

## *A Legal Slip 'Twixt Cup and Lip*

by Judge Clark

Anson Thorndyke, like many another rich man, “died and was buried.”

“What a pity it should end there,” was the pensive reflection of more than one “legal mind,” accustomed to regard a squabble of some sort over a dead man’s money as essential to the repose of his soul, or at least as a mark of decent respect to his memory. But the handsome estate of the deceased bachelor—for such no one doubted him to be—passed so smoothly to his only known relative, an only sister’s only daughter, that there was nothing left for the “legal mind” but to console itself by anticipating that a proceeding so irregular “was not, and it could not come to good.”

There was *one* “legal mind” that went a step beyond. It not only reflected, but resolved: *reflected* that the next best thing to the possession of wealth, was the possession of its possessor; *resolved* to govern itself accordingly.

The owner of this legal mind was Sydney Hopkins, a union of Quirk, Gammon, & Snap in one person, Snap being the person. No sooner had fortune smiled on the fair orphan, than Mr. Hopkins began to smile also. While she had only prospects, he smiled contingently; when the prospects became reality, he smiled unconditionally. Finally he made an unconditional offer of himself, which she as unconditionally rejected. Hopkins plead hard for a dismissal “without prejudice,” but the young lady declared her decision to be “on the merits” and “final.”

“It’s a long lane that has no turn,” said Sydney Hopkins to himself after bowing out of his office, at the end of a lengthened consultation, a dilapidated young man with the look of a prodigal whose “portion of goods” was pretty well used up.

What the “turn” was which Mr. Hopkins had just discovered, or in what “lane” he had discovered it, was as yet a professional secret. Whether or not it had anything to do with a certain “declaration” with this name attached, delivered in due for the next day to Miss Violet Stanley, the young heiress, we must at present leave to the imagination of the reader.

“*Declaration?*” I think I hear you say; “why, I thought *that* business had been concluded between them.” So it had, but *this* was a “*declaration in ejectment*.”

And sorely it puzzled poor Violet. One John Doe, of whom she had never heard, seemed to make bitter complaint of one Richard Roe, of whom she knew quite as little, about some matter utterly incomprehensible, to which her attention, however, was called by a polite little note at the bottom from Mr. Roe to herself. It was evidently some law business, for Mr. Doe’s heart-rending recital was signed by “Sydney Hopkins, Esquire, his Attorney.”

Had her relations with Mr. Hopkins been different, she might have applied to that gentleman for an explanation. As it was, she lost no time in calling on Frank Wilson, a young lawyer, but a

very old friend of hers, to whom she submitted the mysterious document, with the very natural inquiry, "Whatever can be the meaning of it?"

Mr. Wilson was not long in discovering.

"It means, Miss Stanley, that someone calling himself Philip Thorndyke"—a name that had escaped Violet's notice—"claims possession of the whole of your landed estate, and that you have been sued for its recovery."

"But how can that be?" asked Violet, less excited, though not less surprised than the lawyer.

"Your uncle left no other kindred but yourself?" he continued.

"None; at least none so near. My mother was his only sister, and I am her only child."

"There is no will, I believe."

"No; my uncle frequently spoke of that, saying that, as he designed me to succeed to his entire fortune, the law would effect his intention quite as well as a will."

"I need scarcely ask if your uncle was ever married?"

"Why, you know as well as myself, Mr. Wilson, he never was."

Mr. Wilson did know it—at least he *believed* so. But Thorndyke had been much about the world—quite round it and in every quarter of it, in fact—and had accumulated most of his fortune, and spent much of his life in foreign countries. Now, it is a legal maxim, that a fact not *proved* might as well not *exist*; and it *ought* to be, if it *isn't*, another legal maxim, that *a lie well proved is as good as the truth*. That honest old Anson Thorndyke had *not* lived and died a bachelor under false pretenses, and that he had left neither wife nor child in any part of the world, was probably strictly true, but was, from the very nature of things, incapable of proof. On the other hand, the existence of such wife, and not *one*, but a whole *family* of children, without the slightest foundation in fact, might be solemnly sworn to by any number of presumptively honest and credible witnesses, whom there would be no legal excuse for not believing.

Wilson knew all this, and felt by no means as secure in the knowledge, as his young client did in the want of it. It was useless, however, to excite her fears, and he refrained from doing so, allowing her to take her leave fully assured by his promise to give the matter every needed attention.

His first step was to call on Mr. Hopkins, but there was little information to be gained in that quarter. Mr. H. was exceedingly guarded and reticent. It was a little extraordinary, he thought—he put it to Mr. Wilson's own candor if it wasn't—to call on a lawyer to expose his client's case in advance. For the present, it was sufficiently stated in the "declaration," a copy of which Mr. W. had doubtless seen. The nature of his client's title would be disclosed at the proper time.

Suffice it to say, he believed it perfectly good, an opinion, he felt certain, in which Mr. Wilson would himself concur after hearing the evidence.

Wilson went away disheartened. Hopkins was not the man to embark in such a cause hopelessly. There was, besides, an air of quiet confidence about him, evidently not assumed. The character of the attack he contemplated was left wholly to conjecture. If, as was most probable, his client's claim was based on heirship, the alleged facts might be located in any quarter of the globe, and it was impossible to prepare in advance to meet them.

Month after month slipped by, till the day of the trial was at hand. The enemy's plans remained as profound a secret as at first. Phillip Thorndyke, and his witnesses too, were kept as completely in the background as the real or pretended facts themselves.

Frank Wilson entered the court-house on the eventful morning filled with gloomy forebodings. He felt a deep interest in his client as well as her case. I have said they were very old friends. Friendship is not the best word, perhaps, to describe the feeling which had long existed between them; but whatever it might best be called, it had lost nothing in the course of the numerous interviews which circumstances of late had rendered necessary.

The fair young client, as she leaned on the arm of her legal adviser, felt far less trepidation than he. Her confidence in his ability to protect her rights was so implicit, that she felt no solicitude as to the result. And even the loss of her case, she felt, would not leave her inconsolable, for it would remove the impediment of false delicacy arising from the disparity of their fortunes, which, she was certain, had hitherto influenced Frank in withholding an avowal she had long been prepared to hear.

As they passed through the crowd, a slip of paper was thrust into Wilson's hand. "Have the plaintiff's witnesses separated," was written on it in pencil. The propriety of such a course was too obvious to require suggestion. It had already occurred to the young lawyer as about the only piece of strategy to be decided on in advance.

As soon as the jury had been impanelled, Mr. Wilson moved for the separation and exclusion from the court-room of his adversary's witnesses. The order was at once made and carried into effect, Mr. Hopkins expressing, with an air of unabated confidence, his ready acquiescence. It was manifest he felt too secure of either the integrity of the *training* of his witnesses, to entertain any misgivings on *their* account.

The time had at last come for the disclosure which Mr. Hopkins had promised Mr. Wilson in their previous interview. His statement was brief and simple. The plaintiff proposed to prove, by two credible eye-witnesses, the marriage, twenty-five years before, at the city of Buenos Ayres, in South America, of Anson Thorndyke and Eugenia Tibbats. It would be further satisfactorily proven, that the present plaintiff, Phillip Thorndyke, was the sole issue of that marriage, and consequently the true owner of the property in dispute.

Mr. Hopkins took his seat beside his client, none other, I need hardly add, than the dilapidated young man with whom he had held the protracted consultation already mentioned, and directed the bailiff to bring in his first witness.

A good looking individual, of middle age, was conducted to the stand and duly sworn.

Mr. Hopkins rose to examine him. After a few unimportant questions and answers touching name, age, residence, etc., the main subject was broached. The witness fully sustained Mr. Hopkins' statement as to the marriage proposed to be proved. He had been present at it; gave the names of the others who were present, among them that of Jabez Williams; told who was the officiating clergyman; in short, his narrative was full, complete, and circumstantial.

Cross-examination only made matters worse. The witness was either telling the truth, or was too carefully guarded at all points to be in danger of tripping. He stood aside, at the close, with an air of virtuous satisfaction, betokening a consciousness of duty faithfully discharged.

Jabez Williams came next. He was, if anything, more conscientious and respectable looking than his predecessor, whom he corroborated with the most wonderful exactness. In *one* particular only did he vary: the marriage according to him, had taken place in *London!*

Darting a look of fury and amazement at the witness, which the latter seemed wholly at a loss to comprehend, the plaintiff's counsel resumed his seat.

"I think it is hardly necessary to proceed further," suggested the judge.

"I think so too, your honor," Mr. Hopkins replied, with an expression such as Pilate may have worn at the memorable moment of washing his hands.

The jury were briefly instructed, and gave their verdict for the defendant without leaving their seats. Violet felt sure the result was mainly due to the ingenious efforts of her counsel, who had done nothing but cross-examine a single witness, and that without producing the slightest impression.

To Wilson the matter was involved in complete mystery till he heard the explanation of Bob Gill, whom he found awaiting him at his office. Bob was a bright young fellow, who, when poor and friendless, had been assisted by Mr. Thorndyke, as well as encouraged by a kind word from his niece. He felt grateful, of course. And how, on the evening before the trial, he had chanced to overhear a conversation between Philip Thorndyke and his first witness, in which the circumstances which rendered it advisable, in Mr. Hopkins' opinion, to change the scene of the marriage from London to Buenos Ayres, were explained and discussed; and how the first witness was instructed with a letter of instructions to the second, fully explaining the change of programme; and how Bob "made up" with the messenger, overcame him with brandy and water, got away his dispatch and replaced it with another in the words, "Don't vary a syllable," was all explained to Frank Wilson with a minuteness of detail more interesting to him, that I fear it would prove to the reader.

“I hope I haven’t been guilty of robbing the mail, Mr. Wilson,” said Bob, at the close of his narrative.

“If you have, I’ll defend you,” was the answer given with a cordial grasp of the hand.

Violet Wilson—that’s her name now—though fully acknowledging the fidelity and good intentions of Bob Gill, still holds the opinion that the success of her first and only cause is principally to be attributed to the very able manner in which it was conducted by her highly distinguished counsel.

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