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UNCLE TOM'S CABIN.

CHAP. XXVIII.

Reunion—Change of Character—Yearnings for Freedom—The loss of Eva—Topsy's Keepsakes—Now is the Time—A Fiction of Law—" The least of these my Brethren"—" Dies Iræ"—Question of Emancipation—Thoughts of a Dead Mother—Sudden Death.

WEEK after week glided away in St. Clare, mansion, and the waves of life settled back to their usual flow where that little bark had gone down. For how imperiously, how coolly in disregard of all one's feeling, does the hard, cold, uninterting course of daily realities move on! Still must we eat, and drink, and sleep and wake again—still bargain, buy, sell, ask and answer questions—pursue, in short, a thousand shadows, though all interest in them be over; the cold, mechanical habit of living remaining, after all vital interest in it has fled.

All the interests and hopes of St. Clare's life had unconsciosly wound themselves around this child. It was for Eva that he had managed his property; it was for Eva that he had planned the disposal of his time, and, to do this and that for Eva—to buy, improve, alter and arrange, or dispose something for her—had been so long his habit, that, now she was gone, there seemed nothing to be thought of, and nothing to be done.

True, there was another life—a life which, once believed in, stands as a solemn, significant figure before the otherwise unmeaning ciphers of time, changing them to orders of mysterious, untold value. St. Clare knew this well, and often, in many a weary hour, he heaad that slender, childish voice calling him to the skies, and saw that little hand pointing to him the way of life; but a heavy lethargy of sorrow lay on him—he could not arise. He had one of those natures which could better and more clearly conceive of religious things from its own perceptions and instincts, than many a matter-of-fact and practical Christian. The gift to appreciate and the sense to feel the finer shades and relations of moral things, often seems an attribute of those whose whole life shows a careless disregard of them. Hence Moore, Byron, Goethe, often speak words more wisely descriptve of the true relgious sentiment, than another man whose whole life is governed by it. In such minds, disregard of religion is a more fearful treason—a more deadly sin.

St. Clare had never pretended to govern himself by any religious obligation; and a certain finess of nature gave him such an instinctive view of the extent of the requirements of Christianity, that he shrank, by anticipation, from what he felt would be the exactions of his own conecience, if he once did resolve to assume them. For, so inconsistent is human nature, especially in the ideal, that not to undertake a thing at all seems better than to undertake and come short.

Still St. Clare was in many respects another man. He read his little Eva's Bible seriously and honestly; he thought more soberly and practically of his relations to his servants—enough to make him extremely dissatisfied with both his past and present course; and one thing he did, soon after his return to New Orleans, and that was to commence the legal steps necessary to Tom's emancipation, which was to be perfected as soon as he could get through the necessary formalites. Meantime, he attached himself to Tom more and more, every day. In all the wide world, there was nothing that seemed to remind him so much of Eva: and he would insist on keeping him constantly about him, and, fastidious and unapproachable as he was with regard to his deeper feelings, he almost thought aloud to Tom. Nor would any one have wondered at it, who had seen the expression of affection and devotion with which Tom continually followed his young master.

"Well, Tom," said St Clare, the day after he had commenced the legal formalities for his enfranchisement, "I'm going to make a free man of you; so, have your trunk packed, and get ready to set out for Kentuck."

The sudden light of joy that shone in Tom's face as he raised his hands to heaven; his emphatic "Bless the Lord!" rather discomposed St. Clare; he did not like it that Tom should be so ready to leave him.

"You haven't had such very bad times here, that you need be in such a rapture, Tom," he said, dryly.

"No, no, mas'r! tan't that—it's bein' a *free man!* That's what I'm joyin' for."

"Why, Tom, don't you think, for your own part, you've been better off than to be free!"

"*No indeed*, Mas'r St. Clare," said Tom, with a flash of energy. "No, indeed!"

"Why, Tom, you couldn't possibly have earned, by your work, such clothes and such living as I have given you."

"Knows all that, Mas'r St. Clare; mas'r's been too good: but mas'r, I'd rather have poor clothes, poor house, poor everything, and have 'em *mine* than have the best, and have 'em any man's else! I had so, mas'r; I think it's natur, mas'r!"

"I suppose so, Tom; and you'll be going off and leaving me, in a month or so," he added, rather discontentedly. "Though why you shouldn't, no mortal knows," he said, in a gayer tone; and, getting up, he began to walk the floor.

"Not while mas'r is in trouble," said Tom. "I'll stay with mas'r as long as he wants me—so as I can be any use."

"Not while I'm in trouble, Tom!" said St, Clare, looking sadly out of the window . . . "And when will *my* trouble be over!"

"When Mas'r St. Clare's a Christian," said Tom.

"And you really mean to stay by till that day comes!" said St. Clare, half smiling as he turned from the window, and laid his hand on Tom's shoulder. "Ah, Tom, you soft, silly boy! I won't keep you till that day. Go home to your wife and children, and give my love to all."

"I's faith to beleive that day will come," said Tom, earnestly, and with tears in his eyes; "the Lord has a work for mas'r."

"A work, eh!" said St. Clare: "well, now Tom, give me your views on what sort of a work it is; let's hear."

"Why, even a poor fellow like me has a work from the Lord; and Mas'r St. Clare, that has larnin', and riches, and friends, how much he might do for the Lord!"

"Tom, you seem think the Lord needs a great deal done for him," said St. Clare, smiling.

"We does for the Lord when we does for his critturs," said Tom.

"Good theology, Tom; better than Dr. B. preaches, I dare swear," said Clare.

The conversation was here interrupted by the announcement of some visitors.

Marie St. Clare felt the loss of Eva as deeply as she could feel anything; and as she was a woman that had a great faculty of making everybody unhappy when she was, her imediate attendants had still stronger reason to regret the loss of their young mistress, whose winning ways and gentle intercessions had so often been a shield to them from tyrannical and selfish exactions of her mother. Poor old Mammy, in particular, whose heart, severed from all natural domestic ties, had consoled itself with this one beautiful being, was almost heartbroken. She cried day and night, and was, from excess of sorrow, less skilful and alert in her ministrations on her mistress than usual, which drew down a constant storm of invectives on her defenceles head.

Miss Ophelia felt the loss; but, in her good and honest heart, it bore fruit unto everlasting life. She was more softened, more gentle; and though equally assiduous in every duty, it was with a chastened and quiet air, as one who communed with her own heart not in vain. She was more diligent in teaching Topsy—taught her mainly from the Bible—did not any longer shrink from her touch, or manifest an ill-repressed disgust, because she felt none. She viewed her now through the softened medium that Eva's hand had first held before her eyes, and saw in her only an immortal creature, whom God had sent to be led by her to glory and virtue. Topsy did not become at once a saint; but the life and death of Eva did work a marked change in her. The callous indifference was gone; there was now sensibility. hope, desire, and the striving for good—a strife irregular, interrupted, suspended oft, but yet renewed again.

One day, when Topsy had been sent for by Miss Ophelia, she came, hastily thrusting something into her bosom.

"What are you doing there, you limb? You've been stealing something, I'll be bound," said the imperious little Rosa, who had been sent to call her, seizing her, at the same time, roughly by the arm.

"You go 'long, Miss Rosa!" said Topsy, pulling from her; "'tan't none o' your business!"

"None o' your sa'ce!" said Rosa. "I saw you hiding something—I know yer tricks;" and Rosa seized her arm, and tried to force her hand into her bosom, while Topsy, enraged, kicked and fought valiently for what she considered her rights. The clamour and confusion of the battle drew Miss Ophelia and St. Clare both to the spot.

"She's been stealing" said Rosa.

"I han't neither!" vociferated Topsy, sobbing with passion.

"Give me that, whatever it is!" said Miss Ophelia, firmly.

Topsy hesitated; but, on a second order, pulled out of her bosom a little parcel done up in the foot of one of her own old stockings.

Miss Ophelia turned it out. There was a small book, which had been given to Topsy by Eva, containing a single verse of Scripture, arranged for every day in the year, and in a paper the curl of hair that she had given her on that memorable day when she had taken her last farewell.

St. Clare was a good deal affected at the sight of it; the little book had been rolled in a long strip of black crape, torn from the funeral weeds.

"What did you wrap *this* round the book for!" said St. Clare, holding up the crape.

"Cause—cause 'twas Miss Eva. Oh, don't take 'em away, please!" she said: and sitting flat down on the floor, and putting her apron over her head, she began to sob vehemently.

It was a curious mixture of the pathetic and the ludicrous—the little old stocking—black crape—text-book—fair, soft curl—and Topsy's utter distress.

St. Clare smiled; but there were tears in his eyes, as he said,—

"Come, come—don't cry; you shall have them!" and, putting them together, he threw them into her lap, and drew Miss Ophelia with him into the parlour.

"I really think you can make something of that concern," he said, pointing with his thumb backward over his shoulder. "Any mind that is capable of a *real sorrow* is capable of good. You must try and do something with her."

"The child has improved greatly," said Miss Ophelia. "I have great hopes of her; but Augustine," she said, laying her hand on his arm, "one thing I want to ask; whose is this child to be!—yours or mine?"

"Why, I gave her to *you*," said Agustine.

"But not legally; I want her to be mine legally," said Miss Ophelia.

"Whew! cousin," said Augustine. "What will the Abolition Society think! They'll have a day of fasting appointed for this backsliding, if you become a slave-holder!"

"Oh, nonsense! I want her mine, that I may have a right to take her to the free States, and give her liberty, that all I am trying to do be not undone."

"Oh, cousin, what an awful 'doing evil that good may come!' I can't encourage it."

"I don't want you to joke, but to reason," said Miss Ophelia, "There is no use in my trying to make this child a christian child unless I save her from all chances and reverses of slavery; and, if you really are willing I should have her, I want you to give me a deed of gift, or some legal paper."

"Well, well," said St Clare, "I will;" and he sat down, and unfolded a newspaper to read.

"But I want it done now," said Miss Ophelia.

"What's your hurry!"

"Because now is the only time there ever is to do a thing in," said Miss Ophelia. "Come, now, here's a paper, pen, and ink; just write a paper."

St. Clare. like most men of his class of mind, cordially hated the present tense of action, generally; and therefore he was considerably annoyed by Miss Ophelia's downrightness.

"Why, what's the matter!" said he; "can't you take my word? One would think you had taken lessons of the Jews, coming at a fellow so!"

"I want to make sure of it," said Miss Ophelia. "You may die, or fail, and then Topsy be hustled off to auction, spite of all I can do."

"Really, you are quite provident. Well, seeing I'm in the hands of a Yankee, there is nothing for it but to concede;" and St. Clare rapidly wrote off a deed of gift, which, as he was well versed in the forms of law, he could easily do, and signed his name to it in sprawling capitals, concluding by a tremendous flourish.

"There, isn't that black and white, now, Miss Vermont!" he said, as he handed it to her.

"Good boy," said Miss Ophelia, smiling. "But must it not be witnessed!"

"Oh, bother!—yes. Here," he said, opening the door into Marie's apartment. "Marie, cousin wants your autograph; just put your name down here."

"What's this!" said Marie, as she ran over the paper. "Ridiculous! I thought cousin was too pious for such horrid things," she added, as she carelessly wrote her name; "but if she has a fancy for that article, I'm sure she's welcome."

"There, now, she's yours, body and soul," said St. Clare, handing the paper.

"No more mine now than she was before," said Miss Ophelia. "Nobody but God has a right to give her to me; but I can protect her now."

"Well, she's yours by a fiction of law, then," said St. Clare, as he turned back into the parlour, and sat down to his paper.

Miss Ophelia, who seldom sat much in Marie's company, followed him into the parlour, having first carefully laid away the paper.

"Augustine," she said, suddenly, as she sat knitting, "have you ever made any provision for your servants, in case of your death!"

"No," said St. Clare, as he read on.

"Then all your indulgence to them may prove a great cruelty, by-and-by."

St. Clare had often thought the same thing himself; but he answered negligently—

"Well, I mean to make a provision, by-and-by."

"When!" said Miss Ophelia.

"Oh, one of these days."

"What if you should die first!"

"Cousin, what's the matter!" said St. Clare, laying down his paper, and looking at her. "Do you think I show symptoms of yellow fever or cholera, that you are making post-mortem arrangements with such zeal!"

"'In the midst of life we are in death,'" said Miss Ophelia.

St. Clare rose up, and laying the paper down, carelessly walked to the door that stood open on the verandah, to put an end to a conversation that was not agreeable to him. Mechanically he repeated the last word again—*death!*—and, as he leaned against the railings and watched the sparkling water as it rose and fell in the fountain, and, as in a dim and dizzy haze, saw the flowers and trees and vases of the courts, he repeated again the mystic word, so common in every mouth, yet of such fearful power—"DEATH!" "Strange that there should be such a word," he said, "and such a thing, and we ever forget it; that one should be living, warm and beautiful, full of hopes, desires, and wants, one day, and the next be gone, utterly gone, and for ever!"

COLONIAL LEGISLATURE.

HOUSE OF ASSEMBLY, Saturday, April 9, 1853.

NIEL DARRACH'S PETITION.

House in Committee on the Report of the Special Committee appointed to report on the Petition of Neil Darrach—Hon. Mr. Jardine in the Chair.

Hon. Mr. PALMER. There is nothing in the whole matter, even taking it as it appears in the Report of the Select Committee, which calls for legislative interference. It is nothing more than a disputed account between a landlord and one of his tenants. The sum and substance of the Report is no more than that a larger amount of arrears of Rent, than was due, was claimed: and that the two actions were brought against the Petitioner when one would have been sufficient; and that the Defendant's Attorney, through some error, allowed judgment to be recorded for more than was due to the Plaintiffs. There is nothing in all this which calls for any interference on the part of the Legislature; and the sooner we arrive at this conclusion the more, I think, it will be for our credit; unless, indeed, we mean to lay it down for a rule, in all cases like this, that they shall be brought before us, and that we will appoint a Special Committee to examine into them, and report thereon to the House; which, perhaps, they might do, after having devoted weeks to the investigations into which they had been led by them; and the further examination of which, would, probably, engage the House in Committee of the whole, for as long, if not a still longer period, to the retarding of the progress of the proper business of the Session; for, depend upon it, there would be no dearth of such cases: they are of every-day occurrence, and the Special Committee and the House would soon be perplexed and wearied out by their multiplicity. It is only an ordinary dispute between a tenant and his landlord: and if, through mistake or otherwise, the tenant has been called upon to pay more than he owed, the Courts of law are open to him? and, if his case be fairly brought forward therein he will obtain redress. Even if the Petitioner's Attorney had, by some mismanagement of his case, or through some neglect of his interests, closed the door against his obtaining justice, in the usual way, in the Supreme Court, it would not be consistent with the functions of the Assembly for them to constitute themselves a Court for the purpose of trying the Attorney. The Attorneys, practising in any Court of Law, are Officers of that Court; and, in case of any dereliction of duty, or improper conduct in their legal capacity therein, they are amenable to the Court, which can deal with them, at discretion, and effectually punish them for their misconduct. We cannot, consistently with a due regard to our functions as a legislative body, even enter into the case so far as to determine, by the established rules of evidence, whether the Plaintiffs obtained a judgment for more than was due to them, or not. But suppose we are called upon to express our opinion, and that we declare that the Petitioner was committed to prison for more than he owed. What then? Can we set ourselves up as a judicial tribunal, and reverse the judgment, obtained by legal process, in the Supreme Court? Or, if having so determined, with respect to the judgment obtained against the Petitioner and his subsequent imprisonment, shall we agree to pay to him whatever we may think was unjustly exacted from him, or, in some way, provide for his being refunded to that amount? And, in the event of our coming to such a determination, will we, I ask, be further prepared to declare it to be our determination to take up every similar case which may be brought before us, and to deal with it in the same way? If we shall so determine, we must be impartial; and such redress as we are prepared to extend to an ill-used tenant, we must be ready to concede to a defrauded landlord. If so, then the appeals of landlords to the sense of justice of this House may be quite as frequent as those of tenants; and it may be nothing at all unusual for a landlord to come before us by Petition, and, in effect, to say to us: "I have a tenant, a very wily and slippery dog indeed, who, for several years, has cheated me out of the rents justly due to me. I have sued him in the Supreme Court; but, owing to some defect or loophole in the law, some mismanagement on the part of my Attorney, or some superior ingenuity on the part of the opposing Counsel, aided by a schemer of a client, I have been defeated, and a verdict, in defiance of justice, has been given in favour of my fraudulent tenant. The Supreme Court being now closed against me in this case, I appeal to you; and, as you have not only delared, but actually manifested, your willingness to take up and investigate all cases, in which the ends of law and justice have been defeated in the Law Courts, with a view to the redress of the wrong sustained by the aggrieved party, I confidently look to you for a reversal of the verdict by which I have been defrauded of my Rents, in this case." Now, I will suppose a Petition to this effect to have been presented to, and received by, the House. What will follow? The hon. member who presented it will feel himself in duty bound to move for the appointment of a Select Committee to report thereon; and the House, under a similar obligation, will conceive themselves engaged to grant it. Thus, this single Petition will be a week's work at least for the House; and, after they shall have duly investigated, as far as circumstances will permit, all the circumstances of the case, and, perhaps, have arrived at the conclusion that the landlord had been shamefully tricked and defrauded by his tenant, and his interests sacrificed by his Attorney, by what means, I should like to know, will they have it in their power to redress the wrong?—for, if they cannot redress it, their inquiries will have all been in vain; and their own inability to afford a remedy, as manifested by themselves, will not fail to make them appear very ridiculous. Will they, I ask, as I asked before, with respect to the present case, pay the landlord, out of the public purse, the amount of Rents of which he was defrauded? Will they compel his Attorney to pay it, as a penalty imposed upon him for neglect or abandonment of his client's interests? or will they visit his dereliction of his legal duty, in the matter, upon the head of the Attorney in some other way? Or, will they, as a proof of their supremacy, call upon the Supreme Court to set aside the verdict, and to direct a re-hearing of the whole case? If the House cannot now answer these questions in a manner satisfactory to themselves—and I am very sure they cannot—how can they avoid being sensible of the absurdity of the proceedings in which they are now engaged? If we proceed, we may expect that all tenants who may, hereafter, be sued for Rent will appeal to this House for protection, fleeing to it as to a city of refuge. Some hon. member may perhaps be disposed to answer me by saying that such a supposition is extravagant; for none but cases of extreme hardship, and for which no redress could be had in the usual way, would so engage the sympathies of the House, as to induce them to devote any time to their investigation. But I would reply, that we could not determine as to the real merits of any case, except by due investigation of it; and that, should we refuse, for whatever reasons, to entertain any Petition of such a nature, without previous enquiry concerning the particulars set forth in it, we would be, at once, and with much reason too, accused of acting in a very partial manner, and of suffering ourselves to be unduly biassed in particular cases. If we now proceed with this case, the consequence, I venture to predict, will be that at least one hundred cases of a similar nature will, in a few years, be brought before the Assembly; all of which it will be held they are bound duly to investigate; as, otherwise, they will not be able to distinguish whether the parties appealing to them are entitled to their sympathies, or not. Is not this consideration of the great inconveniences which will arise from our most unwisely laying aside our own proper functions, and assuming those to which we have no claim, sufficient to induce us to retrace our steps in this matter; and, even although it might be attended with some sense of humiliation to cause us honestly to confess that we have mistaken our functions, and that the redress prayed for, by the Petitioner, can be afforded only by a Court of Law? Of the absurdity of the course which the House have allowed themselves to adopt, in this case, having now, as I think, said enough, I will say a few words with resqect to the merits of the case itself. I have read over the Report very carefully. It states that the Agent and Attorney of the Plaintiffs made an Affidavit to the sum of £34 and upwards being due under the covenant of the Lease, whilst the sum of £3 18s 2d only was due to the Plaintiffs. Upon looking at the Affidavit, and comparing it with the Lease, it is evident enough that the Affidavit is incorrect; but, as it contains the the date of the Lease, and also states the yearly rent, by a simple calculation, it is, at once ascertained that the amount of arrears of Rent under the Lease cannot be as stated in the Affidavit, which, therefore, in a manner, corrects itself; and makes it plain that the debt could not have arisen under the Lease. But an error in an Affidavit or Declaration is nothing new in a Court of Law. An error in the Declaration would, it is true, upset the action; but in the Affidavit, which is made only for the purpose of holding the debtor to bail, the error might discharge the bail, but, otherwise it is of no consequence whatever, because it could in no way affect the amount sued for in the declaraton, or for which a verdict might be given, and judgment entered up. The affidavit is no evidence of the debt. On the day of trial, it is not even looked at in the Court. It would, therefore, be quite absurd to say that a greater sum than was owed was set forth as due by the Affidavit, for the purpose of obtaining a judgment for more than that could be justly claimed. In fact the amount stated in the Affidavit sometimes bears so little on the trial and the verdict, that not one farthing is recovered on it. For instance, I once, when acting for a gentleman, a member of this House, stated in the Affidavit that the sum of £60 was due to him, but the result of the issue was a verdict of £700 against him. With respect to the error in the Affidavit now in question, I asked the agent of Captain Cumberland how it had originated, and he shewed me the account in question, in Captain Cumberland's Rent Book, in Captain Cumberland's own hand writing, in which the amount of arrears of Rent it stated to be £54, the 5 being very much like a 3; which resemblance no doubt led to the Agent's misstating the amount, in his Affidavit, at £34. Now it has been said by some hon. members that the Lease is a proof that there were no arrears at the time it was given; and that the receipts which have been exhibited on the part of the Petitioner are a further corroboration of that fact. But I say that they who argue in that way, seemingly, know but very little of the nature of monetary obligations and of the laws affecting them. For their information, therefore, I beg to state that if a man, as my tenant, owe me rent for sixteen or seventeen years back, and I give him a Lease, saying nothing ,at the time, about any anterior Rents due to me, I shall not be debarred from the recovery of those arrears, on account of my having given the Lease and omitted to say anything about the arrears or to take an acknowledgment of them, but shall be in exactly the same position, with respect to them, as that in which I stood before the granting of the Lease: that is my action for their recovery will lie, except in so far as it may be restricted by the Statute of Limitations, the operation of which Statute will limit me to arrears for six years only. Now, by the evidence of the Receipts, it is not made to appear at what time the arrears on account of which they have been given commenced. There are many Receipts; but not one of them is a Recipt in full. Some hon. members appear to rely upon the Receipt of 1842, as affording them sufficient grounds on which to rest their view of the case; but that Receipt, which is merely a receipt "for one year's Rent and a part of last year's," is not a Receipt in full, and, at most, would be only *prima facie* evidence. Well then, since the Receipts are so inconclusive, what is there in them, or in any other facts which the labors of the Special Committee have brought light, to prevent the Landlord from exercising his right to recover the arrears due to him? Why nothing at all. The various payments made to him, by the tenant, on account of Rent, after the Lease was given, he (the Landlord) had a perfect right to place to the credit of the anterior arrears, or to that of the Rents accruing under the Lease, just as he pleased. As, for instance, let it be supposed that a man stands indebted to me, on different accounts: first, say on a Bond, next on account of a Book Debt, and, in the third place, on a Promissory Note; and that he comes forward to make a payment to me on account of what sums he is indebted to me. With respect to these several debts, the debt or—unless he give special directions at the time of payment—will not have a right to insist afterwards that the payment which he made shall be placed to the credit of one account, in preference to that of either of the others; but it will altogether rest with me to place it to the credit of any one of them, as may appear to me to be most likely to serve and protect my own interests, as depending upon those debts severally considered; and I will, therefore, give my Receipts as for a payment on account of any one of them, at my own choice. Just so with respect to Capt. Cumberland and his tenant, Neil Darrach: in Capt. Cumberland's Rent Book there was a statement of arrears of Rent, due to him by Darrach at the time the Lease was granted; and, consequently, when any payments, on account of Rent, were afterwards made by Darrach, Capt. Cumberland had a perfect right to place them, either to the credit of the old arrears, or to that of the Rents accruing under the Lease, just as he thought proper: and the fact is, that, being aware of this right, he exercised it, and placed payments on account of Rent, made after the granting of the Lease, to the credit of the old arrears. The Receipts, instead of proving any thing to the contrary, or even of affording reasonable grounds for a contrary supposition, all tend, in my opinion, to establish this fact; for not one of them is conclusive either as a Receipt for the Rent of any specified year, or, as a Receipt in full up to any specified