in a corner of the cimitero, wherein he will be settled instead (also Heatcliff's corps will be laid there, later); whose authority determines such a settlement remains uncertain, but we can guess it is quite linked to that Reverend Jabes Branderham, who is mentioned by Mr. Lockwood at the beginning of the book, before listening the story from Nelly's narrative, the one giving his preach in the chappel of the village, and precisely crying "*Thou art the man! Seventy times seven, and the first of the seventy first...*" from Mathew's Gospel, regarding the need to forgive one's brother sin until seventy times seven (Note 12).

Mr. Lockwood re-hears that preaching during the night he spends at the Heights, fully suggested by the ghost of Catherine, in whose room he tries to sleep, after reading some of the died young girl's diaries, and having met, before tree o'clock, Heatcliff the landlord, standing asleep next the entrance, "*with a candle dripping over his fingers, and his face as white as the wall*", to whom he claims the hosting in a house filled with ghosts and goblins.

Heatcliff openly admits his violence in the very last part of the history, till he sees it has no more use: "*I get levers and mattocks to demolish the two houses, and train myself to be capable of working like Hercules, and when everything is ready, and in my power, I find the will to lift a slate off either roof has vanished! My hold enemies have not beaten me—now would be the precise time to revenge myself on their representatives—I could do it; and none could hinder me—But where is the use? I don't care for striking, I can't take the trouble to rise my hand! That sounds as if I had been labouring the whole time, only to exhibit a fine trait of magnanimity. It is far from being the case—I have lost the faculty of enjoying their destruction, I am too idle to destroy for nothing*". The fact that leads Heatcliff to admit defeat in such terms is facing the growing friendship and solidarity between the two young heirs Hareton Earnshaw and Catherine Linton (both having eyes remembering those of Catherine Earnshaw), the former grown up under his mastering, in lack of Hindley's ruling as a natural father, and the latter, grown up in the gentle manners of his enemy Edgar Linton: somehow, his adolescent dream of love is living in the next generation, till convincing him that there is no more point in making harm. Nevertheless, such a conclusion is not experienced as a conversion, but as a fact to witness to at the price of his own death. Infact, he is found dead by Nelly: in few days, when he talks about himself as the happiest one, although having problems in assuming food, he mysteriously went to his illusionary heaven.

Notes

Note 1. A short reference can be found in B. GRANDI, *Fatti, categorie e diritti nella deinizione del lavoro dipendente tra common law e civil law*, Giappichelli ed., p. 101.

Note 2. E. BRONTE, *Cime tempestose*, Traduzione di Lia Spaventa Filippi, Ed. a cura di Guido Davico Bonino su licenza Ed. Casini riservata ai soci del Club degli Editori anno MCMLXXVII, p. 33

Note 3. E. BRONTE, *Wuthering Heights*, Penguin Book Classic, ed. 1995, p. 34: "Rich, Sir!" She returned. "He has nobody knows what money, and every year it increases (...) as soon as he heard of a

good tenant, he could not have borne to miss the chance of getting a few hundreds more. It is strange people should be so greedy, when they are alone in the world!”

Note 4. Abbreviation for Ellison Dean.

Note 5. E. BRONTE, *Wuthering Heights*, cit., p. 35 (“I got used to playing with the children, I ran errands too, and helped to make hay, and hung about the farm ready for anything that anybody would set me to”).

Note 6. Other voices are particularly that of the tenant (who remains at wondering “how any one could ever imagine unquiet slumbers, for the sleepers in that quiet earth” referring to the tree head-stones over the grave of Catherine and her two lovers, Heathcliff and Edgar Linton), as well as that of the protagonists of the story and their relatives.

Note 7. In E. BRONTE, *Wuthering Heights*, cit., there is a genealogical table that is precious in order to ease the reading.

Note 8. Nothing we know about Catherine’s mother apart from the fact that she died before her husband, and that she had a graceful face as appreciable from a portrait standing in the house.

Note 9. B.FENOGLIO, *La voce nella tempesta*, a cura di F.DE NICOLA, Einaudi 1974, p. 91.

Note 10. On jurisprudence investigating dependency in Great Britain see for example S. DEAKIN & G.S. MORRIS, *Labour Law*, fourth ed., Hart publishing, pp. 149-170; M. SARGEANT & D.LEWIS, *Employment law*, fifth ed. Pearson Ed. limited, pp. 10-23.

Note 11. E. BRONTE, *Wuthering Heights*, cit. p. 66.

Note 12. See Matthew, 18, 21-22.