

Stack and Cansler In Forensic Battle

Continued from page one.

For fifteen months, and practiced in the same building for ten years with nothing but a thin partition between us. He was a lawyer of ability; he was a noble man; he was faithful to his clients, and in that will he was faithful to his client, R. A. Hudson. I resent the imputation that he conceived such a will. It was the work of another man."

Mr. Hudson was attacked. "Why should they," asked Mr. Stack, "ignore George Deess, whom Sallie said was the image of Dennis Ross, yet will a \$1000 to Mr. Hudson, who admits he was but a hiredling? Why did they leave nothing to Mrs. Coan, who served them in sickness and was their companion in their loneliness, yet bequeath a \$1000 to R. A. Hudson, Jr.? Why did they overlook Mrs. Jennie Helms, who did their calculations for them, yet remember Harry Hood, a grandson of Mr. Hudson, to the extent of \$500? Did they render any service?" Not one of the family except Mr. Hudson, Sr., and he was paid a salary.

Bob Ross a "Dead Beat."

"Don't listen to the propaganda about Bob Ross being a family negro." The records show that he was taken from his mother against her wishes. Frank Crane told you he heard her scream when they forced her to give him up, and she appealed to the Supreme court for the possession of her own flesh and blood. Bob never did any work for Maggie Ross. He was a "dead-beat," a sponger. Maggie once said that the land ought to go to those who made it. Surely she didn't think Bob Ross made it. She nor Sallie "made it." They inherited it from the Burlesons and from Dennis Ross, and all the attorneys for the caveators are seeking to do is to get that property for the descendants of those who made it, to see that Maggie Ross' own wish is carried out."

It was the opinion of Mr. Stack that the bequests to the schools, churches and libraries were put in the will by a skillful person for the purpose of "hiding his rascality." Witnesses, he said, testified that Mag had expressed herself as being opposed to contributing towards the education of other people's children. She refused to aid Rev. George Atkinson in his most commendable school endeavor. She had no charity in her heart for poor, struggling white girls, who craved an education, but she did send that negro, Mittie Bell Houston, to college. The only known contribution she ever made to the cause of foreign missions in her life was a half a dollar. Why this change in heart? Why those thousand dollar bequests to schools, churches and hospitals? The reason is too obvious to bear mention."

Lets Her Father Sleep Alone.

The failure of the Misses Ross to request the removal of the remains of their father, along with those of their two brothers and mother, to the cemetery plot in the Banks church was almost a sacrilege, a desecration, argued Mr. Stack. "Eloquently, he pictured the old father sleeping alone. This omission, he claimed, showed gentle decay."

She willed her dead brother's watch to Bob Ross because "he wanted him to have it," he said, but Dennis Ross had been dead all these years. Why did she wait so long to carry out her dead brother's wish? For more than twenty years she paid no heed to his dying request. Maggie gave her watch to Mittie Bell; Sallie willed her's to Mrs. Hudson instead of to Mrs. Coan or Mrs. Helms, who were certainly more deserving of her remembrance.

To show her lack of business ability, Mr. Stack said: "There's no evidence that Maggie knew how much land she owned; she was even unable to return her property for taxation, and she considered herself poorer than a church mouse although she had thousands of dollars in the bank. When the preachers would come to her seeking a loan she would order them to go to Mr. Hudson and tell him to let them have the money "if she had it in the bank." One preacher wanted \$500, and she sent him to Mr. Hudson with the same story although she had several times that amount in the house. She wasn't a liar. The propounders haven't even intimated that she was. She even let Hudson pay her preacher. The evidence on this point, gentlemen of the jury, is conclusive. She didn't have the sense to make the smallest transactions; not even the sense that my little 12-year-old girl possesses. She calculates and pays her own church dues."

Will was Product of Mr. Hudson and Negroes.

"I have no desire to traduce the memory of poor old Maggie Ross. I prefer to wear the mantle of charity and attribute that will to others of stronger minds; and in her feeble old age she was a fit subject for the insidious efforts of those parties."

The will, exclaimed the attorney, was the product of the minds of Mr. Hudson and the two negroes, Mittie Bell Houston and Bob Ross.

Her inability to make change, he continued, further strengthened the argument as to her lack of business ability, and he mentioned the testimony of one of her neighbors to the effect that Maggie became angry when he offered her 18 cents for butter when he had been paying but 15. She couldn't understand that 18 cents was more than 15.

"They say," Mr. Stack argued, "that social equality is a matter of taste. It's not. Webster says taste is born of intelligence, so you must conclude, taking into consideration her association with those negroes, that she was weak-minded. She ate at the same table with negroes. She let Mittie Bell wear her silk dress to camp meeting; the negro girl even wore her underwear. She let negroes eat off the same stick of candy; she let Mittie Bell throw her baby into her lap with the command:

"clean it." I dare any of you jurors to tell your wife about these occurrences and then tell her that Maggie had good sense."

Called Tom Her Son-in-Law.

"Do you tell me that a Southern white woman would have permitted a negro to stay at her home after she had given birth to an illegitimate child? Why didn't she send her to her mother, who lived on the same place, when she learned of her condition? Was Maggie Ross intelligent? People of intelligence don't submit to that kind of conduct unless they are under duress of other people. She called Mittie Bell's baby her little darling, her grandson." Her conduct was shocking to Dr. McIlwaine, who would be shocked to anybody, especially when she called Tom Houston, Mittie Bell's husband, her "son-in-law."

"All gentlemen, the truth is that Mittie Bell committed that poor, old woman with threats. You and your sister, she must have told Maggie more than once, 'inherited my baby and it cost me to buy me this, or so this, I'll report you.'"

Regarding the testimony of the Rev. J. McIlwaine, on which so much importance was stressed by the propounders, Mr. Stack declared that they had borrowed money from the Ross woman, and that their church was one of the legatees under the will. "My good friend, Rev. R. J. McIlwaine," he said, "spent last summer in the house bequeathed the Marvin Presbyterian church, and I suppose he will do likewise this summer."

Ought to Have Helped Mrs. Coan.

Declaring charity begins at home, he lamented the failure of Miss Maggie to remember in her will Mrs. Tirzah Coan, her cousin, who loved her like a sister, who nursed her in sickness, who closed the eyes of her brother when death came, and who was their companion. "I would never think of leaving money to a church if I had a poor, decrepit cousin in need."

"All of the Presbyterian brethren," continued the attorney for the caveators, "think Miss Mag had a good mind because she left money to their church. A fool wouldn't do that, they think."

"She gave nothing to Dr. Potts," he recited, "who attended them in their sickness, often driving through the rain and sleet in the dark hours of the night. But that Charlotte doctor got a \$1000."

Recapitulating, Mr. Stack quoted from the testimony of Mrs. Taylor, Mrs. Maggie Moore, who were inmates of the Ross home for many years, Dr. Ezzell, who was once the Ross bookkeeper, and Dr. Crowell, who boarded in their home for 14 months, who said he never saw Maggie read a book, not even the Bible, and who considered her feeble-minded back in 18'6 and '97.

He closed with a plea to the jury to set aside "this unnatural will obtained through the influence of others," and with the admonition that their names would go down in history for generations to come as members of the jury that decided the Ross case.

Cansler Closes.

Comparing the Ross will case to the famous case of Bardell vs Pickwick, as reported by Charles Dickens in "Pickwick Papers," Mr. E. T. Cansler of Charlotte, considered by many to be the leading trial lawyer in North Carolina, made one of the best addresses to a jury ever heard in the Union county court house. He concluded the argument for the propounders, court adjourning at the end of his address about 7 o'clock Friday evening.

The Charlotte attorney first discussed the issue, "was the will executed according to the formalities required by law?" He argued that it was. "The late Mr. H. B. Adams, who drew the will, was one of the leading lawyers of the state," he said, "and a man of the highest character who would not stoop to draw a will for a person of weak mind at the solicitation of another. But assuming for argument's sake that H. B. Adams was a corrupt man, as attorneys for the caveators infer, a tool of R. A. Hudson, he would have been doubly sure that the will was properly executed so that it would stand in the courts."

"Sutton and Ezzell, who declared they didn't see Miss Mag sign the will, made oath that she did before the clerk of court when the will was probated. McIlwaine, the third witness to the will, said on the stand that she signed the will in their presence. Why this change of mind in Sutton and Ezzell? I don't know, I'm merely stating facts to you."

With this Mr. Cansler dismissed the first issue involved in the case, announcing that he would discuss the other two issues as one.

Case Result of Jealousy.

"I am going to undertake to show you," he continued, "that this case is the result of the jealousy of three women, Mrs. Taylor, Mrs. Moore and Harriet Grier, who were plucked because they were not remembered in the will after they had spent so many years in courting the good graces of the deceased Ross women. Take their evidence out of the case and you have nothing but a shell left." Here Mr. Cansler referred to the celebrated case in Pickwick papers, Bardell against Pickwick, in which Mrs. Bardell, a widowed boarding house keeper won a verdict for breach of promise on the strength of the short epistle, "Dear Mrs. B.—Chops and tomato sauce. Yours, Pickwick," which she alleged to be a term of endearment, and minor evidence of a suspicious nature, but without any real foundation. After each telling shot he would turn around to the attorney for the caveators with a polite, but denigrating bow, and remark: "More chops and tomato sauce!"

Relative to the mentality required to make a will, he said all of the sense required by the law was that a person be able to give a lawyer a skeleton or outline of her will, and

that it was the attorney's duty to dress it in legal phraseology. In this connection, he deprecated efforts of opposing counsel to destroy the prevailing conception of a will as a sacred thing, to be held inviolable, and denied that the law made the best will of Mr. Parker frequently stated in his address to the jury.

Ridicules Alienists.

Mr. Cansler called the late Mr. Adams to the stand. "He was incapable of madness, he was incapable of violating a trust," he said, "and he knew those women had sense enough to make a will. The fact that H. B. Adams drew up that will is sufficient evidence of its validity to all who knew that splendid lawyer and citizen."

Those alienists, who were brought to Monroe from Richmond, Raleigh and Morriston by the caveators to answer long wordy hypothetical questions, received no gentle treatment at the hands of the hard-hitting Cansler.

"Dr. Anderson, he said, 'has been superintendent of the insane asylum so long that a stranger at the institution would take him for a crazy man,' and Dr. Taylor was 'so confused by Vann's cross-examination that it appeared that scolden deny had set in on his mind. Those doctors deal so much with crazy persons that they consider most everybody insane."

"It's a case of the blind," he said in continuation, "leading the blind, those crafty women whose names I have just called, who by their lawless blunders and inquisitive questions, sought to get Mag Ross' property, and who are now jenkins at those negroes being at the bottom of the case."

Bequests to Negroes not Unusual.

Mr. Sutton's testimony was dissected, as follows: "An old woman living in the Marvin community all of her life, a good neighbor, a friend to everybody, yet Mr. Sutton says he never heard of her sanity being questioned until the contents of her will became known."

"That such a bequest to negroes was strange, unheard of, was ridiculed. 'People die leaving thousands for foreign missionary work in Africa,' he remarked, 'and I wouldn't be surprised if it wasn't for missionary work among negroes that DeLaney went to her for that contribution which he spoke of at the stand.'

"You've got to convict R. B. Redwine," Mr. Cansler went on, "and the late H. B. Adams of participating in a fraudulent conspiracy to influence the Ross women to leave their money to those negroes before you break this will. Bob Ross, Mittie Bell Houston, Sallie Ross and Mr. R. A. Hudson were the persons using undue influence upon Maggie Ross, attorneys for the caveators say. They didn't dare come into court and charge Adams with participating in the conspiracy, contenting themselves with the imputation that he was a tool of R. A. Hudson and the negroes."

Why Redwine Didn't Draw Will.

"Why didn't they secure R. B. Redwine, their attorney, to draw the will?" Answering his question, the Charlotte man said: "It isn't considered good ethics for a lawyer to draw a will in which he is executor."

"If this flimsy, half-hatched contentions of the caveators are true," he continued, "you might as well blow up your court house, destroy your churches, tear up your Bibles and relax into barbarism."

"Where are those beloved cousins twice and third removed," Mr. Cansler said, "George Ross, one of the two caveators who had the courage to come into court and attack the sanity of Maggie, stifled his testimony when he admitted that he accepted a deed to some land from her believing her to be feeble-minded."

"Why didn't we produce Mittie Bell Houston? What, bring that corn-field negro up here to contradict a white woman. She would have been shot to pieces by Mr. Parker's astute cross-examination. It's not necessary for us to put negroes on the stand to win our case. We have a sufficient number of white witnesses."

Says Mrs. Moore Tried to "Vamp" the Jury.

"I call up Sallie Ross, dead and gone. If she betrayed her sister, if she influenced her into making this will, handling her like a potter handles clay, then she's not worthy of the name 'sister,' and her name ought to be execrated throughout the county. But she can rest in peace, undisturbed. Maggie Ross made that will. Didn't she tell Dr. Nisbet, who wouldn't have sworn a lie for his \$1000 bequest, that 'we've made our wills together, leaving the home place to Bob and Mittie and remembering a few of our friends?' Wouldn't you believe Dr. Nisbet, fine old gentleman that he is, in preference to Mrs. Moore, who according to one of the boys, tried to 'vamp' the jury while she was on the stand?"

"Take the testimony of Dr. McIlwaine. He has no interest in this will except that natural to one of philanthropic impulses. He says it got out in the community that Maggie and Sallie had made a will, and he went to Maggie and asked her if she had left a house to the church? She replied affirmatively.

"Poor, crazy old fool! She hadn't no memory for facts, figures or faces, yet when Dr. McIlwaine mentioned the subject to her some years later she recalled their previous conversation."

Testimony of Family Physicians.

"The three family physicians of Maggie Ross have pronounced her as having been sane. Dr. Alexander told you about leaving potent medicines with Mag to give to her sister who was desperately ill. Crazy, old fool!"

"Dr. Potts unequivocally testified that she was of sound mind. "Dr. Ezzell got mad when he learned that Dr. Nisbet was left \$1000 in the will. That's where the hell-raising started. He stopped in at Potts' and suggested that he join in testifying that Maggie Ross didn't have any sense, but Dr. Potts, I congratulate him, refused to be a party to such an act."

Dr. Crowell and Twilight Sleep.

"Dr. Crowell, who lived with the Ross women back in '56 and '97,

was just learning to crawl when he knew them. He was growing his first feathers, a mere fledgling; and I question his judgment since learning that he lost all he had to a German charpenter who tried to show him how he could reverse the Bible and overturn the laws of nature with 'Twilight Sleep,' an alleged method of painless childbirth. He undertook to remove that punishment, that ordeal, visited upon womanhood when Eve was driven from the Garden of Eden. Hudson influenced them into making that will bequeathing their home-place to negroes? I must say that he was liberal to give Bob and Mittie such a large slice.

"Break this will, gentlemen! You will do it over the mute protests of the late H. B. Adams and the late Sallie and Maggie Ross."

"A church refused its \$1000 bequest. What? Won't those immaculate spotless gentlemen who took \$800 from Maggie Ross while she was living accept a \$1000 gift now that she is dead."

"Why is it that sometimes a man who indulges in social equality and racial amalgamation is not held to be a moral degenerate while these women, because they picked up a pickinny, like some women pick up a Maltree cat or a pooodle dog, are said to be guilty of a foul offense against southern habits and traditions? A horrible situation! Do you know that if conditions as pictured prevailed at the Ross home that the community would have arisen in angry protest?"

Mr. Stack says Mrs. Moore is the smartest woman he ever talked to, yet she was at the Ross home making clothes for that little pickinny. She and Mrs. Taylor ate at the table with them at the Ross home, and Mrs. Moore permitted Mittie and Maggie to visit her in Charlotte. Horrible!

Had an Affection for Bob.

"Those anti-beilum women had an affection for Bob Ross, a negro bound to them, the affection of a mistress toward a servant. You know he helped make that property. Even Dr. Ezzell admitted that he had the reputation of being the hardest-working negro on the Ross place."

"Isn't it natural that Maggie and Sallie Ross should make some reparation for taking Bob Ross out of the protesting arms of his mother when he was a mere lad?"

"Gentlemen, take Mrs. Tirzah Coan's view of this case. 'If it was my cousin's pleasure,' she said, 'for her property to go to Bob and Mittie I have no protest. I loved my cousin and she loved me.'

Anent to the will failing to provide that the remains of Newt Ross, father of the Misses Ross, be removed to the family burial plot, Mr. Cansler said his wife didn't want to live with him, that she ordered him away, so why force them to rest in the same grave?"

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AN ORDINANCE

Authorizing the Issuance of not Exceeding Thirty-Five Thousand Dollars of Bonds of the City of Monroe, North Carolina for Water Purposes.

Be it ordained by the board of aldermen of the City of Monroe, as follows:

Section 1. Pursuant to the municipal finance act, bonds of the City of Monroe are hereby authorized to be authorized to be issued in an aggregate principal amount not exceeding \$35,000.00 for the purpose of enlarging the water system of the city of Monroe by the construction and reconstruction of water mains and hydrants.

Section 2. That a tax sufficient to pay the principal and interest of said bonds shall be annually levied and collected.

Section 3. Pursuant to the requirements of the municipal finance act, it is hereby determined and declared:

(a) That a statement of the debt of the city of Monroe has been filed with the City Clerk pursuant to the municipal finance act and is open to public inspection.

(b) That the assessed valuation of property subject to taxation by the city of Monroe for the 1920, as shown by said statement is \$6,215,276.00.

(c) That the amount of the net debt of the city of Monroe outstanding, authorized or otherwise authorized, as shown by said statement is \$293,792.11.

Section 4. This ordinance shall be published once in each of four successive weeks, as required by the municipal finance act.

Section 5. This ordinance shall take effect thirty days after its first publication, unless in the meantime, a petition for its submission to the voters is filed under the municipal finance act, and in such event it shall take effect when approved by the voters of the municipality at an election, as provided in said act.

It is hereby declared that all expenses to be defrayed by means of necessary expenses of the city of Monroe, within the meaning of Section 7 of Article 7 of the constitution of North Carolina:

The foregoing ordinance was passed on the 7th day of March, 1921, and was first published on the 29th of March, 1921.

Any action or proceeding questioning the validity of said ordinance must be commenced within thirty days after its first publication.

J. H. BOYTE, Clerk.

NOTICE TO CREDITORS.
North Carolina, Union County.
Having qualified as Executors of the Last Will and Testament of I. A. Honeycutt, deceased, this is to notify all persons having claims against his estate to submit same, duly proven, to the undersigned Executors at their residence in Monroe, N. C., on or before the 5th day of April, 1922, or this notice will be plead in bar of any recovery thereon.

Persons indebted to the estate of our testator are hereby notified and requested to make prompt settlement of the debts due by them.

Witness our hands, this 5th day of April, 1921.

O. V. HONEYCUTT,
M. D. HONEYCUTT,
Executors.

NOTICE TO CREDITORS.
Having this day qualified as the Executrix and the Executor, respectively, of the estate of Henry A. Shute, late of the county of Union and State of North Carolina, notice is hereby given to all persons holding claims against said estate to produce the same to the undersigned, duly authenticated, on or before the 12th day of March, 1922, or this notice will be plead in bar of their right of recovery.

All persons indebted to said estate will please make prompt settlement. This March 9, 1921.
(Mrs.) ELLIE WILSON,
Executrix.
H. H. WILSON, Executor of the estate of Henry A. Shute, deceased.
John C. Sikes, Atty.

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