lieved the charge or not. *Miller v. Johnson* (1875) 79 Ill. 58; *Rea v. Harrington* (1885) 58 Vt. 181. Chief Justice Shaw in speaking in *Carter v. Andrews* (Mass. 1834) 16 Pick. 1, said, "It is no defense to this action that the charge could not be true."

Evidence to show motive or malice of accused in making the statement for which he is prosecuted is admissible. *Russell v. State* (1919) 169 N. C. 312, 84 S. E. 807. But under the narrow doctrine of some jurisdictions evidence as to what the accused intended by the alleged libelous article was held inadmissible under the rule that the meaning is to be gathered by determining what men of ordinary understanding would infer therefrom. *People v. Strouch* (1910) 247 Ill. 220, 93 N. E. 126. In a case arising in Scotland a birth notice printed by a newspaper in good faith and in the normal course of business was held actionable because of the extrinsic fact, entirely unknown to the publishers, that the supposed parents had been married less than a month. *Morrison v. Ritchie* (1902) 4 Scotch Sess. Cases (5th ser.) 645. *Morrison v. Smith* (1903) 83 App. Div. 492, 82 N. Y. S. 111; *Switzer v. Anthony* (1922) 71 Colo. 291, 206 Pac. 391; *Farley v. Evening Chronicle* (1905) 113 Mo. A. 216, 87 S. W. 565. If the plaintiff may show the applicability to him and their defamatory character as determined by extrinsic facts, there is no reason why the defendant should not be accorded the same right.

The rejection of the evidence offered by the accused in the principal case presents an utter anomaly, and indicates that an unhealthy provincialism dominated the Massachusetts court. It is hardly probable that the language of the publication, in the light of the sorry history of the Sacco-Vanzetti affair, was calculated to induce those who read it to believe that the person of whom it was written was guilty of a crime. It was plainly criticism and abuse of the governor. E. S., '31.

INHERITANCE—EFFECT OF LEGITIMATING STATUTE.—An interesting case which shows the way the law develops is *In re Cross* (1929) 197 N. C. 334, 148 So. 456, in which the claimant sought to share in the estate of his uncle. It was admitted that he was born out of wedlock, but he claimed the benefit of the statute legitimating bastards. "When the mother of a bastard child and the reputed father of such child subsequently intermarry . . . the child shall, in all respects after such intermarriage, be deemed legitimate and entitled to all rights in the estate of its father and mother that it would have had had it been born in lawful wedlock." N. C. Code (1927) sec. 279. The court held that such a statute did not entitle the child to inherit from ancestors beyond the father and mother. Inasmuch as the statue is in derogation of the common law it should be strictly construed.

At common law a bastard was said to be *filius nullius*. He could not inherit from any one, and none could inherit from him except his direct descendants, nor did subsequent marriage of his parents remove this disability. The law has now been changed generally by statute. Kale's CASES

ON PERSONS, 111; 1 Stimson, AMERICAN STATUTES, sec. 6631. Such a child may be given legal status by subsequent acts of the parents. 3 R. C. L. 739. Some statutes require public acknowledgment, some only marriage, while the majority require both acknowledgment of paternity and intermarriage to give rights of inheritance to an illegitimate.

In a few states the right of inheritance is expressly limited by statutes, as illustrated in *Hawkins v. Williams* (1920) 146 La. 529, 83 So. 796, where the court said that this policy was adopted not as a penalty on the unfortunate child but to deter promiscuous relations and to support the institution of marriage. This type of law does not render the child capable of inheriting as a legal representative of the father or mother, but only legitimates it as respects the parents. 3 R. C. L. 739. In a majority of states that do not limit this right expressly, a legitimated child is considered to occupy the status of one born in wedlock. Typical among these is New York, where it is held that a subsequent marriage of the parents of an illegitimate child enables it to inherit property as a natural child. *Wissel v. Ott* (1898) 34 App. Div. 159, 54 N. Y. S. 605. Later, in *Hoagland's Estate* (1925) 125 Misc. 376, 211 N. Y. S. 629, the law of New York was more clearly explained by the court as follows: "A law legitimizing a child born out of wedlock whose parents subsequently marry should be liberally construed, and unless there is positive legislation prohibiting the child from participating in the benefits, its rights should be sustained." See N. Y. Code (1923) ch. 14, sec. 24.

In California a child born before wedlock becomes legitimated by subsequent marriage of its parents. Cal. Civ. Code (1923) sec. 215. And such a child is legitimate for all purposes. *Id.* sec. 230. This statute enabled a child to inherit from its grandmother. In *Wolf v. Gall* (1917) 32 Cal. App. 286, 163 Pac. 350, the court said, "We think it quite clear that the compliance with the above statute makes a child born out of wedlock legitimate, that as is stated in section 230 he is legitimate for all purposes, and that as a legitimate child his rights of inheritance are governed by the section which gives rights of inheritance to legitimate children." See also *Miller v. Pennington* (1905) 218 Ill. 220, 75 N. E. 919; *Kotzke v. Kotzke's Estate* (1919) 205 Mich. 184, 171 N. E. 442; *Copeland v. Copeland* (1918) 73 Okla. 252, 175 Pac. 764.

The court in the principal case was probably influenced by an interpretation of a prior statute relating to the effect of legitimation by public acknowledgment. N. C. Code (1927) sec. 278. This section of the statute declares that by compliance with the prescribed process, a child born out of wedlock may be allowed to inherit from his father only his real estate and personal property in the same manner as if he had been born in wedlock. *Love v. Love* (1910) 179 N. C. 115, 101 S. E. 562, interpreted this statute to mean that the child after public acknowledgment could inherit only from his father. It was treated in much the same manner as adoption statutes in reference to inheritance, where it is generally agreed that while a man can

create an heir for himself, he cannot by such act render the child capable of inheriting from other than himself. *In re Bradley's Estate* (1925) 185 Wis. 393, 201 N. W. 923. But for that interpretation of the prior statute, section 278 might permit the child legitimated by marriage to take as a natural child.

The same difficulty was encountered in California where a prior statute allowing legitimation by proclamation limited the right of inheritance to the father's estate. The court avoided a conflict by saying that the later legislation superseded, especially since the sections were not directly conflicting. *Wolf v. Gall,* above. The court in the principal case might well have followed the reasoning of that case, had it wished to place itself in line with the holding of a majority of the states upon this question. H. V. C., '31.

INSURANCE—DEATH RESULTING FROM INTOXICATING DRINK AN ACCIDENT.—Death of insured resulted from drinking wood alcohol in a beverage which he supposed contained grain alcohol. *Held,* the death resulted from bodily injuries directly and independently of all other causes through accidental means within the terms of an accident policy, since the poisonous content of the beverage was unforeseen, unexpected, and unusual. *Zurich General Accident and Liability Insurance Co. v. Flechinger* (C. C. A. 4, 1929) 33 F. (2d) 853.

The oft-quoted rule laid down by Mr. Chief Justice Blatchford in a leading case is "that, if a result is such as follows from ordinary means, voluntarily employed, in a not unusual or unexpected way, it cannot be called a result effected by accidental means; but if, in the act which precedes the injury, something unforeseen, unexpected, or unusual occurs which produces the injury, then the injury has resulted through accidental means." *United States Accident Association v. Barry* (1889) 131 U. S. 100. A long line of decisions has enunciated the principle that where the death or injury is not the natural or probable result of the insured's voluntary act, or where something unforeseen occurs in the doing of the act, the death or injury is held to be within the protection of policies insuring against death or injury from accident or accidental means. *Railway Co. v. Elliott* (1893) 12 U. S. 381; *Southwestern Commercial Travelers' Ass'n v. Smith* (1898) 85 F. 401; *Schleicher v. General Accident F. & L. Assurance Corporation* (1926) 240 Ill. App. 247; *Lewis v. Ocean Accident & Guaranty Corporation* (1918) 224 N. Y. 18, 120 N. E. 56; *Young v. Railway Mail Ass'n* (1907) 126 Mo. A. 325, 103 S. W. 557; *Bule v. Travelers' Protective Ass'n* (1911) 155 Mo. A. 629, 135 S. W. 497.

Another line of decisions holds that where an unusual or unexpected result occurs by reason of the doing by insured of an intentional act, where there is no mischance, slip, or mishap in the doing of the act itself, the ensuing injury or death is not caused through accidental means; that it must appear that the means used were accidental, and it is not enough that the result may be unexpected or unforeseen. *Lehman v. Great Western Accident Ass'n* (1911) 155 Iowa 737, 133 N. W. 752; *Salinger v. Fidelity & Cas-*