



The DAY of the DUEL

A BURNT MATCH

(A TRUE STORY)



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HERE was some talk and more laughter from a group about one of the tables in the Union Hotel. Those who passed through the bar glanced with smiling tolerance at the convives who emphasized their enjoyment so noisily. It was the early youth of San Francisco, a time of big hopes, wild tales and feverish energy, when men took their pleasures and their affairs with high spirits and flushed cheeks.

The leader of the little ring was Numa Hubert, member of an old French family of New Orleans and one of the most brilliant young lawyers of the new Golden State. He was relating some political adventure with point and ease, and as he had the reputation and the air of a wit few of his periods passed without its tribute of applause.

At an adjoining table sat two young men who conversed quietly over their glasses. One of them was imparting something which was apparently of great interest to his companion, and both were leaning upon the board. In the midst of his confidence the speaker was interrupted by a deafening shout from the group about Hubert. He turned with an exasperated frown and waited with every sign of impatience until the uproar had subsided.

"There should be some limit to this sort of thing in a public place," he remarked, with a strong English accent.

The other warned him with a gesture. "They are in no mood to be told that they are annoying," he said "and niceties of behavior are not topics to appeal to them particularly. What were you about to say?" But the first had turned and was inspecting their neighbors curiously and rather scornfully.

"Who is the fellow sitting just back of me? He seems to be something of a favorite."

"That's Numa Hubert."

"Ah. So it is. He seems to get on remarkably well with that rough crowd."

His companion nodded noncommittally and finally succeeded in drawing his friend back to the subject of their discussion. The Englishman's cigar had gone out while his attention was drawn aside and he looked about for a match. There were no lighters on the table and he could find none in his pocket. His glance sought the floor. In the sawdust, close to his chair, he saw a match. Stooping he picked it up, only to find that it had been used. He searched his pocket again. The other, seeing his want, offered the glowing end of his own cigar and the two were soon puffing again. After another drink they rose and left the place without paying any attention to the boisterous group.

Hubert, meanwhile, was in his element. The men about him were pioneers of the West, lawyers, brokers, politicians, a responsive audience, young and red-blooded. He held them by ready speech and a lively flow of the humor they could appreciate, rude and direct, as befitted the lives they led. Among those who watched events it was understood that Hubert had a large personal following and would surely go to the next Legislature. He was proving again that he was equipped for a career that would depend upon the good will and admiration of men.

The Lost Pocketbook.

But Hubert was not the one to overplay a situation. He had amused the circle, had impressed it with his own cleverness and eloquence, and he rose to withdraw. At that moment he smoothed his coat over his left hip pocket. Suddenly anxious, he searched that, then all his pockets in succession. A silence had fallen upon the group as they watched him.

"Lost anything?" inquired Williams, a real estate operator, who sat at his right.

"Why, yes," answered Hubert, with an embarrassed laugh, "I believe I must have dropped my pocketbook."

Several of the others got up and began to move the chairs about, kicking among the sawdust and searching the floor under the table. Nothing rewarded their efforts. Hubert had lost his pose of easy and cynical good nature. He moved hurriedly and a frown had gathered on his face. His friends awkwardly offered suggestions, oppressed by the sudden change in the atmosphere of the gathering.

"Are you sure you had it with you?" asked Marsh, his companion and confidant.

"No doubt about that," answered Hubert, with a trace of irritation. All of the group were on their feet and the place was thoroughly covered.

"Not here," said some one. "You must have been mistaken, Hubert."

It was evident that nothing more was to be gained from the search, and Hubert recognized this fact at last. "I am sorry to have given you this trouble, gentlemen," he said. "I have no doubt that I made a mistake and that I shall find the pocketbook at home." He took his leave with an assumption of his former cheerfulness. A significant gesture brought Marsh with him.

"Is it a serious thing, Hubert?" asked his companion as they reached the street.

"More serious than I cared to show," said the lawyer in a low voice. "The pocketbook held a large sum of money, several thousand dollars. But that is not what worries me. I was carrying some papers which are of the utmost importance to me, documents that should never have been outside a bank vault for a moment. I am properly punished."

Hubert's face was almost despairing and Marsh studied his face as they walked on together. The two were good friends and the little assayer's clerk knew the lawyer as well as any one in the city knew him. He knew now from the tone that his friend had suffered a heavy blow. They continued in silence to Hubert's office, and the lawyer made certain that he had not left his pocketbook there. Marsh was doing some thinking of his own.



"I AM INNOCENT OF THE CRIME THAT LED TO THIS."

"Did you notice the man who sat at the table just behind you?" he asked, suddenly.

"No," was the indifferent answer.

"Well, I did," said Marsh, "and there was something queer in the way they acted. Now I come to think of it," he added, with more conviction, "there was something damned queer about it."

"What do you mean?" asked Hubert, interested now.

"Why, while you were talking they were whispering together over the table. There were two of them. One of them was just at your back. His chair almost touched yours. He turned around and gave us a nasty look. Just then I saw him glance under your chair and a second later he reached down quick and grabbed something up. I didn't see what it was."

Hubert was excited. "Are you sure of this? Why didn't you tell me before?"

"I am sure of it and I did not recall it at first. Your pocketbook must have fallen and this chap must have picked it up."

"Do you know him?"

"No, I don't know either of them, though I would recognize them, I think. No use going back, Hubert. They went out a few seconds after I noticed them."

The Accusation.

But Hubert hurriedly retraced his steps and took prompt measures to trace the two strangers who had sat near him in the Union bar. His efforts proved ineffectual. From the hotel he went with Marsh to the jail and lodged such information as they possessed with the Sheriff. Then the two men returned to Hubert's office.

"What were the papers, Hubert?" asked Marsh, after unsuccessful attempts to relieve the depression that had fallen upon his friend.

"Documents in the Freeman case," said Hubert. "There is no reason why you should not know."

Marsh whistled. Anything connected with the Freeman case could not fail to be of the greatest importance to Hubert. It was an involved land suit covering thousands of valuable acres back of the city and had been in the courts for two years. Hubert had regarded his entrance into the litigation as the best step he had yet taken in his profession.

"They were vital," Hubert went on. "For two months I've been on the trail of a series of affidavits testifying to fraudulent grants that would seriously affect the titles held by the defendants. In the pocketbook were three of the most valuable of the affidavits."

"They could be replaced."

"Possibly; but the danger lies in their falling into the hands of the other side. Burke would pay a good deal to get hold of them, or even to see them. The whole basis of my case is there," Hubert, whose Latin temperament was never far from the surface, wrung his hands at the thought.

"I should advise you to advertise for them," said Marsh. "What could you offer?"

"The finder or the thief should be content with money in the pocketbook, Marsh. That was almost every cent I had in the world."

His loss seemed to crush the young lawyer and for the next week he did little but pester the authorities and engage in fruitless efforts to trace the men who had sat at the adjoining table in the Union. He was able to replace the affidavits, as Marsh had suggested, but he could not banish the fear that his plan of attack would be revealed to his opponents in the lawsuit. There was enough material contained in the missing documents to furnish a very grave handicap to his chances of success if they should reach Burke, the counsel for the defendants.

Worn and haggard through anxiety and sleeplessness, he made his way one night to the home of Peter Freeman. As he paced up the street he reflected with some bitterness that there had been a time when he had made that journey with a lighter step and a brighter face. For his client was the excuse, not the attraction, in his visits to the Freeman house. Elise, the handsome daughter of the litigant, had woven a bond about him that was stronger than those of legal tape and wax.

While no understanding could be said to exist, there was that between them which, to him, held all promise for the future. Hubert, in his ambition, had taken as his own position that when he had carried her father's claim to a successful conclusion he would advance a claim in his own behalf, and in the young woman's clear, gray eyes he had read his corroborative evidence.

George T. Hunt Appears.

But matters had changed. His small savings were gone, and he knew not whether he should be able to cover the weakness offered by the affidavits. As he approached the door, absorbed in gloomy thoughts, he was somewhat surprised to see emerge from the house a man with whom he had a slight acquaintance but whom he had never before associated with the Freemans—George T. Hunt, a lawyer and an Englishman. The two bowed slightly in recognition at passing.

Hubert seemed to find more than the usual response in Elise that evening as he waited for the appearance of her father. Ordinarily he would have answered it as his nature and his love dictated, but now the shadow of an unwelcome duty hung heavily upon him. For he had decided that she must know of his criminal carelessness and all that it threatened for him.

Throughout their acquaintance, based as it was on his business relations with Freeman, he had kept her informed as to each move, and had found in her an intelligent and valuable adviser. It would have seemed nothing short of a betrayal to him had he kept the facts from her. He approached the subject with difficulty, making conversation until an opening should offer.

"I passed George Hunt as I came in," he ventured at random. "I did not know he was an acquaintance."

"Oh, yes," she answered, and in his sensitive accord with her he was dimly conscious of a troubled note and a slight confusion of manner. "I have known him for some time. We met him last winter, father and I. He has been away recently. He could not wait for father."

"He's a good lawyer," was his vague comment. In his uneasiness of mind he did not seek to analyze the effect of his remark. For some time he continued in a rambling, uncertain way, and as he went on he became aware of a growing surprise in her face. She was watching him curiously when he brought himself at last to the revelation.

"Elise, there's nothing to be gained by keeping it from you," he began, desperately. "You may as well have it plump. A week ago I lost, among other things, some documents that are exceedingly important to your father's case. I can offer no excuse. It was my fault, my oversight, and I fear it may prove very serious for us."

"What documents?" she asked with awakened interest.

He told her. Then he went over the incident elaborately, explaining each detail of his own actions and of what he feared. He ended miserably, knowing how imperfect and inadequate it must seem to her.

He shook his head. It sounded still stranger to him. In his excited and nervous state it seemed as if it must have awakened black suspicions in the girl's mind. He recalled that Freeman had twice been betrayed by his advisers and that the interests he was fighting had proved themselves capable of anything.

He remembered that the girl must have learned to look for treachery everywhere. He had not told her of his own monetary loss, but mingled with his distress was a touch of resentment that she had not given him the sympathy he craved. A wave of unreasoning self pity swept upon him.

His Rage Terrific.

"It may be strange, but it is the truth," he said, doggedly. After a few minutes of uncomfortable silence, as if she still waited further explanation, Elise left him with a brief word. He left the house completely discouraged, nursing a sense of wrong and with a blind, animal rage against the man who, by a common theft, had robbed him of all that made life worth the living.

He threw himself with fury into his work, for if he was subject to emotional crises he was none the less a plucky fighter and he did not display the mere energy when defeat threatened. His plan for defence was than those attempted by previous lawyers for Freeman. It grew from day to day, even while he was continually in expectation of receiving his dismissal from Elise Freeman. It did not come, but during his short visits, confined only to business, he was conscious of a cold watchfulness on her part. It exasperated him and confirmed his hopelessness.

And now a new trouble came to him, for he began to notice that the lawyer, Hunt, was more frequently a visitor at the Freeman home than ordinary courtesy or friendship would seem to justify. Twice he encountered Hunt just as the lawyer was taking his leave, and old Freeman was away at these times. He was suffering under misfortune and disposed to accept any untoward event into a personal injury he felt an easy prey to jealousy. Hunt seemed to have gained all he had lost.

Such was the state of affairs on a pleasant May afternoon when he walked up Montgomery street in company with Marsh. Near Clay street they passed Hunt. Hubert exchanged the slightest of salutations with him. At the same instant he was con-

scious of a sharp pressure on his arm. "Do you know that man?" whispered Marsh. "Surely," said Hubert, shortly. "It's George Hunt. I thought he seemed to know you." "Not that I am aware of, personally," said Marsh, shortly. "But if you are still interested, that is the fellow who sat back of you in the Union that day."

"What? The one who stole my pocketbook?" "As to that I can't say. But he is the man I have been looking for ever since."

Hubert's face was convulsed with passion, and he would have rushed after the other if Marsh had not held him. "So it is Hunt!" cried the young lawyer. "Hunt always, Hunt at every turn. The scoundrel, the thief, the blackguard!" Marsh rushed him aside into a saloon and would not let him go.

"Another time, Hubert. He won't get away. Keep a grip of yourself, man."

Hubert's paroxysm passed, but left him purposeful. Early that evening he hurried to Hunt's house, hoping to find him there. He missed the Englishman, but the man had gone to the Metropolitan Theatre. Following hotfoot he obtained a seat just before the opening of the performance and pushed his way into the house. He used no concealment in pursuing his object and, after rushing down the central aisle he turned and surveyed the house rapidly. He saw Hunt not five rows from him, well off the aisle.

The Attack.

There was no means of reaching his enemy and he controlled himself to the point of signaling politely until Hunt caught his eye. The Englishman understood that he was wanted, and, moving past his neighbors, walked after Hubert into the lobby. There Hubert, white faced and strung to high nervous pitch, whirled upon him suddenly and struck him across the face with his open palm. Hunt staggered back.

"That is for a pickpocket, a dastardly, low lived thief and a coward!" gasped Hubert.

Hunt, completely surprised by the attack, recovered quickly enough under the sting of the blow and hurled himself toward his assailant. They had clinched before attendants and belated stagehands could reach them. Panting and struggling for a renewal of the combat, they were restrained with difficulty. Hunt finally recovered sufficiently to enable him to speak.

"I shall expect immediate satisfaction to the fullest degree for this outrage, sir," he cried.

"You shall have it, make no mistake," answered Hubert in the same tone of defiance, and he left the theatre.

Charles Fairfax, one of Hubert's many political friends, consented to act for him and they received Hunt's second early the following morning. No objection was made by Hubert to any of the conditions, his only suggestion being that the terms could not be severe in the circumstances. It was quickly settled that the lawyers should meet at sunrise the next day, at ten paces, with duelling pistols.

While this conference was in progress Hunt paid a visit to the Freeman home. Hubert had not been altogether wrong in suspecting the Englishman's advance in the favor of Elise. When he could not have known was that Hunt had undertaken a confidential investigation of the land suit at the girl's request. Hunt said nothing of the approaching duel. He had puzzled long over Hubert's ferocious, unprovoked attack upon him and it had occurred to him that an explanation possibly lay in something Elise had told him about Hubert's loss of the documents. She greeted him warmly.

"Well, have you discovered anything of interest?" she asked.

"Nothing beyond what I have told you," he answered. "So far as I can find Hubert has been perfectly straight in handling your affair. I can find no confirmation of your fears that he had sold out to Burke. By the way, where did he say he had lost the papers?"

"In the Union Hotel."

"Will you kindly repeat the incident as he told it?" "Surely," said Hubert, and he told her how the lawyer believed that a drinker at an adjoining table had robbed him. When she finished he understood Hubert's violent speech and the deliberate insult. He took leave of Elise and spent the rest of the day working on a new angle of the affair that the information suggested to him.

The morning of May 21, 1854, found the opponents and their seconds on a level strip of turf near the Pioneer race course. Never did duellists face each other with more deadly resolve or with bitterer hatred. A cold rage of killing held them tense. Hunt numbered nothing but the wanton blow and the vile accusation levelled at him. Hubert saw in his adversary the one who had wronged him and wrecked his hopes.

There was nothing to choose between them as they stood ready for the encounter. Both were well built, lithe limbed men, and as they advanced to their marks, eyes flashing to eye, with firm, deliberate steps and heads erect, they were like two figures of ancient legend met upon the field for primitive struggle. It was well understood that the affair should not end until one or both could no longer keep the contest. Fairfax stood a few feet to one side of the line of fire to give the word. After verifying each man's position he spoke in a low, clear voice:

"Ready, gentlemen?"

"Ready," they answered.

"One—two!" began Fairfax.

At the second count the pistols spoke simultaneously. The clearing smoke showed each that he had missed and without comment the seconds took the weapons and reloaded. Once more the principals stood to their feet. Once more the question was asked and the word given.

"One."

Hubert jerked up his arm and fired. Hunt's pistol rang out the fraction of a second later. He had scarcely pulled the trigger when he was seen to stagger. He turned on his enemy a face from which all ill will had fled and sank to the ground. Even as he fell he called out twice, "Hubert, Hubert," as one might summon a friend in dire need.

Hubert, who was unharmed, threw away his weapon and advanced at the call. "I forgive you, Hubert," said Hunt, faintly.

Stricken by the piteous words and already overwhelmed with remorse at the result of the quarrel, Hubert sank to his knees and took one of Hunt's hands between his own. The bullet had passed through the Englishman's side, but he was able to speak clearly.

"I should tell you now, Hubert, as my last word, that I am innocent of the crime that led to this. I am no thief, nor have I ever seen your pocketbook. But I found out yesterday that Burke has those affidavits in his possession. The man who got them was Williams, who sat next to you that day in the Union. He is a hireling of Burke and the interests that are fighting Freeman. He took them from your pocket. That's all, I think, except that you'll now catch Williams. He has left the country. And, Hubert—The other, oppressed by a burden of grief and regret that was never to leave him through life, bent closer to hear the whisper. Hunt was smiling wistfully. "What I picked up from the floor when your informant saw the action was a burnt match."

"THE SECRET AGENCY" Next Week.

