“Berkeley Jail.” By the author of Hope Leslie. In The Atlantic Souvenir, 13-53. Philadelphia: Carey and Lea, 1832 [pub. 1831].

BERKELEY JAIL.

By the Author of Hope Leslie.

None are all evil.

Byron.

The circumstances of the following story, though they transpired within the last thirty years, are already nearly forgotten, or are only accurately remembered by those who are passing into the ranks of the shadowy existence – ‘the oldest inhabitant,’ by whom they are transmitted in the prosing winter’s tale, to the thirsty ears of boys and girls. I have diligently collected the particulars, partly from the records of the judicial proceedings in Berkeley county, partly from tradition, and partly from memory – for the events formed an epoch in my quiet childhood, similar to that which might be made by an earthquake, an inundation, the eruption of a volcano, or any other interruption of the silent process of nature.

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Within a township which I shall take the liberty to call Shelburne, stood, and still stands, a little removed from the village, and on the brow of a hill kindly sloping to the south, a mansion, which thirty years since was occupied by Colonel Vassal, and for almost a century preceding was in the possession of his ancestors. The projecting upper story marks the period of its erection to have been when Shelburne was a frontier settlement, and the houses were thus constructed to facilitate their defense against the Indians. It has the marked physiognomy of the pilgrim architecture – the upright roof, dormant windows, and door posts carved with hollyhocks and full blown roses, all as perpendicular and rectangular as the unbending proprietor of a century since. Its little antique court yard, with its scragged peach trees half hidden by overgrown lilac bushes – its superannuated damask rose bushes and high box borders, are quite enough to throw a modern horticulturist into a fever, but they were the pride and delight of Colonel Vassal. Beyond this boundary, nature, then and now, though now somewhat more adorned, smiles around the mansion in free unspoiled beauty. Elms of magnificent growth, the sugar maple with its masses of dense foliage, and mountain ashes with their palmy clusters of bright scarlet berries, indi-

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cate the taste and refinement of the early proprietors; and the bright little stream, which winds and sparkles through the meadows that repose at the foot of the hill, seems to send up, from its

wooded and fragrant banks, the homage of nature, a spontaneous tribute to the senses of its legitimate lord.

Colonel Vassal was a gentleman of the old school, and would have continued so, if he had lived to the present day of 'don't care' and slipshod manners, for he had the essence of gentlemanliness in his spirit – delicacy, self-sacrifice, and an instinctive care of the feelings of every human being. He might have been a little overdoing and ennuyant in his courtesies, but the spirit went with the letter. The Colonel served in the French war, and the laurels he then won in the service of the mother country probably strengthened his ties to it, for his loyalty, though pure as gold, was not, when the revolutionary war broke out, found to be a transmutable metal, that could be fused into patriotism. To have opposed the current of what, in his honest judgment, the Colonel deemed rebellion, would at Shelburne have been madness, as well as folly. He therefore maintained a strict neutrality as to any overt acts, and gently floated down the troubled current of the times, now and then slightly molested by hot-headed partisans,

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but generally protected by the sentiment which his strict honour, his kind-heartedness, and generosity could not fail to inspire.

His estate, however, suffered the common deterioration of property at the time, and unfortunately he was not bred to any business, nor gifted with that art which, in the language of the country, makes the most of a shilling. His keen neighbours would have 'scorned to *take* the advantage' of the Colonel's uncalculating temper, but he was always sure to *give* it to them. Year after year his income was reduced and his capital abated, till, as was happily said by my friend in a similar case, 'nobody could guess how his family was clothed and fed, but by supposing that the habit of eating, drinking, and wearing clothes was, like all other habits, when once fixed, not to be shaken off.' This original solution of a common mystery did not entirely explain the enigma of the Colonel's subsistence in his accustomed style. He had an old family servant who bore the nursery appellation of Mammy, and who was fully as devoted to the Colonel, in affection and effort, as Caleb, that prince and flower of servingmen, was to the master of Ravenswood, and far more ingenious in the arts of saving and twisting and twining, than any thing of mankind ever was or ever will be. The wants of Colonel

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Vassal's household were few; its numbers, alas! were reduced. Death had removed his wife, and child after child, till only one remained, Fanny Vassal, the last hope – the sweet and sufficient solace of her father. She was

'The gentle and beautiful –

The child of grace and genius.'

There was a thriving young attorney in Shelburne by the name Levi Carter. He might have sat for the admirable picture of Gilbert Glossin, Esq. If he never committed equal atrocities, it was because a kind Providence saved him from equal temptation and convenient opportunity. He belonged to the large and detestable class of *number one people*, who think, hope, desire, plan and act only for themselves, and who are alone restrained, in the promotion of their interests, by the coarse fear of the law of the land. This man 'fell in love' – we use the current, much abused phrase – with Fanny Vassal. His wooing of course was the subject of village gossip, and the popular opinion went in favour of his success. A remarkable expression of dissent from this opinion from one Sam Whistler, an Indian game seller, was reported to Carter – "Miss Fanny marry Levi Carter!

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when ye see the innocent lamb seek the company of the fox, and the pretty dove mate with the hawk, then ye'll see Miss Fanny the wife of Levi Carter!" This speech happened to be repeated on the very morning after Carter received a decided negative from Miss Vassal, and a positive refusal from the Colonel, who was never positive before, to interpose his influence. As there is neither proportion nor distinctness in minds where there is no principle of truth or justice, Carter blended the miserable author of this petty offence, with the more dignified objects of his mean and malignant resentment. It was the first link in a chain that led to fatal consequences. Carter's pretensions had passed and were forgotten by every one but himself, when the curiosity of the villagers of Shelburne was more powerfully exercised by the arrival of a nephew of Colonel Vassal, a captain in the corps of royal engineers, who was stationed somewhere in the wilds of Canada, and who, having obtained leave of absence for a winter to travel to the States, had come to Shelburne to pay his uncle a visit. It was no wonder to those who had seen, known and loved Fanny Vassal, that her cousin, having seen her, should grow indifferent about seeing any thing else in all our United States; nor was it a

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marvel that after knowing the frank, warm-hearted and accomplished young soldier, she, like the gentle Miranda, should have

'No ambition to see a goodlier man.'

Before the winter was over, with more love than prudence, they were united.

As Fanny could not or would not leave her father, it had been settled that Captain Vassal should return to Canada early in the spring, dispose of his commission, and come back to seek his fortune in the United States. He went, and, in attempting to cross one of the Canadian rivers on the ice, he was drowned. Poor Fanny! Her heart was too tender, and her love too concentrated to endure the shock. In a few months she was borne to the village church yard: but her memory lived; it lived in the increased kindness of the Colonel's friends; in the patient grief written on his

monumental face; in an infant boy; the memorial of her sufferings, and the heir of his mother's wealth – the love of all that loved her.

As the infant expanded into boyhood, no eye but his grandfather's and *mammy's* could discern in him any resemblance to the blond beauty of his mother. His high bold forehead, black curling hair, bright restless eye lit with the fires of his ardent spirit, unfolded the dawn of a mind that promised a bright

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futurity. He had nothing of the quiet acquiescent temperament of his old relative, but he had strong affections, and they were developed by his intercourse with him. He often put his little hands to the tasks of aiding his grandfather in cherishing a rose bush that had been planted by his mother. Everything else in the court yard grew in wild luxuriance, or died unheeded. This was pruned and watered and trained, as if instinct with her sweet spirit. His mother's guitar hung beside the fireplace, and Charles would watch the old man has he leaned his head against it and his white lock fell over its broken strings, and silently creep into his lap and lay his head on his bosom, and this express the deep and almost mystical sympathy that united them, and which made him feel (to borrow the expression of the beautiful deaf mute, whose life has recently fallen a sacrifice to her filial tenderness) as if his heart *grew close* to his parent's.

Time passed on, and has brought us, somewhat slowly, to Charles's fourteenth year, and the incidents of the boy's life which may indicate subsequent greatness. The same principle that stirs a feather impels a planet.

I must remind my readers, before exposing my young hero to the chastisements of a woman's tongue,

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that Mammy was of the privileged order of faithful old servants; that she had to strain every nerve to maintain a decent appearance and that she was often at her wit's end, to keep the wheels of her little empire in motion.

It was Monday afternoon, and she had just put the last flourish on her well scoured and sanded kitchen floor, when Charles entered, with a string of game in one hand and a gun in the other, his shoes and pantaloons bearing ample tokens of his having been

'Over hill, over dale

Thorough bush, thorough briar.'

He was followed by a lean, hungry dog, who, by keeping close to the heels of his principal and dropping his head and tail, indicated that he was aware of the fearful presence into which he had ventured. Mammy's tongue always sounded as quick as an alarm bell; "What, under the canopy,

Charles, does this mean? – stop, see how you are tracking the floor! your new pantaloons on too! Get out, you hound!" she continued, giving the expecting dog a blow with her broom-stick that sent him howling out of the house.

"Oh hush, Mammy," replied Charles, in a deprecating

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voice, "Sam is on the steps: here, Biter, here!" the dog bounded in again. "Now, Mammy, don't scold, indeed I forgot to scrape my feet – there now," he added, rising on his tiptoes, leaning over the old woman's shoulder, and giving a hearty smack to her withered cheek – "there now, Mammy, we are friends again, are we not?"

An affectionate kiss is a panacea to old and young. The muscles of Mammy's face relaxed, and her voice softened, as she replied, "Yes, Charlie, friends; but do drive out that nasty dog."

"Excuse me, Mammy, I can't; you must give him a bone, and draw a mug of cider for Sam."

"A bone, child – high! the last bone in the house is as clean as the fatted calf's; and a mug of cider for Sam, indeed! no, it is a shame and a sin to give cider to a drunken Indian."

"Oh, hush, Mammy, hush, for pity's sake. Look here – do you see these ducks? – elegant, are they not?"

"They *are* plump; they'll do the Colonel's heart good, poor old gentleman; he has had no more stomach for his victuals to-day than a teething baby."

"Then remember, Mammy, we could not have got them but for Sam; and these partridges – beauties, as fat as butter – and four of them."

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"Did Sam kill them all?"

"No, indeed, I killed one; but the best of it all is, that as we were coming across the bridge we met Mr. Carter."

"Did you? the black-hearted fellow!"

There was no neutral ground in Mammy's mind for Mr. Carter; he never passed it without a shot.

“Well, he stopped and told Sam he had met him just in time; that he had company at his house, and wanted his game. ‘Turn round, Sam,’ said he, ‘and carry it to my house, and I’ll give you a dollar for it, and a glass of brandy into the bargain.’”

“What a shame to tempt the poor *creater* with brandy,” interrupted Mammy, with a most virtuous nod. “Well, what did Sam say, Charlie?”

“He shook his head.”

“Did he?”

“Yes, indeed! ‘Why you rascal,’ says Mr. Carter, ‘you don’t expect to get more than a dollar? well, well, I must have it, so go along with it, and I’ll give you a dollar and a half.’

“ ‘Squire,’ says Sam, looking up in his keen way, you know, Mammy – ‘Squire, all the money you have in the world can’t buy my game.’”

“Good, good!” exclaimed Mammy.

“ ‘What do you mean, fellow?’ says Mr. Carter.

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‘I mean, Squire, to give the game to your betters – it’s for the Colonel.’ ”

“Well said, Whistler!” exclaimed Mammy, and setting down her broom, on which she had hitherto rested, she brought forth a bit of cold lamb which she had husbanded for the Colonel’s supper, cut it from the bone, which she threw to Biter, called Sam into her kitchen, set him down to her freshly scoured table, and in spite of her high principles, that a moment before had been stern enough for the head of a ‘Temperance Society,’ she filled and twice refilled the mug with cider.

Sam, or Sam Whistler (for Sam, as well as Cicero, had his descriptive cognomen), was a full-blooded Indian, I believe of the Seneca tribe. How he came to be a lopped branch from the parent tree was not known; the only soil he loved or honoured was that in which it grew. Accident probably threw him in his childhood among the whites, and the chains with which habit binds, even the most lawless, kept him there. But though in the heart of a civilized community, he adopted none of its usages. His tall and finely moulded figure was habited in a half savage costume. His crownless and almost brimless hat was banded with the skin of a rattlesnake, and trophied with the plumage of his last game. His outer garment

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was a demi-coat, demi-blanket, fastened at the waist with a wampum belt, and his feet (when shod at all) were shod with a motley article compounded of moccasin and shoe. His home was a

hut far in the depths of a wood that supplied the town of Shelburne with fuel. This hut was the resort of all those outlaws and vagrants that hand on the skirts of civilized society, as birds of prey hover over a cultivated land. Whistler honoured by observance the conjugal notions of his people, and, in the number and succession of his wives, his establishment rivalled the wigwam of a western chief. For the rest, he had the common vices so generously communicated by the whites to the vanishing race, in exchange for their broad lands and bright streams. He sustained his numerous consumers by hunting, fishing, basket and broom making, and such other little arts as did not, in his estimation, degrade him to the level of civilization. Towards the whites he had the sense of wrong that pervades his people,

'And though the voice of wrath a sacred call

To pay the injuries of some on all.'

The Colonel and his little household were among the few exceptions to this deep-seated and cherished sentiment. The Colonel was a magistrate, but he had not one spark of the Brutus in his kindly nature, and, as his more astute neighbours thought, he

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had often been culpably remiss in suffering Whistler's petty offenses to pass without judicial investigation. Whistler felt his obligation to the Colonel's long suffering, and besides, he gratefully remembered that Miss Fanny, always generous and pitiful, had, during a rigorous winter, sent provisions and blankets to his *wives*, subjects far without the pale of the charities of the good matrons of Shelburne. Whistler never forgot this kindness, and he returned it in many a tribute from flood and field to the Colonel's table, and in instructing Charles, or, as he called him, his young 'Eagle of Delight,' in all the mysteries of fishing and woodcraft, so that before the boy was twelve years old, he knew the haunts of the game, and the lurking places of the trout, the shyest of the finny race, better than the oldest sportsman in the country.

Whistler's lasting and effective gratitude was one of the lights that relieved the dark shadows of his character. There was another – a feeling of innate and indestructible superiority, which at times imparted dignity to his expressions and loftiness to his bearing, when there seemed to come from his soul revelations of a noble origin and high destiny, and he forgot himself and almost made others forget his actual squalid condition.

Carter, by all legal shifts, by

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buying up notes and bonds and mortgages, acquired, at a cheap rate, a title to Colonel Vassal's landed property, and claims beyond to a considerable amount. On the day following his encounter with Whistler, and, as was afterwards adjudged at all the tea-tables and lounging-places in Shelburne, impelled by the sting his pride then received – it is the last drop that makes

the cup run over – he sent a deputy sheriff to Colonel Vassal's with a writ, commanding the officer in the usual form 'to attach the real and personal estate of the defendant, and for want thereof to take his body.' He probably expected that the Colonel would apply to his neighbours for bail, and he well knew they would not permit the venerable old man to suffer the indignity of being put within the limits of the county jail, which was eight miles distant from Shelburne. But the Colonel was now broken down by age and infirmities, the habit of his mind was passive submission, and he thought nothing but literal compliance with the requisitions of the law. He seemed stunned and bewildered, but he betrayed no emotion. Once, indeed, he asked for Charles, and on being told that he was gone to the next village, he muttered, "Thank God – poor boy!" He seemed quite deaf to the cries and remonstrances of Mammy, who treated

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the sheriff, who most unwillingly executed his office, as if he were a highway robber. There was a strange mixture of consciousness and inanity in the Colonel's preparations to accompany the sheriff. He took down poor Fanny's guitar, blew the dust away that had settled under the chords, and passed his trembling fingers over them. Alas! the resemblance of its unmeaning and discordant sounds to that nicer instrument which seemed suddenly to have been crushed, struck even Mammy's coarse perceptions. "It's as shattered as his mind," she murmured. "Take it, Mammy," he said, "and put it in your chest," and turning to the sheriff he added with a faint smile, "I believe it would be of no use to Mr. Carter, it would not *sell*." He then combed down his thin gray hairs in his customary way before putting on his hat, and said, in his usual manner, "Farewell, Mammy; take care of my boy, and look after every thing, and mind and tell David to put Lightfoot in the chaise and come for me before dark." It was already nearly dark, and a cold October evening. David, an old family servant, had been dead many a year, and Lightfoot and the old chaise, long, long before, had passed into other hands, and Mammy, as she listened to these senseless orders, wept aloud. "Oh, it's broke him all to pieces!"

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she exclaimed: "it will kill him, I'm sure of it!" She was right. A predisposition to paralysis, combining with the effect of the shock and the unwonted exposure to the evening air, proved fatal, and before the next morning the good old man was released from his accumulated burden of age and grief. His body was brought back to his home, and the good people of Shelburne assembled, almost en masse, to testify their respect for his innocent life and sympathy for his sad death. Carter knew too well how to play his part, to be absent from this assembly, though when he met glances from of detestation from many an eye, and his ears caught but half-suppressed curses from many lips, he felt that there were sharper punishments than the laws can inflict. Then, as now, in many New England villages, the office of bearer retained its original import, and was no sinecure. Hearses were an unknown luxury. The young and the vigorous preceded the coffin, and alternately bore it on their shoulders. The procession was formed, Mammy and Charles walking next the body. Their honest grief neither feared observation, nor thought of it.

Charles forgot that it was not manly to cry, and Mammy forgot every thing, but that she was following to the grave the beloved old master in whose service her hair had grown gray.

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Not far from them, and parallel to the line of the procession stalked along Sam Whistler, followed by his dog Biter. It was the first time he had ever been seen participating in any ceremony or usage of the villagers, and their feelings were touched by this extraordinary tribute to the Colonel's memory. It was evident that Whistler felt the awkwardness of his conspicuous and novel position; he sometimes bounded forward, in a sort of Indian half trot, to the head of the procession, then fell back to the rear, but for the most part he was near Charles, and it was manifest that the living divided with the dead the honour of his presence. The procession halted. The bearers were to be changed, and Carter advanced with others to assure his portion of the burden. He had just raised his hands to transfer the coffin to his shoulder, when Whistler sprang forward, pushed him aside, and placing his own shoulder under the coffin, muttered, "The murderer touch the murdered? – no! no!"

Carter was compelled to submit to the indignity; altercation would only have rendered his dishonour more glaring, and he slunk back, angry and mortified, to his former station.

Death in this instance, as in others, did one of its appointed offices; it awakened active kindness for the

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bereaved. A friend of Colonel Vassal, soon after his death, procured a midshipman's commission for Charles, and Mammy found a happy home, having in her own energies the abundant means of independence.

As may be supposed, Carter did not forget the humiliation he had endured on the day of the funeral. His mind was like bad liquor which has no purifying principle, and never works itself clear. He wreaked his resentment upon Sam by every species of legal annoyance, and it must be confessed that the poor outlaw afforded him opportunities for frequent inflictions, within the letter of the law. Sam, for the most part, nourished his resentment in silence, but once or twice he had been betrayed into saying, that "the Squire had best take care, or he would have the worst of it." Hostilities had been growing more serious for some weeks, and Carter, to whom Sam's threats had been reported, began to feel some forebodings of Indian revenge, that suggested to him the policy of driving him away. Accordingly he seized upon Sam's next offence as a pretext, and availing himself of some obsolete puritanical by-law, he sent a constable to Sam's forest-hut to warn him, as a public nuisance, to leave the town of Shelburne within twelve hours; in case of his failure to obey the mandate,

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his hut would be pulled down over his head, and burnt to the ground. It happened that when this mandate arrived, Whistler had just procured an unusual quantity of spirits for a vigil, which was to be kept on the occasion of the burial of an infant child. The grave was not far from the hut, and a panic just then pervading the country about the 'resurrection men,' Sam, with a guest, one Ira, a mulatto, had determined to secure the safety of the little defunct. As soon as the man of the law had performed his duty and departed, the women (always 'tim'rous beastie') counselled a temporary removal. Ira, too, who was a bird of passage that deemed a perch on one bough just as good as another, advocated the policy of a retreat. Whistler heard them through, and then, after taking a deep draught from his jug, said, "Ye may all go, like scared pigeons; I'll not budge a foot – 'pull down my hut!' – what care I? Let them that live under broad roofs and sleep on soft beds fear. Carter, and all his race to back him, can't harm me. Let them strike down the poles that shelter us; there are more in the forest; and if there were not, do I fear to lay my head on the bare-ground? – the earth is my mother. Do I fear the storms? – they are kinder than those that have driven my people beyond the great waters No, no; ye may all go, but I will not move while one clod of

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earth is here for my foot to stand upon. If the fire on my hearth-stone is put out, Carter shall repent it."

Whistler's resolution, as is often the case when a resolution is found to be immovable, was applauded. The women opened their steaming cauldron. The rude but savoury supper was served. The jug was freely passed. Whistler's thirst was made insatiate by his roused passions, and the next day when Carter's emissaries arrived on the spot, they found him laying across his child's grave, in a state of brutal intoxication. Ira was near him, not quite unconscious, though his brain was completely muddled. The women had prudently absconded with their children. The hut, then, according to the legal warrant, was raised to the ground, and fire set to the dry poles.

On the same day Carter went out, as usual, to take his afternoon walk. He stopped on a little eminence that overlooked the long tract of wood that skirted Shelburne on the eastern side, and in whose depths Whistler's hut had been sheltered. It was a cloudless, finely tempered summer's afternoon. The air was freighted with the fragrance of the coming evening. The shadows were stealing over hill and valley, leaving here and there bright patches of sunshine. The matrons were sitting at their doors in

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their clean caps and calicoes, with their infant broods about them. The farmers were driving home their last creaking loads from their rich meadows. Little rustics were hieing to the village with their baskets of wild berries, and the happy boys were whistling home from pasture after their cows. But it was not this sweet picture of 'country contentments' that arrested Carter's eye, or touched his sordid spirit. He had paused on that eminence to gaze on the light blue smoke that

rose from the ruins of poor Whistler's dwelling, and curled over the wood as if some instinct made it linger there. It was a feeling, as paltry as malignant, that made him exult in a triumph over such an enemy. Had he been at that moment inspired with one hour's prescience, how would his exultation have been changed to fear and dread and horror. In one hour his body was found on that spot a reeking corpse. A cap identified as Ira's, and Whistler's well known basket were found near him, and suspicion, or rather belief, immediately fixed on these persons as the perpetrators of the crime; and though there might have been some who, in their secret souls, thought Carter had not suffered very far beyond his deserts, yet murder excites a universal sentiment of horror and desire of retribution, and all united in a vigorous pursuit of the supposed offenders. They were found

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together and both taken, and, before the close of the following day, were lodged in Berkeley county jail.

Ira appeared, like common criminals, eager for life, and anxious to obtain the best counsel. He denied in public, and to his lawyer in private, any participation in the murder of Carter. He denied also any knowledge of the means by which he came to his death. He did not intimate any suspicion of Whistler, but he asserted that they were separated during the afternoon of the murder, and he accounted plausibly for their being found together the next day. After some faltering he said, in explanation of his cap being found near the body, that it fitted Sam as well as it did himself, leaving it to be understood, without saying so, that the cap had been worn by Sam.

Whistler neither confessed nor denied the fact of the murder. When examined before the officers of justice he reserved a dogged silence, excepting repeated expressions of exulting, savage satisfaction in Carter's death. When asked to select counsel for his trial, he refused, saying, "He knew no right white people had to try him, and if they would do it, they might have it all their own way." Counsel was then assigned him by the court, and to the gentleman who undertook the hopeless task of defending him, he preserved the same obstinate silence and indifference.

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The prisoners were confined in the same cell, and it was observed that Ira was sycophantic in his devotion to Whistler, while Whistler treated him with a kind of churlish contempt. Ira was like one under the influence of strong fear, watchful of every word and motion, strictly decorous and respectful; while Whistler showed no other feeling than that yawning, snarling weariness which a wild animal manifests when imprisoned in a cage.

Ira was first put on trial. It was proved that Carter had come to his death by a single discharge of one gun, and Ira was acquitted. After the verdict was pronounced, he seemed mainly

anxious not to be reconducted to Whistler's cell for a moment, and nervously fearful of again seeing him.

When this was reported to Whistler, he laughed scornfully, shook his head, and said, "Ira is half white."

When Whistler was put to the bar and asked the usual question, 'guilty or not guilty?' he rose, stretched out his arm and answered, "I'm glad he's killed; if that's being guilty, make the most on't." No other answer could be obtained from him. The trial proceeded. The impression of his guilt was so fixed, that scarcely any testimony could have saved him, and there was none in his favour. All the

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circumstances of his long existing feud with Carter were remembered and related; his repeated threats of vengeance, and various other unfavorable particulars, which the ingenious reader will recollect. As if to remove the least shadow of doubt of his guilt, a prisoner, who had been in the same cell with Ira and Whistler, testified that he heard Sam say, in a low emphatic whisper, to Ira's wife (who had been permitted to visit her husband), 'I killed him.'

The jury, without leaving their box, gave their verdict of guilty. Some said the prisoner was asleep when it was pronounced. It was certain that his eyes were closed, and that there was not on his countenance the slightest indication of sensation.

When asked by the court if he knew any reason why sentence of death should not be pronounced on him, he started, and asked fiercely, "What good would it do me if I did? No! no! I have but one thing to say – send for one of my own people to hang me; I want no white fingers to make a button of my neck."

All were shocked at the poor wretch's obduracy, but there were many persons of the neighbourhood who had known him a great while, and had kindly feeling towards him. Making allowance for the provocations he had received, for the habits of his life, and for the principle of revenge which

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he considered virtue, they would have rejoiced in his pardon. One of these persons, a man respected through the country for his wisdom, as well as humanity, told Sam that he would head a petition to the governor for his life. "Thank ye, thank ye kindly," replied Whistler, for the first time softened; "but I don't wish it; they have carried matters so far now, I would not take a pardon from them." The project was therefore abandoned.

There was one individual that, like the Duke of Argyle's follower who prayed 'the Lord stand by our side *right or wrong*,' hoped from the first to the last that Whistler, guilty or not

guilty, would get clear. This individual was our friend Mammy; but her feelings as well as some important circumstances, will be best conveyed in her own simple language, in a letter addressed to Charles Vassal.

'To Mr. Charles Vassal Midshipman on board the United States Ship -----.

'My dear Charlie: – These few lines, you will know, come from your old Mammy, though, owing to my failing sight, I cannot write so straight and sightly as formerly.

'I trust these will find you safe returned from the East or West Indies – which is it? I know they are different places, though I never can remember

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which is which. I enjoy but poor health lately, partly owing to worrying about Whistler. I can't forget his trouble was 'casioned by his friendship for our family (Mammy always identified herself with the Vassal family), and it seems, Charles, it does, as if every thing that tried to prop up the old stricken tree was blasted. It is now two months since I wrote you about the trial, and his last day draws nigh, being one fortnight from next Friday. Poor Whistler! he has some bright spots in his heart – some places where you may say the sun breaks through the clouds; witness his often kindness to the Colonel, his love for you, Charlie, and his lifting the sods after your poor mother was buried, to lay a pair of moccasons on the coffin. It was an Indian notion, but did not it betoken a kind o' human feeling? Well, I have done what I could to make the time pass away for him, and if I had done wrong, the Lord forgive me. You well know Charlie, I am an enemy to all spirituous liquor, and neither take it, nor willingly give it to others; but poor Whistler! Lord sakes it's Indian *natur*! It was solitary for him, that was used to roaming the sweet wild woods, to be shut up in a stench cell! He needed the comfort and forgetfulness of it; and as to preparing for eternity, I'm sure I wish for it as much as the members can; but la me! he'll never

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do that in a reg'lar way. He does not care one straw for all the minister says, but he has some soaring thoughts of his own – religious I don't dare to call them, though it does seem as if the Almighty had breathed them into his soul – where else could he get them, Charlie? – he an Indian – and the life he has led.'

Mammy's letter was broken off, and the remainder bore the date of the following day.

'Since writing the above, dear Charlie, I had a chance to go to see Whistler, and thinking he might have some message to you, I left my letter till I came back – it was well I did! He was glad to see me, and soon asked the jailor to leave us alone together. I told him your ship was daily expected. You remember the low deep sound he makes when any thing touches his heart-spring; twice he repeated it, then patted Biter – they have let his dog stay with him – then he

looked up in my face and said, in the softest voice I ever heard from him, 'I would die content if I could see him once more – if he would but come and stand by me at the last.'

"Ah!' said I, "Charlie's stout-hearted, but so pitiful, I misdoubt he could not bear it.'

"Ogh!' said he, 'I am sure he can stand it, if I can live through it.' I smiled, and he said scornfully, 'Do you think it's the death struggle I speak of? – no, I fear not that; but to have my hands tied behind me, and to be stared and gaped at, like a caged bear, by the troops of men, and women too – shame to them.'

'And now, Charles, I have that to tell you that will make you both glad and sorrowful; and I would not tell it till the last, least my hand should be too much shaken to write the above. Whistler said to me,

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'Do you think it would be a pleasure to the boy to believe I did not kill Carter?' 'Lord sakes, yes,' says I, 'indeed would it.' Then he made me lift up my hand, as they do in court, and swear not to tell to any one but you what he should say. Then, Charlie, he laughed out and said, 'I no more killed Carter than you did, mammy.' I cannot repeat his exact words, but it seems that after the hut was burnt, and Sam came a little to himself, Ira would have persuaded him to go off, but he would not move, and then Ira said he would take his gun and Sam's basket, and shoot some game to sell in the village for liquor. Neither of their heads was yet clear from what they had taken. Well, as Ira was on his way to the village he met Carter; some high words passed between them; Carter struck Ira with his cane, and Ira mad, and his brain still muddy, instantly discharged his gun into the poor

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creatur. 'I asked Sam, why he had not told this before.' 'Why should I?' said he: 'it was me that Carter wronged, not Ira; it was I that hated Carter, not Ira; it was I that shouted when heard he was killed, not Ira. No, no, I was the murderer here,' he said, knocking on his breast, 'and if either must die for it, it should be me.' Now don't this remind you of St. Paul's words, 'the Gentiles having not a law are a law unto themselves?' I asked him if it were true that he had said, 'I killed him?' 'Yes,' he said, 'but who was it to, and what did it mean? Ira's wife came to our cell, and begged him to turn state's evidence against me. She made me mad, and I told her *I killed him*. She well knew what I meant for she always called *Ira* I!'

'Now you see, dear Charles, how the whole matter stands, and I pray the Lord speed my letter and to bring you here in due time for the awful day. Yours, till death.

'Mammy – otherwise ZILPAH THRIFT.'

Mammy's prayers, seconded by a well appointed mail establishment, were effectual. Charles received her letter in due time, and using all diligence arrived at the shire-town of Berkeley county on the night preceding the day appointed for Whistler's execution. Mammy was already there, and, firm in the faith of

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her favourite's arrival, she had engaged rooms for him and for herself in the tavern, which was an appendage to the jail, and, kept by the jailor, was already thronged by the county people, who had flocked in to be in readiness for the rare and favourite spectacle of a public execution.

How strong and scared are the ties knit in childhood! They strained over Charles's heart as he threw his arms around Mammy, and hugged the faithful old creature to his bosom, with the fond feeling of his earliest years. His grandfather – the home of his childhood – all its pleasures, never to be repeated rose to his recollection. Mammy suffered her rising feelings to overflow in words, and after wiping her eyes and clearing her voice, "Ha, Charlie, how you are grown? She said; "taller than I! – and goodness me! handsomer than ever." Then passing her hand over his midshipman's coat, "It beats the world – why you look like a reg'lar." Then espying his dirk, "You don't wear this all the time? – a'nt you afraid you'll run it into somebody? – ha! how nat-ral that smile is! – Oh if the Colonel could have lived to see you! – Poor Whistler, Charles!"

The current of her emotions had now borne them both to the point of the chief interest. Charles shut and locked the door, and a confidential conversation

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ensued, in the course of which he ascertained, in answer to one of his first and most anxious inquiries, that it was customary for one individual or more, to pass the last night in the cell of the condemned; and on applying soon after to the jailor, and stating his interest in the prisoner, he obtained permission to keep this sad vigil.

The jailor in due time conducted him to the cell, and having removed that bars and bolts, "Hush-hark," he whispered, "the minister is at prayer – Ah, he's come to! – this is the first time the hardened fellow has let any one pray with him." Charles eagerly peeped through the crevice of the door – a lamp was standing on the floor before the clergyman, who was engaged in loud and earnest intercessions, while the subject of the prayer, heedless or scornful, was pacing up and down the narrow cell whistling an Indian hunting air, and followed at every turn by Biter. "The castaway!" muttered the jailor. The clergyman finished, and Charles sprang forward, pronouncing the prisoner's name. Biter was instantly crouching at his feet and licking his hands. Whistler stood as if he were transfixed. He then tossed back the wiry locks that hung over his

face, dashed off the gathering tears, suppressed his choking sobs, and, as if ashamed that nature had mastered and betrayed

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him, he threw himself on his straw and buried his face in his blanket.

Such is the omnipotent power of the electric chain, which, proceeding from him ‘who is love,’ communicates a celestial spark to every spirit, however ignorant, however degraded. The Indian was obdurate and impassive, his heart was stone, while he looked only on those whom he hated, but it melted within him at the first sound of the voice, at the first glance of the eye he loved. For an instant the dreary cell, the jailor, the galling hand-cuffs – all forms and modes of punishment were forgotten; a blessed vision floated before him; he scented the fresh sweet woods; he trod on the soft ground; he heard the singing of the birds and the hunter’s cry. But it was momentary. The calenture passed at the first sound of the clergyman’s voice, who continued his ministrations by reading some appropriate passages of scripture, and concluded with a feeling exhortation. The jailor wept audibly. Charles covered his face, but Whistler gave no intimation that he listened. The clergyman at last rose to depart; he beckoned to Charles – “My young friend,” he said, “you seem to have some influence over this hardened man, use it for the good of his soul, so soon to be called before the judgment seat; I leave my bible and psalm book with

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you.” Charles bowed; but, his conscience reproaching him with something like hypocrisy in this implied assent, he said, “I respect the offices of religion; you, sir, have done your duty, I shall endeavour to do mine.”

The young midshipman’s manner, more perhaps than his words, struck the clergyman as equivocal, but it was not till the following day that he was able clearly to interpret both.

Though the jailor, in his double capacity of innkeeper and jailor, had enough to do on that memorable evening, he found time twice to revisit the prisoner’s cell, much to our young friend’s annoyance; but when, after midnight, he again appeared, Charles could not, or did not conceal his displeasure.

“It is too hard,” he said, “that this poor fellow must have his last rest broken in this way.”

“Soft and fair, young man, I must do my duty,” replied the officer of justice, and he reconnoitered the cell, first surveying the prisoner, who stretched and yawned on his pallet, and looking up scowling, as if he had been unkindly waked. He then approached the grated window; Charles’s heart throbbed as if it would have leaped from his bosom, and a tremulous motion of the blanket that covered the Indian might have been seen, but not a word, not a sound escaped

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either. The jailor passed the light over the bars, he grasped on with his hand. Charles felt every droop of blood within him rush to his head, but it tingled again at his finer ends as the jailor said, half to himself, half to Charles, “All’s right, all’s right. When the house got still, I mistrusted I heard a strange noise, but I was mistaken, it’s pretty safe trusting people, be they ever so young and daring, where the blacksmith has done the carpenter’s work.”

“Thank you for your hints,” retorted Charles proudly. “When may we expect the honour of another visit?”

“Betimes, betimes,” was the only reply; and betimes he reappeared. It was an hour before the day dawned. Charles met him at the door. “Oh!” he said imploringly, “do not wake him now; be merciful, and give him one more hour.”

The jailor said he did not “wish to be unmerciful, but that there was a great deal to be done, to get every thing in handsome order for the procession.” But when he looked in and saw the prisoner apparently sleeping sweetly and profoundly, he added, “Well, well, poor fellow! I can be doing something else for one hour,” and again he withdrew.

Punctual to the moment, in one hour precisely he returned – but to what an altered scene! The

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prisoner was gone! – the severed bars lay on the floor, with files and other instruments that had been used to detach them, and our young conspirator stood in the center of the cell; his arms folded, with an air of bold satisfaction at the success of his efforts, while his heart beat with the secret fear that those efforts must at last prove vain. The jailor stood for an instant riveted, then shouted an alarm, and seized Charles by the collar.

“Hands off!” cried Charles, repelling him. “I know my duty, and I will follow you; lock me up where you please, but do not touch me.” There was not time to be lost in parleying or contending. The jailor conveyed Charles to the nearest vacant apartment, which happened to overlook the street in front of the jail. Charles took his station at the grated window, and, breaking through a pane of glass, he remained there, all eye and ear, to get what intimation he might of the fugitive’s peril or reapprehension, which, calculating the little time he had in advance of his pursuers, Charles scarcely hoped could be avoided.

The jail, the whole village, rang with cries of alarm. Men and women came pouring out, half awake and half dressed. The high sheriff was among them, and he immediately directed the pursuit.

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"Let every house, every hiding place in the neighbourhood be searched," he cried, "he cannot yet have cleared the village." The jailor ran off with half a score of men; but, halting for a moment, he said, "Mr. Sheriff – there are holsters sleeping in the barn; had they not best be called and sent off on horseback?" The sheriff immediately assented, by directing they should be waked and bidden to lead out their horses and take orders.

They shortly appeared, and a little in advance of the rest, and leading a high-mettled horse, was a tall fellow, extremely thin, with gray pantaloons, boots, a gray cloth round-about buttoned tight to his throat, a check neckcloth, a mass of dark curling hair, bushy whiskers, and a cloth cap. At the first glance at this man, Charles exclaimed "Heaven preserve us!" But who, that had not witnessed the putting on of the disguise, could have suspected that the person who so coolly led up the horse, and stood with such firmness even within the sheriff's grasp, was the very felon over whom the sentence of death, suspended by the slightest thread, still hung? "And there is Biter too!" half articulated Charles, as his eye fell on the dog, who in the joy of recovered freedom was running hither and yon, with his nose to the ground, shaking his ears, wagging his tail, and snuffing up the fresh

smell of dewy earth. "Oh, Biter! Why could not I make you stay with me? every body knows his dog. Good heaven Whistler! why don't you turn your face from the sheriff?"

"Which way shall I go, sir," asked Whistler of the sheriff. "Ha, " thought Charles, "I should not know his voice myself." "Go west, my good fellow," replied the sheriff; "you have the best horse, and Sam will most like to take that direction. Give notice of his flight to the people on the road. Take a circuit, and come in by the north. You must all be in before night."

"Yes, sir," replied Whistler, and mounted his horse, but so unskillfully (for he was as ignorant of horsemanship as his brethren of the wild west) that Charles thought "every body must see the Indian now," when a new alarm reached him. Mammy appeared on the steps, and thinking, in her blind zeal, that she was delaying the pursuit, screamed at the top of her voice, "Stop that fellow, he is on my horse."

"Oh Mammy," murmured Charles, "you have ruined all." Whistler halted, faced about, and asked the sheriff in the most composed voice, "if he should get another horse?"

The sheriff turned to Mammy, "Do not be

unreasonable, my good woman," he said; "the man is to return to-day, and I will be answerable for your horse."

“But he’s a hired horse sir,” pertinaciously persisted Mammy, “and besides, who knows that fellow that’s on him?”

Charles lost his patience and his self-possession, and screamed through the broken window, “Let him go, Mammy.”

But even this imprudence did not put Whistler off his guard. He gave one glance to Charles that spoke volumes, and then, assuming a look as simple as Mr. Slender’s, he said, “La, old mother, every body hereabouts knows me; I don’t live six miles off; my name is John Smith.”

“Thank heaven, “ thought Charles, “he remembers the name I gave him.” Mammy saw she could effect no farther delay, and muttering, “I suppose the high sheriff must do as he likes, but mind, you sir, don’t you ride that horse fast,” she returned with a heavy heart into the house.

Whistler ventured one more glance at Charles. He even ventured more, for as he again turned the horse’s head he whistled, loud and shrill, one bar of the tune Charles had most loved in their merry greenwood rambles. He then rode off sharply, followed

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by Biter, and soon turning out of the main street to a due west course, disappeared from sight.

All day the pursuit was maintained by foot and horse, but at evening the pursuers returned without any tidings of the fugitive. All returned save the rider of Mammy’s horse, and his absence was explained to the wondering community the next morning, by the appearance of the good steed at his stable door in Shelburne. A full brown wig and whiskers were bound around his neck and well secured by a silk handkerchief marked with the initials *C.V.* The secret was now out, and there being no vindictiveness towards the fugitive among the kind-hearted people of Berkeley county, there was a prevailing satisfaction in his hair-breadth scape, and a general admiration of the zeal and ingenuity of his young preserver. This was greatly augmented by the belief, disseminated by Charles’s friends and Mammy’s gossips, of Whistler’s innocence of the alleged crime, a belief shortly after substantiated by Ira’s death-bed confession. Charles remained in durance till a statement of the affair, accompanied by a petition for his full pardon, signed by half the entire population of Berkeley county, could be forwarded to the governor. An answer of grace was returned, accompanied by a very proper and severe reprimand

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of the presumption of a youth of fifteen, who had had the hardihood to oppose his opinion to the verdict of twelve honest men, and thereupon to counteract the judicial sentence of the law.

But presumption is the sin of youth. Charles was forgiven his, and, it may be, loved the better for it. Whistler was never again heard of, unless a singular and affecting interview that

occurred, many years after, between an Indian who came in a canoe, with a dog blind and decrepit with age, to Perry's fleet on lake Erie, and a gallant officer who had earned laurels in celebrated victory of the preceding day, revealed the fugitive from BERKELEY JAIL.