

From Graham's Magazine  
*The Young Lawyer's First Case*  
By John Todd

In one of those long, low, one-story unpainted houses which succeeded the log-houses in Vermont as the second generation of human habitations, lay a sick woman. She knew, and all her friends knew, that her days were numbered, and that when she left that room it would be in her winding-sheet for the grave. Yet her face and her spirit were calm, and the tones of her voice, like those of the dying swan, were sweeter than those of life. She had taken an affectionate leave of all her children, in faith and hope, save one—her eldest son—a mother's boy and a mother's pride. By great economy and unwearied industry this son had been sent to college. He was a mild, inoffensive pale-faced one; but the bright eye did not belie the spirit that dwelt in a casket so frail. He had been sent for, but did not reach home till the day before his mother's death. As soon as she knew of his coming, she immediately had him called to her room, and left alone with her. Long and tearful was their conversation. Sweet and tender was this last interview between a mother and son who had never lacked any degree of confidence on either side.

“You know, my son, that it has always been my most earnest wish and prayer that you should be a preacher of the gospel, and thus a benefactor to the souls of men. In choosing the law, you are aware you have greatly disappointed these hopes.”

“I know it, dear mother; and I have done it, not because I like the law so much, but because I dare not undertake a work so sacred as the ministry, conscious as I am that I am not qualified in the mind, or body, or spirit, for the work. If I dared do it, for your sake, if for no other reason, I would do it.”

“In God's time, my dear son, in God's time, I trust you will. I neither urge it, nor blame you. — But promise me now, that you will never undertake any cause that is unjust, and that you will never aid in screening wrong from coming to light and punishment.”

The son said something about every man's having a right to his case presented in the best light he could.

“I know what you mean,” said she; “but I know that if a man has violated the laws of God and man, he has no moral right to be shielded from punishment. If he has confessions and explanations to offer, it is well. But for you to take his side, and for money to shield him from the laws, seems to me no better than if, for money, you concealed him from the officers of justice, under the plea that every man had a right to get clear of the law if he could. But I am weak and cannot talk, my son; and yet if you will give me the solemn promise, it seems as if I should die easier. But you must do as you think best.”

The young man bent over his dying mother, and with much emotion, gave her the solemn promise which she desired. Tender was the last kiss she gave him, warm the thanks which she expressed, and sweet the smile which she wore, and which was left on her countenance after her spirit had gone up to meet the smiles of the Redeemer.

Some months after the death of his mother, the young man left the shadows of the Green Mountains, and toward a more sunny region, in a large and thrifty village, he opened his office; the sign gave his name, and under it, the words "Attorney at Law." There he was found early and late, his office clean and neat, and his few books studied over and over again, but no business. The first fee which he took was for writing a short letter for his black wood-sawyer, and for that he conscientiously charged only a single sixpence!— People spoke well of him, and admired the young man, but still no business came. After waiting till "hope deferred made the heart sick," one bright morning a coarse-looking, knock down sort of a young man was seen making toward the office. How the heart of the young lawyer bounded at the sight of his first client! What success, and cases, and fees danced in the vision in a moment!

"Are you the lawyer?" said the man, hastily taking off his hat.

"Yes, sir, that's my business. What can I do for you?"

"Why, something of a job, I reckon. The fact is I have got into a little trouble, and want a bit of help." And he took out a five dollar bill, and laid it on the table. The young lawyer made no motion toward taking it.

"Why don't you take it?" said he. "I don't call it pay, but to begin with—a kind of wedge—what do you call it?"

"Retention-fee, I presume you mean."

"Just so, and by your taking it, you are my lawyer. So take it."

"Not quite so fast, if you please. State your case, and then I will tell you whether or not I take the retention-fee."

The coarse fellow stared.

"Why, mister, the case is simply this. Last spring I was doing a little business by way of selling meat. So I bought a yoke of oxen of old Major Farnsworth. I was to have them for one hundred dollars."

"Vey well—what became of the oxen?"

"Butchered and sold out, to be sure."

"By you?"

"Yes."

"Well, where's the trouble?"

“Why, they say, that as I only gave my note for them, I need not pay it, and I want you to help me to get clear of it.”

“How do you expect me to do it?”

“Plain as day, man; just say, gentlemen of the jury, this young man was not of age when he gave Maj. Farnsworth the note, and therefore, in law, the note is good for nothing—that’s all!”

“And was it really so!”

“Exactly.”

“How came Major Farnsworth to let you have the oxen?”

“Oh, the godly old man never suspects that I was under age.”

“What did you get for the oxen in selling them out?”

“Why, somewhere between one hundred and thirty-one and one hundred and forty dollars—they were noble fellows!”

“And so you want me to help you cheat that honest old man out of those oxen, simply because the law, this human imperfection, gives you the opportunity to do it! No sir; put up your retention fee. I promised my dying mother never to do such a thing, and I will starve first. And as for you—if I wanted to help you go to the state’s prison, I could take no course so sure as to do what you offer to pay me for doing. And, depend upon it, the lawyer who does help you, will be your worst enemy. Plead minority! No; go sir, and pay for your oxen honestly and live and act on the principle, that let what will come, you will be an honest man.”

The coarse young man snatched up his bill, and muttering something about seeing Squire Snapall, left the office.

So he lost his first fee and his first case. He felt poor and discouraged, when left alone in the office; but he felt that he had done right. His mother’s voice seemed to whisper, “Right, my son, right.” The next day he was in old Major Farnsworth’s, and saw a pile of bills laying upon the table. The good old man said he had just received them for a debt which he expected to lose, but a kind Providence had interposed in his behalf. The young lawyer said nothing, but his mother’s voice seemed to come again, “Right my son, right.”

Some days after this a man called in the evening, and asked the young man to defend him in a trial just coming on.

“What is your case?”

“They accuse me of stealing a bee-hive.”

“A bee-hive! —surely that could not be worth much!”

“No, but the bees and the honey were in it.”

“Then you really did steal it?”

“Squire are you alone here—nobody to hear?”

“I am all alone.”

“Are you bond by oath to keep the secrets of your clients?”

“Certainly I am.”

“Well then, ‘twixt you and me, I did have a dab at that honey. There was more than seventy pounds! But you can clear me.”

“How can I?”

“Why Ned Hazen has agreed to swear that I was with him fishing at Squanicook Pond that night.”

“So, by perjury, you hope to escape punishment. What can you afford to pay a lawyer who will do his best?”

The man took out twenty dollars. It was a great temptation. The young lawyer staggered for a moment—but only for a moment.

“No, sir, I will not undertake your case. I will not try to shield a man whom I know to be a villain from punishment which he deserves. I will starve first.”

The man with an oath bolted out of the office, and made his way to Snapall’s office. The poor lawyer sat down alone, and could have cried. —But a few dollars were left to him in the world, and what to do when they were gone, he knew not. In a few moments the flush and burning of the face were gone, as if he had been fanned by the wings of angels, and again he heard his own mother’s voice, “Right, my son, right.”

Days and even weeks passed away, and no new client made his appearance. The story of his having refused to take fees and defend his clients got abroad, and many were the gibes concerning his folly. Lawyer Snapall declared that such weakness would ruin any man. The multitude went against the young advocate. But a few noted and remembered it in his favor.

On entering his office one afternoon, the young man found a note lying on his table. It read thus—

“Mrs. Henshaw’s compliments to Mr. Loudon, and requests if it be not too much trouble, that he would call on her at his earliest convenience, as she wishes to consult him professionally, and with as much privacy as may be.

*Rose Cottage, June 25<sup>th</sup>.*”

How his hand trembled while he read the note. It might lead to business—it might be the first fruits of an honorable life. But who is Mrs. Henshaw? He only knew that a friend by that name, a widow lady, had lately arrived on a visit to the family who resided at that cottage. “At his earliest convenience.” If he should go at once, would it not look as if he were at perfect leisure? If he delayed, would it not be a dishonesty which he had vowed never to practice? He whistled a moment, took up his hat, and went toward “Rose Cottage.” On reaching the house, he was received by a young lady of modest, yet easy manner. He inquired for Mrs. Henshaw, and the young lady said,

“My mother is not well, but I will call her. —Shall I carry your name, sir?”

“Loudon, if you please.”

The young lady cast a searching, surprised look at him, and left the room. In a few moments the mother, a graceful, well-bred lady of about forty, entered the room. She had a mild, sweet face, and a look that brought his own mother so vividly to mind, that the tears almost started in his eyes. For some reason, Mrs. Henshaw appeared embarrassed.

“It is Mr. Loudon, the lawyer, I suppose,” said she.

“At your service, madam.”

“Is there any other gentlemen at the Bar of your name, sir?”

“None that I know of. In what way can you command my services, madam?”

The lady colored. “I am afraid sir, there is some mistake. I need a lawyer to look at a difficult case, a man of principle, whom I can trust. You were mentioned to me—but—I expected to see an older man.”

“If you will admit me,” said Loudon, who began to grow nervous in his turn, “so far into your confidence as to state the case, I think I can promise not to do any hurt, even if I do no good. And if on the whole, if you think it is best to commit it to older and abler hands, I will charge you nothing and engage not to be offended.”

The mother looked at the daughter, and saw on her face the look of confidence and hope.

The whole afternoon was spent in going over the case, examining papers, and the like. As they went along, Loudon took notes and memoranda with his pencil.

“He will never do,” thought Mrs. Henshaw. “He takes everything for granted and unquestioned; and though I don’t design to mislead him, yet it seems to me, as if he would take the moon to be green cheese were I tell him so. He will never do;” and she felt that she had wasted time and strength. How great then was her surprise when Loudon pushed aside the bundles of papers, and looking at his notes, again went over the whole ground, sifting and scanning every point, weighing every circumstance, pointing out the weak places, tearing and throwing off the rubbish, discarding what was irrelevant, and placing the whole affair in a light more luminous and clear than even she had ever seen it before. Her color came and went as her hopes rose and fell. After he had laid it open to her, he added, with unconscious dignity.

“Mrs. Henshaw, I think yours is a cause of right and justice. Even if there should be a failure to convince a jury so that law would decide in your favor, there are so many circumstantial proofs, that I have no doubt that justice will be with you. If you please to entrust it to me, I will do the best I can, and am quite sure I shall work harder than if I were on the opposite side.”

“What do you say, Mary?” said the mother to the daughter. “You are as much interested as I. Shall we commit it to Mr. Loudon?”

“You are the best judge, but it seems to me that he understands the case better than any one you have ever talked with.”

Loudon thanked Mary with his eyes, but for some reason or other hers were cast down upon the figures of the carpet, and she did not see him.

“Well, Mr. Loudon, we will commit the whole affair to you. If you succeed we shall be able to reward you; and if you do not, we shall be no poorer than we have been.”

For weeks and months Loudon studied his case. He was often at Rose Cottage to ask questions on some point not quite so clear. —He found they were very agreeable—the mother and daughter—aside from the law-suit, and I am not sure that he did not find occasion to ask questions oftener than he would have done, had it been otherwise.

The case, briefly, was this. Mr. Henshaw had been an active, intelligent and highminded man of business. He had dealt in iron, had large furnaces at different places, and did business on an average with three hundred different people a day. Among others, he had dealings with a man by the name of Brown—a plausible, keen, and as many thought, an unprincipled man. But Henshaw, without guile himself, put all confidence in him. In reverse of times—such as occur in about ten years, let who will be President—their affairs became embarrassed and terribly perplexed. In order to extricate his business, it was necessary for Henshaw to go to a distant part of the land, in company with Brown. There he died— leaving a young widow, and an only child, Mary, then about ten years old, and his business in a condition as bad as need be. By the kindness of the creditors their beautiful home called Elm Glen, was left to Mrs. Henshaw and her little girl, while the rest of the property went to pay the debts. The widow and her orphan kept the place of their joys and hopes in perfect order, and everybody said “it didn’t look like a widow’s house.” But within four years of the death of Mr. Henshaw, Brown returned. He had been detained by broken limbs and business, he said. What was the amazement of the widow to

have him set up a claim for Elm Glen, as his property! He had loaned Mr. Henshaw money, he said—he had been with him in sickness and in death; and the high-minded Henshaw had made his will on his deathbed, and bequeathed Elm Glen to Brown, as a payment for debts. The will was duly drawn, signed with Mr. Henshaw's own signature, and also by two competent witnesses. Every one was astonished at the claim—at the will—at everything pertaining to it. It was contested in court, but the evidence was clear, and the will was set up and established. Poor Mrs. Henshaw was stripped of everything. With a sad heart she packed up her simple wardrobe, and taking her child left the village and went to a distant State to teach school. For six years she had been absent, and for six years had Brown enjoyed Elm Glen. No, not enjoyed it, for he enjoyed nothing. He lived in it; but the haggard look—the frequent appeal to the bottle—the jealous feelings which were ever uppermost—and his course, profane conversation, showed that he was wretched. People talked too, of his lonely hours, his starting up in his sleep, his clenching his fist in his dreams and defying “all hell” to prove it, and the like.

Suddenly and privately, Mrs. Henshaw returned to her once loved village. She had obtained some information by which she hoped to bring truth to light, for she had never believed that her husband ever made such a will in favor of Brown. To prove that this will was a forgery was what Loudon was now to attempt. An action was commenced, and Brown soon had notice of the warfare now to be carried on against him. He raved and swore, but he also laid aside his cups, and went to work to meet the storm like a man in the full consciousness of the justice of his cause. There was writing and riding, posting and sending writs—for both sides had much at stake. It was the first case for young Loudon. It was victory or State's prison for Brown. The community, one and all took sides with Mrs. Henshaw. If a bias could reach jury, it must have been in her favor. Mr. Snapall was engaged for Brown, and was delighted to find that he only had that “white-faced boy” to contend with; and the good public felt sorry that the widow had not selected a man of some age and experience; but then they said, “women will have their own way.”

The day of the trial came on. Great was the excitement to hear the great “will case,” and every horse in the region was hitched somewhere near the court-house.

In rising to open the case, young Loudon was embarrassed; but modesty always meets with encouragement. The court gave him patient attention, and soon felt that it was deserved. In a clear, concise, and masterly manner, he laid open the case just as it stood in his own mind, and proceeded with the evidence to prove the will to be a forgery. It was easy to show the character of Brown to be one of great iniquity, and that for him to do this was only in keeping with that general character. He attempted to prove that the will could not be genuine, because one of his witnesses on his death-bed had confessed that it was a forgery, and that he and his friend had been hired by Brown to testify and swear to its being genuine. Here he adduced the affidavit of a deceased witness, taken in full before James Johnson, Esq., Justice of the Peace, and acknowledged by him. So far all was clear, and when the testimony closed it seemed clear that the case was won. But when it came Mr. Snapall's turn, he demolished all the hopes by proving that though James Johnson, Esq., had signed himself Justice of the Peace, yet he was no magistrate, inasmuch as his commission had expired the very day before he signed the paper, and although he had been re-appointed, yet he had not been legally qualified to act as a magistrate—that he might or might not have supposed himself to be qualified to take an affidavit; and that the

law, for very wise reasons, demanded that an affidavit should be taken only by a sworn magistrate. He was most happy, he said, to acknowledge the cool assurance of his young brother in the law; and the only difficulty was that he had proved nothing, except that his tender conscience permitted him to offer as an affidavit a paper that was in law not worth a straw, if any better than a forgery itself.

There was much sympathy felt for poor Loudon, but he took it very coolly and seemed no way cast down. Mr. Snapall then brought forward his other surviving witness—a gallows-looking fellow, but his testimony was clear, decided and consistent. If he was committing perjury, it was plain that he had been well drilled by Snapall. Loudon kept his eye upon him with the keenness of the lynx. And while Snapall was commenting upon the case with great power, and while Mrs. Henshaw and Mary gave up all for lost, it was plain that Loudon, as he turned over the will, and looked at it again and again, was thinking of something else besides what Snapall was saying. He acted something as a dog does when he feels sure he is near the right track of the game, though he dare not yet bark.

When Snapall was through, Loudon requested that the witness might again be called to the stand. But he was so mild, and kind, and timid, that it seemed as if he was the one about to commit perjury.

“You take your oath that this instrument, purporting to be the will of Henry Henshaw, was signed by him in your presence?”

“I do.”

“And you signed it with your own hand as witness at the time.”

“I did.”

“What is the date of the will?”

“June 18, 1830.”

“When did Henshaw die?”

“June 22, 1830.”

“Were you living in the village where he died at the time?”

“I was.”

“How long had you lived there?”

“About four years, I believe, or somewhere thereabouts.”



Here Loudon handed the judge a paper, which the judge unfolded and laid before him on the bench.

“Was that village a large or small one?”

“Not very large—perhaps fifty houses.”

“You knew all these houses well, I presume?”

“I did.”

“Was the house in which Mr. Henshaw died, one story or two?”

“Two, I believe.”

“But you know, don’t you? Was he in the lower story or in the chamber when you went to witness the deed?”

Here the witness tried to catch the eye of Snapall, but Loudon very civilly held him to the point. At length he said, “In the chamber.”

“Will you inform the court what was the color of the house?”

“I think, feel sure, it wasn’t painted, but didn’t take particular notice.”

“But you saw it every day for four years, and you don’t know?”

“It was not painted.”

“Which side of the street did it stand?”

“I can’t remember.”

“Can you remember which way the street ran?”

“It ran east and west.”

“The street ran east and west—the house two story, and unpainted, and Mr. Henshaw was in the chamber when you witnessed the will. Well, I have but two things more which I will request you to do. The first is to take that pen and write your name on that piece of paper on the table.”

The witness demurred, and so did Snapall. But Loudon insisted upon it.

“I can’t my hand trembles so,” said the witness.

“Indeed! But you wrote a bold, powerful hand when you signed that will. Come, you must try, just to oblige us.”

After much haggling and some bravado, it came out that he couldn't write, and never learned, and that he had requested Mr. Brown to sign the paper for him!

“Oh, ho!” said Loudon. “I thought you swore that you signed it yourself. Now one thing more, and I have done with you. Just let me take the pocket-book in your pocket. —I will open it here before the court, and neither steal nor lose a paper.”

Again the witness refused, and appealed to Snapall; but that worthy man was grinding his teeth and muttering something about the witness going to the devil!

The pocket-book came out, and in it was a regular discharge of the bearer, John Ordin, from four years imprisonment in the Pennsylvania Penitentiary, and dated June 15, 1831, and signed by Mr. Wood, the worthy warden.

The young advocate now took the paper which he had handed to the judge, and showed the jury, that the house in which Mr. Henshaw died was situated in a street running north and south—that it was a one-story house—that it was red, the only red house in the village, and moreover that he died in a front room of the lower story.

There was a moment's silence, and then a stifled murmur of joy all over the room. Brown's eyes looked blood-shot; the witness looked sullen and dogged, and Mr. Snapall tried to look very indifferent. He made no defence. —The work was done. A very brief, decided charge was given by the judge, and, without leaving their seats, the jury convicted Brown of forgery.

“The young dog is keen, any how!” said Snapall.

“When his conscience tells him he is on the side of justice,” said Loudon, overhearing the remark.

It was rather late in the evening before Loudon called on his clients to congratulate them on the termination of their suit, and the recovery of Elm Glen. He was met by Mary, who frankly gave him her hand, and with tears thanked and praised him, and felt sure they could never sufficiently reward him. Loudon colored, and seemed more troubled than when in the court. At length he said abruptly, “Miss Henshaw, you and your mother can now aid me. There is a friend of yours—a young lady, whose hand I wish to obtain. I am alone in the world, poor and unknown. This is my first law case, and when I may have another is more than I know.”

Mary turned pale and faintly promised that she and her mother would aid him to the extent of their power. Then there was a pause and she felt as if she, the only one who was supposed to be unagitated and cool, must speak.

“Who is this fortunate friend of mine?”

“Don’t you suspect?”

“Indeed, I do not.”

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