

A Case With A Lady In It
by Judge Clark

I had just taken possession of the worst room in Diggs' tavern—I was a young lawyer on my first circuit, and Diggs kept his best accommodations for the old stagers—when the words, “I say, Bill,” and Tom Mansfield burst upon me at the same instant .

Tom and I had been cronies from the time we had committed our first juvenile trespass on Deacon Roxley's water melon patch, till we afterwards studied the action of that name together in Judge Thompson's office.

“I say, Bill, I've got a case, and want your assistance in it.”

“Ah!” said I, in a consulting tone.

“A will case,” he continued, “full of the nicest kind of points, and the prettiest woman in the world for a client!”

“What about fees?” I inquired, by way of keeping up professional appearances.

“Hear the mercenary wretch!” he exclaimed. “If we succeed, there'll be plenty of money; if we don't, it will be a noble cause to fail in.”

“That's what they said of the dashing young chap that broke his neck trying to make 2.40 time with the chariot of the sun, but it didn't mend his neck.”

“Confound your mythology; business is business. Let me state the case.”

“Well, state away.”

This was it:

John Andrews had settled in the country when it was young. He had grown with its growth, and was the proprietor of half a dozen farms, and one fair daughter, the which he loved passing well.

His wife, the partner of the earliest and severest portion of his struggles, had died many years before, and his daughter had become mistress of his house while yet a child.

As Effie increased in years, her father prospered; and when at length he found himself the possessor of wealth, the ambition, so common under such circumstances, of elevating his daughter to a station in life above that in which she had been reared became a ruling passion. The first thing was to buy her a splendid education; and like other not over good judges of the article, he was governed in his choice more by the gaudiness of the coloring than by any quality of the texture.

At the end of the usual period, Effie was sent home “finished”—that is, in every respect in which

she could be totally spoiled. In one thing only she remained the same— love for her father had defied even the power of fashionable education.

A house was purchased in town, of which Effie was made the mistress, and at which Mr. Beldon, a young gentleman of city antecedents, and far too nice to have anything so vulgar as a visible calling, became a frequent and not unwelcome visitor. He had just brains enough to think of providing for the future by a scheme of which Miss Andrews, and her appurtenances, constituted the central feature. Accordingly, he sighed and lied, and fawned and flattered, till Effie's foolish little heart relented.

But one difficulty remained to be encountered. How to conciliate the rough old backwoodsman—there was the rub. He had permitted his daughter to amuse herself with the young dandy, much as he would have allowed her to, play with a monkey or poodle. But could he have brought himself to tolerate the idea of her marrying anybody, yet awhile—for the possibility of such a remote, future contingency may have occasionally suggested itself—Horace Beldon was about the last person on earth, in connection with whom it would have been entertained.

When that gentleman; therefore, reported at headquarters, and implored the paternal sanction of his suit, he received no such thing; on the contrary, quite the reverse. Indeed, he only escaped being kicked out of doors by a speedy voluntary departure.

When Effie tried to talk her father over, for the first time in his life, he flew in a passion with her, and she dared not renew the subject.

But Love, the little pagan, pays no respect to the fifth commandment. The officious interference of friends and guardians only renders him the more impatient and unruly; and the present instance was no exception. Clandestine interviews were arranged; accidental meetings took place at the houses of mutual friends, till the whole ended in the gentleman proposing an elopement.

Effie, after protesting that she couldn't possibly think of such a thing, and after many vain attempts to conjecture what people would say, at last with graceful hesitancy consented.

Rage, frenzy, despair, are weak words to describe the emotion of John Andrews, when he found that his house had been robbed of its most chief treasure. His first impulse was pursuit. It was night when he set out, accompanied by a trusty Scotchman, long in his employ and confidence. As the two galloped along, Mr. Andrews' horse stumbled, precipitating his rider to the ground, and falling heavily upon him. He was taken up insensible, and carried to the nearest house. A physician was summoned, who pronounced the injuries of a most serious, but not necessarily fatal character.

As soon as consciousness returned, he dispatched a messenger for a nephew of his, a lawyer of not very good repute, residing in a neighboring town.

When Mr. Jackson, the nephew, arrived, he was left alone with his uncle, at the latter's request. At the end of an hour the doctor was summoned, and requested by Mr. Andrews to note his

signature to paper, to which he then affixed his name, declaring it to be his will, and asking the doctor to subscribe it as a witness, which was done.

On his nephew's suggestion that another witness was requisite, Mr. Andrews named Macpherson, the Scotchman, and requested the doctor to send him in.

Macpherson, it seems, had been sent on some errand; but as soon as he returned, the doctor communicated Mr. Andrews' message, and went himself to attend a sick call in the neighborhood, not deeming his presence there immediately necessary.

When he came back, he was astonished to find his patient dead. Such a result, had not, indeed, been unanticipated, but its suddenness took him by surprise.

By Mr. Andrews' will, which was published some days after his death, the entire of his property was devised to his nephew, who had attended him in his last moments. Everything was in due form. True, Macpherson, one of the witnesses; pursuant to a previous intention, had sailed to Scotland shortly after the funeral, and was not present before the Judge of Probate. But his hand writing was proved, and the evidence of the remaining witnesses was quite satisfactory. He had seen the testator append his signature, had heard him declare the paper was his will, and was positive that, at the time, he was of sound mind and memory.

Under all the circumstances, one would have thought that the young husband would have been unremitting in tenderness and sympathy towards his sorrowing bride, who had sacrificed so much for his sake. And so he would, had he devotedly loved her, but he did not. The fact is, his whole heart and soul and mind were occupied with a previous attachment—not from another; the farthest possible from that—its object was himself. This affection, which was of the most ardent description, had met with a blighting disappointment in his wife's loss of fortune; and with her unceasing grief and continual self-accusation—she offered no reproaches to him he had but little patience, and soon gave her to understand as much. The man who, a month before, would have been ready to put on mourning had she lost her favorite canary, turned his back upon her in the hour of real affliction.

When at length he was found dead in his bed, one morning, after a night of carousal, the coroner's jury said it was the “act of God”—his blessing you will call it.

Effie's cousin, instead of making any provision for her whose rights he had so outrageously supplanted, left her wholly dependent on others, and had she not found a home in the house of an old and tried friend of her father, she might have gone forth a shelter-less wanderer.

Tom Mansfield, who had casually made the acquaintance of the young widow, became warmly interested in her cause, and guided probably more by sympathy than judgment, had commenced an action to contest the will made under the circumstances just related.

And this was the case in which he wished my assistance.

We sat up nearly all night in consultation. There was a point which we both thought a “beautiful” one, and we devoted our principal efforts to strengthening it.

Ours was the first case on in the morning. Arrayed against us were three of the oldest and ablest practitioners of the circuit. Jackson had plenty of money now, and was himself no fool in “putting up” a case.

I felt a little nervous. It was my first case of any importance. I, too, as well as John Andrews' will, was about to be placed on trial.

My courage revived when our client came in, escorted by Tom, who introduced me as his associate, and handed her to a seat near our table. Pretty as a pink, as she sat facing the jury where Tom had placed her, I felt that our case had another “beautiful point” in it.

Almost immediately the trial began.

The evidence varied but little from that already detailed. The attending physician was very decided in his opinion that the testator, at the time of signing the paper in question, was in the full possession of his mental faculties.

The signature of the absent witness was sworn to by Mr. Jackson himself, who further testified that the deceased, had requested Macpherson to witness the instrument, at the same time declaring it to be his will.

At Tom's instance, I subjected this witness to a searching cross-examination; but he stood fire like a salamander fly. He swore that the testator had not only dictated every line of the will, but had heard it read, and had twice read it over himself, before executing it. I gave him up in despair.

At length the evidence closed, and I rose to present our point.

It was put in the shape of a motion to direct a verdict for the contestant, on the ground that the witnesses had not subscribed in the presence of each other.

I was about to adduce arguments and authorities, when the Judge interposed:

“The rule you claim undoubtedly was the law, but a recent statute has changed it. The witnesses need not now sign in each other's presence.”

A hasty examination proved His Honor was right and our main point was done for.

To our great relief, the court adjourned for dinner. We were to sum up in the afternoon. That task, on our side, was assigned to me, but I felt it was hopeless. I was determined, however, to take what satisfaction I could out of Jackson by abusing him as soundly as the rules of the court

would allow. And, after all, who could tell? The jury might take the bit in their mouth, and give a verdict in spite of the law and the evidence. Responsibility becomes amazingly light when divided by twelve.

On the re-assembling of the court was a little surprised as well as annoyed at Tom's absence. Could it be he was leaving me in the lurch, and staying away to avoid the mortification of our final defeat?

I had just risen to address the jury, when somebody plucked me by the coat,

It was Tom, his eyes fairly gleaming, and his whole frame in a tremor of excitement.

“What's the matter?” I whispered

“MacPherson's here.”

“What! The other witness?”

“Yea, just arrived, not an hour ago?”

“But will it help us to call him?”

“Trust me for that. Put him on the stand at once.”

“What shall I ask him?”

“No matter; you can't go far wrong if you miss anything, I'll prompt you.”

Tom was evidently full of some mystery with which he was bent on taking everybody by surprise, including myself.

In a few words I explained to the court our reasons for wishing to re-open the testimony. Jackson turned pale, and whispered nervously to his counsel, but they shook their heads; our application was one that would be granted, of course.

“Call your witness,” said the Judge.

“Donald MacPherson!” shouted Tom.

The witness, a brawny, honest-faced Scotchman, advanced to the stand, and was sworn.

“Go ahead,” Tom whispered.

“Mr. Macpherson, look at the signature, and tell us if that is yours.”

“It is.”

“Do you know the signature to the right of it?”

“Yes; that's the signature of Mr. Andrews.”

“Did you see him write it?”

“No; but I am well acquainted with his hand.”

“Were you requested to witness that paper?”

“Yes.”

“By whom?”

“By Mr. Jackson.”

“Did Mr. Andrews say anything about it?”

“No; he was dead when I came in.”

There was no cross-examination.

“I submit the case without argument, I said, resuming my seat.

Our senior opponent was one of those lawyers with whom it is a matter of conscience to show fight to the last. In brief speech, he admitted it to be essential that both witnesses should have signed their names before the testator death, but claimed that, in as much as the testimony of Jackson and MacPherson was in direct conflict on this question, it must be left to the jury.

“Certainly,” answered his Honor. But when he had concluded his charge, that wasn't much of Mr. Jackson or his testimony left.

The jury gave us a verdict without leaving the box.

Tom, I am sorry to say, behaved very unhandsomely in the division of the spoils.

Although I was liberally paid, he took the widow and her whole fortune for his share.

As for Jackson, not being quite accommodating as Judas, he didn't go out and hang himself. But at the rate he is going, it will take more law than he knows to keep him much longer out of the penitentiary.

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