

Harcourt Fenton Mudd

Jack English

Peter Snow was a large, round, middle aged man with thinning hair, a walrus mustache, and a big smile. He was also a conman, forger, and swindler. He did not think his birth name, Peter Snow, was rascally enough, so some years back he had it changed to Harcourt Fenton Mudd. Harcourt Fenton Mudd was a conman, forger, and swindler from the original *Star Trek* series. He was also Peter Snow's hero.

Jack English got a call.

"Jack, boy, it is me, Harry."

"Harry who?"

"Harry Mudd... Harcourt Fenton Mudd, who do you think? I need a lawyer."

"What did you do, Harry?"

"Do?" His voice slid up an octave. "I didn't do anything!"

"Then why do you need a lawyer?"

"I... well... there has been a misunderstanding about an objet d'art I was selling and well..."

"Have you been arrested?"

"Yes."

"Where are you?"

"Camden County jail."

"I am an Atlantic City lawyer, Harry. Find someone in Camden County to represent you. Do you want a recommendation?"

"No, Jack. I want you. You are the only one who understands me."

"You mean I am the only one who will put up with your BS."

"Come on Jack, old buddy, old pal. I will make it worth your while. I will pay you double."

"Twice nothing is nothing, Harry."

"I will pay you cash in advance."

"How, if you are in jail?"

"I don't suppose you will take a check."

“Cash, in my world, is real folding money.”

“I have \$5,000 in my loft. It is in the bottom of a raisin bran cereal box, over the sink. You can pick it up on the way here. Just get me out of here! This place is crawling with criminals.”

“Like you, Harry?”

“I am not a criminal. I am an artist.”

Jack English had been to Harry Mudd’s place before. Calling it a loft was a stretch. It was the second floor of an old industrial building. The first floor had been made over into a cafeteria. Bus tours sometimes stopped there going to, or coming from, Atlantic City; low budget bus tours. Wooden stairs ran up the outside of the building to a small landing and Harry’s loft.

“How do I get into your place?” English asked.

“There is a key under the flowerpot.”

“That is, it?”

“There are four flowerpots with plants in them and there is a key under everyone. None of those keys will work. There is also a stack of unused flowerpots on the landing by the door. The real key is in the bottom of the bottom pot, if that any makes sense.”

“It makes Harry Mudd sense. It is a long drive up from Atlantic City, Harry, so it will take me an hour and a half, maybe two hours to get there. So, keep your pants on and do not speak to anyone.”

English arrived at Harry’s loft, found the key, and then looked for his retainer. There were four boxes of raisin bran cereal in the cabinet over the kitchen sink. Two were unopened. He pulled down the two that were open and looked into them. They were both full of cereal but one was slightly heavier than the other. He pulled the cereal-filled bag out of the heavier box and found \$5,000 in the bottom. “Leave it to Harry,” English mumbled to himself.

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Jack English was primarily a personal injury lawyer, but he also had a small criminal practice. He had been to the Atlantic County jail dozens of times and knew the staff by name. He had only been to the Camden County jail two or three times so it took a while to navigate his way to his client. Finally, they put him in closet-sized room with a desk. Harry Mudd sat across from him.

“Alright, Harry. What is this all about?”

“Like I said, it was a misunderstanding.”

“About what?”

“An objet d'art I was selling.”

English rolled his hand in the air urging Mudd to get on with the story. There was always a story when Mudd was in the mix.

“I asked Haddonfield Galleries to sell a painting.”

“What kind of painting?”

“A painting I bought at an estate sale.”

“And...” English kept rolling his hand in the air.

“It was a landscape, 30 inches by 40 inches, painted by Lester Stillman in about 1917. It was beautiful.”

“This is not one of your hand painted forgeries, is it?”

“No. I have the receipt for it.”

“So, who charged you with what?”

“Ambrose Merriweather, the gallery’s owner accused me of something. I do not quite know what.”

“Unless he bought the painting, why would he care?”

“He bought it.”

“How much?”

“\$60,000.”

“Is Stillman a famous artist or something?”

“Honestly, I never heard of him,” Mudd said.

“How much did you pay for the painting?”

“\$2,000.”

“Did Merriweather know you only paid \$2,000 for the painting?”

“Yes. I showed him the receipt. It was part of the provenance.”

“And he still paid you \$60,000 knowing that you only paid \$2,000 for it. Did he know something about the artist or the painting that you did not?”

“No,” Mudd said in a high whiny voice.

English leaned across the desk, “Tell me what happened, Harry.”

“I took the painting to Ambrose and asked him to sell it for \$100,000 and to put it in his shop window.”

“What did he say?”

“He said it was only worth a few thousand at most, but then I reminded him of two things that changed his mind.”

“What?” English asked.

“First, art is worth what someone will pay for it; and second, he was getting a 40% commission.”

“What did he say to that?”

“He agreed to try to sell it for 30 days and if it didn’t sell, I would have to come and collect it.”

“But Merriweather bought it himself,” English said.

“Yes.”

“And now he is accusing you of fraud.”

“Yes.”

“What aren’t you telling me, Harry?”

“Well, you know, Jack, I like a good joke as well as the next man.”

“What did you do, Harry?”

“You know that draft Declaration of Independence I did some months back?”

“The one you carefully scrawled out in what could pass for Thomas Jefferson’s handwriting?”

“That is the one!” Mudd pointed at English, a big grin on his face. “I also scribbled out a bill of sale that looked like it was from Jefferson’s grandson discussing the draft, and I wrote another bill of sale from somebody else. You know, it just occurred to me that a naive person could take those bills of sale for provenance. Maybe that is why Merriweather took my little art project for the genuine article.”

“So, you forged a Thomas Jefferson document and a whole lot of other documents to boot!”

“I didn’t forge anything.” Mudd wiggled his finger in English’s face. “I did a creative interpretation of what some historical documents might have looked like. It was art! Nothing more and nothing less.”

“What does all that have to do with the painting, Harry?”

“I might have temporarily stuffed my little art project in the back of the painting... just for safe keeping, you understand. And well, Ambrose might have found it, and well...” Mudd spread his hands wide and grinned.

“Harry,” English leaned across the table toward his client. “Did you at any time represent those writings to be from Thomas Jefferson or his heirs?”

“Not me, Jack boy!” Mudd folded his hands in front of him. “That would be dishonest. I am just a humble merchant.”

“Then how did he find them?”

“He probably found them when he reframed the painting.”

“Reframed? Why would he reframe the painting?”

“There was a fist size ding in the frame. It was awful.”

“Was there a ding in the frame when you bought the painting?”

“Well... no. It was in perfect condition. What is your point?”

“You baited Ambrose into reframing the painting by messing up the frame. And you knew that when he took the painting apart to reframe it, he would find the draft Declaration of Independence and the letters of provenance.”

Mudd said nothing, he just folded his hands and grinned.

“I spoke to the county prosecutor. There is a preliminary hearing after lunch. If I can quash the charge, I can get you out, but if I cannot, I will try to get you released on bail. What do you want me to do?”

“Squash it.”

“You mean, quash it.”

“Whatever. Just get me out of here. The food is awful.”

~

The Camden County Jail, and the Camden County Courthouse, were four blocks from the Rutgers University campus where Jack English went to school. His diploma said he majored in history, but he really majored in fraternity parties. He walked past his frat house on Cooper Street. It had not changed much.

After graduating from Rutgers and finding there were no jobs for history majors, English did a tour in the army. Afterward, he returned to Rutgers and used his veteran's benefits to go to law school. Then he opened an office in his home town, Atlantic City. Most of his clients were simple, hard-working folks injured in auto accidents or at work. But occasionally, he ran into a character like Harcourt Fenton Mudd.

Jack English walked to the student center and grabbed lunch. When leaving, he met one of his old professors, Dr. Martin Bruce."

"Dr. Bruce," English said, "How are you?"

Bruce stared at him for a moment and said, "Jack English, right?"

"Yes, sir."

"How are you doing? I always wondered what happened to you. You were not my brightest student, but you were very entertaining."

"I am afraid, professor, that after college, my life went all the way downhill."

"Really?"

"Yes. I am a lawyer now."

"I cannot imagine you in a courtroom," Bruce said.

"I am in court this afternoon."

"What kind of case?"

"My client tried to sell a fake draft of the Declaration of Independence."

"That takes a lot of balls. Who is your client?"

"Harcourt Fenton Mudd."

"Why do I know that name?" Bruce asked.

"He was a rogue, conman, and swindler on the old *Star Trek* series."

"You mean your client modeled himself on Mudd?"

"Handlebar mustache and everything."

"Are you going to get him off?"

"I do not know. Want to watch?"

"Why not? It beats grading term papers."

Dr. Bruce followed English to the courthouse and they waited for Mudd's case to be called.

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"*The People versus Harcourt Fenton Mudd*," the clerk read.

"Daryl Digby for the People," a slender young man stood briefly, and then sat.

"Jack English," he stood, "for the defense."

“Where do I know you from, Mr. English?” the judge asked. “Have you appeared in my courtroom before?”

“No, Your Honor.”

“Alright, let’s get on with it.” The judge waved Digby to his feet. “What do the People have to say?”

“The People are charging Mr. Mudd with forgery, fraud, theft by deception, bank fraud, wire fraud and three counts of identity theft. The People have, “Exhibits A thorough E,” supporting its allegations.”

Mudd put a hand on his chest and silently mouthed the word, “me?”

“You make Mr. Mudd sound like a one-man crime wave,” the judge said. “Mr. Mudd, how do you plead?”

“Stand up,” English whispered to Mudd.

Mudd stood, put one hand on his chest, raised the other hand high in the air and in a booming voice said, “Not guilty!”

“I can see this is going to be a long afternoon. Have a seat, Mr. Mudd.” The judge turned toward the prosecutor. “What are the facts, Mr. Digby?”

Digby stood with his hand held out in Mudd’s direction. “Mr. Mudd tried to sell a knock off draft of the Declaration of Independence and supporting letters of provenance to one Ambrose Merriweather, proprietor of Haddonfield Galleries for \$60,000. People’s “Exhibit A” is the forged draft of the Declaration of Independence. Peoples’ “Exhibits B, C, and D,” purport to provide provenance to the knock off draft of the Declaration of Independence. “Exhibit E” is a certified copy of the wire transfer of \$60,000 to Mr. Mudd’s account.

“Mr. Mudd asked Mr. Merriweather to sell a Lester Stillman painting for him. The sale of the Stillman was just a stalking horse for a giant con job, a swindle, an attempt to defraud my client... I mean an attempt to defraud a respected member of the business community. The People request that Mr. Mudd be bound over for trial on one count each of forgery, fraud, theft by deception, bank fraud, wire fraud and three counts of identity theft.”

“Are you sure you are not overcharging this man?” the judge asked.

“No, Your Honor. Not at all.”

“Let us take these charges one at a time. What is the basis for your bank fraud charge?”

“Mr. Meriweather wired money from his bank to Mr. Mudd’s bank.”

“And which of those two banks was defrauded? Was it Mr. Merriweather’s bank or Mr. Mudd’s bank.?”

“Well, neither, but banks were involved.”

“Mr. Digby, is it your contention that mere use of a bank at any time during an alleged crime constitutes bank fraud? So, for example, if a person purchased a ski

mask using a check, before robbing a gas station, would that constitute bank fraud?"

"Well... I do not know. Maybe. Probably. Sure, why not?"

"Are there any other allegations that support a charge of bank fraud?"

"No, Your Honor."

"Very well, the bank fraud count is stricken with prejudice," the judge scribbled a note. "What supports your charge of wire fraud?"

"Money was wired from one bank to another." Digby said.

"Did Mr. Mudd use radio, TV or the Internet in the commission of this alleged crime?"

"Well, no but..."

"I am afraid mere use of electronic funds transfer, absent anything else, is not grounds for a wire fraud charge. You see how this works, Mr. Digby? I want to get down to the essence of the People's case. The wire fraud charge is dismissed with prejudice. What about the three identity theft charges? Whose identity was stolen and what injury or injuries were suffered?"

"The identities of Frances Wayles Eppes, Lillian Bell Brack Fennell, and John Carpenter were stolen."

"Are they in court?" the judge asked.

"No, Your Honor."

"Why not?"

"They are dead."

The judge leaned forward, "Did Mr. Mudd have anything to do with their deaths?"

"No, Your Honor. Mr. Epps died in 1881, Ms. Fennell died in 1928 and Mr. Carpenter is believed to have died in about 1985."

"Can you explain to this court how Mr. Mudd stole the identities of people who died decades ago?"

"He used their names and identities to establish provenance for a forged Declaration of Independence."

"Would the People like to tell me how these writings injured Mr. Eppes, Ms. Fennell, or Mr. Carpenter? Isn't some kind of injury to the individual whose identity was stolen an implied element of identity theft?"

"Well, I don't know."

"Mr. Digby, I am not going to let you throw a lot of stuff in the air at trial and hope a jury will knit it together into a guilty verdict. I intend to prune the People's case down to its essentials. The identity theft charges are hereby dismissed with prejudice," the judge said. "Now, let us get to the meat of the issue. Is it the People's contention that Mr. Merriweather relied on these documents to his detriment?"

“Yes, Your Honor.”

“When you said the defendant committed forgery, fraud, and theft by deception, what the People are really alleging is one count of fraud. Is that correct?”

“I suppose,”

“I suppose what?” the judge glowered at Digby.

“I suppose, Your Honor.”

“Then put Mr. Merriweather on the stand and let’s hear it from him.”

Merriweather took the stand and was sworn in.

Digby walked from the prosecution table to the witness stand. “Mr. Merriweather, can you identify People’s Exhibit A?”

“Yes. It is supposed to be a draft of the Declaration of Independence.”

“Is it?” Digby asked.

“No.”

“How do you know?”

“I took it to the Library Company of Philadelphia for appraisal.”

“And who are they?” Digby asked.”

“They are an independent research library concentrating on American documents from the 17th through the 19th centuries,” Merriweather said.

“And what did they tell you?”

“They said the draft Declaration of Independence and the letters of provenance were complete fakes.”

“Did you know the Declaration of Independence was a fake when you bought it?” Digby asked.

“No.”

“Why not?” Digby asked. “What made you think it was genuine?”

“The documents that came with the Declaration of Independence seemed to provide it with the requisite provenance.”

“Please describe the documents you relied on for the court reporter and read them aloud to the court,” Digby said.

Merriweather said, “This first document, labeled Exhibit B is a handwritten Bill of Sale and Document Deed signed by Mr. Eppes.” He read it to the court.

Bill of Sale & Document Deed

I, Francis Wayles Eppes, born September 20, 1801 in Albemarle, Virginia, United States, am the son of Mary Eppes, nee Mary Jefferson, Born August 1, 1778 at Monticello, in Albemarle, Virginia, United States, and I am the grandson of former President of the United States, Thomas Jefferson.

On my 21st birthday, September 20, 1822, my grandfather presented me with a folio of historical documents among which was a draft of the Declaration of Independence. He sent a copy of this draft to Benjamin Franklin for review and comment.

This Bill of Sale and Document Deed is hereby conveyed to Mr. William Jackson Brack, the first mayor of Orlando, Florida for the sum of \$100 in gold.

Frances Wayles Eppes
December 5, 1875

Merriweather looked at the judge, “Should I read the next one?”

“Let’s get them all in the record,” the judge waved his hand in Merriweather’s direction.

“The next one,” Merriweather said, “labeled Exhibit C, is a typed Bill of Sale signed by Ms. Fennell.” He read it.

Bill of Sale

I, Lillian Bell Brack Fennell of Narcoossee, Osceola County, Florida, do hereby transfer and sell a draft of the Declaration of Independence in Thomas Jefferson’s own hand to Mr. John Carpenter of Philadelphia, Pennsylvania for the sum of \$500.

The document was left to me by my father, William Jackson Brack, first mayor of Orlando, Florida. He acquired it from Frances Wayles Eppes, grandson of the late President Thomas Jefferson via a Bill of Sale & Document Deed dated December 5, 1875.

Lillian Bell Brack Fennell
June 5, 1927

“The next one, labeled Exhibit D, is assumed to be from John Carpenter to his son. It is a handwritten note.” He read it.

Jim,
1927

June 5,

I bought some historical documents you might be interested in.

They are old and dry and I was worried that I might damage them by folding them up and putting them in the safe. To keep them flat, I put them behind the Stillman landscape in the south parlor.

Dad

“Mr. Merriweather,” Digby asked, “once you were assured the draft Declaration of Independence was genuine by these letters, what did you do?”

“I offered Mr. Mudd \$60,000.”

“Did he accept?”

“Yes.”

“Did you actually pay him the money?”

“Yes. Exhibit E is a certified copy of the wire transfer.”

“You may step down, Mr. Merriweather,” Digby said.

Merriweather returned to his seat.

“Do the People have anything else, Mr. Digby?”

“No, Your Honor. That ought to be enough to have Mr. Mudd bound over for trial.”

“I will be the judge of that, if you don’t mind,” the judge said. “Mr. English, what have you got to say to the People’s allegations?”

English stood. “Your Honor, sketching a famous work of art is not a crime. Copying or replicating historical documents is not a crime. It only becomes a crime when someone attempts to sell them as original works. At no time did my client, Harcourt Fenton Mudd, attempt to sell Mr. Merriweather an alleged copy of the Declaration of Independence or ancillary letters. His only contact with Mr. Merriweather was for the sale of a landscape painting by Lester Stillman.”

“Mr. Digby,” the judge asked, “Is this painting in court?”

“No, Your Honor,” Digby stood. “The people did not think it was necessary.”

Mudd whispered to English.

“Your Honor,” English said, “There is a picture of the painting on Mr. Mudd’s phone. Unfortunately, that phone was confiscated when he was arrested.”

The judge turned to the clerk. “Do you have Mr. Mudd’s phone?”

“Yes, Your Honor.”

“Please return it to him. Mr. English please have your client find the picture of this painting.”

English took the phone from the clerk, and handed it to Mudd who found the painting.

“May I approach, Your Honor?” English asked.

The judge waved him forward. English handed the phone to the judge who showed it to Digby.

“Mr. English,” the judge asked, “does your client have a bill of Sale for the Stillman, something that shows Mr. Merriweather’s willingness to purchase the Stillman for \$60,000?”

Mudd whispered something to English.

“Your Honor, I believe Mr. Mudd has something in his wallet. Said wallet was seized when he was arrested.”

“Bailiff, please return Mr. Mudd’s wallet and other personal effects to him.”

The bailiff walked them over to Mudd.

Mudd looked through his wallet and fished out an email. It said:

Harry,

I have not been able to find a buyer for the Stillman landscape.

However, I will buy it for \$60,000 which is your \$100,000 asking price less my 40% commission of \$40,000.

I can wire the money directly to your bank account.

Ambrose Merriweather

Mudd handed the email and another note to English. “You might be able to use this,” Mudd said.

“May I approach, Your Honor?” English held the email out toward the judge.

The judge motioned him forward, took the email, read it, then handed it to Digby who looked at it and handed it back to the judge who returned it to English.

“Mark this as defense Exhibit A,” the judge said. “You may continue, Mr. English,”

“I would like to recall Mr. Merriweather to the stand.”

Merriweather returned to the witness stand.

“You are still under oath,” the judge reminded him.

“Mr. Merriweather,” English asked, “did Mr. Mudd at any time tell you that Thomas Jefferson wrote the draft Declaration of Independence in question?”

“Yes!” Digby grinned. “He claimed it through the alleged letters of provenance!”

“Now we are getting somewhere,” the judge said.

“Did Mr. Mudd ever say to you, out loud, that he wanted to sell you the documents in question?”

“No, not in so many words.”

“Object!” Digby stood. “Actions speak louder than words.”

“Overruled,” the judge said. “You cannot object to your own witness’s testimony.”

“Your Honor,” English continued, “Mr. Merriweather agrees with my client that he never discussed the documents in question. As you saw from Merriweather’s email offering to purchase the painting for \$60,000, the purported draft Declaration of Independence and supporting letters were never mentioned and were not part of the transaction.”

Then the judge asked, “If your client did not sell these documents to Mr. Merriweather, how did he get them?”

“May I?” English extended his hand toward Merriweather.

“Get on with it, Mr. English,” the judge said.

“Mr. Merriweather, how did you get the documents in question?”

“Mr. Mudd brought in the Stillman and asked that I sell it for \$100,000. I told him that it was only worth two or three thousand dollars, but he insisted. He also asked that I put it in my front window. The painting was in good condition, but there was a big ding in the frame, like it was hit with something heavy. So, I figured if there was any chance of selling it for anywhere near Mr. Mudd’s asking price, I would have to reframe it. When I took it apart to reframe it, I found several documents stuffed in the back.”

“What did Mr. Mudd say when you told him about the documents you found?”

“Nothing.”

“You mean you said, Mr. Mudd, guess what? I found a bunch of documents stuffed in the back of your painting. What should I do with them? Should I toss them? Do you want them back? What? And Mr. Mudd said nothing?”

“I never spoke to him about the documents,” Merriweather said.

“Why?” English asked.

“I assumed he knew about them.”

“Assumed? You know what the word assume stands for don’t you?”

“Don’t go there, Mr. English,” the judge shook his finger at him.

“Mr. Merriweather, do you have any idea what a draft of the Declaration of Independence would be worth, assuming it was genuine?”

“I do not know. A lot, I guess. But it is not genuine.”

“Your Honor,” English said, “a Rutgers University history professor happens to be in the courtroom. Would the court be interested in his opinion as to the worth of a genuine draft Declaration of Independence?”

“Who is it?”

“Professor Martin Bruce, Ph.D.”

“Professor Bruce,” the judge asked. “Is the value of a draft Declaration of Independence something you feel comfortable testifying to?”

“Your Honor,” Bruce stood, “I can testify as to what the first printed copy of the Declaration of Independence sold for, if that would help.”

“Mr. Merriweather, please step down. Professor Bruce please take the stand and be sworn.”

He stepped up and was sworn.

“Professor Bruce, what can you tell us about the value of a Declaration of Independence?”

“The highest value put on the Declaration of Independence was for a copy printed on July 4th or 5th 1776 by John Dunlap. One of the indicia of authenticity is that not all the signers are listed.”

“And what was that printed copy worth?”

“The last one I know of sold at auction in 2000 for \$8 million.”

“In your opinion, Dr. Bruce, would a handwritten draft be worth more or less than that figure?”

“It is hard to know for sure, but it might be worth as much or more than a printed copy because it sheds light on what the founding fathers were thinking leading up to the final Declaration of Independence. Of course, it might be worth less.”

“How much less?”

“Maybe half,” Bruce said. “It is hard to say.”

“So, to sum up,” the judge said, “a genuine draft of the Declaration of Independence might be worth as much as \$8 million or as little as \$4 million.”

“All I can say, Your Honor,” Professor Bruce said, “is that those values are not inconsistent with the value of similar documents.”

“Professor Bruce, is the defendant paying you for your expert opinion?”

“No, Your Honor, he is not.”

“That does not quite seem fair. Mr. English, since the professor testified in your client’s behalf, I think you ought to compensate him.”

“Yes, Your Honor.”

“I hereby order defendant Harcourt Fenton Mudd to pay Professor Martin Bruce the sum of \$1,000 within ten days for his expert testimony in this matter.”

“What?” Mudd spring to his feet. “Now hold on there, laddy buck! I never...”

English waved him back down into his seat and said, “Shut up Harry. You are winning.”

“Your Honor,” English said, “I will make sure Mr. Mudd pays the professor. May I continue my examination of Mr. Merriweather?”

“Professor Bruce, you may step down,” the judge said. “Mr. Merriweather, please retake the stand.

Jack English stepped up to the rail of the witness stand and placed his finger tips on it. “Mr. Merriweather, you were telling the court how you received the painting and that you were reframing it when you discovered the documents in question. Is that right?”

“Yes.”

“Your agreement with Mr. Mudd was to sell the Stillman, right?”

“Yes, I already told you that.”

“Did Mr. Mudd at any time ask you to sell the documents you found in the back of the painting?”

“No, but...”

English cut him off, “So, you intended to reframe the painting and send the documents you found back to Mr. Mudd. Is that correct?”

“I...” Merriweather looked at the prosecutor.

Digby spread his hands and shrugged in response.

“What was the question again?” Merriweather asked.

“You intended to return the documents in question to Mr. Mudd. Didn’t you?”

“Yes.”

“So, you agree that the documents were in no way part of the sale between you and my client.”

“Well, no, not exactly. I mean... I figured if I bought the Stillman, I was entitled to whatever came with it.”

“Your Honor, I have here a handwritten note on Haddonfield Galleries stationary that I would like to move into evidence as defense Exhibit B.”

“Let me see it,” the judge held out his hand.

English gave it to him.

The judge showed it to Digby, who read it, then handed it back to English.

English handed the note to Merriweather, “Please read this note.”

Merriweather read it:

“This is a contract to sell a Lester Stillman landscape circa 1917 for \$100,000 or the best price possible in 30 days. I agree to put it into my store window for that amount of time. I acknowledge the seller Harcourt Fenton Mudd paid \$2,000 for this painting at an estate sale. My commission is 40% of the sale price.”

The note was signed by me.” Merriweather said.

“Is there anything in this note that authorizes you to sell any of Mr. Mudd’s other property or documents?”

“No.”

“Did my client ever offer to sell you those documents.”

“Well, no, not as such,” Merriweather said.

Digby was on his feet. “Object, Your Honor. Mr. English is trying to make out my... I mean Mr. Merriweather is the villain here.”

“Overruled.”

“Mr. English, do you have anymore questions for this witness?”

“No, Your Honor.”

“Mr. Merriweather,” the judge said. “I have a couple of questions.”

“Yes, Your Honor,” Merriweather said.

“Mr. Merriweather, you said in earlier testimony that you thought the Stillman was only worth a few thousand dollars, yet, you paid Mr. Mudd \$60,000. Why?”

“Because I found...” Merriweather glanced at the prosecutor who looked down, scribbled on his notepad, and pretended not to hear.

“I mean,” Merriweather continued, “the painting grew on me as I worked with it.”

“Thank you, Mr. Merriweather. Mr. Digby, do the People have anything else to say?”

“Yes, Your Honor. The key element in forgery is a state of mind. If Mr. Mudd intended to mislead my client... I mean if Mr. Mudd intended to mislead the victim, he should be held accountable even if he said nothing.”

“Quite right, Mr. Digby. What evidence do the People have as to Mr. Mudd’s state of mind?”

“Well, isn’t it obvious?”

“No, it is not,” the judge said. “Unless the People offer evidence as to Mr. Mudd’s state of mind, the jury is left to speculate about what he was thinking. A jury’s job is to evaluate the truthfulness of evidence, not to speculate about what someone might or might not be thinking.”

“But Your Honor...” Digby whined.

“Mr. Digby, do the People have anything else to say?”

“No, Your Honor.”

“Do you have anything else to say, Mr. English before I make my ruling?”

“No, Your Honor. A good defense lawyer knows when to stop talking.”

“I would like to call Mr. Mudd to the stand and ask him whether this was a set up to con Mr. Ambrose Merriweather out of \$60,000 but I cannot.”

“I find myself in an uncomfortable position,” the judge continued. “I know how I would like to rule, but I am constrained to base my decision on the rubble in the record. The question before the court seems to be whether Mr. Mudd tried to con

Mr. Merriweather out of \$60,000 for a \$2,000 painting or whether Mr. Merriweather tried to cheat Mr. Mudd by surreptitiously keeping a document which could arguably be valued at between \$4 million and \$8 million, if genuine. It would be amusing for the People to try both cases together and see how a jury would untangle that knot. But courts are not in the business of testing amusing questions or deciding who is the bigger crook. Mr. Mudd, please stand.”

“Mr. Mudd,” the judge said, “if a jury finds you guilty of fraud, you could be sentenced to five to ten years in prison and a fine of up to \$150,000. Do you understand?”

“Yes, your Lordship.” Mudd said.

The judge grimaced at use of the word lordship rather than his accepted title Your Honor.

“Based on the record,” the judge said, “I have no option but to find that:

“One, defendant, Harcourt Fenton Mudd fully disclosed the fact that he only paid \$2,000 for the Lester Stillman landscape, circa 1917.

“Two, defendant Harcourt Fenton Mudd had a binding contract with Ambrose Merriweather of Haddonfield Galleries to sell the painting for \$100,000, if possible and the commission on said painting was to be 40%.

“Three, at no time did Harcourt Fenton Mudd, mention or try to sell any documents purporting to be a draft of the Declaration of Independence or documents attesting to its provenance.

“Four, Ambrose Merriweather of Haddonfield Galleries entered a valid and binding contract to buy said Stillman painting from Harcourt Fenton Mudd for \$60,000. Since the contract for sale does not mention the documents in question, there can be no question but that Mr. Merriweather got exactly what he bargained for, a Lester Stillman landscape circa 1917.

“The People’s case against Mr. Mudd is hereby dismissed with prejudice. Would counsel please approach the bench.

The judge put his hand over the microphone. “Gentlemen, let me tell you, I do not like this business one damned bit. I agree with the People that it is very likely that Mr. Mudd intended to con Mr. Merriweather from the jump. However, there just is not enough evidence in the record to bind Mr. Mudd over for trial. It is equally likely that the complainant, Mr. Merriweather, tried to swindle Mr. Mudd out of the benefit of the documents found in the back of the Stillman. Dishonest art dealers, like dishonest stock brokers should be held accountable. So, neither party to this transaction is pristine.

“Mr. English, I remember where I heard your name. You are an Atlantic City lawyer, right?”

“Yes, Your Honor.”

“And you had something to do with our former governor getting locked up, didn’t you?”

“Well... I might have played a small role.”

“I would appreciate it if both you and your client stayed out of Camden County in the future. Do you feel me?”

“Yes, Your Honor.”

“Now, get out of here before I change my mind and have both Mudd and Merriweather bound over for trial.”

~

Mudd and English gathered their things and quick marched out of the courthouse. Professor Bruce followed them.

Ounce outside the courthouse, Jack English grabbed Harry Mudd’s arm. “When you set up this con, Harry, what were you thinking?”

“I was thinking that you cannot cheat an honest man.”

THE END

More Jack English short stories are available at: <https://www.jackenglishstories.com/short-stories>. Jack English Novels are available at: <https://www.jackenglishstories.com/gallery>