

16  
CRABTREE AND THE LAW  
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To dilate upon Crabtree and the law required arduous research. At an early stage, I thought that I had struck gold. For I immediately traced an elusive but important, indeed indispensable influence in the formation of our poet, his mother! When I took, as I am wont to do, the third volume of *Atkinson's Chancery Reports* from the shelf, there at p. 680 in the year 1747 was the case of CRABTREE v. BRAMBLE.

Mary Crabtree took out letters of administration to a certain estate and claimed rightfully that it should be hers. But Mrs. Crabtree's petition was dismissed.

Thus it was that Mrs. Crabtree — surely still a lady *viripotens* of 30 or so — was robbed of her entitlement. How the comfortably circumstanced young lady from Sussex first made the acquaintance of Crabtree senior of Chipping Sodbury a future Orator may reveal to us. I can only assert the known facts. However, who can doubt the repinings in the modest home at Sodbury? And is it likely that her first born failed early to note how the Law deprived his mother, and thus acquired an early interest in that which snatched affluence from his home?

Even without this family vested interest, of course, it would have been improbable that Crabtree remained indifferent to the law.

And yet — and yet! After the fruitful discovery of Mrs. Crabtree, my first researches were barren.

Still, it was impossible that our poet should have been wholly outside the law. Who else could have penned the couplet so wholly in keeping with the didactic mission of Crabtree to which Scott adverted in his Oration for 1964?

Thoughts much too deep for tears subdue the Court,  
When I Assumpsit bring and, God-like, waive a tort?

The company will immediately appreciate both that this magically epitomises the problem of the desirability of suing in contract rather than tort (or vice versa) which is still with us. A sound jurist no less than a peerless poet was needed to forge those lines, which appear anonymously in a farrago of 1830, *The Circuiteers*. Can any of this company fail to detect the easeful mastery of Joseph Crabtree?

In the absence of irrefutable sources, however, how can he have been a consummate jurist no less than a poet of the first rank? It was here that I recalled the axiom more than once propounded by no less substantial, celebrated and (in his own limited field) real a genius than our poet, viz Mr. Sherlock Holmes, in his conversations with Dr. Watson: 'When you have eliminated the impossible, whatever remains, however improbable, must be the truth.'

The apparent silence of the Law Reports *in re* Crabtree *qua* Crabtree was a minor problem. Our poet, alas, predeceased the semi-official Law Reports series which began in 1865. We must remember also our poet's love of anonymity or, alternatively, pseudonyms in giving the flowers of his genius to the world: why should he change his *modus operandi* in face of the law? No, there was little problem here!

But, to face our queries, so far as possible, in their due order, how and where did Crabtree get his law, if he was not a member of an Inn of Court? Several anxious days of reflection suddenly produced the answer that should at once have come trippingly on the tongue. Mr. Holmes's axiom made all blindingly clear. If he was not to be

There was again the rapacity of the common-law bar! Oh, it is true that occasionally our poet was to look enviously at his brothers of the long robe; who can forget the plaintive poem, written in a fit of depression, which opens:

Would I were a Serjeant in the Common Pleas,  
Entering demurrers, earning princely fees!?

But, *au fond*, the avarice of the common lawyers was alien to the selfless nature of one who would give his all (and did give his daughter) to a friend.

By contrast with the rude, greedy and perilous life of the *habitués* of Westminster Hall, the advocates of Doctors' Commons qualified themselves by taking the degree of D.C.L., which was even easier to obtain then than it is now, at Oxford (or LL.D. at Cambridge). They were thus educated in Roman Law and its later developments, Roman Law, the perfect jurisprudence whose devotees can unerringly detect the flaws of lesser systems! A discipline, moreover, which required a mastery of the classics, and Crabtree's life-long devotion to the classics is attested by Jones in 1957. The aspirant to advocacy then procured a *fiat* of the Archbishop of Canterbury to the Dean of Arches directing him to admit the candidate as an advocate at a session of his Court: thereafter, the new advocate had to observe a 'year of silence', attending the various civilian courts, before being able himself to practise. We shall see that, in fact, Crabtree never became an advocate, though he did enter the lower branch of the civilian profession as a proctor; but he did in effect observe his year of silence. And, though he could not speak, he could write, and who could make better literary use of his mute observance of the faults of England's system?

There is, indeed, proof. *The Harvard Law Review* for 1957 contains a poem (over the obvious pseudonym, Felix) smuggled across the Atlantic to be lost in the archives of that great dross heap, the Harvard Law Library, until its chance discovery led to its publication. The bold metre and free expression testify to Crabtree's *saeva indignatio* with the hazards of the British mercantile marine, which he silently observed unfolding in his first year in the Commons (Doctors', of course). It is a long poem of which I cite only an extract:

When overloaded ships were wrecked,  
The owners bore the onus;  
But nonetheless they would collect  
A rich insurance bonus,  
As lawyers used what means availed  
To hide in legal tosh  
The fact that, when the vessel sailed,  
Its scuppers were awash.

That poem, gentlemen, unquestionably came into the hands of Samuel Plimsoll, which explains its American publication. Plimsoll, entering Parliament in 1868, procured the passing of the Act to Amend the Merchant Shipping Acts 1876. But the source of his provision, I submit, is manifest in the biting second stanza of the extract. Seeking personal glory, Plimsoll suppressed the English copy of the poem and took to himself the credit that was another's. But you and I, gentlemen, I know, will ever hereafter speak of the Crabtree line!

But the most conclusive evidence of Crabtree's true profession — unblushingly autobiographical and evincing his distaste for practitioners of the common law and equity — is a poem that I have long known and, in my previous ignorance, accepted as anonymous in a legal miscellany of 1830. Initiated into Crabtree studies, I now see, as you will recognise, that the masterly economy of line and translucent, artful simplicity proclaim our poet:

A lusty old grave and greyheaded sire  
Stole to a wench to quench his lust's desire.  
She asked him what profession might he be:  
I am a civil lawyer, girl, quoth he.  
A civil lawyer, sir? You make me muse:  
Your talk is broad for civil men to use.  
If civil lawyers be such bawdy men,  
Oh what, I pray, be other lawyers then?

Granted all this, you may still say, we wish to know how Joseph Crabtree fitted himself for Doctors' Commons.





Lacking the sophisticated company of the capital, he had perforce to seek solace in the untutored earthy enthusiasm of the country maids. Reared in rustic simplicity, seeing daily the processes of animal reproduction, duly respectful of the educated if elderly gentleman whose courteous addresses and seemingly inexhaustible store of sixpences were in pointed contrast with the aggressive directness of the Devon hinds, they usually accepted his advances. But one young woman, doubtless through *ex post facto* panic (it was the year of the Bastard Children Act, 1839; the statute was repealed by the Custody of Infants Act 1873), laid a complaint which brought Crabtree *sub nom.* Crabb before the Devon Assizes at Exeter on a charge of rape. The prosecutrix gave her evidence succinctly: she had occasion to enter the prisoner's garden and he had come out of his house and committed the offence alleged. In those days, prisoners were undefended, the theory being that the judge was prisoner's counsel. On the enquiry of Maule, J., Crabtree indicated that he did have questions to put to the girl and, through the judge, conducted the following cross-examination (which shows how skilled a common lawyer he could have been): 'Had you been in my garden before?', 'Yes.'; 'Did you take my beansticks?', 'Yes.'; 'Did I tell you what I would do if you came and took my beansticks again?', 'Yes.'; 'Did you come into my garden again?', 'Yes.'; 'Did you take some beansticks?', 'Yes.'; 'Did I do what I said I would do?', 'Yes.'; 'No more questions, My Lord.' Without leaving the box, the jury of yeomen re'

Crabtree's heart was bought and full At, ven if possib undesrvngly, he had beaten the common law