

CHAPTER XX.

JAMES BREAKS DOWN.

The Registrar, not Augusta's dear doctor Probate, but another Registrar, rose and called on the case of Meeson v. Addison, and Another, and in an instant the wretched James Short was on his legs to open the case.

"What is that gentleman's name?" Augusta heard the Judge ask of the clerk, after making two or three frantic efforts to attract his attention--a proceeding that the position of his desk rendered very difficult.

"Short, my Lord."

"Do you appear alone for the plaintiff, Mr. Short?" asked the Judge, with emphasis.

"Yes, my Lord, I do," answered James, and as he said it every pair of eyes in that crowded assembly fixed themselves upon him, and a sort of audible smile seemed to run round the court. The thing not unnaturally struck the professional mind as ludicrous and without precedent.

"And who appears for the defendant?"

"I understand, my Lord," said the learned Attorney-General, "that all my learned friends on these two benches appear together, with myself, for one or other of the defendants, or are watching the case in the interest of legatees."

Here a decided titter interrupted him.

"I may add that the interests involved in this case are very large indeed, which accounts for the number of counsel connected in one way or other with the defence."

"Quite so, Mr. Attorney," said the Judge: "but, really, the forces seem a little out of proportion. Of course the matter is not one in which the Court can interfere."

"If your Lordship will allow me," said James, "the only reason that the plaintiff is so poorly represented is that the funds to brief other counsel were, I understand, not forthcoming. I am, however, well versed in the case and, with your Lordship's permission, will do my best with it."

"Very well, Mr. Short," said the learned Judge, looking at him almost with pity, "state your case."

James--in the midst of a silence that could be felt--unfolded his pleadings, and, as he did so, for the first time a sickening sense of

nervousness took hold of him and made him tremble, and, of a sudden, his mind became dark. Most of us have undergone this sensation at one time or another, with less cause than had poor James. There he was, put up almost for the first time in his life to conduct, single-handed, a most important case, upon which it was scarcely too much to say the interest of the entire country was concentrated. Nor was this all. Opposed to him were about twenty counsel, all of them men of experience, and including in their ranks some of the most famous leaders in England: and, what was more, the court was densely crowded with scores of men of his own profession, every one of whom was, he felt, regarding him with curiosity not unmixed with pity. Then, there was the tremendous responsibility which literally seemed to crush him, though he had never quite realised it before.

"May it please your Lordship," he began; and then, as I have said, his mind became a ghastly blank, in which dim and formless ideas flitted vaguely to and fro.

There was a pause--a painful pause.

"Read your pleadings aloud," whispered a barrister who was sitting next him, and realised his plight.

This was an idea. One can read pleadings when one cannot collect one's ideas to speak. It is not usual to do so. The counsel in a cause states the substance of the pleadings, leaving the Court to refer to them if it

thinks necessary. But still there was nothing absolutely wrong about it; so he snatched at the papers and promptly began:

"(I.) The plaintiff is the sole and universal legatee under the true last will of Jonathan Meeson, deceased, late of Pompadour Hall, in the County of Warwick, who died on the 23rd of December, 1885, the said will being undated, but duly executed on, or subsequent to, the 22nd day of December, 1885."

Here the learned Judge lifted his eyebrows in remonstrance, and cleared his throat preparatory to interfering; but apparently thought better of it, for he took up a blue pencil and made a note of the date of the will.

"(II.)," went on James. "On the 21st day of May, 1886, probate of an alleged will of the said Jonathan Meeson was granted to the defendants, the said will bearing date the 10th day of November, 1885. The plaintiff claims--

"(1.) That the court shall revoke probate of the said alleged will of the said Jonathan Meeson, bearing date the 10th day of November, 1885, granted to the defendants on the 21st day of May, 1886.

"(2.) A grant of letters of administration to the plaintiff with the will executed on or subsequent to the 22nd day of December, 1885, annexed.
(Signed) JAMES SHORT."

"May it please your Lordship." James began, again feeling dimly that he had read enough pleadings, "the defendants have filed an answer pleading that the will of the 22nd of December was not duly executed in accordance with the statute, and that the testator did not know and approve its contents, and an amended answer pleading that the said alleged will, if executed, was obtained by the undue influence of Augusta Smithers"--and once more his nervousness overcame him, and he pulled up with a jerk.

Then came another pause even more dreadful than the first.

The Judge took another note, as slowly as he could, and once more cleared his throat; but poor James could not go on. He could only wish that he might then and there expire, rather than face the hideous humiliation of such a failure. But he would have failed, for his very brain was whirling like that of a drunken man, had it not been for an occurrence that caused him for ever after to bless the name of Fiddlestick, Q.C., as the name of an eminent counsel is not often blessed in this ungrateful world. For Fiddlestick, Q.C., who, it will be remembered, was one of the leaders for the defendants, had been watching his unfortunate antagonist, till, realising how sorry was his plight, a sense of pity filled his learned breast. Perhaps he may have remembered some occasion, in the dim and distant corner of the past, when he had suffered from a similar access of frantic terror, or perhaps he may have been sorry to think that a young man should lose such an unrivalled opportunity of making a name. Anyhow, he did a noble act. As it happened, he was sitting at the right-hand corner of the Queen's counsel seats, and piled upon the desk before him

was a tremendous mass of law reports which his clerk had arranged there, containing cases to which it might become necessary to refer. Now, in the presence of these law reports, Mr. Fiddlestick, in the goodness of his heart, saw an opportunity of creating a diversion, and he created it with a vengeance. For, throwing his weight suddenly forward as though by accident, or in a movement of impatience, he brought his bent arm against the pile with such force, that he sent every book, and there must have been more than twenty of them, over the desk, right on to the head and shoulders of his choleric client, Mr. Addison, who was sitting immediately beneath, on the solicitors' bench.

Down went the books with a crash and a bang, and, carried away by their weight, down went Mr. Addison on to his nose among them--a contingency that Fiddlestick, Q.C., by-the-way, had not foreseen, for he had overlooked the fact of his client's vicinity.

The Judge made an awful face, and then, realising the ludicrous nature of the scene, his features relaxed into a smile. But Mr. Addison did not smile. He bounded up off the floor, books slipping off his back in every direction, and, holding his nose (which was injured) with one hand, came skipping right at his learned adviser.

"You did it on purpose!" he almost shouted, quite forgetting where he was; "just let me get at him, I'll have his wig off!" and then, without waiting for any more, the entire audience burst out into a roar of laughter, which, however, unseemly, was perfectly reasonable; during

which Mr. Fiddlestick could be seen apologising in dumb show, with a bland smile upon his countenance, while Mr. News and Mr. Roscoe between them dragged the outraged Addison to his seat, and proffered him handkerchiefs to wipe his bleeding nose.

James saw the whole thing, and forgetting his position, laughed too; and, for some mysterious reason, with the laugh his nervousness passed away.

The usher shouted "Silence!" with tremendous energy, and before the sound had died away James was addressing the Court in a clear and vigorous voice, conscious that he was a thorough master of his case, and the words to state it in would not fail him. Fiddlestick, Q.C., had saved him!

"May it please your Lordship," he began, "the details of this case are of as remarkable an order as any that to my knowledge have been brought before the Court. The plaintiff, Eustace Meeson, is the sole next-of-kin of Jonathan Meeson, Esquire, the late head of the well known Birmingham publishing firm of Meeson, Addison, and Roscoe. Under a will, bearing date the 8th of May, 1880, the plaintiff was left sole heir to the great wealth of his uncle--that is, with the exception of some legacies. Under a second will, now relied on by the defendants, and dated the 10th November, 1885, the plaintiff was entirely disinherited, and the present defendants, together with some six or eight legatees, were constituted the sole beneficiaries. On or about the 22nd December, 1885, however, the testator executed a third testamentary document under which the plaintiff takes the entire property, and this is the document now propounded. This

testamentary document, or, rather, will--for I submit that it is in every sense a properly executed will--is tattooed upon the shoulders"--(Sensation in the court)--"is tattooed upon the shoulders of a young lady, Miss Augusta Smithers, who will presently be called before your Lordship; and to prevent any misunderstanding, I may as well at once state that since this event this lady has become engaged to be married to the plaintiff (Renewed sensation.)

"Such, my Lord, are the main outlines of the case that I have to present for the consideration of the Court, which I think your Lordship will understand is of so remarkable and unprecedented a nature that I must crave your Lordship's indulgence if I proceed to open it at some length, beginning the history at its commencement."

By this time James Short had completely recovered his nerve, and was, indeed, almost oblivious of the fact that there was anybody present in the court, except the learned Judge and himself. Going back to the beginning, he detailed the early history of the relationship between Eustace Meeson and his uncle, the publisher, with which this record has nothing to do. Thence he passed to the history of Augusta's relation with the firm of Meeson and Co., which, as nearly everybody in the court, not excepting the Judge, had read "Jemima's Vow," was very interesting to his auditors. Then he went on to the scene between Augusta and the publisher, and detailed how Eustace had interfered, which interference had led to a violent quarrel, resulting in the young man's disinheritance. Passing on, he detailed how the publisher and the published had taken passage in the

same vessel, and the tragic occurrences which followed down to Augusta's final rescue and arrival in England, and finally ended his spirited opening by appealing to the Court not to allow its mind to be influenced by the fact that since these events the two chief actors had become engaged to be married, which struck him, he said, as a very fitting climax to so romantic a story.

At last he ceased, and amidst a little buzz of applause, for the speech had really been a very fine one, sat down. As he did so he glanced at the clock. He had been on his legs for nearly two hours, and yet it seemed to him but a very little while. In another moment he was up again and had called his first witness--Eustace Meeson.

Eustace's evidence was of a rather formal order, and was necessarily limited to an account of the relations between his uncle and himself, and between himself and Augusta. Such as it was, however, he gave it very well, and with a complete openness that appeared to produce a favorable impression on the Court.

Then Fiddlestick, Q.C., rose to cross-examine, devoting his efforts to trying to make Eustace admit that his behaviour had been of a nature to amply justify his uncle's behaviour. But there was not very much to be made out of it. Eustace detailed all that had passed freely enough, and it simply amounted to the fact that there had been angry words between the two as regards the treatment that Augusta had met with at the hands of the firm. In short, Fiddlestick could not do anything with him, and,

after ten minutes of it, sat down without having advanced the case to any appreciable extent. Then several of the other counsel asked a question or two apiece, after which Eustace was told to stand down, and Lady Holmhurst was called. Lady Holmhurst's evidence was very short, merely amounting to the fact that she had seen Augusta's shoulders on board the Kangaroo, and that there was not then a sign of tattoo marks upon them, and when she saw them again in London they were tattooed. No attempt was made to cross-examine her, and on the termination of her evidence, the Court adjourned for lunch. When it reassembled James Short called Augusta, and a murmur of expectation arose from the densely crowded audience, as--feeling very sick at heart, and looking more beautiful than ever--she stepped towards the box.

As she did so the Attorney-General rose.

"I must object, my Lord," he said, "on behalf of the defendants, to this witness being allowed to enter the box."

"Upon what grounds, Mr. Attorney?" said his Lordship.

"Upon the ground that her mouth is, ipso facto, closed. If we are to believe the plaintiff's story, this young lady is herself the will of Jonathan Meeson, and, being so, is certainly, I submit, not competent to give evidence. There is no precedent for a document giving evidence, and I presume that the witness must be looked upon as a document."

"But, Mr. Attorney," said the Judge, "a document is evidence, and evidence of the best sort."

"Undoubtedly, my Lord; and we have no objection to the document being exhibited for the court to draw its own conclusion from, but we deny that it is entitled to speak in its own explanation. A document is a thing which speaks by its written characters. It cannot take to itself a tongue, and speak by word of mouth also; and, in support of this, I may call your Lordship's attention to the general principles of law governing the interpretation of written documents."

"I am quite aware of those principles, Mr. Attorney, and I cannot see that they touch this question."

"As your Lordship pleases. Then I will fall back upon my main contention, that Miss Smithers is, for the purposes of this case, a document and nothing but a document, and has no more right to open her mouth in support of the plaintiff's case, than would any paper will, if it could be miraculously endowed with speech."

"Well," said the Judge, "it certainly strikes me as a novel point. What have you to say to it, Mr. Short?"

All eyes were now turned upon James, for it was felt that if the point was decided against him the case was lost.

"The point to which I wish you to address yourself, Mr. Short," went on the learned Judge, "is--Is the personality of Miss Smithers so totally lost and merged in what, for want of a better term I must call her documentary capacity, as to take away from her the right to appear before this Court like any other sane human being, and give evidence of events connected with its execution?"

"If your Lordship pleases," said James, "I maintain that this is not so. I maintain that the document remains the document; and that for all purposes, including the giving of evidence concerning its execution, Miss Smithers still remains Miss Smithers. It would surely be absurd to argue that because a person has a deed executed upon her she was, ipso facto, incapacitated from giving evidence concerning it, on the mere ground that she was it. Further, such a decision would be contrary to equity and good policy, for persons could not so lightly be deprived of their natural rights. Also, in this case, the plaintiff's action would be absolutely put an end to by any such decision, seeing that the signature of Jonathan Meeson and the attesting witnesses to the will could not, of course, be recognised in their tattooed form, and there is no other living person who could depose under what circumstances the signature came to be there. I submit that the objection should be overruled."

"This," said his Lordship, in giving his decision "is a very curious point, and one which, when first raised by the learned Attorney-General, struck me with some force; but, on considering it and hearing Mr. Short, I am convinced that it is an objection that cannot be supported" (here

Eustace gave a sigh of relief). "It is argued on the part of the defendant that Miss Smithers is, for the purposes of this case a document, a document, and nothing but a document, and as such that her mouth is shut. Now, I think that the learned Attorney-General cannot have thought this matter out when he came to that conclusion. What are the circumstances? A will is supposed to have been tattooed upon this lady's skin; but is the skin the whole person? Does not the intelligence remain, and the individuality? I think that I can put what I mean more clearly by means of an illustration. Let us suppose that I were to uphold the defendant's objection, and that, as a consequence, the plaintiff's case were to break down. Then let us suppose that the plaintiff had persuaded the witness to be partially skinned"--(here Augusta nearly jumped from her seat)--"and that she, having survived the operation, was again tendered to the court as a witness, would the Court then be able, under any possibility, to refuse to accept her evidence? The document, in the form of human parchment, would then be in the hands of the officers of the Court, and the person from whom the parchment had been removed, would also be before the Court. Could it be still maintained that the two were so identical and inseparable that the disabilities attaching to a document must necessarily attach to the person? In my opinion, certainly not. Or, to take another case, let us suppose that the will had been tattooed upon the leg of a person, and, under similar circumstances, the leg were cut off and produced before the Court, either in a flesh or a mummified condition; could it then be seriously advanced that because the inscribed leg--standing on the table before the Court--had once belonged to the witness sitting in the witness-box, therefore it was not competent

for the witness to give evidence on account of his or her documentary attributes? Certainly it could not. Therefore, it seems to me that that which is separable must, for the purpose of law, be taken as already separated, and that the will on the back of this witness must be looked upon as though it were in the hands at this moment, of the officers of the Court, and consequently I overrule the objection."

"Will your Lordship take a note of your Lordship's decision?" asked the Attorney-General in view of an appeal.

"Certainly, Mr. Attorney. Let this witness be sworn."