

## *The Devitt Will Case*

TALKING of curious bits of practice in civil courts, reminds me of a sharp stroke of Glendenning's, a good many years ago. You know Glendenning?—a wiry, nervous little fellow, who worked his way up at the Philadelphia bar, without any influence but sheer brain force. But as for brains, there was keen, wide awake power enough in that bullet-head of his to cut a way through any muddle the law could make.

As for that Devitt Will Case, he always gave me credit in that—which was fair enough, in one sense; but what's the good of all the truth which can be ferreted out in a case, unless the lawyer puts it properly to a thick-skulled jury? And you see, Mr. Glendenning knew how to put it; I furnished the nail, if you will, but he drove it home. Drove it, and clinched it, too.

The way of it was this:—to go back a bit. I had been in the special detective force about six years, and was beginning to feel the ground pretty firm under my feet, as one might say, (with a secure salary, and having laid by a snug sum for a rainy day,) when I bought the house we live in now, out on Green Hill. Ground was cheap there, then; the new streets were but lately laid out, and their way was clogged up by old-fashioned, country-looking houses, with rough fences about them, and others of the same build, but a poorer sort, which rented low, by the quarter or half-year, to mechanics, whose work was down in the city.

In one of these, about a square from the pretentious row of three-storied bricks, where we lived, there was a family named Fitch—an old schoolmaster—his wife, and two or three orphan grandchildren. Fitch, it was said, was a fine scholar; but his learning had done nothing better for him than to get him a place as under teacher in one of the public schools, where he was poorly paid, and more miserably used. Winter or summer afternoons, in the short hour between school-time and dark, you would always find him in some of the dusky corners of the old Philadelphia Library, pouring over some ancient folio, his clothes as brown and musty as the books about him, but his thin, gray hair carefully brushed down either side of his face, and his hands covered with darned and patched kid gloves. You needed but to glance into his lank, wistful, nervous face, to know that he was a man born unsuccessful—one of the men who are always drudges, always carrying one heavy weight after another—as here, in his old age, these grandchildren had been thrown on him to support and educate, at a time when his own comfort and rest should have come to him.

It was Jane (my wife) who attracted my attention first to the Fitches—the little woman has a watchful eye for people who are in trouble. One of the children strayed into our yard one day, and Jane led it home herself; and she and the old lady began an acquaintance, which soon became a friendship. We'd have them over to a good, hot supper, whenever we could, and would drop in there often to tea. Whatever was wanting on their table, it was always bright and cheerful, and the old people, bustling, anxious and happy to have guests.

Now, Fitch was too simple-minded a man to be conscious of the difference between himself and me, as our intercourse grew more intimate during the years that followed; but I always felt it, and I am glad I did, and recognized it properly, though I was a rich man, comparatively, and he penniless. I knew him to be a gentleman and a scholar, beside whom I was a coarse, rough

fellow. But I had a certain talent of shrewdness, for which the old man had a boyish admiration; so, as time went on, we grew gradually to be firm friends, in spite of all differences between us.

As the grandchildren grew older, with heavier schooling to pay, and hungrier mouths to feed, things went from bad to worse with the old people—the schoolmaster’s face grew leaner and more anxious—old Mrs. Fitch, in her rusty black dress, stooped over her everlasting darling more silent than ever; but beyond that they made no complaint. They were not the people whom one would dare to pity. As for Fitch’s ever making his own way any higher in the world, the day for that was long ago past. I saw but one chance for them. It was this:

Half of their house had been for two or three years given up to the use of a young man, named Devitt, a far-off cousin of Fitch’s, who had come to be nursed and cared for by them during the little time he had to live, for he was wearing down rapidly with consumption. I knew that the young man had some property—one or two small tenements on Pine street—and that the Fitches were his nearest relatives; and I used to think that when it was the poor boy’s time to go, the lives of the old people, in all probability, would be made more comfortable by this death. I thought of it the more, when Jane would come from their house, full of anxiety and trouble at the actual want which she saw creeping on them. The old lady was a proud, reserved woman; but she gave way one day, and told Jane of their long struggles through life.

“Robert is an old man now,” she said, with a dry, hopeless sort of sobbing; “it is hard he must go on working to the very end, only to keep off starvation. He has never had a day to straighten himself, like other men, and use the talents that God gave him.”

Jane has that kind of tact which belongs to tender hearts; so I suppose she comforted the old lady in some woman’s fashion of her own. Presently, she asked if young Devitt had any nearer relatives than his cousin; adding, that it might be different with them when he was gone.

Mrs. Fitch colored. “We will not speak of that, my dear,” she said. “James often has told me that we shall be his heirs; but he has but little to leave—and if it were more, God forbid that I should count on his death. James is a good boy, and very dear to me.”

However, I, not having any of the old lady’s sentiment in the matter, when I heard, a month afterward, that young Devitt was sinking rapidly, strolled into the Recorder’s Office, to find, if possible, to what his inherited fortune really amounted. I was surprised to discover that the Pine street houses were but a small item; the property elsewhere had so increased in value, since his father’s death, as to yield an income of about fifteen thousand per annum. I prosecuted my inquiries after that, and found that his father had been a man of penurious and secretive habits, and that young Devitt, simple-minded as he was in other respects, had inherited enough of these traits to enable him to succeed in concealing from the Fitches the real amount of his property. What whim induced him to do this, I could not discover.

About a week afterward, Jane and I called at Mr. Fitch’s. Contrary to his custom, Devitt was in their little parlor. He was a small man, with red hair and light-blue eyes; a weak, retreating chin, and uncertain smile. A middle-aged, stout-built woman, in a coarse, print dress, was wrapping his feet in flannel, and arranging his easy-chair, when we went in. She now sat down in the

background, her hands folded meekly, and her eyes turned toward the invalid, watching his every movement. Underneath this show of devotion, I saw that she was scanning every face in the room with shy, furtive glances.

“Is that the Mrs. Maddox, of whom you have told me?” I demanded of Jane, after we had started for home.

“Yes, that is Mrs. Maddox. The best, faithfulest creature—Devitt’s nurse for years; so rare to find a servant who so thoroughly knows her place!”

“For years? Devitt is dependent on her, then, for care?”

“No; for menial services only. Mrs. Fitch was his nurse in reality,” Jane said.

“Humph! The Fitches had better keep a sharp look-out, or Devitt’s money will find an owner nearer at hand than they think.”

My wife started, then laughed and scouted at me for the suspicions my trade provoked in me.

I never saw poor Devitt again. Two weeks afterward he died, suddenly, as is often the case in his lingering disease.

The day after the funeral, George Jessup (his attorney) produced a will, which he had drawn up for him four years before, in which his entire property was devised to John and Esther Fitch, with the exception of a legacy of five hundred dollars to Maria Maddox, “his kind and faithful nurse.”

So far, so well. The will was admitted to probate; we congratulated ourselves on the good luck of the old people, who proceeded to enter into possession; while Mrs. Maddox, brimming with gratitude, and stout, humble, fawning as ever, packed her numerous boxes, preparing, she said, to go to her brother in Ohio.

Business called me out of the city for a few weeks at this time. I arrived at home again, late one evening, and found Jane at the supper-table with the children. I saw at once that the little woman was in trouble; but waited until the youngsters were out of the way, and my hunger appeased, before inquiring what was wrong.

Jane poured forth the story eagerly. It was the Fitch matter. The lawyer, Jessup, in looking over Devitt’s private desk, had found a will drawn a year later than the other, immediately after a journey which he had made to Cuba. In this voyage he had been attended solely by Mrs. Maddox. By this will all former testaments were revoked, and his entire property devised to Maria Maddox, “in gratitude,” he said, “for services which no money could repay; services by which his life had been prolonged.”

The paper had been executed in Brooklyn, New York, two days after their return from Havana. They had lodged in a private boarding-house, kept by a man named Marsh. He and the physician,

who had attended Devitt during his stay in Brooklyn, had witnessed the will, and were ready to swear to their signatures.

“But Mr. Fitch will contest it,” said Jane, triumphantly; “*I* persuaded them to do it. It is a palpable forgery.”

She looked disappointed at my silence, and said, anxiously, “You do not agree with me, Philip?”

“I know so little about it as yet. And your faithful Maddox?”

“Don’t speak to me of the woman! She professes utter astonishment at the whole discovery, and is ready to grovel to the earth with humility before poor Mrs. Fitch, when it is plain as daylight that either she forged the paper, or influenced Devitt’s mind unfairly.”

I said nothing, for I did not agree with my wife. It was scarcely possible that the woman, Maddox, would venture on so bold a swindle; and, as for the other supposition, Devitt had been in sound mind until the last day of his life.

“What counsel have the old people retained?” I asked her an hour later.

“Mr. Glendenning. I told them I was confident that would be your advice.”

“Yes.”

“Mr. Fitch is a perfect child in matters of business.”

I was out on secret service that night, and passing Mr. Glendenning’s window, saw a light there, tapped, and went in. I had other business with him.

When it was finished, he said,

“What about this Fitch affair, Caldwell?” folding up his papers for the night. “The old gentleman tells me you’re a personal friend of his. What stamp of man was this Devitt?”

“I met him but seldom,” I replied. “He was bed-ridden most of the time; and was more thoroughly, I suspect, under this woman’s influence than Fitch or his wife imagined. From the little I saw of him, I thought him a weak, silly fellow, with few ideas outside of his sick room; but obstinate and fond of petty secrets and intrigue, like all men with dingy red hair, and light-blue eyes. It would be in strict accordance with his character to make a will in favor of one party, and delight in concealing it from the other.”

“Well,” said he, after a pause, “it is but a meager chance of success for the old people. I say this frankly, because I want you to take the affair in hands and do what you can. The will bears every mark of genuineness, and has been drawn up by an experienced hand. If it were not for the infernal phiz of that woman, Maddox, I’d not allow them to contest it. But she has a thorough conspirator’s face.”

“What shall I do first?” I asked.

“Go to Brooklyn, and lift the character of these witnesses, Hammit and Marsh.”

“When does the case come up, Mr. Glendenning?”

“Next term. Nothing can be gained by delaying it; and that old man is not one whom I care to keep in suspense.”

I went to Brooklyn the next week. I don't know that I ever worked harder in a case, or tried to bring whatever experience I had into use so zealously. But it was of no use. Of the two witnesses, Hammitt, the physician, was a decent fellow enough, apparently, a young homeopathist, with an office in a back street, and but little practice. Marsh, the boardinghouse keeper, was a Scotch Irishman, who had a dingy, semi-genteel establishment below the Heights, but had borne an honest character hitherto. Reference to his books showed that Dewitt, with his nurse, had occupied rooms with him at the time alleged.

I returned and reported no progress; but neither Jane, nor the old people, knew of my errand.

A day or two after I came back, I met Mr. Fitch coming out of the school-house, pushed and hustled by a crowd of whooping boys. He smiled patiently as they jostled him; then, seeing me, touched his hat, and joined me, going down the street. Aged, feeble, and shabby as he was, there was a little of the old gallantry in his step, and the old fire in his eye.

“I've gone back to the school, Mr. Caldwell, back to the school,” he said, as he fell into step beside me. “I can see plainly that Mr. Glendenning is not sanguine;” and then, coloring quickly, changed the subject to the weather, as if fearing he might drag a professional opinion from me against my will.

I went back to the lawsuit, however, to his great pleasure, evidently. After listening with breathless eagerness to the cheering words, which I spoke, (vague and doubtful enough they were, to be sure,) he broke out at last, his thin face hot,

“It is weak and unmanly to depend so much upon a little money in life—I know all that; philosophers and Christians would despise such avarice. I've thought of it over and over again, especially in these last few days, and tried to live above such groveling troubles. But I'm not a strong man enough for it, Mr. Caldwell,” buttoning and unbuttoning his coat nervously. “I've made a good many plans in the world; and this money, two weeks go, seemed sent; purposely to realize them.”

There was a long pause.

“There was my son, Joe,” he began again, in a lower, more absent tone. “Joe had talent, I think; a steady, clear, moderate thinker, who would have made his mark at the bar. But the hard times came when Joe was about twenty, so he put his hands to work instead of his head, and threw away his last chance for his mother and me.

“Joe’s gone now,” after a little break; “and it is his boys we have with us. I wanted to give them the education their father gave up, you see, Mr. Caldwell. I wanted to make them a different future from either Joe’s or mine.”

“It may be so yet,” I answered, uneasily. But the old man’s brain was off in some wandering fancy. “God knows best,” he said, half to himself, and trotted on silently for a while.

“Now there’s Esther,” he began again, looking up suddenly. “Mrs. Fitch, I mean, Mr. Caldwell. It has puzzled me a good deal since we learned the money was to be ours, what to buy for Esther that would surprise her and please her, too. It has puzzled me a good deal,” his fingers on his chin, turning his anxious face toward mine. “It is so long since I could surprise her with any little gift. I wish I could settle that point. Now these things,” stopping in front of a shop-window filled with gay plaid silks, “she used to like such kickshaws. But you smile, Mr. Caldwell: she’s too old for such trumpery, eh? Well, well, that’s true. But she seems like a girl to me always, somehow,” as we left the window and went on.

“Over there’s a horse,” he resumed, doubtfully. “For a long time after we were married she wanted a pony; but I never could afford it. I wish I could decide on something,” his eyes fixed wistfully on the ground.

I hid a smile at the picture of poor Mrs. Fitch, with her rheumatism and stiff joints, mounted on a frisking pony. But the old man had forgotten all his troubles in his poor little plans, so I thought it best to humor him.

“Why not buy a snug little homestead, a bit out of town, at Chestnut Hill say, and fit it up nicely, keeping it a secret from her? She is fond of country life, I have heard her say.”

His face glowed.

“The very thing! She *is* fond of country life. The very thing! See what it is to have your readiness, Caldwell! I’ll look in at a real-estate broker’s this very afternoon, and see what is to be done out there now,” and until we reached his own gate he remained silent, his face flushed and smiling.

After that, until the next court-term came on, I kept out of his way. Tough as I am, I shirk all sight of pain, when it falls on men like that.

The case came up in the fall term. The day before court opened I was in Mr. Glendenning’s office.

“Where does the Fitch case stand on the list?” I asked.

“Second. It will be up tomorrow afternoon. That business of the Johnsons’ is first, and will be soon disposed of.”

“It will be a cloudy day for the old man.”

“I’m afraid of it; I’m afraid of it,” sorting his papers nervously.” Glendenning was one of those men who espoused a cause thoroughly, threw himself into it utterly, in a way that amused older and cooler practitioners. But, nevertheless, he won cases over their heads by it.

“I don’t know when a case has taken such hold on me,” he said. “But I cannot master it, though I believe there’s fraud somewhere. There are ‘surface indications’ on the woman Maddox’s face, enough to hang her, eh, Caldwell?”

“God forbid,” I said, gravely, “that we should ever begin to portion out punishment by the lines of the countenance. It’s too slippery an index, sir. Nothing farther discovered as to Hammitt and Marsh?”

“No. The will was drawn by Devitt, they allege, and I can find no evidence of flaw in it. Mr. Fitch tells me that Devitt would have been quite capable of doing it. Hammitt was present during the drawing of the paper; Marsh only came in to witness it. They profess to have been mere casual spectators, and to have forgotten the whole transaction, until subpoenaed to certify to their signatures.”

“Are they in the city now?”

“Yes. The Maddox woman and they meet as strangers. If there is a *role* played, it is well done. Proctor, by-the-way, is retained by Mrs. Maddox; he has the will now.”

“I would like to look at it,” I said.

“Certainly. You’ll find nothing wrong.”

Mr. Proctor entered soon afterward, and stood talking to Glendenning about the Fitches, and their claim.

“I’d like you to see the schoolmaster, Proctor,” said Glendenning, as they concluded. “He is an old scholar, and a gentleman, with feelings that grew out of those old-time, delicate manners. They were real to him.”

Proctor laughed, adjusting his collar, and said, “You delight in a rare relic of the old school of manners, as women do in broken bits of curious china, Glendenning.”

“I know it; but it’s the story they tell. I like to fancy that the cavaliers and dames, moving in stately minuets, were not of the race of the Hammitts and Maddoxs of these days. There’s a delectable odor hangs about every remnant of those times that never belongs to our slang and jostle.”

“And you smell to them as Sappho to her broken wood of the wine-cask?” laughed Proctor.

I interrupted him just then. “Permit me to look at the will?” I said.

He handed it to me, and I examined it closely as they talked.

A detective's eyes are sharp, and I was an expert at writing, also; but, scan keenly as I would, I found no evidence of fraud. The writing was Devitt's, or so close an imitation as to defy my skill at discovery. Glendenning assured me again, with a trifle of emphasis in his tone, that no legal flaw could be detected.

I laid it down.

"As binding a document as I have ever handled," said Mr. Proctor, turning to take it.

The table on which it laid faced a window, through which the light shone strongly. As he raised the sheet of thick paper, on which the will was written, a slight mark on one corner caught my eye, made neither by pen nor ink.

I detained his hand for an instant; a single glance was enough.

"What is it?" demanded Proctor, hastily.

"Nothing—nothing." But I beckoned Glendenning aside.

"You have discovered a clue, Caldwell?" he said, eagerly.

"I hope so. How much time can you give me? I must go to New York. It is the barest of chances; but we'll try it."

Glendenning asked no questions, but answered, "The case comes up tomorrow. I'll drag it along until night. I'll have it set over until the next day, if you require it?"

"No. Evening will do. If I am mistaken in my conjecture, time will be of no use."

The train started an hour after. My business in New York involved more delay than I had anticipated. It was after four o'clock, the next afternoon, when I drove up to the courtroom with a quiet old Quaker, whom I had brought with me, to put in the witness-box. I turned then to speak to a colored boy, who had dogged me since we entered the door. It was Peto, one of my wife's innumerable *proteges*.

"D'ye think I'd best wait, heah, sah?" with a bow and confidential nod. "The missus—*she's* got ole Miss Fitch to the house, and they're waitin' for the news all day. Me and Jim Boline was to go up every half-hour; an' so we have. Ole Mr. Fitch, he's down in the library, an' he said only, if the news was good to bring him word. But we've had none good, Mr. Glendenning said. And I'm tired carryin' ill luck, an'—"

"Wait for my message," I said.



I sent a hastily-written line up to Glendenning; and then took a chair at my ease to watch him as he read it, and kindled into activity. The little lawyer was quick as a sleuth-hound at catching a scent. By neither glance nor motion did he convey to me that he had taken my hint; there was a keen, relishing twitch of the muscles about the lips, like a man who expects to enjoy a taste that he likes—that was all.

Hammitt, one of the witnesses to the will, was in the box when we came in, and had glanced uneasily at the old Quaker; but finding a strange face, had turned, relieved, to Glendenning again, who had been torturing him with cross-questions for an hour.

“But he had sworn straight through,” Mr. Glendenning told me afterward, “stolid and unmoved.”

Mr. Proctor interposed now, to have him sent down. The court inquired if Glendenning were not yet satisfied.

The little man had suddenly cooled, and stood idly playing with his pen on the desk.

“But one or two questions. The case is so neatly brought, in defense of this new will, that it is a pity to point out a flaw in it; but there is one petty oversight, that needs the attention of my learned friend. It will be made clearer by glancing over the testimony. Give the witness the will.” Then looking at Hammitt, sternly, he said, “This is the paper you saw the deceased draw, and which you signed?”

Hammitt, a spare young man, with a lowering face, took the paper and shuffled uneasily as he looked up from it.

“This is the paper, and that is my signature,” doggedly.

“This was done immediately after Mr. Devitt’s return from Cuba—two years after the date of the other will entered in evidence?”

“It was.”

“You saw Mr. Devitt write the will?”

“Yes. He told me—as I said before—that he purposed doing it on that day; and asked me to be present. I was alone with him when he wrote it. Marsh was only called in to sign it.”

“Where did he write it?”

“In his own chamber.”

“Where did he find writing materials? Pens?”

“On a table in the room.”

“Paper?”

Hammitt’s lips curled. “This is trifling,” he said. “In a drawer of the table.”

“Upon what day was this?” persisted Glendenning.

“The date is upon the will, which I hold in my hand, *August* 14, 1849.”

“And you swear before Almighty God,” suddenly cried Glendenning, coming up to the man with tiger-like energy, “that, in August, 1849, James Devitt made a will; that you saw him do it, and legally witnessed it, upon that identical sheet of paper?”

Hammitt quailed an instant; then—

“I swear it,” he said, quietly.

Glendenning turned sharply, holding the paper up against the dingy window, so that the water-mark in it could be clearly seen.

“*Lyman Dewees, maker,*” he read. “Call Lyman Dewees.”

The old Quaker was affirmed.

“What, and where is your business?”

“Paper-maker, in New York city.”

“Do you recognize that paper as of your manufacture?”

“I do.”

“By what means?”

“By the water-mark.”

“Look at the date on that will, and see if at that time you were manufacturing paper?”

“I look at the will and date,” said the old man, laying down the paper. “I did not manufacture paper at that time. The first paper made by me was in 1850.”

“And so you solemnly affirm?”

“So I solemnly affirm.”

“That is enough,” said Glendenning. “Gentlemen of the jury, we close our case.”

The defense was silent. Hammitt and Marsh were seen trying to escape from court; but were instantly arrested on a charge of conspiracy. Marsh forfeited his bail the next day, and went to California, I believe; but Hammitt, dogged to the last, stood the trial, and is now cobbling shoes in the Eastern Penitentiary.

The woman, Maddox, escaped, to my great chagrin. My wife's *protege*, Joe, could not resist giving her the first blast of doom, as he ran with the news to his mistress, and she had time to be off. I would have ferreted her out; but the old schoolmaster interposed, meeting me the next day on the street. "Let her go—God help her! Let her go," he said; "perhaps the world drove her to it by hard usage." Then, taking me aside, his lip trembling and his eye unsteady, "We can go on with our little plan of the house on Chestnut Hill, now, eh, Mr. Caldwell? When will you drive out with me to see it? This afternoon?"

The old man and "Esther" have long since been settled in their house on the Hill; and it is one of the most heart-some homes about the city, by-the-way. But you will find him, simple and kindly as ever, still haunting the library corners, or book auctions, to drag home rare old volumes to his library.

Jane and I, driving out on summer evenings to see the old people, find them always pacing about, side by side, in the low sunset in the lawn—"stately and beautiful in their old age."

The grandchildren have grown up and scattered. I think their lost boy has been repaid to them many times—never replaced, perhaps.

One of the grandsons is in the army—in the regular service—an officer in the same regiment with our Phil. The old gentleman used his influence first, however, to get Phil's commission.

"Why should I not do it?" he said. "All I have on earth I owe to your father, boy."

But that is sheer nonsense. Anybody could have seen a water-mark.

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