

opinion, four years later. The solid press of the east and all the wealth of the country have ever since the canvass opened, concealed the truth and deceived the people regarding the whole question. They have succeeded in making 25 per cent of them believe that if you are elected the country will be governed by a lawless, disorganized mob. If you are elected, I trust that you will, as soon as you can, issue a letter or make a speech assuring them that the great body of the people are honest and can be trusted.

"This letter is intended for only yourself and wife to ever see. A feeling of gratitude for what you have done in this canvass for humanity, for right and justice, prompts me to write and make this offer."

I do not care to read it all, but I want to read enough to show, not only that his interest commenced before I knew him personally or intimately, but because I want to show upon what foundation his interest rested, and he says, "This letter is intended for only yourself and wife to ever see." Counsel for contestants seem to think that it is a strange thing that there should be any secrecy about this; seems to think that when a will was made, it ought to have been made at a public meeting and everybody invited in. That is not the way wills are usually made, nor is it the way kindnesses are usually rendered. Counsel for contestants seem to think that Mr. Bennett ought to have published a notice in the paper that he was going to do a certain thing in order that the world might know it. In this letter, written before I could have identified him on the street, he not only proposed this and gave his reasons for it, but expressed the wish that the letter should never be seen by anybody except myself and wife. The evidence also shows that a letter was written to him in reply and his second letter shows that he answered a question that was put to him: "I have yours, dated the 12th inst. I do not now and never have owned a dollar's interest in a gold, silver or any other mine, and do not expect to in this century." And the evidence shows that, before accepting the gift, I inquired whether he was connected with any of the institutions in whose behalf they said we were making the fight. We were making a fight in the interests of bimetalism, and it was charged by the enemy that we were making it in the interest of the mine owners. And when this man proposed the gift, I asked, as his letter shows, whether he was interested in the subject that was in controversy. The evidence shows that this acquaintance began then, and continued for four years; that at the beginning of the campaign, or just before the campaign of 1900, he wrote to me in Nebraska, and asked if I would be at home, and that in response to a letter that I would be, he arrived there, and the testimony, so far as there is any testimony on the subject, and I regret that I am the only witness whose testimony I can comment upon, but it is the only testimony that has been produced on the subject, shows that he came and wanted to draw a will.

Now, the gentleman speaks of my being a lawyer and I am obliged to him for the emphasis he lays on that fact. During the campaign he and his friends declared that I was not a lawyer, that I could not succeed in the law; and I am delighted now that, after mature reflection, my friend finds me to be a thoroughly competent lawyer.

I understand the law in regard to a lawyer's dealings with his clients and am willing that every presumption that can be made against a lawyer dealing with his client shall be made against me in this case; but the fact is, and the evidence shows it abundantly, that the relation between Mr. Bennett and myself was not the relation between lawyer and client. There has been no evidence here to show that I was ever Mr. Bennett's lawyer, that he had ever consulted me on any point of law. The evidence, so far as our relation goes, shows that it was a political friendship, a personal friendship, and, so far as it was a business friendship, he had made investments for me; but I am willing that you shall take it as he argues it, and place all the presumption against me as though I were his attorney, as though I had been his counsel, as though I had drawn all his legal papers for him, and as though he had come to my office at that time to have me draw up his will—not as a friend, not as a near associate, not as a companion fighting for a common principle and for a common creed, but as a lawyer. I am willing that you shall assume that he came there as he would come to a lawyer. I am willing that you shall place upon that letter and upon every act the harshest construction that you can place upon the act of a lawyer.

What is the testimony in this case? Is it that he desired to make that a direct gift? Coun-

sel states that I was too good a lawyer to have it made to me direct. I assert, and I know he knows it, that if it was made to me direct, he never would have counseled a contest here. I told him when he suggested that gift (it was in the beginning of the campaign which I believed would in all probability result in my election) that if that was the result, I would not need it, and his answer was, that he thought I would need it more than if I was defeated.

I did not know then how soon he might die. He was not an old man; he was not a frail man; he was a man in the vigor of life, and three years afterward, when by accident his life was ended he was still a man, strong and full of vigor, and there was no reason to believe that death in his case was immediate, and I told him then, as the testimony will show, that if, when the time of his death came, I was in a position where I did not need it, I did not want it. And then he insisted that if, for any reason, I did not accept it, it should be given in these other ways.

It is nothing taken from the heirs in this case. Mr. Bennett, and no one can dispute these facts, Mr. Bennett gave to his relatives all he intended they should have, and when I suggested that I might not use it, he asked that it be used in another way.

The gentleman calls attention to these letters. He uses language that I am sure he would not use if there were not in his heart something that rankles worse than any opposition he ever had before to a man in a law suit. He says this letter is false; that it does not tell the truth. These letters are in evidence and the court can judge of them. The letter to Mrs. Bennett told her that this was for me, and counsel asks: "Why wasn't it stated in there that part was for Mrs. Bryan?"

In talking about this matter, we considered the family as one. He wants to know why it was that it was not stated that a part was for other members of the family instead of me.

I hope that anyone talking to the judge about his family would not find it necessary to draw nice distinctions between his welfare and the welfare of his wife and children. This letter to Mrs. Bennett told her it was to go to me, and his letter to me told me what he wanted me to do. I was to keep \$25,000 for myself, give \$10,000 to my wife, and \$15,000 to the children. Your honor, that which went to the family was as much to me as that which went to me, and that which went to me was as much to the family as that which went to the family.

Mr. Bennett, in his letter to Mrs. Bennett, stated that it was given to enable me to devote myself more freely to the work that he and I were interested in, but that this gentleman (Judge Stoddard) was not interested in.

He wants to know why this was not made known, why it was not proclaimed, why it was kept from the members of the family. Well, your honor, Mr. Bennett brought a will out with him and that will was used in the drawing of this will. If the judge had wanted to show that my connection with Mr. Bennett had led him to conceal this will and its provisions it was in his power to prove that the other will had been made public through the papers and had been hawked around the streets and given to everybody whose name was mentioned in it. There was no evidence to show that the other will with its provisions covering relatives had been made known, and there is no reason that the judge can give why a reflection should be cast on this will merely because its provisions were not made known.

He says that I have no right to dispose of this money (intended for my wife and children) or to refuse to accept it, but that I have to act as trustee. If he will read the letter, he will find that it says that, if for any reason I shall refuse to receive this sum, or any part thereof, that I shall bestow it in a certain way, or make such a distribution as he suggests. It is plain, it is straightforward, and just as soon as the death occurred, as soon as this letter became a material matter I brought the copies of the letters that he sent to me and presented them to Mrs. Bennett, as the evidence will show. I presented them to Mrs. Bennett and she knew just as soon as the funeral was over, all that there was in this case. Could I have done that sooner? Had I any means of knowing whether a change had taken place in his mind in regard to that letter?

The evidence shows that not from the time the will was made was it referred to between us, except in the one case where he referred to it in the letter, a part of which I read here. The suggestion that the presumption must be against the attorney who draws the will is merely a presumption that can be refuted by the facts. Now what were the facts in this case? That after the will was drawn the testator went back 1,500 miles to

the place of his business; at least two days elapsed, two days for contemplation, and two nights for rest, and then 1,500 miles away from his beneficiary he called in three witnesses, and asked them to witness his signature. He took it to the notary public and even had him acknowledge it, and then he took it to a vault of his own selection, he put it in that vault, and there for more than three years that will lay under his control. No member of my family had a key to that vault. No member of my family had ever seen the vault. No member of my family had any influence over him during that time except the influence that friend had over friend. Three years and more elapsed from the 22d day of May, 1900, to the 9th day of August, 1903, and during all that time, the man visited his home, visited his store, visited his relatives, and all that time that will remained. Was there undue influence in the drawing of it? There he had more than three years, 1,500 miles away from me, in which to think over it and to change it; and it was possible any day of all that time for him to have gone to the vault and taken out his will and made any change in it that he desired to make. And I might suggest now, since the gentleman has spoken of the influence that was brought to bear on him—and has polished up his classic lore to show us that he, too, has studied the history of decadent Rome—I might remind him that that letter provided that we should distribute the \$30,000 among colleges. If I had been using undue influence, would I have lost the opportunity to add \$30,000 to the \$50,000 that he gave? If I had been seeking to get money from Mr. Bennett, would I have advised him to give it to colleges and to help students and inspire them to the study of the science of government? If I may be permitted to go as far outside the bounds of the professional ethics as my friend does in the arguments, I might suggest that there is one provision in the will that he hates above all others, not the \$50,000 to me, but the prizes in 25 colleges to young men to inspire them to study the science of government. If I had been simply interested in getting this money, would I have helped him to draw this will so that instead of keeping it for myself or family it should be thus given out and scattered throughout this land to help the students who are poor to obtain an education, to help boys who are poor, and girls who are poor? Would I have suggested to him that he continue the plan that I myself had started?

And, your honor, if my interest in Mr. Bennett was purely a pecuniary one, would I have suggested to him that I would join him in constructing a library and linking his name with mine in the most sacred project that I had contemplated, the building of a library upon the site where I was born? To the building of that library he contributes \$1,500, and I \$1,500, and I in addition donate the site for the library.

Now, then, this is what is produced thus far in evidence. What is there here that need be concealed from the public? And, your honor, Judge Stoddard wants to know why I formed the opinion of him that I did, and I responded that his conduct from the time I first became acquainted with him convinced me that there was more politics than law in this matter, and I believe that the only purpose was to hold before me the threat that this would be brought before the public if I did not disregard the will of my friend.

But he seems not to understand that the moment the question was raised in regard to that will, that I had more at stake than he or any person connected with this family and that if I had desired to make a compromise, I could not have done so. Why? Because the moment that will is questioned, the moment my connection with it is questioned, I owed it to my good name that all the facts in connection with it should be made public; and this court knows that when I was on the witness stand I asked my attorney not to object to any questions he might ask, asked that he might be allowed to ask any question that he liked whether it was relevant or irrelevant. Why? Because there is not one thought or word or purpose in that transaction between Philo Bennett and myself that I am ashamed to have known to the world. I am not ashamed to have it known that I was his friend and that he was my friend, because he was devoted to the principles that I believe important and that he believed important; and when men, like my good friend (Judge Stoddard) were willing to desert the party, Philo Bennett dared social ostracism and business ostracism to be one of my electors in this state—and this gentleman has no power at his command that is sufficient to make me fear to carry out the will of Philo Bennett and to help dispose of his property as he desired it disposed

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