

LITERATURE, &c.

The British Magazines.

EXPERIENCES OF A BARRISTER.

THE SECOND MARRIAGE.

A busy day in the assize court of Chester, chequered, as usual by alternate victory and defeat, has just terminated, and I was walking briskly forth, when an attorney of rather low caste in his profession—being principally employed as an intermediary between needy felons and the counsel practising in the Crown Court—accosted me and presented a brief; at the same time tendering the fee of two guineas marked upon it.

'I am engaged to-morrow, Mr Barnes,' I exclaimed a little testily, 'on the civil side; besides, you know I very seldom take briefs in the Crown Court, even if proffered in due time; and to-morrow will be the last day of the assize in Chester! There are plenty of unemployed counsel who will be glad of your brief.'

'It is a brief in an action of ejectment,' replied the attorney—'Woodley vs Thorndyke, and is brought to recover possession of a freehold estate now held and farmed by the defendant.'

'An action of ejectment to recover possession of a freehold estate! defended too, I know by a powerful bar; for I was offered a brief and declined it. Mr P—— leads; and you bring me this for the plaintiff, and at the last moment too!—You must be crazed!'

'I told the plaintiff and her grandfather,' rejoined Mr Barnes, 'that it was too late to bespeak counsel's attention to the case; and that the fee, all they have, with much difficulty, been able to raise, was ridiculously small; but they insisted on my applying to you. Oh, here they are.'

We had by this time reached the street, and the attorney pointed towards two figures standing in attitudes of anxious suspense near the gateway. It was dusk, but there was quite sufficient light to distinguish the pale and interesting features of a young female, dressed in faded and scanty mourning, and accompanied by a respectable looking old man with white hair, and a countenance deeply furrowed by age and grief.

'I told you Miss Woodley,' said the attorney, 'that this gentleman would decline the brief, especially with such a fee.'

'It is not the fee, man,' I observed, 'for I was somewhat moved by the appealing dejection exhibited by the white haired man and his timid grand daughter; but what chance can I have of establishing this person's right—if right she have—to the estate she claims, thus suddenly called upon to act without previous consultation; and utterly ignorant, except as far as this I perceive hastily-scribbled brief will instruct me, both of the nature of the plaintiff's claim, and of the defence intended to be set up against it?'

'If you would undertake it sir, said the young woman, with a tremulous, hesitating voice and glistening eyes, 'for his sake'—and she glanced at her aged companion—who will else be helpless, and homeless.'

'The blessing of those who are ready to perish will be yours, sir,' said the grandfather with meek solemnity, 'if you will lend your aid in this work of justice and mercy. We can have no hope of withstanding the masterful violence and wrong of wicked and powerful men, except by the aid of the law, which we have been taught will ever prove a strong tower of defence to those who walk in the paths of peace and right.'

The earnestness of the old man's language and manner, and the pleasing gentleness of the young woman, forcibly impressed me; and albeit it was a somewhat unprofessional mode of business, I determined to hear their story from their own lips, rather than take it from the scribbled brief, or through the verbal medium of their attorney.

'You have been truly taught,' I answered; 'and if really entitled to the property you claim, I know of no masterful men that in this England can hinder you from obtaining possession of it. Come to my hotel in about an hour, or a half from hence: I shall then have leisure to hear what you have to say. This fee,' I added taking the two guineas from the hand of the attorney, who still held the money ready for my acceptance, 'you must permit me to return. It is too much for you to pay for losing your cause; and if I gain it—but mind I do not promise to take it into court unless I am thoroughly satisfied you have right and equity on your side—I shall expect a much heavier one. Mr Barnes, I will see you if you please, early in the morning.' I then bowed and hastened on.

Dinner was not ready when I arrived at the hotel; and during the short time I had to wait, I more than half repented of having had anything to do with this unfortunate suit. However, the pleadings of charity, the suggestions of human kindness, reassured their influence; and by the time my new clients arrived, which they did very punctually at the hour I had indicated, I had quite regained the equanimity I had momentarily lost, and, thanks to mine host's excellent viands and generous wine, was, for a lawyer, in a very amiable and benevolent humor indeed.

Our conference was long, anxious and unsatisfactory. I was obliged to send for Barnes before it concluded, in order to thoroughly ascertain the precise nature of the case intended to be set up for the defendant, and the evidence likely to be adduced in support of it.

No ray of consolation or of hope came from that quarter. Still the narrative I had just listened to, bearing as it did the impress of truth and sincerity in every sentence, strongly disposed me to believe that foul play had been practised by the other side; and determined at all hazards, to go into court, though with but faint hope indeed of a present successful issue.

'It appears more than probable,' I remarked on dismissing my clients, 'that this will is a fabrication; but before such a question had been put in issue before a jury, some producible evidence of its being so should have been sought for and obtained. As it is, I can only watch the defendant's proof of the genuineness of the instrument upon which he has obtained probate: one or more of the witnesses may, if fraud has been practised, break down under a searching cross-examination, or incidentally perhaps disclose matter for further investigation.'

'One of the attesting witnesses is, as I told you already, dead,' observed Barnes; 'and another, Elizabeth Wareing, has, I hear to-day left the country. An affidavit to that effect will no doubt be made to-morrow, in order to enable them to give secondary evidence of her attestation, though, swear as they may, I have not the slightest doubt I could find her if time were allowed, and her presence would at all avail us.'

'Indeed! This is very important. Would you, Mr Barnes, have any objection,' I added, after a few moments' reflection, 'to make oath, should the turn of affairs to-morrow render your doing so desirable, of your belief that you could, reasonable time being allowed, procure the attendance of this woman—this Elizabeth Wareing?'

'Not the slightest: though how that would help us to invalidate the will Thorndyke claims under I do not understand.'

'Perhaps not. But all events do not fail to be early in court. The case is the first in to-morrow's list, remember.'

The story confided to me was a very sad, and, unfortunately in many of its features, a very common one. Ellen, the only child of the old gentleman, Thomas Ward, had early in life married Mr James Woodley, a wealthy yeoman, prosperously settled upon his paternal acres, which he cultivated with great diligence and success. The issue of this marriage—a very happy one I was informed—was Mary Woodley, the plaintiff in the present action. Mr Woodley who had now been dead more than two years, bequeathed the whole of his property, real and personal, to his wife, in full confidence, as he expressed himself but a few hours before he expired, that she would amply provide for his and her child. The value of this property inherited by Mrs Woodley under this will, amounted, according to a valuation made a few weeks after the testator's decease, to between eight and nine thousand pounds.

Respected as a widow, comfortable in circumstances, and with a daughter to engage her affections, Mrs Woodley might have passed the remainder of her existence in happiness. But how frequently do women peril and lose all by a second marriage. Such was the case with Mrs Woodley: to the astonishment of everybody she threw herself away on a man almost unknown in the district—a person of no fortune, of mean habits, and altogether unworthy of accepting as a husband. Silas Thorndyke, to whom she thus committed her happiness, had for a short time acted as bailiff on the farm, and no sooner did he feel himself master, than his subserviency was changed to selfish indifference, and that gradually assumed a coarser character. He discovered that the property, by will of Mr Woodley, was so secured against every chance or casualty to the use and enjoyment of his wife, that it not only did not pass by marriage to the new bridegroom, but she was unable to alienate or divest herself of any portion of it during life. She could, however, dispose of it by will; but in the event of her dying intestate, the whole descended to her daughter, Mary Woodley.

Incredibly savage was Thorndyke when he made that discovery; and bitter and incessant were the indignities to which he subjected his unfortunate wife, for the avowed purpose of forcing her to make a will entirely in his favor, and of course disinheriting her daughter. These persecutions failed of their object. An unexpected, quiet, passive, but unconquerable resistance, was opposed by her, in all other things, cowed and submissive woman, to this demand of her domineering husband. Her failing health—for gently nurtured and tenderly cherished as she had ever been, the callous brutality of her husband soon told upon the unhappy creature—warned her that Mary would soon be an orphan, and that upon her firmness it depended whether the child of him to whose memory she had been, so fatally for herself, unfaithful, should be cast homeless and penniless upon the world, or inherit the wealth to which, by every principle of right and equity she was entitled. Come what may, this trust at least, should not, she mentally resolved, be betrayed or paltered with. Every imaginable expedient to vanquish her resolution was resorted to, Thorndyke picked a quarrel with Ward her father, who had lived at Dale Farm since the morning of her marriage with Woodley, and the old gentleman was compelled to leave, and take up his abode with a distant and somewhat needy relative. Next Edward Wilford, the only son of a neighboring and prosperous farmer, who had been betrothed to Mary Woodley several months before her father's death, was brutally insulted and forbidden the house. All, however, failed to shake the mother's resolution; and at

length finding all his efforts fruitless, Thorndyke appeared to yield the point, and upon this subject at least ceased to harass his unfortunate victim.

Frequent conferences were now held between Thorndyke, his two daughters, and Elizabeth Wareing—a woman approaching middle age, whom, under the specious pretence that Mrs Thorndyke's increasing ailments rendered the services of an experienced matron indispensable, he had lately installed at the farm. It was quite evident to both the mother and daughter that a much greater degree of intimacy subsisted between the master and housekeeper than their relative positions warranted; and from some expressions heedlessly dropped by the woman, they suspected them to have been once on terms of confidential intimacy. Thorndyke, I should have mentioned, was not a native of those parts: he had answered Mr Woodley's advertisement for a bailiff, and his testimonials appearing satisfactory, he had been somewhat precipitately engaged. A young man, calling himself Edward Wareing, son of Elizabeth Wareing, and said to be engaged in an attorney's office in Liverpool, was also a not unfrequent visitor at Dale Farm; and once he had the insolent presumption to address a note to Mary Woodley, formally tendering his hand and fortune. This, however, did not suit Mr Thorndyke's views, and Mr Edward Wareing was very effectually rebuked and silenced by his proposed father-in-law.

Mrs Thorndyke's health rapidly declined. The woman Wareing, touched possibly by sympathy or remorse, exhibited considerable compassion and tenderness towards the invalid; made her nourishing drinks, and administered the medicine prescribed by the village practitioner—who, after much delay and pooh poohing by Thorndyke, had been called in—with her own hands. About three weeks previous to Mrs Thorndyke's death, a sort of reconciliation had been patched up through her strumtality between the husband and wife, and an unwonted expression of kindness and compassion, real or simulated, sat upon Thorndyke's features every time he approached the dying woman's bed.

The sands of life ebbed swiftly with Mrs Thorndyke. Enfolded in the gentle but deadly embraces with which consumption seizes its victims, she wasted rapidly away; and most perplexing symptoms of all, violent retchings and nausea, especially after taking her medicine—which, according to Davis, the village surgeon, was invariably of a sedative character—aggravated and confirmed the fatal disease which was hurrying her to her tomb.

Not once during this last illness could Mary Woodley, by chance or stratagem, obtain a moment's private interview with her mother until a few minutes before her decease. Until then, under one pretence or another, either Elizabeth Wareing, one of Thorndyke's daughters, or Thorndyke himself, was always present in the sick chamber. It was evening; darkness had for some time fallen: no light had yet been taken into the dying woman's apartment; and the pale starlight which faintly illuminated the room served, as Mary Woodley softly approached on tiptoe to the bedside of her, as she supposed, sleeping parent, but to deepen by defining the shadows thrown by the full, heavy hangings and the old massive furniture. Gently, and with a beating heart, Mary Woodley drew back the bed curtain nearest the window. The feeble, uncertain light flickered upon the countenance, distinct in its mortal paleness, of her parent: the eyes recognised her, and a glance of infinite tenderness gleamed for an instant in the rapidly-darkening orbs; the right arm essayed to lift itself as for one last, last embrace. Vainly! Love, love only was strong, stronger than death, in the expiring mother's heart, and the arm fell feebly back on the bedclothes. Mary Woodley bent down in grief, for she felt instinctively that the bitter hour at last was come: their lips met, and the last accents of the mother murmured, 'Beloved Mary I have been true to you—no will—no—' A slight tremor shook her frame: the spirit that looked in love from the windows of the eyes departed on its heavenward journey, and the unconscious shell only of what had once been her mother, remained in the weeping daughter's arms.

I will not deny that this narrative, which I feel I have but coldly and feebly rendered from its earnest tearful tenderness, as related by Mary Woodley affected me considerably—case-hardened as, to use an old bar-pun, we barristers are supposed to be: nor will the reader be surprised to hear that suspicions graver even than those which pointed to forgery, were evoked by the sad history. Much musing upon the strange circumstances thus disclosed, and profoundly cogitative on the best mode of action to be pursued, the 'small hours,' the first of them at least, surprised me in my arm chair. I started up, and hastened to bed, well knowing from experience that a sleepless vigil is a wretched preparation for a morrow of active exertion, whether of mind or body.

I was betimes in court the next morning, and Mr Barnes, proud as a peacock of figuring as an attorney in an important civil case, was soon at my side. The case had excited more interest than I had supposed, and the court was very early filled. Mary Woodley and her grandfather soon arrived, and a murmur of commiseration ran through the auditory as they took their seats by the side of Barnes. There was a strong bar arrayed against us; and Mr Silas Thorndyke, I observed, was extremely busy and important with whisperings and suggestions to his solicitor and counsel—

received, of course, as such meaningless familiarities usually are, with barely civil indifference.

Twelve common jurors were called and sworn well and truly to try the issue, and I arose amidst breathless silence to address them. I at once frankly stated the circumstances under which the brief had come into my hands, and observed that if, for lack of advised preparation, the plaintiff's case failed on that day, another trial, under favor of the court above, would, I doubted not, at no distant period of time, reverse the possibly at present unfavorable decision. 'My learned friends on the other side,' I continued, 'smile at this qualified admission of mine: let them do so. If they apparently establish to day the validity of a will which strips an only child of the inheritance bequeathed by her father, they will, I tell them emphatically, have obtained but a temporary triumph for a person, who—if I, if you, gentlemen of the jury, are to believe the case intended to be set up as a bar to the plaintiff's claim—has succeeded by the grossest brutality, the most atrocious devices, in bending the mind of the deceased Mrs Thorndyke to his selfish purposes. My learned friends need not interrupt me; I shall pursue these observations for the present no further—merely adding that I, that his Lordship, that you, gentlemen of the jury, will require of him the strictest proof—proof clear as light—that the instrument upon which he relied to defeat the equitable, the righteous claim of the young and amiable person by my side, is genuine, and not, as I verily believe,'—I looked as I spoke full in the face of Thorndyke—'FORGED.'

'My Lord,' exclaimed the opposing counsel, 'this is insufferable.'

His Lordship, however, did not interpose; and I went on to relate in the most telling manner of which I was capable, the history of the deceased Mrs Thorndyke's first and second marriages; the harmony and happiness of the first—the wretchedness and cruelty which characterised the second. I narrated also the dying words of Mrs Thorndyke to her daughter, though repeatedly interrupted by the defendant's counsel, who manifested great indignation that a statement unimpeachable of legal proof should be addressed to the court and jury. My address concluded, I put in James Woodley's will; and as the opposing counsel did not dispute its validity, nor require proof of Mary Woodley's identity, I intimated that the plaintiff's case was closed.

The speech for the defendant was calm and guarded. It threw, or rather attempted to throw, discredit on the death-bed 'fiction,' got up, Mr P—— said, simply with a view to effect; and he concluded by averring that he should be able to establish the genuineness of the will of Ellen Thorndyke, now produced, by irresistible evidence. That done, however much the jury might wish the property had been otherwise disposed of, they would of course, return a verdict in accordance with their oaths and the laws of the land.

[To be concluded.]

From Hogg's Instructor.

ARGYLL'S RISING IN 1685.

The great calamity which had fallen on Argyll had this advantage, that it enabled him to show, by proofs not to be mistaken, what manner of man he was. From the day when he quitted Friesland to the day when his followers separated at Kirkpatrick, he had never been a free agent. He had borne the responsibility of a long series of measures which his judgment disapproved. Now at length he stood alone. Captivity had restored to him the noblest kind of liberty, the liberty of governing himself in all his words and actions according to his own sense of the right and of the becoming. All at once he became as one inspired with new wisdom and virtue. His intellect seemed to be strengthened and concentrated, his moral character to be at once elevated and softened. The insolence of the conquerors appeared nothing that could try the temper of a man proud of ancient nobility and of patriarchal dominion. The prisoner was dragged through Edinburgh in triumph. He walked on foot, bareheaded, up the whole length of that stately street which, overshadowed by dark and gigantic piles of stone, leads from Holyrood House to the castle. Before him marched the hangman, bearing the ghastly instrument which was to be used at the quivering block. The victorious party had not forgotten that, thirty five years before this time, the father of Argyll had been at the head of the faction which had put Montrose to death. Before that event the houses of Graham and Campbell had borne no love to each other; and they had ever since been at deadly feud. Care was taken that the prisoner should pass through the same gate and the same streets through which Montrose had been led to the same doom. The troops who attended the procession were put under the command of Claverhouse, the fiercest and sternest of the race of Graham. When the earl reached the castle his legs were put in irons, and he was informed that he had only a few days to live. It had been determined not to bring him to trial for his recent offence, but to put him to death under the sentence pronounced against him several years before—a sentence so flagitiously unjust that the most servile and obdurate lawyers of that bad age could not speak of it without shame.

But neither the ignominious procession up the High Street, nor the near view of death, had power to disturb the gentle and meek patience of Argyll. His furniture was tried by a still more severe test. A paper of interrogatories was laid before him by order of the Privy Council. He replied to those questions to