

had no desire that his old friend should suppose him so ignorant in so simple a matter as when or no when.

"I have no doubt," said uncle Andover, when we left the house, "that the doctor was wondering and wondering about this wedding, just for talk's sake, before we went in; and so his wife, feeling anxious, and for want of something better to say, blundered on the wed. Are you satisfied now, Leo?"

Everything that wealth and taste could combine was centered in and around the house of Mr. Frazer, a manufacturer in large business, and of great popularity. He was still in the prime of life, although he had a daughter married, whose first baby was now on a visit to his house. Nothing, of course, was too good for the child and its mother, and Mrs. Kenshaw revelled in unalloyed happiness. We admired and wondered at the child's precocity and beauty, till even the mother was satisfied, and we were wondering what we should say next, when Mr. Frazer came in from the office.

After hearing all our praises over again, and getting our opinion of his daughter's looks, he cast a cross glance at his wife, and said, "My dear, I came near breaking my neck over the child's wagon in the entry; how could you let it stand there?" "Oh, father," said the daughter, "it was my fault; it was I that left it there." His face cleared up in an instant; for, as my uncle afterwards observed, it makes a vast difference whether the injury, opposition, or vexation, comes from a wife or daughter. But with this branch of the question I have nothing to do at present. I am now only speaking of a married man's eye.

The next visit was to Mr. Graylove, the clergyman. I thought his wife could not be afraid of dogs, for there were no less than four lying about. Over one of them my uncle stumbled, as he entered the parlor; but instead of apologizing to him, Mr. Graylove cast a reproachful look at his poor wife.

"I told Mrs. Graylove," said he, with another glance, "that if she persisted in driving old Carlo from the hearth-rug, he would take to the door; and now she sees I was right."

"Oh, never mind," said my uncle, mildly; "no harm is done; only that Carlo has chosen a very inconvenient place of rest; for he must be continually disturbed by the opening and shutting of the door."

"Yes, but the door opens outward, as you see," said Mrs. Graylove; "and people generally see him, and so step over him, if he is too lazy to get up, as he was to-day. If I had my way, dogs should never come in the parlor; they are a perfect nuisance, and I tell Mr. Graylove—"

The eye quelled her. "What!" said I, "is it always thus? Is the married eye always ready to reproach?"

Our last visit was to a very aged couple, Timothy Winter, and his wife. He was an old country gentleman, of eighty-six, affluent and respectable. On this day there were thirty-six children, grand-children, great grand-children, and two little twin boys, his great-great-grand-children. It was their aged relative's birth day. "Surely," said I, "this man has scoured his eye out by this time." "Look out for his eye!" said uncle Andover.

All seemed to hover about the old man, and I kept wondering why the same fuss was not kept up with the old lady too. Very little notice was taken of her. There she sat, in a corner by herself, smiling and nodding, and looking so happy—poor thing!—but to my eyes she did not seem to belong to the people around her. She was a delicate, lady-like looking woman, with a mild expression, and of quiet manners; while the whole brood were needy, care-worn, sinister-looking people; rough and uneducated. Even the father, although of coarse exterior, had a cast of superiority. We often see this in families, and there is no accounting for it.

The only one that at all resembled the old lady, was the mother of the little twin boys, who died of a broken heart from ill-usage. Her husband was a brute, and broke his neck in a horse-race just one month after his wife's death. The children were taken home to their paternal grandmother, and this as I have said was their first visit. With that placid smile on her face, old Mrs. Winter was the only one in the group who felt a pang at the loss of the children's mother; and yet, lived at a great distance from her, she had never been seen by the aged people.

No one, as I observed, paid much attention to old Mrs. Winter; yet what had she not endured for them all! In some shape or other, her assistance, her feelings were in constant requisition. To every one of the rough, engaging-looking people, she had more than acted a mother's part; and yet they showed more respect to old Timothy, who had never voluntarily, my uncle said, done them one kind act. Young as I was, I had seen this before in several families. The descendants make a greater ado with the old grandfather.

"Stand aside, Sally dear," said the aged woman, "and let me have another look at the dear little boys. Alas for their poor dear mother! What are their names did, you say? Henry and George? Well, they are very pretty names, but I wonder that one of them was not called Timothy."

Old Timothy had some such feeling in his own mind, for most old people have this passion of wishing their name to descend to their grand-children, but the name be ever so ugly. But if it was a mark of respect to give the child his name, so it was a mark of disrespect or indifference to neglect doing it. To make this neglect apparent to others, was offensive to old Timothy; so he cast his eye wrathfully toward his wife: "Nonsense!" said this old man of eighty-six. He meant that this look from his eye should have reached her, but it failed, for it fell on my uncle. Timothy was almost blind, yet he did his best.

"And yet," said uncle Andover, after we left the house, "the old man was always thought to be a kind husband."

"But why," said I, sorely puzzled, "why is it that all hover around the old man? I have observed it to be the case everywhere."

"Why?" said he; "why because men, to the last, hold the purse-strings, my son; and because all their children, grand, great-grand and great-great-grand-children, down to such little ones as the twins we have just left, have seen the man's eye quell their mother—the mother of all; she, that suffered for them, that nursed them through many a desperate illness; she that has toiled for them up to the eightieth year and has for ever interceded for them, when the old man was choleric. The workings of that old man's eye—of every man's eye—has made her and old women what they are, poor despised creatures; so that to be called 'an old woman,' is the most degrading epithet that can be applied. But their time is coming; their day is opening, Leo; and those little twin brothers will not say 'Nonsense!' and cast a fierce glance at their wives, when they, tender-hearted to the last, are anxious that their husband's name should be kept green and fresh in the minds of their descendants. Yes, my son, the moment a man marries, his eye begins to scourge his wife; but many are now beginning to ask why this must be."

"To be sure, my dear uncle," said I, "a man must often say and do foolish things, and often act contrary to his wife's judgment. He must, therefore, be as liable to the fierce glance of the eye, as she is. The only wonderful thing about it is, that any man who tenderly loves his wife, can let his eye fall on her as if she were his enemy." "No, no," said I, "never shall this eye reprove thine?" Uncle Andover looked up and smiled.

At the head of the broad street we stopped to buy an orange of old Mrs. Tray. She was waiting for us, and keeping herself in sight, that she might say a few words to good bachelor Andover, a name by which he always went, and to which he always answered as readily and as innocently

as when he was called Leonardus, which was his name. Mrs. Tray was not so anxious that we should buy her fruit, as to hear my uncle say a few pleasant words to her, and to chat over the news of the day. Her husband sat on the steps, smoking his pipe. He was a poor, sorry, do-little fellow, blind of one eye, and did scarcely anything toward supporting the household.

"Good morning, Mrs. Tray! How are you, and how do you like the railroad. They paid you well for cutting through your garden, didn't they?"

"Why, yes, thanks to you, bachelor Andover, I remember that, full forty years ago, you told me, then a young girl, and you but a few years older, that— But may be you are one of those who do not like to speak of their age; not that you are so very old, bachelor Andover."

"I am turned of sixty, Mrs. Tray; so do not fear that you will hurt my feelings by classing me among the old. How curious it is, Leo, that people have an aversion to be thought old, as if it were disgraceful. Your good husband is looking well, too, Mrs. Tray. He smokes still I see."

"Yes, Peter is quite well at present; but I was telling him as you came along this way, that he had better come in doors and smoke, as sitting in the sun, with his head leaning against the cold brick wall, would bring on his old headache."

A fierce look from the old brute stopped her at once. He scoured her with the only eye he had.

We both laughed heartily, when out of hearing.

"You see," said my uncle, "that it runs through all ranks and degrees; and if every one would keep a look-out, as you and I have done to-day, the married man's eye would be seen in every house. It is a common thing that it is never noticed. It is looked upon as part of the marriage ceremony, or rather as having been engrained upon a man in consequence of the ceremony."

"Yes, I shall now be forever watching the married man's eye; but just for fun's sake, if you are not too tired, let us go down into this oyster-cellar, and see what kind of an eye old Cato has. I hear the pan going; his wife his frying oysters."

"His eye will work, too, depend upon it!" said my uncle, with a smile; "he will quell her—he will quell her?" But no such thing. To our amazement his eye never shot an angry glance at the poor, heated, tired woman, doing her best, as nine wives out of ten always do. My dear uncle was quite "put out" about it, for he was loth to admit that the rule did not hold good with all men. We stayed half an hour seated, on a clean bench near the door-way, chatting with the old man and woman, who in the time dispensed two handfuls of oysters, nicely fried, to their customers.

My uncle, as I thought, made several efforts to provoke a shot from the eye of old Cato; but it made no impression. I told him that I suspected that he was playing false; but he denied it, though he said if the glance could be obtained, it would not signify whether it was provoked or whether it came naturally. It was the proneness to make use of the eye—the authority of the married man's eye—that he rebelled against.

But no unlucky word or deed from old Dinah had an effect upon her husband's dim, bleared eyes. My uncle now "set in to talk," first to Cato and then to Dinah, who was now preparing a third pan of oysters.

"I will show you Cato's eye yet," said my uncle.

"I doubt it," I replied.

"How many children have you, Cato? I used to see three or four playing about you, a year or two ago, and now I only see the little girl who carried out the oysters."

"We have nine, massa Andover, and all doing pretty well, cepin Clarissy, who lost her husband, poor ting! So I told my Dinah to let her and de children come home. Dat little girl is her oldest girl."

"This come very hard upon you, Cato. I must tell my sister to look into it."

"Tanky, massa, tanky; but it is not for me to complain; only Dinah, my poor woman, I tell her she will fry her eyes out. I have nothing to do but to, still half de time and open oysters; but tank God we have a great ruu, massa; and Dinah, nobody can please de customer so well as she, massa. Den, when I have taken out de shells, I does nothing but go about and 'muse myself' in de garden, or lean over de wagons, and get tings cheap. But it comes very hard upon my poor woman dere," and Cato cast a tender, humane glance at his wife, who, having just finished her oysters, was turning them into a plate.

My uncle looked at me from the corner of his eye, to see if I had observed the old man's.

"I saw it," said I, "it was a glance worth a guinea."

In a moment Dinah stood before us with a tray, on which were two plates, each containing six of the largest and finest oysters I ever saw. A little table was placed between us, on which were a snow-white cloth, bread, pickles, mustard, pepper and salt.

She turned aside to look at Cato; but oh, what a delighted eye the affectionate husband cast on her! He fairly rubbed his hands with joy at this mark of attention to us.

"Dat's it, Dinah, dat's it; now why didn't I tink of dis, too? But she is always beforehand wid me, massa bachelor Andover. I tink women are always cuter dan men in such tings; but when it comes to open oysters den we beat 'em! Yah! yah!"

"Oh, never mind it, Dinah, woman," said he, when the poor soul in her haste to hand my uncle a glass of water, knocked over the mustard-cup, the contents of which ran on his boots; "never mind it, old woman; massa don't care, for I can soon polish him up again, and I'll buy you another mustard-cup."

"Here is a dollar toward it," said my uncle.

"And here are two," said I, "for not casting an angry look at your wife, when she knocked the cup over."

"De look mad at me!" said honest Dinah.—"Lucky!—why, young massa, Cato never looked mad at me once in his life, as I can remember."

"Well, who would have thought it?" said my uncle as we left the cellar. "I must own that I tried hard, at the first going off, to provoke his eye to do its accustomed duty. But look—look there!"

Little Davison came smirking along, with Miss Parsells hanging on his arm; when just as he approached us, her bonnet caught in the straggling branch of a wild-plum tree, which stood in a little group of trees near the edge of the commons. The ribbon gave way, and the bonnet was jerked from her head. Oh, how assiduous the fellow was, in extricating it from the branch! How devoutly he pinned the ribbon fast, and how tenderly he tied the bonnet on again! Then he laughed so good humoredly at the joke, and at her embarrassment, and he drew her arm in his so gently, as they moved away!

"He is engaged to her—he has her!" said my uncle; "but remember the scene, Leo, and mark his behaviour a twelvemonth hence.—Here comes our little beauty."

It was indeed my dear Flora, blooming with goodness, health, and loveliness. I forgot little Davison—I forgot the whole world—as I sprang to her side.

"She is beautiful and happy," said uncle Andover, as I told him of my engagement, which I did as soon as we left the dear girl at Oak Valley; "but put off your marriage as long as you can. Ah! if you had told me of your love for her, I should have tried to persuade you to let her alone. She is too good, too innocent, for the married eye."

"What! do you think that my eye will ever try to quell that bright, beaming glance of hers?"

"Yes, Leo, that it will. Old Cato has the only eye that does not carry a savage authority in it."

Well, the short of the story is, that after a little coaxing, my dear aunt and uncle consented to our marriage; and it so happened that a few months after, as I was walking one fine afternoon with my lovely companion on my arm, and my uncle at her side—for he became very fond of her—we saw Davison and his wife, late Miss Parsells, in the very walk where we had encountered them before. Instead of her bonnet it was his hat that was knocked off by the branch, I dare say the same branch of the wild plum.—But his tone was altered now.

"You would come this way," said he, looking fiercely at his wife, as he replaced his hat on his head; "you are always doing something or other to make me look ridiculous. Your own foolish hat was dragged from your own foolish head in this very spot."

"Do you hear?" said my uncle.

"I do," said I.

"Did you see the look he gave her?"

"To be sure I did; and how meekly she bore it."

"Flora, my love, how you swing about!" said I, not thinking that it was my attention to Davison's manoeuvres that prevented her from keeping the path. "Don't gaze on those people so," said I, casting the married eye on poor Flora, who was only following my example. My uncle was a little in advance of us, and turned his head in time to catch the look.

"Leo, write this all down," said bachelor Andover, "for the good of the female sex."

"I will," said I, looking abashed; "Flora, dearest! forgive me!"

The Examiner.

CHARLOTTETOWN, P. E. I., JULY 28, 1856.

THE LABEL CASES.

No. 2.

The decision of the Supreme Court in the case of Maclean vs. Whelan has at length appeared in the columns of the plaintiff's journal, and from the delay in its publication we have every reason to conclude that this remarkable legal decision was duly transmitted to New London to receive the worthy editor's emendations and comments, for a letter addressed "to the public," by Maclean, in a tone of the most injured innocence, appears in the same paper with the decision, alluding pointedly to parts of it, although it is well known Maclean was not in town when the decision was pronounced.

The judgment of the Court may be divided into two parts—the explanatory and the declaratory. The first sets out by rebutting at great length the opinion of the Defendant's counsel, as to the absence of any power in the Court to challenge the array in special jury panels. The Court contends that it possesses this power, and several quotations are made from various law authorities to show that it has been exercised. We are not prepared to question the authorities quoted—they may be all right enough, so far as they go, and we have no doubt that a person of a good legal education could put his hands upon just as many authorities to sustain an opposite opinion—for such is the ductile nature of Bench law that it may be easily made to yield to any side of a question. It does, however, seem strange to us of the uninitiated class—unschooled in the sublime mysteries and cobweb wisdom of the Courts—that the Legislature should incur the trouble and the country the expense of passing a positive enactment to regulate the empanelling of juries, and to nominate a particular officer for that purpose, if the law can be rendered perfectly useless by an order of the Court. But this, we presume, is a part of the power and influence of the Bench, to which the judges will no doubt most tenaciously cling.

The second or declaratory part of the decision is to the effect, that as neither the Defendant nor Under Sheriff put in an affidavit in answer to the allegations contained in Maclean's deposition, those allegations must be regarded as unanswerable—that the Under Sheriff showed partiality in selecting the jury panel, and that in the absence of any such counter affidavit the array must be quashed. The learned Judge quoted, as in the first case, several authorities in support of this decision, which were to the effect, that an affidavit on one side being unanswered on the other, entitled it to implicit belief—no matter what motives and objects influenced the party in making the affidavit. This may be law—Bench law—or one particular aspect of Bench law—but we doubt very much of its being even-handed justice. Admitting this principle, we will suppose a case: A reckless and unprincipled man brings a grievous charge against an unoffending person, and swears to that charge. The person assailed may consider the calumny so gross and unfounded, and the accuser a man of such notoriously bad character—that he would not consider it at all necessary to offer a counter affidavit. Yet, the learned Judge has told us that we are bound to believe the deposition of the accuser, unless it is refuted upon oath. This opinion does not appear to us to accord with that generally received notion of British justice—that a man cannot be accounted guilty of any specific crime on the slender and unsupported testimony of a person who has the greatest interest that his words should be credited, and being strongly influenced by malicious feelings against the party accused. The learned Judge has, himself, descanted on the impropriety of accepting such one-sided and suspicious testimony, notwithstanding the decision subsequently come to. We quote his words for the information of our readers:—

"And here we must observe that where a party making such a complaint as this plaintiff does, is, by his own showing, an active political leader, or warmly engaged in political controversy, we should have expected his statements with regard to the political feelings and opinions of the individuals named in the panel, and of whose return he complains, to be supported by something more than his own affidavit. We should have expected that (in the language of the affidavit) those credible and experienced persons acquainted with the Jurors named, who have examined the lists, would have made an Affidavit adding the weight of their opinions and knowledge of those individuals to that of the plaintiff, because it is quite possible that political controversy may lead him to attribute more violent feelings to his opponents than they deserve, and under these circumstances, had the defendant put in an affidavit, even generally denying the material charges alluded to, we should have experienced little difficulty in making up our minds to refuse this application."

Here we are told, that if the defendant had "put in an affidavit even generally denying the material charges alluded to" in the plaintiff's affidavit, the Court "would have experienced little difficulty" in making up their minds to refuse the application for quashing the special panel. Now the defendant's counsel did not appear to consider this course at all necessary, and the defendant himself was certainly of opinion that he was not bound to put himself in any trouble or inconvenience in the matter. The plaintiff's affidavit contains no distinct or substantive allegations against the defendant; nor,

indeed, against anybody;—it deals in generalities, suspicions, and the recital of hearsay stories—which, according to the Judge's opinion, were, for the most part, entirely irrelevant and unworthy of notice. It is true that Maclean says he has good reason to believe that the defendant, or some one on his behalf, has had some act or part in the selection of the jurors named. The Judge dignifies this assumption or presumption by the name of "a charge" against the defendant, which it is said ought to have been answered. Now, we must differ with his Honor, and pronounce the belief of the plaintiff to be no charge at all. If "credible and experienced persons" had offered their testimony in support of the belief, it would, perhaps, have assumed sufficient importance to warrant an answer. But because Mr. Maclean chooses to believe any absurdity or falsehood respecting Mr. Whelan, is it necessary that the latter should make oath that the said absurdity or falsehood is an offspring of the former's deceased or prurient fancy? This would be ridiculous and childish trifling. The Judge next says:—

"Again the charge that so large a proportion of the panel is composed of partisans and violent political leaders on the defendant's side, was a matter which the defendant could have no difficulty in rebutting, if their political character was not correctly described."

Suppose the defendant knew nothing about the "political character" of many of the Jurors chosen? There is a large proportion on that special panel of whose political principles he is, up to this moment, utterly incompetent to form an opinion. The great majority of them appears to be from the rural districts, and, removed from the influence of the town, would be most likely to give an impartial verdict. But if a man is to be considered disqualified for the office of a juror, by reason of his political principles, where are we going to find a jury in this country indifferent to political considerations? Mr. Justice Peters himself admits that "in a small community, where we know party feeling runs high, it may not be easy for any one to select a panel with which one party or another may not be dissatisfied." And yet the defendant is told that he ought to have shown, if he could, that the jury were not political partisans on his side. But suppose they were political partisans on the other side, would they be one whit better qualified for the discharge of their duties? Yes, there is no doubt that if we had a Tory Under Sheriff, and a special jury had been moved for, we should have had such another panel as the Grand Jury was in the late Term, there being out of the whole batch only one man on the Liberal side of politics, and the Foreman being, not only the plaintiff in a political action in Court, but, according to his own sworn admission, warmly engaged in political controversy. If political predilections in Juries are, then, to be ignored or discountenanced, did the Grand Inquest present a fair and impartial panel? No, but the very reverse; and the animus of the Grand Jury was fully exhibited in their silly and disgraceful presentment of Mr. Clark, which the Court, in very shame, had to set aside as frivolous and contemptible.

Now, we contend that the late Grand Jury were, with one solitary exception, violent partisans on the Tory side of politics; and if it were wrong in Mr. Under Sheriff Williams to select a Jury equally remarkable for their political prejudices on the other side, it must have been wrong in Mr. Under Sheriff Bagnall to select the Jury of which Maclean was foreman; and we confess that we cannot understand the justice of calling one officer to account, and letting the other go scot-free. We agree with his lordship the Chief Justice that "it is most important to the public that the duties of officers connected with the administration of justice, and particularly with the return of the Jury panels, should be discharged with integrity;" but we must tell his lordship that this principle should be strictly enjoined upon all "officers" alike. If Mr. Under Sheriff Williams was supposed to have acted erroneously in the selection of the Jury panel under consideration, he should have been instructed by the Court to offer, by way of affidavit, such answer or explanation as he might deem necessary to the allegations made against him by D. Maclean, as soon as those allegations were read in Court, and not after the special Jury panel was quashed. The course, however, pursued by the Court looks very much like condemning a man first and trying him afterwards. Mr. Williams, we have no doubt, did not for a moment suppose that it was his duty to make a counter affidavit; but the Court thinking differently, it appears to us that they should have given him the necessary advice in the matter before they quashed the array.

We have already occupied too much space with this matter, and will bring our observations to a close for the present. We must, however, briefly state the order of the Assistant Judge, viz:—that the panel selected by Mr. Under Sheriff Williams be set aside, and a new one returned by the Coroner, D. Hodgson, Esq., to be selected from three other special panels, which were given at the end of Maclean's affidavit, marked B, C and D, and which we now insert below. It will be remembered that Maclean swears that he would be satisfied with either one of these Juries to try his case; but the Court goes further than the plaintiff desired to go in the gratification of his wish, and gives him the whole three Juries to make a panel. Does this look like justice and fair play? One party to an action swears, long before the action goes to trial, that he has a preference for a particular Jury, and the Court gives him not only that Jury, but two others of a precisely similar character! The Assistant Judge affects to think that the Juries indicated are not swayed by political prejudices. If this opinion be sincerely entertained by him, he was never more mistaken in his life. Out of the 144 names handed to the Coroner for Maclean's special benefit, there are about 30 or 36 known and acknowledged liberals—the remaining 108 or 114 are, with the exception of a few doubtful persons, whose politics we cannot particularize, influenced by the strongest prejudices against the defendant particularly and the Liberal party generally. Now, where is the chance of an impartial verdict and "pure administration of justice" in a case like this? Maclean might well say that he would be satisfied with either one of the special juries referred to, when we find that in the first 48 names they are his political friends, with the exception of 12 or 14,—in the second 48 names, they are all his friends, with the exception of 6 or 7,—and out of the third 48 there are only about 15 who entertain political opinions opposite to his own. We may be told, as doubtless we will, that those Juries were selected by an Under Sheriff holding the same political principles as the defendant, and that therefore he has no right to complain. But to this we can answer, that the causes which they were summoned to try had no political complexion—that intricate and complicated matters of accounts were the things to be submitted to them, with which ordinary country juries were