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THE WILLIAMS-BROWN CASE.

The case of Eliza Williams, colored, against the heirs of the late Miss Mary Brown, came to an abrupt end this morning when counsel for the defense dismissed his case because of a decision of the court. This decision rendered incompetent the testimony of the plaintiff, on the grounds that death had sealed the lips of the adverse party, Col. Brown.

After the dismissal of the plaintiff's case, the defense introduced a cross petition, which was sustained, and a decree issued quieting the title of the estate.

The dismissal of the case leaves the plaintiffs without the privilege of appeal, leaving them exactly in the same position as if the recent action had never been brought. Another action can be started in the district court, however.

Judge Hudson said, after court had been dismissed, that he had nothing to give out at present, but would have later.

Douglas Cain, who was the lay representative of the defendants in court, expressed regret that the trial was ended so abruptly. He characterized the action as blackmail, and said the defense had an invulnerable case.

The suit of Eliza Williams against the heirs of Miss Mary Brown, for half of the estate, on the grounds that she is the common law wife of Col. E. R. Brown, deceased, is one that will attract the attention of lawyers all over the country because of the law points which will be raised and settled. The case will go to the supreme court, regardless of which side wins in the district court.

R. F. Hudson, attorney for the plaintiff, in addressing the jury, said he would attempt to prove that his client was the common-law wife of Col. E. R. Brown, deceased; that she became his common law wife after the death of his legal wife, Mrs. Sarah H. Brown, in 1874. B. P. Waggener, attorney for the defense, said he would attempt to prove to the jury that the suit was a "blackmailing scheme, a damnable, disreputable conspiracy to force tribute from innocent parties."

The personal ill feeling existing between the two attorneys adds interest to the case, for the spectators. After Waggener had presented his side of the case to the jury, Judge Hudson asked permission to reply to some of the statements made by Mr. Waggener. His request was refused but not before he took advantage of the opportunity to say that, "If there was any blackmailing being done, Balie Waggener is the man who is doing it." Mr. Waggener was standing not more than five feet away. His eyes flashed and he had just got to "Judge Hudson," when Judge Jackson called them both down and advised them that they would be expected to address their remarks to the court or to the jury, and not toward each other. Later on Mr. Waggener stopped reading a court decision to say, "Your face, Judge, is beautiful when you smile, and I like to look at it, but I don't want you to sneer at me." Judge Hudson had just read a decision when Mr. Waggener replied that he knew of such a decision. "No you don't, Balie, you never heard of it before," replied Judge Hudson.

B. P. Waggener's request that all witnesses be excluded from the court room was granted over Judge Hudson's protest. The first witness called was Mrs. Al. L. Robb, a daughter of Eliza Williams. In reply to the questions of Mr. Hudson, she said she was fifty-one years of age, was born in Mississippi, was the daughter of Eliza Williams, and that Col. E. R. Brown was her father. No objection was made to her testimony until she was asked who was the father of her sister, and this was objected to "as being incompetent, irrelevant, immaterial and hear-say evidence." Judge Jackson then dismissed the jury to allow the attorneys and himself to decide what testimony was to be admitted. Judge Hudson argued that the only way to prove the pedigree of an individual was by the testimony of the mother as she had told it to her children, and by general reputation. Mr. Waggener argued that Mrs. Robb's testimony as to her own father was hear-say evidence; that no child could testify honestly as to his parentage much less to the parentage of other brothers and sisters. Mr. Waggener further argued that since the common law marriage between Eliza Williams and Col. E. R. Brown did not exist prior to 1874, when Mrs. Sarah Brown died, that the testimony of Mrs. Robb was "irrelevant and immaterial." Then Mr. Waggener quoted authorities to show that the plaintiff, Eliza Williams, would be debarred from testifying, and Judge Hudson quoted authorities contradicting Mr. Waggener. Another question Judge Jackson will have to decide, or the jury will have to decide, is whether the plaintiffs are barred by the statues of limitation. They are suing for half of the estate of Col E. R. Brown, who died more than twenty years ago, while the defendants inherited the estate from Col. E. R. Brown's daughter, Miss Mary Brown, who died within a year.

Judge Jackson raised another interesting point. He asked Judge Hudson if, since the common law marriage contract was not claimed to have existed until several years after the birth of Eliza Williams' children, that the children may not have been the results of illicit intercourse rather than the results of common law marriage. Judge Hudson replied that the law did not recognize such a thing as illicit intercourse between white men and colored women during slavery days.

Mr. Waggener, for the defense, opened the case this morning by citations and an argument to show that the plaintiff was an incompetent witness because death has sealed the lips of the adverse parties. He pointed out that nothing had been said for twenty-five years to the effect that Mrs. Eliza Williams was the common law wife of Col. Brown, and said no estate would be safe if her testimony is to be considered.

In reply, Judge Hudson, for the plaintiff, said the statute to be interpreted was the Kansas statute.

Judge Jackson, after reviewing the statute, said that, if Miss Brown were defendant in the case, the plaintiff would be incompetent to testify. He then said that he considered the present defendants stand in the place of Miss Brown, and he ruled that the plaintiff was incompetent.

The jury was then called, and the witnesses ordered from the room.

Mrs. Robb was again called to the stand as a witness for the plaintiff. She said, in reply to a question by the counsel for plaintiff, that she and her mother consulted B. P. Waggener, who had advised them to start the suit. Later, she said, Mr. Waggener told them he thought of dropping the case, and talked of sending them to the penitentiary for blackmail. She said she heard afterward that Waggener had taken the other side of the case.

The witness then testified that her mother had lived with Col. Brown as his wife. She said she had charge of the domestic affairs. She said that he often told Mrs. Williams that he loved her, that he frequently embraced her, and that the plaintiff was a good wife to him.

Mr. Waggener then took the witness for cross examination, and secured answers tending to show the position of the plaintiff in the family was more that of servant than wife.

She said she never heard of Col. Brown paying her mother any wages, but that he frequently gave her money, and that she did the buying for the house.

Judge Hudson objected to questions showing that Mrs. Williams had voluntarily left the Brown home eight or nine years ago. The objection was over-ruled. Mr. Waggener then attempted to show that Mrs. Williams had paid cash rent for the place, but she professed ignorance and was dismissed.

The plaintiff, Mrs. Williams, was the next witness. She said she was the mother of Alice Robb. Mr. Waggener objected to the question as to who was the father of her children. The objection was sustained. Other objections to the testimony of the witness were sustained, under the ruling of Judge Jackson at the beginning of the morning session. This ruling hurt the plaintiff's case, and it certainly disappointed the spectators.

Following several of these objections the plaintiff dismissed her action without prejudice to another action.

The defendant then asked permission to introduce evidence on a cross petition, asking judgment to quiet title in the case, and disbarring the plaintiff from setting up claim to the property.

Judge Hudson objected to this. The court overruled the objection, and Probate Judge Casey was called to the witness stand. He identified the will of Col. Brown, and the will of Mary Brown, which were offered in evidence.

Frederick Giddings was the next witness called. His testimony was brief and concerned the present possession of the property.

Mrs. Williams was then called by Judge Hudson, but sustained objections by Mr. Waggener prevented effective testimony.

The jury, which was dismissed at the beginning of the hearing of the cross petition, was now recalled and dismissed. Judge Jackson rendered a decree sustaining the contention of the heirs, and quieting the title.

There was not a white woman in the court room yesterday, but we regret to say that two white girls, under sixteen years of age, were there. There were perhaps forty white men and fifty colored men and women present. The women were all aged, not a young colored girl was present.

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