

ESTHER AND HER "HENRY"

OPENING OF THE JACOBS-SIRE BREACH OF PROMISE CASE.

PLAINTIFF TAKES THE STAND AND TELLS HER STORY—DEFENDANT'S AFFECTIONATE LETTERS READ TO THE JURY—CROSS-EXAMINATION BY LAWYER TRUAX.

There was nothing in the appearance of Miss Esther Jacobs, plaintiff in the fifty-thousand-dollar breach of promise suit brought by her against Henry B. Sire to indicate, as she took a seat in the Superior Court room, Part I, yesterday morning that she carried a bleeding heart. On the contrary, she seemed to be in the possession of excellent health and a mind free from care. Her eyes were bright, with no suggestion of tears in them, her fair face wore a pleasant expression, and her general demeanor was that of a self-possessed woman about to witness an enjoyable entertainment rather than that of one who would soon be called upon to submit her tenderest emotions to the scrutiny of twelve prosaic and unsentimental jurymen. Miss Jacobs was accompanied by her mother and a sister. She wore a stylish blue gown with balloon shoulders, and a broad hat caught up on one side, trimmed with blue velvet and ornamented with large bows, and two pompons of fur.

The defendant, Mr. Sire, a well-known real estate dealer, seemed to be as careful as a man about to undergo a surgical operation, and cast furtive glances at Lawyer Charles W. Brooke, as if that veteran of the bar was to be the surgeon in the case. Mr. Sire's luxurious hair and fierce mustache are jet black; his complexion is very dark, and his features are rather dull looking. Yesterday he wore dark clothes of fashionable cut, diamonds in his cuff buttons, and a diamond stud in his scarf.

Occasionally during the proceedings, while Miss Jacobs was repeating the fervid words of endearment which he had addressed to her when their hearts beat as one, Mr. Sire smiled in a way that may have been meant to be sarcastic, but which was, as a matter of fact, somewhat ghastly. He left the court room at one stage of the plaintiff's testimony, and consequently heard but few of his tender letters to Miss Esther read by Lawyer Brooke. But she was still on the stand when he returned, and he heard the reading of letters in which he sent numerous kisses on what Mr. Brooke drily termed "the installment plan."

Lawyer John H. Lindley opened the case by outlining to the jury the plaintiff's ground of action. Incidentally he congratulated the jury on the fact that there were no improprieties in the case and nothing that could not be mentioned in their parlors. He said that plaintiff claimed special damages because she had been led by the defendant to sacrifice lucrative musical engagements.

Miss Jacobs was the first witness, and she seemed perfectly at ease when she took the stand. Her testimony was mainly the same that she gave in May last, when the trial of the case was terminated by the death of a juror. That testimony was published by THE TIMES. Miss Jacobs started out yesterday by saying she was thirty-four years old. On the former trial she said she was but twenty-seven years old. She attempted to explain the discrepancy in her testimony, but was silenced by an objection from Lawyer Truax, of counsel for the defendant.

She said she first became acquainted with the defendant in 1887, at her father's house; that she subsequently crossed the ocean to sing in London and gain a musical reputation. She sang in London before various people of distinction, James G. Blaine among the number. She sang with Mme. Christine Nilsson as a soloist. The London papers contained several complimentary notices. On her return she sang in Chickering Hall and at other concerts. "Henry"—so she tenderly referred to the defendant throughout her testimony—bought ten tickets for one of her concerts.

Mr. Brooke asked a number of questions with a view to fixing the date when Mr. Sire first declared his affection for Miss Esther. In response she said, in part:

"I told Henry I was going to Europe, and might stay long or might not. Henry asked me if I would write to him, and I said 'Yes.' The first letter I received in London was from—"

"Hold on! I object," exclaimed Mr. Truax sharply.

"Oh," exclaimed the plaintiff, and then she smiled sweetly on the irate counsel for Mr. Sire.

"I asked you what he said," remarked Lawyer Brooke gently.

"Henry said he hoped I would not remain long. He had given me a parcel, so that it would remind me of him while I was away."

Miss Esther said she returned to New-York in September, 1877. On the next day Mr. Sire's brother came to her house to say that the defendant was out of town. "Henry" called a few days later.

"What did he say to you?" Mr. Brooke asked.

"Henry said the summer seemed very long without me. He hoped I would not go away again," and the witness said that as if she felt sorry for "Henry."

"Did his mother call on you?"

"Yes; two days previous to my sister's marriage. She said, 'Henry has been calling on you and is very much in love with you. I have called to ask you to become his wife.' She called me her dear daughter and kissed me. She went on to state that she would like to have the engagement kept private by her family and ours, because her son had an intrigue with a woman. She did not want this woman to hear of the marriage, so that a scandal might be avoided. I said to her that I was very much in love with Henry; she kissed me and called me 'My dear daughter that is to be.'"

"When did you see Henry next?"

"I saw him a few days later at my sister's wedding. I danced with him, but there were 100 people present and no privacy. We did not speak of his mother's visit. I next saw him at my parents' house. Henry said to me: 'I sent my mother to you to ask you to become my wife. I hope everything was settled satisfactorily.' He said: 'I love you very dearly; you are the only woman I have ever seen that I could love.'"

"Being very much in love with Henry at that time, I accepted," said Miss Esther, with marked emphasis on the words, "that time." (Here Mr. Sire smiled grimly.)

"I said to Henry," continued the witness softly, "I am sorry you have had an intrigue with a woman. Has she any claims on you? He said 'No,' but that for revenge she might make a scandal. He said he would do all in his power to make a good husband. We engaged to be married in a year. I thought we would be happy after what he had said."

In response to another question Miss Esther said: "Mother and my sister Clara came into the room about an hour after. Henry said to me, 'I have asked your daughter to accept me as a husband. I hope you will like me as a son-in-law. I have been wild, like most young men, but will do my best to make a good husband.' He said that in one year he and I would be married. He wanted to keep the engagement private because of the woman with whom he had an intrigue."

Miss Jacobs told of other visits paid to the Jacobs house. On one occasion he said to her sister Clara that he knew they would get along well together, and he hoped Clara would come to see him very often when Esther and he were married. He proposed to occupy rooms in a magnificent flat that he was building, and he intended to have them painted blue, as that was Miss Esther's favorite color.

"Did he call often?" inquired Lawyer Brooke, smilingly.

"Henry called about four or five times a week. Sometimes in the afternoon, at dinner, at supper, and often in the morning before he went to business."

"Did he send you any letters?"

"He sent telegrams when away, and letters; fifty or more, I should say."

Mr. Brooke next placed in evidence several letters. It seems that Mr. Sire began his correspondence by addressing Miss Esther as "My Dearest Friend." As his ardor increased his loving missives opened with "My Dear Esther," "My Dear Little Girl," "My Dearest Esther." In these letters he sent scores of kisses, told of his business engagements, and the medicine prescribed for him by his "ma." In one very warm letter he said:

MY DEAR LITTLE GIRL: I am awfully lonesome without you. I did not send kisses in last letter. I send you fifty kisses in this and fifty on account of the last letter.

"Kissing on the installment plan," remarked Lawyer Brooke.

Here are a few brief extracts from Mr. Sire's letters to Miss Esther:

DEC. 2, 1887.
MY DEAREST FRIEND: Am going to Albany. Can't be at fair to-night. Buy chances for me. I always win. How about that seal skin sacque? Cash is ready any time you want it.

JAN. 23, 1888.
MY DEAREST FRIEND: Would like to have you call on me.

MAY, 19, 1888.
Was pleased to hear you called on me yesterday. You should not work so hard, or be so ambitious.

MAY 4, 1888.
I know you will pardon me for inclosing a little change to purchase a hat to go with your handsome suit.

OCT. 19, 1888.
New-York seems very lonesome without you.

JULY 24, 1889.
If you were only with me my dear darling, how happy I would be. I am sure my dear darling has had more patience than I expected. With all my love, yours, as ever.

JULY 29, 1889.
Am disappointed at not receiving more letters. You promised to write to me every day. Am all fanned up. Am three shades darker. Don't you think that dark enough. Much love and many kisses.

SARATOGA, Aug. 22, 1888.
Sorry you are not here. Tell Clara I will put a

bet on every race for her and she must wish me good luck.

OCT. 29, 1889.
Will call for my dear at 4 o'clock if agreeable. Hope my dear little girl is well.

TUESDAY MORNING.
MY DEAR LITTLE GIRL: Lots of love and kisses.

THURSDAY.
Hope my darling little girl is feeling well. With much love and many kisses.

[Undated Letter.]
Am taking medicine ma gave me. Don't let anything trouble my dear little girl. Much love and many kisses.

FEB. 3, 1890.
I hope my dear little girl is feeling well. With much love and fifty kisses.

Continuing her testimony, Miss Jacobs said she first saw the woman with whom Mr. Sire had the intrigue when the latter rushed into plaintiff's house. Henry was in the parlor. The woman asked witness if she was Miss Essie Jacobs, and, receiving no answer, said to Henry: "Here I find you." The woman declared that she had been living with Henry for many years, and that now when he was going to get married he proposed to turn her out on the street without a dollar. She insisted that Henry should provide for her, and said to Miss Jacobs: "He is a wicked, bad man, as you will some day find out if you marry him." The woman said she was not married to "Henry."

Miss Esther said that Sire then left the house with the woman. Subsequently he made his usual explanation about the woman's relations with him. In August, 1888, as Miss Esther and Sire were returning from a drive, the woman met them, and she said she would pursue Henry unless he took care of her. He got rid of the woman and told witness that his persecutor had no claims on him.

Witness next told of the frequent postponements of the proposed marriage. In December Henry said his father was ill, and the marriage would have to be postponed until Spring. The Springtime came, and then Henry said he would have to put the marriage off because he could not then afford the time to go on a wedding tour. He proposed that they should be married by the Rev. Dr. Mendez in the Fall. In the meantime he would get rid of the woman who was following him. She wanted \$25,000. He thought of giving her \$2,000.

Fall came and Henry was too full of business to get married. His keen commercial instincts were shown in a proposition to get married when he and Esther could go to Europe.

"Henry wanted to go at a time when he could combine business with pleasure," said the witness naively. "He said he could do a great business in horses in Europe."

Miss Esther began to weary of postponements of the wedding, and she told Henry they were unlucky. He quieted her with the remark that she must have confidence in him. March, 1890, came, and by this time Miss Esther thought it time to take a decisive step. Her friends could not understand why her wedding had been postponed so frequently, and Henry's visits were not as frequent as of old. And so she wrote him a letter, in the course of which she said:

"There is a limit to every one's endurance, and you must not expect impossibilities from me; and I have made up my mind to tell you plainly that unless you can set a time when we are to be married I must tell you that I must consider that you do not intend to marry me at all. I construe your asking me to wait patiently, but indefinitely, to mean that you are tired of me and have determined not to marry me."

Henry responded by a letter inviting Miss Esther to take a sleigh ride and "talk over matters." The invitation was not accepted, so witness testified. She said Henry called then, and she insisted on knowing why he did not marry her. He said he was not ready, and was angry because she seemed to doubt him. He again promised to marry her on March 18, 1890. She again wrote to Henry and said: "You did not trust me enough to tell me frankly about your affairs." She suggested that perhaps he might have no right to marry her because of his relations with the woman before referred to. Sire called again and Miss Esther asked:

"Henry, has that woman any claims on you?"

He said that, under the peculiar marriage laws of the State, the woman might claim marriage. He advised Miss Esther not to consult any lawyers. She said that as a lady she could not consent to receive him unless he gave a satisfactory explanation of his relations with the woman. Then Henry got mad, the witness said, and told her she could do her very worst. Miss Esther consulted a lawyer and returned Sire's presents. The defendant met her some days after and asked if she would settle the case out of court. She refused; then, according to her testimony, he said:

"If you don't I'll spend \$10,000 persecuting you and every member of your family. I'll drag them all in. You'll get a verdict, but not a cent, neither you nor your lawyers. I'll put my property out of my hands, so you can't touch it."

Miss Esther testified Sire had said that he hoped he might be struck blind and that he might never see his mother or baby brother if he had not told her all his reasons for postponing the wedding. She testified at considerable length as to loss of money caused by abandoning her musical engagements at Sire's requests. He did not want his wife to appear in public.

Lawyer Truax cross-examined the witness. He looked very stern and addressed the witness in severe tones, but she was not disconcerted, and maintained an air of composure throughout. Asked to explain how it was that she testified in May last to being but twenty-seven years old and yesterday to being thirty-four, she said calmly that in May she did not understand the question of her counsel, Mr. Lindley. She thought that he desired to know how old she was about the time she became acquainted with Sire in 1887, five years ago. She said defendant had presented her with \$350 to buy a seal skin sacque; that he had made her numerous presents, among them two bracelets, a diamond ring, a heart-shaped watch, and diamond earrings.

"Have you the earrings here?"

"No."

"You were subpoenaed to bring them," said Lawyer Truax, sternly.

"Yes. I'll bring them to-morrow. My sister has the earrings," replied the witness.

"Do you want to replevin them?" inquired Lawyer Brooke.

Lawyer Truax looked as if he was swallowing a lump in his throat as he turned on his questioner, but he said nothing by way of answer. He did say to the court, however, that he proposed to show that the defendant stopped calling on Miss Esther because intimations were frequently thrown out to him that this or that thing was wanted.

Lawyer Brooke sarcastically remarked that if counsel for defense was trying to get in testimony in mitigation of damages he would not object.

Questioned further about her age, Miss Esther said, with spirit, "I am thirty-four years old. I have no wish to disguise my age, and the whole world may know it. I have never done anything dishonorable."

Miss Esther was asked if she was not shocked when she learned that Sire had an intrigue with a woman.

"I was grieved," was the placid answer.

"You broke off the engagement?"

"No. I became sick. Henry's mother called and I could not see her. I did call on her later and she said 'do not let anything come between you and Henry.'"

The cross examination of the witness did not elicit any contradictions of material statements made on the direct. Miss Esther left the stand with the same air of composure with which she answered Lawyer Brooke's questions. Her cross-examination will be completed this morning.