Chapter I

"Then, if he were my brother's,
My brother might not claim him; nor your father,
Being none of his, refuse him: This concludes—
My mother's son did get your father's heir;
Your father's heir must have you father's land."

King John, I. i. 125–29

THE events we are about to relate, occurred near the middle of the last century, previously even to that struggle which it is the fashion of America to call "The Old French War." The opening scene of our tale, however, must be sought in the other hemisphere, and on the coast of the mother country. In the middle of the eighteenth century, the American colonies were models of loyalty, the very war to which there has just been allusion, causing the great expenditure that induced the ministry to have recourse to the system of taxation which terminated in the revolution. The family quarrel had not yet commenced. Intensely occupied with the conflict, which terminated not more gloriously for the British arms, than advantageously for the British American possessions, the inhabitants of the provinces were perhaps never better disposed to the metropolitan state, than at the very period of which we are about to write. All their early predilections seemed to be gaining strength, instead of becoming weaker, and, as in nature, the calm is known to succeed the tempest, the blind attachment of the colony to the parent country, was but a precursor of the alienation and violent disunion that were so soon to follow.

Although the superiority of the English seaman was well established in the conflicts that took place between the year 1740, and that of 1763, the naval warfare of the period, by no means possessed the very decided character with which it became stamped a quarter of a century later. In our own times the British marine appears to have improved in quality, as its enemies deteriorated. In the year 1812, however, "Greek met Greek" when, of a verity, came "the tug of war." The great change that came over the other navies of Europe, was merely a consequence of the revolutions

which drove experienced men into exile, and which, by rendering armies all-important even to the existence of the different states, threw nautical enterprises into the shade, and gave an engrossing direction to courage and talent, in another quarter. While France was struggling, first for independence, and next for the mastery of the continent, a marine was a secondary object; for Vienna, Berlin, and Moscow were as easily entered without, as with its aid. To these, and other similar causes, must be referred the explanation of the seeming invincibility of the English arms at sea, during the late great conflicts of Europe, an invincibility that was more apparent than real, however, as many well established defeats were, even then, intermingled with her thousand victories.

From the time when her numbers could furnish succour of this nature, down to the day of separation, America had her full share in the exploits of the English marine. The gentry of the colonies willingly placed their sons in the royal navy, and many a bit of square bunting has been flying at the royal-mast heads of King's ships, in the nineteenth century, as the distinguishing symbols of flag officers, who had to look for their birth-places among ourselves. In the course of a checkered life, in which we have been brought in collision with as great a diversity of rank, professions and characters as often falls to the lot of any one individual, we have been thrown into contact with no less than eight English Admirals of American birth, while, it has never yet been our good fortune to meet with a countryman, who has had this rank bestowed on him by his own government. On one occasion, an Englishman, who had filled the highest civil office connected with the marine of his nation, observed to us, that the only man he then knew, in the British navy, in whom he should feel an entire confidence in entrusting an important command, was one of these translated admirals, and the thought unavoidably passed through our mind, that this favorite commander had done well in adhering to the conventional, instead of clinging to his natural allegiance, inasmuch as he might have toiled for half-a-century, in the service of his native land, and been rewarded with a rank that would merely put him on a level with a colonel in the army! How much longer this short sighted policy, and grievous injustice, are to continue, no man can say; but it is safe to believe, that it is to last until some legislator of influence learn the simple

truth that the fancied reluctance of popular constituencies to do right, oftener exists in the apprehensions of their representatives, than in reality.—But to our tale.

England enjoys a wide-spread reputation for her fogs; but little do they know how much a fog may add to natural scenery, who never witnessed its magical effects, as it has caused a beautiful landscape to coquette with the eye, in playful and capricious changes. Our opening scene is in one of these much derided fogs, though, let it always be remembered, it was a fog of June, and not of November. On a high head-land of the coast of Devonshire stood a little station-house, which had been erected, with a view to communicate, by signals, with the shipping that sometimes lay at anchor in an adjacent road-stead. A little inland was a village, or hamlet, that it suits our purposes to call Wychecombe, and at no great distance from the hamlet, itself, surrounded by a small park, stood a house of the age of Henry VIIth, which was the abode of Sir Wycherly Wychecombe, a baronet of the creation of King James Ist, and the possessor of an improveable estate of some three or four thousand a year, which had been transmitted to him, through a line of ancestors that ascended as far back as the time of the Plantagenets. Neither Wychecombe, nor the head-land, nor the anchorage, was a place of note, for much larger and more favored hamlets, villages and towns, lay scattered about that fine portion of England, much better road-steads and bays could generally be used by the coming or the parting vessel, and far more important signal stations were to be met with, all along that coast. Nevertheless, the roadstead was entered, when calms or adverse winds rendered it expedient; the hamlet had its conveniences, and like most English hamlets, its beauties; and the Hall and park were not without their claims to state and rural magnificence. A century since, whatever the table of precedency, or Blackstone may say, an English baronet, particularly one of the date of 1611, was a much greater personage than he is to-day; and an estate of £4000 a year, more especially if not rack-rented, was of an extent, and necessarily of a local consequence, equal to one of near, or quite three times the same amount, in our own day. Sir Wycherly, however, enjoyed an advantage that was of still greater importance, and which was more common in 1745, than at the present moment. He had no rival within fifteen miles of him, and the nearest potentate was a

nobleman of a rank and fortune, that put all competition out of the question, one who dwelt in courts, the favorite of Kings; leaving the baronet, as it might be, in undisturbed enjoyment of all the local homage. Sir Wycherly had once been a member of Parliament, and only once. In his youth, he had been a fox-hunter, and a small property in Yorkshire, had long been in the family, as a sort of foot-hold on such enjoyments; but having broken a leg, in one of his leaps, he had taken refuge against *ennui*, by sitting a single session in the House of Commons, as the member of a borough that lay adjacent to his hunting box. This session sufficed for his whole life, the good baronet having taken the matter so literally, as to make it a point to be present at all the sittings, a sort of tax on his time, which, as it came wholly unaccompanied by profit, was very likely soon to tire out the patience of an old fox-hunter. After resigning his seat, he retired altogether to Wychecombe, where he had passed the last fifty years, extolling England, and most especially that part of it in which his own estates lay; in abusing the French, with occasional innuendoes against Spain and Holland; and in eating and drinking. He had never travelled; for, though Englishmen of his station often did visit the continent, a century ago, they oftener did not. It was the courtly and the noble, who then chiefly took this means of improving their minds and manners; a class to which a baronet by no means belonged *ex officio*. To conclude, Sir Wycherly was now eighty-four; hale, hearty, and a bachelor. He had been born the oldest of five brothers; the cadets taking refuge, as usual, in the Inns of Court, the church, the army, and the navy; and precisely in the order named. The lawyer had actually risen to be a judge, by the style and appellation of Baron Wychecombe; had three illegitimate children by his housekeeper, and died, leaving to the eldest thereof, all his professional earnings, after buying commissions for the two younger in the army. The divine broke his neck, while yet a curate, in a fox hunt; dying unmarried, and, so far as is generally known, childless. This was Sir Wycherly's favorite brother; who, he was accustomed to say, "lost his life in setting an example of field sports, to his parishioners." The soldier was fairly killed in battle, before he was twenty; and the name of the sailor suddenly disappeared from the list of His Majesty's lieutenants, about half a century before the time, when our tale opens, by shipwreck. Between the sailor and the head of the fam-

ily, however, there had been no great sympathy, in consequence, as it was rumoured, of a certain beauty's preference for the latter, though this preference produced no *suites*, inasmuch as the lady died a maid. Mr. Gregory Wychecombe, the lieutenant in question, was what is termed a "wild boy," and it was the general impression, when his parents sent him to sea, that the ocean would now meet with its match. The hopes of the family centered in the judge, after the death of the curate, and it was a great cause of regret to those who took an interest in its perpetuity and renown, that this dignitary did not marry, since the premature deaths, of all the other sons, had left the hall, park, and goodly farms, without any known legal heir. In a word, this branch of the family of Wychecombe would be extinct when Sir Wycherly died, and the entail become useless. Not a female inheritor, even, or a male inheritor through females, could be traced, and it had become imperative on Sir Wycherly to make a will, lest the property should go off, the Lord knew where; or, what was worse, it should escheat. It is true, Tom Wychecombe, the judge's eldest son, often gave dark hints about a secret, and a timely marriage between his parents, a fact that would have superseded the necessity for all devises, as the property was strictly tied up, so far as the lineal descendants of a certain *old* Sir Wycherly were concerned; but the present Sir Wycherly had seen his brother, in his last illness, on which occasion the following conversation had taken place.

"And now, brother Thomas," said the baronet, in a friendly and consoling manner, "having, as one may say, prepared your soul for heaven, by these prayers and admissions of your sins, a word may be prudently said, concerning the affairs of this world. You know I am childless—that is to say,—"

"I understand you, Wycherly"—interrupted the dying man—"you're a *bachelor*."

"That's it, Thomas; and bachelors *ought* not to have children. Had our poor brother James escaped that mishap, he might have been sitting at your bed-side, at this moment, and *he* could have told us all about it. St. James, I used to call him; and well did he deserve the name!"

"St. James, the least, then, it must have been, Wycherly."

"It's a dreadful thing to have no heir, Thomas! Did you ever know a case in your practice, in which another estate was left so completely without an heir, as this of ours?"

"It does not often happen, brother; heirs are usually more abundant than estates."

"So I thought. Will the King get the title as well as the estate, brother, if it should escheat, as you call it?"

"Being the fountain of honor, he will be rather indifferent about the baronetcy."

"I should care less, it if went to the next sovereign, who is English born. Wychecombe has always belonged to Englishmen!"

"That it has; and ever will I trust. You have only to select an heir, when I am gone, and by making a will, with proper devises, the property will not escheat. Be careful to use the full terms of perpetuity."

"Every thing was so comfortable, brother, while you were in health," said Sir Wycherly, fidgeting: "you were my natural heir—"

"Heir of entail," interrupted the judge.

"Well, well, *heir*, at all events, and *that* was a prodigious comfort to a man like myself, who has a sort of religious scruples about making a will. I have heard it whispered that you were actually married to Martha, in which case Tom might drop into our shoes, so readily, without any more signing and sealing."

"A *filius nullius*," returned the other, too conscientious to lend himself to a deception of that nature.

"Why, brother, Tom often seems to me to favor such an idea himself."

"No wonder, Wycherly, for the idea would greatly favor him. Tom, and his brothers, are all *filii nullorum*, God forgive me, for that same wrong."

"I wonder neither Charles, nor Gregory, thought of marrying, before they lost their lives for their king and country," put in Sir Wycherly, in an upbraiding tone, as if he thought his penniless brethren had done him an injury in neglecting to supply him with an heir, though he had been so forgetful himself, of the same great duty. "I did think of bringing in a bill for providing heirs for unmarried persons, without the trouble and responsibility of making wills."

"That would have been a great improvement on the law of descents—I hope you wouldn't have overlooked the ancestors."

"Not I—every body would have got his rights. They tell me poor Charles never spoke after he was shot, but I dare say, did we

know the truth, he regretted sincerely that he never married."

"There, for once, Wycherly, I think you are likely to be wrong. A *femme sole* without food, is rather a helpless sort of person."

"Well, well, I wish he had married. What would it have been to me, had he left a dozen widows."

"It might have raised some awkward questions as to dowry; and if each left a son, the titles and estates would have been worse off than they are at present, without widows or legitimate children."

"Any thing would be better than having no heir. I believe I'm the first baronet of Wychecombe who has been obliged to make a will!"

"Quite likely—" returned the brother, drily—"I remember to have got nothing from the last one, in that way. Charles and Gregory fared no better. Never mind, Wycherly, you behaved like a father to us all."

"I don't mind signing cheques, in the least; but the wills have an irreligious appearance, in my eyes. There are a good many Wychecombes in England; I wonder some of them are not of our family! They tell me a hundredth cousin is just as good an heir, as a first born son."

"Failing nearer of kin. But we have no hundredth cousins of the *whole blood*."

"There are the Wychecombes of Surrey, brother Thomas—?"

"Descended from a bastard of the second baronet, and out of the line of descent, altogether."

"But the Wychecombes of Hertfordshire, I have always heard were of our family, and legitimate."

"True, as regards matrimony—rather too much of it, by the way. They branched off in 1487, long before the creation, and have nothing to do with the entail; the first of their line coming from old Sir Michael Wychecombe Kt. and sheriff of Devonshire, by his second wife Margery; while we are derived from the same male ancestor, through Wycherly, the only son by Joan the first wife. Wycherly, and Michael, the son of Michael and Margery, were of the half blood, as respects each other, could not be heirs of blood. What was true of the ancestors, is true of the descendants."

"But we came of the same ancestors, and the estate is far older than 1487."

"Quite true, brother, nevertheless, the half blood can't take; so says the perfection of human reason."

"I never could understand these niceties of the law," said Sir Wycherly, sighing, "but I suppose they are all right. There are so many Wychecombes scattered about England, that I should think some one among them all, might be my heir!"

"Every man of them bears a bar in his arms, or is of the half-blood."

"You are quite sure, brother, that Tom is a *filius nullus*?" for the baronet had forgotten most of the little Latin he ever knew, and translated this legal phrase into "no son."

"*Filius nullius*, Sir Wycherly, the son of nobody; your reading would literally make Tom nobody: whereas he is only the son of nobody."

"But, brother, he is your son, and as like you as two hounds of the same litter."

"I am *nullus*, in the eye of the law, as regards poor Tom, who, until he marries and has children of his own, is altogether without legal kindred. Nor do I know that legitimacy would make Tom any better, for he is presuming and confident enough for the Heir Apparent to the throne, as it is."

"Well, there's this young sailor, who has been so much at the station lately, since he was left ashore for the cure of his wounds. 'T is a most gallant lad, and the First Lord has sent him a commission, as a reward for his good conduct in cutting out the Frenchman. I look upon him as a credit to the name, and I make no question he is, some way, or other, of our family."

"Does he claim to be so?" asked the judge a little quickly, for he distrusted men in general, and thought, for all he had heard, that some attempt might have been made to practise on his brother's simplicity. "I thought you told me that he came from the American colonies?"

"So he does; he's a native of Virginia, as was his father before him."

"A convict, perhaps; or a servant, quite likely, who has found the name of his former master, more to his liking than his own. Such things are common, they tell me, beyond seas."

"Yes, if he were any thing but an American, I might wish he were my heir," returned Sir Wycherly, in a melancholy tone; "but it would be worse than to let the lands escheat, as you call it, to

place an American in possession of Wychecombe. The manors have always had English owners, down to the present moment, thank God!"

"Should they have any other, it will be your own fault, Wycherly. When I am dead, and that will happen ere many weeks, the human being will not be living, who can take that property after your demise, in any other manner than by escheat, or by devise. There will then be neither heir of entail, nor heir at law, and you may make whom you please master of Wychecombe, provided he be not a alien."

"Not an American, I suppose, brother; an American is an alien of course."

"Humph!—why, not in law, whatever he may be according to our English notions. Harkee, brother Wycherly; I've never asked you, or wished you to leave the estate to Tom, or his younger brothers, for one, and all, are *filii nullorum*—as I term 'em, though my brother Record will have it, it ought to be *filii nullius*, as well as *filius nullius*. Let that be as it may, no bastard should lord it at Wychecombe, and rather than the King should get the lands, to bestow on some favorite, I would give it to the half-blood."

"Can that be done without making a will, brother Thomas?"

"It cannot, Sir Wycherly, nor with a will, so long as an heir of entail can be found."

"Is there no way of making Tom a *filius somebody*, so that *he* can succeed?"

"Not under our laws. By the civil law such a thing might have been done, and by the Scotch law; but not under the perfection of reason."

"I wish you knew this young Virginian! The lad bears both of my names, Wycherly Wychecombe."

"He is not a *filius Wycherly*—is he, baronet?"

"Fie upon thee, brother Thomas! Do you think I have less candor than thyself, that I would not acknowledge my own flesh and blood. I never saw the youngster, until within the last six months, when he was landed from the roadstead, and brought to Wychecombe to be cured of his wounds; nor ever heard of him before. When they told me his name was Wycherly Wychecombe, I could do no less than call and see him. The poor fellow lay at death's door for a fortnight, and it was while we had little or no hope of saving him, that I got the few family anecdotes from him. Now,

that would be good evidence in law, I believe, Thomas."

"For certain things, had the lad really died. Surviving he must be heard on his *voire dire* and under oath. But what was his tale?"

"A very short one. He told me his father was a Wycherly Wychecombe, and that his grandfather had been a Virginia planter. This was all he seemed to know of his ancestry."

"And probably all there was of them. My Tom is not the only *filius nullius* that has been among us, and this grandfather, if he has not actually stolen the name, has got it by these doubtful means. As for the Wycherly, it should pass for nothing. Learning that there is a line of Baronets of this name, every pretender to the family would be apt to call a son Wycherly."

"The line will shortly be ended, brother," returned Sir Wycherly, sighing. "I wish you might be mistaken, and, after all, Tom shouldn't prove to be that *filius* you call him."

Mr. Baron Wychecombe, as much from *esprit de corps*, as from moral principle, was a man of strict integrity, in all things that related to *meum* and *tuum*. He was particularly rigid in his notions concerning the transmission of real estate, and the rights of primogeniture. The world had taken little interest in the private history of a lawyer, and his sons having been born before his elevation to the bench, he passed with the public for a widower, with a family of promising boys. Not one in a hundred of his acquaintances even, suspected the fact; and nothing would have been easier for him, than to have imposed on his brother, by inducing him to make a will under some legal mystification or other, and to have caused Tom Wychecombe to succeed to the property in question, by an indisputable title. There would have been no great difficulty, even, in his son's assuming and maintaining his right to the baronetcy, inasmuch as there could be no competitor, and the crown officers were not particularly rigid in enquiring into the claims of those who assumed a title that brought with it no political privileges. Still, he was far from indulging in any such project. To him it appeared that the Wychecombe estate ought to go with the principles that usually governed such matters, and, although he submitted to the dictum of the common law, as regarded the provision which excluded the half-blood from inheriting, with the deference of an English common-law lawyer, he saw and felt, that, failing the direct line, Wychecombe ought to revert to the descendants of Sir Michael by his second son, for the

plain reason that they were just as much derived from the person who had acquired the estate, as his brother Wycherly and himself. Had there been descendants of females, even, to interfere, no such opinion would have existed; but, as between an escheat, or a devise in favour of a *filius nullius*, or of the descendant of a *filius nullius*, the half-blood possessed every possible advantage. In his legal eyes, legitimacy was every thing, although he had not hesitated to be the means of bringing into the world seven illegitimate children, that being the precise number Martha had the credit of having borne him, though three only survived. After reflecting a moment, therefore, he turned to the Baronet, and addressed him more seriously than he had yet done, in the present dialogue; first taking a draught of a cordial to give him strength for the occasion.

"Listen to me, brother Wycherly," said the judge, with a gravity that at once caught the attention of the other. "You know something of the family history, and I need do no more than allude to it. Our ancestors were the knightly possessors of Wychecombe, centuries before King James established the rank of Baronets. When our great grandfather, Sir Wycherly, accepted the patent of 1611, he scarcely did himself honor; for, by aspiring higher, he might have got a peerage. However, a baronet he became, and for the first time since Wychecombe was Wychecombe, the estate was entailed, to do credit to the new rank. Now, the first Sir Wycherly had three sons, and no daughter. Each of these sons succeeded; the two eldest as bachelors, and the youngest was our grandfather. Sir Thomas, the fourth baronet, left an only child, Wycherly, our father. Sir Wycherly, our father, had five sons, Wycherly his successor, yourself, and the sixth baronet; myself; James; Charles; and Gregory. James broke his neck at your side. The two last lost their lives in the King's service, unmarried, and neither you, nor I, have entered into the holy state of matrimony. I cannot survive a month, and the hopes of perpetuating the direct line of the family, rest with yourself. This accounts for all the descendants of Sir Wycherly, the first Baronet; and it also settles the question of heirs of entail, of whom there are none after myself. To go back beyond the time of King James Ist twice did the elder lines of the Wychecombes fail, between the reign of King Richard IId and King Henry VIIth when Sir Michael succeeded. Now, in each of these cases, the law disposed of the succession;

the youngest branches of the family, in both instances, getting the estate. It follows that, agreeably to legal decisions had at the time, when the facts must have been known, that the Wychecombes were reduced to these younger lines. Sir Michael had two wives. From the first we are derived—from the last, the Wychecombes of Hertfordshire—since known as Baronets of that county, by the style and title of Sir Reginald Wychecombe of Wychecombe-Regis, Herts."

"The present Sir Reginald can have no claim, being of the half-blood," put in Sir Wycherly with a brevity of manner that denoted feeling. "The half-blood is as bad as a *Nullius*, as you call Tom."

"Not quite. A person of the half-blood is as legitimate as the King's Majesty; whereas, a *Nullius* is of *no* blood. Now, suppose for a moment, Sir Wycherly, that you had been a son by a first wife, and I had been a son by a second—would there have been no relationship between us?"

"What a question, Tom, to put to your own brother!"

"But I should not be your *own* brother, my good sir; only your *half* brother; of the *half* and not of the *whole* blood."

"What of that—what of that—your father would have been my father—we would have had the same name—the same family history—the same family *feelings*—poh!—poh!—we should have been both Wychecombes, exactly as we are to-day."

"Quite true, and yet I could not have been your heir, nor you, mine. The estate would escheat to the King, Hanoverian, or Scotchman, before it came to me. Indeed to *me* it could never come."

"Thomas, you are trifling with my ignorance, and making matters worse than they really are. Certainly, as long as you lived, you would be *my* heir!"

"Very true, as to the £20,000 in the funds, but not as to the Baronetcy and Wychecombe. So far as the two last are concerned I am heir of blood, and of entail, of the body of Sir Wycherly Wychecombe, the first Baronet, and the maker of the entail."

"Had there been no entail, and had I died a child, who would have succeeded our father, supposing there had been two mothers?"

"I, as the next surviving son."

"There!—I knew it must be so!" exclaimed Sir Wycherly in

triumph, "and all this time you have been joking with me!"

"Not so fast, brother of mine—not so fast. I should be of the *whole* blood, as respected our father, and all the Wychecombes that have gone before him, but of the *half*-blood, as respected *you*. From our father I might have taken, as his heir at law: but from *you*, never, having been of the *half* blood."

"I would have made a will, in that case, Thomas, and left you every farthing," said Sir Wycherly, with feeling.

"That is just what I wish you to do with Sir Reginald Wychecombe. You must take him, a *filius nullius*, in the person of my son Tom; a stranger; or let the property escheat; for, we are so peculiarly placed as not to have a known relative, by either the male or female lines, the maternal ancestors being just as barren of heirs as the paternal. Our good mother was the natural daughter of the third Earl of Prolific; our grandmother was the last of her race, so far as human ken can discover, our great-grandmother is said to have had semi-royal blood in her veins, without the aid of the church, and beyond that it would be hopeless to attempt tracing consanguinity on that side of the house. No, Wycherly; it is Sir Reginald, who has the best right to the land; Tom, or one of his brothers, an utter stranger, or His Majesty, follow. Remember that estates of £4000 a year, don't often escheat, now-a-days."

"If you'll draw up a will, brother, I'll leave it all to Tom," cried the Baronet, with sudden energy. "Nothing need be said about the *nullius*, and when I'm gone, he'll step quietly into my place."

Nature triumphed a moment in the bosom of the father, but habit, and the stern sense of right soon overcame the feeling. Perhaps certain doubts, and a knowledge of his son's real character, contributed their share towards the reply.

"It ought not to be, Sir Wycherly;" returned the judge, musing. "Tom has no right to Wychecombe and Sir Reginald has the best moral right possible, though the law cuts him off. Had Sir Michael made the entail, instead of our great grandfather, he would have come in, as a matter of course."

"I never liked Sir Reginald Wychecombe," said the Baronet, stubbornly.

"What of that?—He will not trouble you while living, and when dead it will be all the same. Come—come—I will draw the will myself, leaving blanks for the name, and when it is once done, you will sign it cheerfully. It is the last legal act I shall ever perform,

and it will be a suitable one, death being constantly before me."

This ended the dialogue. The will was drawn according to promise, Sir Wycherly took it to his room to read, carefully inserted the name of Tom Wychecombe in all the blank spaces, brought it back, duly executed the instrument in his brother's presence, and then gave the paper to his nephew to preserve, with a strong injunction on him to keep the secret, until the instrument should have force by his own death. Mr. Baron Wychecombe died in six weeks, and the baronet returned to his residence a sincere mourner for the loss of an only brother. A more unfortunate selection of an heir could not have been made, as Tom Wychecombe was, in reality, the son of a barrister in the Temple, the fancied likeness to the reputed father existing only in the imagination of his credulous uncle.