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# ELI

By Heman White Chaplin

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## I.

Under a boat, high and dry at low tide, on the beach, John Wood was seated in the sand, sheltered from the sun in the boat's shadow, absorbed in the laying on of verdigris. The dull, worn color was rapidly giving place to a brilliant, shining green. Occasionally a scraper, which lay by, was taken up to remove the last trace of a barnacle.

It was Wood's boat, but he was not a boatman; he painted cleverly, but he was not a painter. He kept the brown store under the elms of the main street, now hot and still, where at this-moment his blushing sister was captivating the heart of an awkward farmer's boy as she sold him a pair of striped suspenders.

As the church clock struck the last of twelve decided blows, three children came rushing out of the house on the bank above the beach. It was one of those deceptive New England cottages, weather-worn without, but bright and bountifully home-like within,—with its trim parlor, proud of a cabinet organ; with its front hall, now cooled by the light sea-breeze drifting through the blind-door, where a tall clock issued its monotonous call to a siesta on the rattan lounge; with its spare room, open now, opposite the parlor, and now, too, drawing in the salt air through close-shut blinds, in anticipation of the joyful arrival this evening of Sister Sarah, with her little brood, from the city.

The children scampered across the road, and then the eldest hushed the others and sent a little brother ahead to steal, barefoot, along the shining sea-weed to his father.

The plotted surprise appeared to succeed completely. The painter was seized by the ears from behind, and captured.

"Guess who 's here, or you can't get up," said the infant captor.

"It 's Napoleon Bonaparte; don't joggle," said his father, running a brush steadily along the water-line.

"No! no! no!" with shouts of laughter from the whole attacking party.

"Then it's Captain Ezekiel."

This excited great merriment: Captain Ezekiel was an aged, purblind man, who leaned on a cane.

After attempts to identify the invader—with the tax-collector come for taxes, then with the elderly minister making a pastoral call, with the formal schoolmaster, and with Samuel J. Tilden—the victim reached over his shoulder, and, seizing the assailant by a handful of calico jacket, brought him around, squirming, before him.

"Now," he said, "I 'll give you a coat of verdigris. (Great applause from the reserve force behind.)"

"I suppose Mother sent you to say dinner's ready," said the father, rising and surveying the green bottom of the boat. "I must eat quick, so as to do the other side before half-flood."

And with a child on each shoulder, and the third pushing him from behind with her head, he marched toward the vine-covered kitchen, where, between two opposite netted doors, the table was trimly set.

"Father, you look like a mermaid, with your green hands," said his wife, laughing, as she handed him the spirits of turpentine. "A woman could paint that boat, in a light dress, and not get a spot on her."

He smiled good-naturedly: he never spoke much.

"I guess Louise won't have much trade today," said his wife, as they all sat down; "it's so hot in the sun that everybody 'll wait till night. But she has her tatting-work to do, and she 's got a book, too, that she wanted to finish."

Her husband nodded, and ate away.

"Oh, can't we go up street and see her, this afternoon?" said one of the children.

"Who can that be?" said the mother, as an elderly, half-official-looking man stopped his horse at the front gate and alighted. The man left the horse unchecked to browse by the roadside, and came to the door.

"Oh, it 's you, Captain Nourse," said Wood, rising to open the netting door, and holding out his hand. "Come to summons me as a witness in something about the bank case, I suppose. Let me introduce Captain Nourse, Mary," he said, "deputy sheriff. Sit down, Captain, and have some dinner with us."

"No, I guess I won't set," said the captain. "I cal'lated not to eat till I got home, in the middle o' the afternoon. No, I 'll set down in eye-shot of the mare, and read the paper while you eat."

"I hope they don't want me to testify anywhere to-day," said Wood; "because my boat's half verdigris'd, and I want to finish her this afternoon."

"No testimony to-day," said the captain. "Hi! hi! Kitty!" he called to the mare, as she began to meander across the road; and he went out to a tree by the front fence, and sat down on a green bench, beside a work-basket and a half-finished child's dress, and read the country paper which he had taken from the office as he came along.

After dinner Wood went out bareheaded, and leaned on the fence by the captain. His wife stood just inside the door, looking out at them.

The "bank case" was the great sensation of the town, and Wood was one of the main witnesses, for he had been taking the place of the absent cashier when the safe was broken open and rifled to the widespread distress of depositors and stockholders, and the ruin of Hon. Edward Clark, the president. Wood had locked the safe on the afternoon before the eventful night, and had carried home the key with him, and he was to testify to the contents of the safe as he had left it.

"I guess they 're glad they 've got such a witness as John," said his wife to herself, as she looked at him fondly, "and I guess they think there won't be much doubt about what he says."

"Well, Captain," said Wood, jocosely, breaking a spear of grass to bits in his fingers, "I did n't know but you 'd come to arrest me."

The captain calmly smiled as only a man can smile who has been accosted with the same humorous remark a dozen times a day for twenty years. He folded his paper carefully, put it in his pocket, took off his spectacles and put them in their silver case, took a red silk handkerchief from his hat, wiped his face, and put the handkerchief back. Then he said shortly,—

"That's what I *have* come for."

Wood, still leaning on the fence, looked at him, and said nothing.

"That's just what I 've come for," said Captain Nourse. "I 've got to arrest you; here's the warrant." And he handed it to him.

"What does this mean?" said Wood. "I can't make head or tail of this."

"Well," said the captain, "the long and short is, these high-toned detectives that they 've hed down from town, seein' as our own force was n't good enough, allow that the safe was unlocked with a key, in due form, and then the lock was broke afterward, to look as if it had been forced open. They 've hed the foreman of the safe-men down, too, and he says the same thing. Naturally, the argument is, there was only two keys in existence,—one was safe with the president of the bank, and is about all he 's got to show out of forty years' savings; the only other one you hed: consequently, it heaves it onto you."

"I see," said Wood. "I will go with you. Do you want to come into the house with me while I get my coat?"

"Well, I suppose I must keep you in sight,—now you know."

And they went into the house.

"Mary," said her husband, "the folks that lost by Clark when the bank broke have been at him until he 's felt obliged to pitch on somebody, and he's pitched on me; and Captain Nourse has come to arrest me. I shall get bail before long."

She said nothing, and did not shed a tear till he was gone.

But then—

## II.

Wide wastes of salt-marsh to the right, imprisoning the upland with a vain promise of infinite liberty, and, between low, distant sandhills, a rim of sea. Stretches of pine woods behind, shutting in from the great outer world, and soon to darken into evening gloom. Ploughed fields and elm-dotted pastures to the left, and birch-lined roads leading by white farm-houses to the village, all speaking of cheer and freedom to the prosperous and the happy, but to the unfortunate and the indebted, of meshes invisible but strong as steel. But, before, no lonesome marshes, no desolate forest, no farm or village street, but the free blue ocean, rolling and tumbling still from the force of an expended gale.

In the open doorway of a little cottage, warmed by the soft slanting rays of the September sun, a rough man, burnt and freckled, was sitting, at his feet a net, engaged upon some handiwork which two little girls were watching. Close by him lay a setter, his nose between his paws. Occasionally the man raised his eyes to scan the sea.

"There's Joel," he said, "comin' in around the Bar. Not much air stirrin' now!"

Then he turned to his work again.

"First, you go *so fash'*," he said to the children, as he drew a thread; "then you go *so fash'*."

And as he worked he made a great show of labor, much to their diversion.

But the sight of Joel's broad white sail had not brought pleasant thoughts to his mind; for Joel had hailed him, off the Shoal, the afternoon before, and had obligingly offered to buy his fish right there, and so let him go directly home, omitting to mention that sudden jump of price due to an empty market.

"Wonder what poor man he 's took a dollar out of to-day! Well, I s'pose it's all right: those that 's got money, want money."

"What be you, Eli—ganging on hooks?" said Aunt Patience, as she tiptoed into the kitchen behind him, from his wife's sick-room, and softly closed the door after her.

"No," said the elder of the children; "he 's mending our stockings, and showing me how."

"Well, you do have a hard time, don't you?" said Aunt Patience, looking down over his shoulder; "to slave and tug and scrape to get a house over your head, and then to have to turn square 'round, and stay to home with a sick woman, and eat all into it with mortgages!"

"Oh, well," he said, "we 'll fetch, somehow."

Aunt Patience went to the glass, and holding a black pin in her mouth, carefully tied the strings of her sun-bonnet.

"Anyway," she says, "you take it good-natured. Though if there is one thing that's harder than another, it is to be good-natured all the time, without being aggravating. I have known men that was so awfully good-natured that they was harder to live with than if they was cross!"

And without specifying further, she opened her plaid parasol and stepped out at the porch.

Though, on this quiet afternoon of Saturday, the peace of the approaching Sabbath seemed already brooding over the little dwelling, peace had not lent her hand to the building of the home. Every foot of land, every shingle, every nail, had been wrung from the reluctant sea. Every voyage had contributed something. It was a great day when Eli was able to buy the land. Then, between two voyages, he dug a cellar and laid a foundation; then he saved enough to build the main part of the cottage and to finish the front room, lending his own hand to the work. Then he used to get letters at every port, telling of progress,—how Lizzie, his wife, had adorned the front room with a bright ninepenny paper, of which a little piece was enclosed,—which he kept as a sort of charm about him and exhibited to his friends; how she and her little brother had lathed the entry and the kitchen, and how they had set out blackberry vines from the woods. Then another letter told of a surprise awaiting him on his return; and, in due time, coming home as third mate from Hong-Kong to a seaman's tumultuous welcome, he had found that a great, good-natured mason, with whose sick child his wife had watched night after night, had appeared one day with lime and hair and sand, and in white raiment, and had plastered the entry and the kitchen, and finished a room upstairs.

And so, for years, at home and on the sea, at New York and at Valparaiso and in the Straits of Malacca, the little house and the little family within it had grown into the fibre of Eli's heart. Nothing had given him more delight than to meet, in the strange streets of Calcutta or before the Mosque of Omar, some practical Yankee

from Stonington or Machias, and, whittling to discuss with him, among the turbans of the Orient, the comparative value of shaved and of sawed shingles, or the economy of "Swedes-iron" nails, and to go over with him the estimates and plans which he had worked out in his head under all the constellations of the skies.

The supper things were cleared away. The children had said good-night and gone to bed, and Eli had been sitting for an hour by his wife's bedside. He had had to tax his patience and ingenuity heavily during the long months that she had lain there to entertain her for a little while in the evening, after his hard, wet day's work. He had been talking now of the coming week, when he was to serve upon the jury in the adjoining county-town.

"I cal'late I can come home about every night," he said, "and it 'll be quite a change, at any rate."

"But you don't seem so cheerful about it as I counted you would be," said his wife. "Are you afraid you'll have to be on the bank case?"

"Not much!" he answered. "No trouble 'n that case! Jury won't leave their seats. These city fellers 'll find they 've bit off more 'n they can chew when they try to figure out John Wood done that. I only hope I 'll have the luck to be on that case—all hands on the jury whisper together a minute, and then clear him, right on the spot, and then shake hands with him all 'round!"

"But something is worrying you," she said. "What is it? You have looked it since noon."

"Oh, nothin'," he replied—"only George Cahoon came up to-noon to say that he was goin' West next week, and that he would have to have that money he let me have awhile ago. And where to get it—I don't know."

### III.

The court-room was packed. John Wood's trial was drawing to its close. Eli was on the jury. Some one had advised the prosecuting attorney, in a whisper, to challenge him, but he had shaken his head and said,—

"Oh, I could n't afford to challenge him for that; it would only leak out, and set the jury against me. I 'll risk his standing out against this evidence."

The trial had been short. It had been shown how the little building of the bank had been entered. Skilled locksmiths from the city had testified that the safe was opened with a key, and that the lock was broken afterward, from the inside, plainly to raise the theory of a forcible entry by strangers.

It had been proved that the only key in existence, not counting that kept by the president, was in the possession of Wood, who was filling, for a few days, the place of the cashier—the president's brother—in his absence. It had been shown that Wood was met, at one o'clock of the night in question, crossing the fields toward his home, from the direction of the bank, with a large wicker basket slung over his shoulders, returning, as he had said, from eel-spearing in Harlow's Creek; and there was other circumstantial evidence.

Mr. Clark, the president of the bank, had won the sympathy of every one by the modest way in which, with his eye-glasses in his hand, he had testified to the particulars of the loss which had left him penniless, and had ruined others whose little all was in his hands. And then in reply to the formal question, he had testified, amid roars of laughter from the court-room, that it was not he who robbed the safe. At this, even the judge and Wood's lawyer had not restrained a smile.

This had left the guilt with Wood. His lawyer, an inexperienced young attorney,—who had done more or less business for the bank and would hardly have ventured to defend this case but that the president had kindly expressed his entire willingness that he should do so,—had, of course, not thought it worth while to cross-examine Mr. Clark, and had directed his whole argument against the theory that the safe had been opened with a key, and not by strangers. But he had felt all through that, as a man politely remarked to him when he finished, he was only butting his "head ag'in a stone wall."

And while he was arguing, a jolly-looking old lawyer had written, in the fly-leaf of a law-book on his knee, and had passed with a wink to a young man near him who had that very morning been admitted to the bar, these lines:—

*"When callow Blackstones soar too high,  
Quit common-sense, and reckless fly,  
Soon, Icarus-like, they headlong fall,  
And down come client, case, and all."*

The district-attorney had not thought it worth while to expend much strength upon his closing argument; but being a jovial stump-speaker, of a wide reputation within narrow limits, he had not been able to refrain from making merry over Wood's statement that the basket which he had been seen bearing home, on the eventful night, was a basket of eels.

"Fine eels those, gentlemen! We have seen gold-fish and silver-fish, but golden eels are first discovered by this defendant The apostle, in Holy Writ, caught a fish with a coin in its mouth; but this man leaves the apostle in the dim distance when he finds eels that are all money. No storied fisherman of Bagdad, catching enchanted princes disguised as fishes in the sea, ever hooked such a treasure as this defendant hooked when he hooked that basket of eels! [Rustling appreciation of the jest among the jury.] If a squirming, twisting, winding, wriggling eel, gentlemen, can be said at any given moment to have a back, we may distinguish this new-found species as the greenback eel. It is a common saying that no man can hold an eel and remain a Christian. I should like to have viewed the pious equanimity of this good man when he laid his hands on that whole bed of eels. In happy, barefoot boyhood, gentlemen, we used to find mud-turtles marked with initials or devices cut in their shells; but what must have been our friend's surprise to find, in the muddy bed of

Harlow's Creek, eels marked with a steel-engraving of the landing of Columbus and the signature of the Register of the Treasury! I hear that a corporation is now being formed by the title of The Harlow's Creek Greenback National Bank-bill Eel-fishing Company, to follow up, with seines and spears, our worthy friend's discovery! I learn that the news of this rich placer has spread to the golden mountains of the West, and that the exhausted intellects which have been reduced to such names for their mines as 'The Tombstone,' 'The Red Dog,' the 'Mrs. E. J. Parkhurst,' are likely now to flood us with prospectuses of the 'Eel Mine,' 'The Flat Eel,' 'The Double Eel,' and then, when they get ready to burst upon confiding friends, 'The Consolidated Eels.'"

It takes but little to make a school or a court-room laugh, and the speech had appeared to give a good deal of amusement to the listeners.

To all?

Did it amuse that man who sat, with folded arms, harsh and rigid, at the dock? Did it divert that white-faced woman, cowering in a corner, listening as in a dream?

The judge now charged the jury briefly. It was unnecessary for him, he said, to recapitulate evidence of so simple a character. The chief question for the jury was as to the credibility of the witnesses. If the witnesses for the prosecution were truthful and were not mistaken, the inference of guilt seemed inevitable; this the defendant's counsel had conceded. The defendant had proved a good reputation; upon that point there was only this to be said: that, while such evidence was entitled to weight, yet, on the other hand, crimes involving a breach of trust could, from their very nature, be committed only by persons whose good reputations secured them positions of trust.

The jury-room had evidently not been furnished by a ring. It had a long table for debate, twelve hard chairs for repose, twelve spittoons for luxury, and a clock.

The jury sat in silence for a few moments, as old Captain Nourse, who had them in his keeping, and eyed them as if he was afraid that he might lose one of them in a crack and be held accountable on his bond, rattled away at the unruly lock. Looking at them then, you would have seen faces all of a New England cast but one. There was a tall, powerful negro called George Washington, a man well known in this county town, to which he had come, as driftwood from the storm of war, in '65. Some of the "boys" had heard him, in a great prayer-meeting in Washington—a city which he always spoke of as his "namesake"—at the time of the great review, say, in his strong voice, with that pathetic quaver in it: "Like as de parched an' weary traveller hangs his harp upon de winder, an' sighs for oysters in de desert, so I longs to res' my soul an' my foot in Mass'-chusetts;" and they were so delighted with him that they invited him on the spot to go home with them, and took up a collection to pay his fare; and so he was a public character. As for his occupation,—when the census-taker, with a wink to the boys in the store, had asked him what it was, he had said, in that same odd tone: "Putties up glass a little—whitewashes a little—" and, when the man had made a show of writing all that down, "preaches a little." He might have said, "preaches a big," for you could hear him half a mile away.

The foreman was a retired sea-captain. "Good cap'n—Cap'n Thomas," one of his neighbors had said of him. "Allers gits good ships—never hez to go huntin' 'round for a vessel. But it is astonishin' what differences they is! Now there 's Cap'n A. K. P. Bassett, down to the West Harbor. You let it git 'round that Cap'n A. K. P. is goin' off on a Chiny voyage, and you 'll see half a dozen old shays to once-t, hitched all along his fence of an arternoon, and wimmen inside the house, to git Cap'n A. K. P. to take their boys. But you let Cap'n Thomas give out that he wants boys, and he hez to glean 'em—from the poor-house, and from step-mothers, and where he can: the women knows! Still," he added, "Cap'n Thomas 's a good cap'n. I've nothin' to say ag'in him. He's smart!"

"Gentlemen," said the foreman, when the officer, at last, had securely locked them in, "shall we go through the formality of a ballot? If the case were a less serious one, we might have rendered a verdict in our seats."

"What's the use foolin' 'round ballotin'?" said a thick-set butcher. "Ain't we all o' one mind?"

"It is for you to say, gentlemen," said the foreman. "I should n't want to have it go abroad that we had not acted formally, if there was any one disposed to cavil."

"Mr. Speaker," said George Washington, rising and standing in the attitude of Webster, "I rises to appoint to order. We took ballast in de prior cases, and why make flesh of one man an' a fowl of another?"

"Very well," said the foreman, a trifle sharply; "the longest way round is the shortest way home."

Twelve slips of paper were handed out, to be indorsed guilty, "for form." They were collected in a hat and the foreman told them over—"just for form." "'Guilty,' 'guilty,' 'guilty,' 'guilty,'—wait a minute," he said, "here is a mistake. Here is one 'not guilty'—whose is this?"

There was a pause.

"Whose is it?" said the foreman, sharply.

Eli turned a little red.

"It's mine," he said.

"Do you mean it?" said the foreman.

"Of course I mean it," he answered.

"Whew!" whistled the foreman. "Very well, sir; we'll have an understanding, then. This case is proved to the satisfaction of every man who heard it, I may safely say, but one. Will that one please state the grounds of his opinion?"

"I ain't no talker," said Eli, "but I ain't satisfied he 's guilty—that's all."

"Don't you believe the witnesses?"

"Mostly."

"Which one don't you believe?"

"I can't say. I don't believe he's guilty."

"Is there one that you think lied?"

No answer.

"Now it seems to me—" said a third jurymen.

"One thing at a time, gentlemen," said the foreman. "Let us wait for an answer from Mr. Smith. Is there any one that you think lied? We will wait, gentlemen, for an answer."

There was a long pause. The trial seemed to Eli Smith to have shifted from the court to this shabby room, and he was now the culprit.

All waited for him; all eyes were fixed upon him.

The clock ticked loud! Eli counted the seconds. He knew the determination of the foreman.

The silence became intense.

"I want to say my say," said a short man in a pea-jacket,—a retired San Francisco pilot, named Eldridge. "I entertain no doubt the man is guilty. At the same time, I allow for differences of opinion. I don't know this man that's voted 'not guilty,' but he seems to be a well-meaning man. I don't know his reasons; probably he don't understand the case. I should like to have the foreman tell the evidence over, so as if he don't see it clear, he can ask questions, and we can explain."

"I second de motion," said George Washington.

There was a general rustle of approval.

"I move it," said the pilot, encouraged.

"Very well, Mr. Eldridge," said the foreman. "If there is no objection, I will state the evidence, and if there is any loop-hole, I will trouble Mr. Smith to suggest it as I go along;" and he proceeded to give a summary of the testimony, with homely force.

"Now, sir?" he said, when he had finished.

"I move for another ballot," said Mr. Eldridge.

The result was the same. Eli had voted "not guilty."

"Mr. Smith," said the foreman, "this must be settled in some way. This is no child's play. You can't keep eleven men here, trifling with them, giving no pretence of a reason."

"I have n't no reasons, only that I don't believe he 's guilty," said Eli. "I 'm not goin' to vote a man into State's-prison, when I don't believe he done it," and he rose and walked to the window and looked out. It was low tide. There was a broad stretch of mud in the distance, covered with boats lying over disconsolate. A driving storm had emptied the streets. He beat upon the rain-dashed glass a moment with his fingers, and then he sat down again.

"Well, sir," said the foreman, "this is singular conduct. What do you propose to do?"

Silence.

"I suppose you realize that the rest of us are pretty rapidly forming a conclusion on this matter," said the foreman.

"Come! come!" said Mr. Eldridge; "don't be quite so hard on him, Captain. Now, Mr. Smith," he said, standing up with his hands in his coat-pockets and looking at Eli, "we know that there often is crooked sticks on juries, that hold out alone—that's to be expected; but they always argue, and stand to it the rest are fools, and all that. Now, all is, we don't see why you don't sort of argue, if you 've got reasons satisfactory to you. Come, now," he added, walking up to Eli, and resting one foot on the seat of his chair, "why don't you tell it over? and if we 're wrong, I 'm ready to join you."

Eli looked up at him.

"Did n't you ever know," he said, "of a man's takin' a cat off, to lose, that his little girl did n't want drowned, and leavin' him ashore, twenty or thirty miles, bee-line, from home, and that cat's bein' back again the next day, purrin' 'round 's if nothin' had happened?"

"Yes," said Mr. Eldridge—"knew of just such a case."

"Very well," said Eli; "how does he find his way home?"

"Don't know," said Mr. Eldridge; "always has been a standing mystery to me."

"Well," said Eli, "mark my words. There's such a thing as arguin', and there 's such a thing as knowin' outright; and when you 'll tell me how that cat inquires his way home, I 'll tell you how I know John Wood ain't guilty."

This made a certain sensation, and Eli's stock went up.

An old, withered man rapped on the table.

"That's so!" he said; "and there's other sing'lar things! How is it that a seafarin' man, that 's dyin' to home, will allers die on the ebttide? It never fails, but how does it happen? Tell me that! And there's more ways than one of knowin' things, too!"

"I know that man ain't guilty," said Eli.

"Hark ye!" said a dark old man with a troubled face, rising and pointing his finger toward Eli. "*Know*, you say? I *knew*, wunst. I *knew* that my girl, my only child, was good. One night she went off with a married man that worked in my store, and stole my money—and where is she now?" And then he added, "What I *know* is, that every man hes his price. I hev mine, and you hev yourn!"

"'Xcuse me, Mr. Speaker," said George Washington, rising with his hand in his bosom; "as de question is befo' us, I wish to say that de las' bro' mus' have spoken under 'xcitement. Every man *don'* have his price! An' I hope de bro' will recant—like as de Psalmist goes out o' his way to say '*In my haste* I said, All men are liars.' He was a very busy man, de Psalmist—writin' down hymns all day, sharpen'n' his lead-pencil, bossin' 'roun' de choir—callin' Selah! Well, bro'n an' sisters"—both arms going out, and his voice going up—"one day, seems like, he was in gre't haste—got to finish a psalm for a monthly concert, or such—and some man in-corrupted him, and lied; and bein' in gre't haste—and a little old Adam in him—he says, right off, quick: '*All men are liars!*' But see! When he gits a little time to set back and meditate, he says: '*Dis won' do—dere's Moses an'*

Job, an' Paul—dey ain't liars!' An' den he don' sneak out, and 'low he said, 'All men is lions,' or such. No! de Psalmist ain't no such man; but he owns up, 'an' 'xplains. '*In my haste,*' he says, 'I said it.'

The foreman rose and rapped.

"I await a motion," said he, "if our friend will allow me the privilege of speaking."

Mr. Washington calmly bowed.

Then the foreman, when nobody seemed disposed to move, speaking slowly at first, and piecemeal, alternating language with smoke, gradually edged into the current of the evidence, and ended by going all over it again, with fresh force and point. His cigar glowed and chilled in the darkening room as he talked.

"Now," he said, when he had drawn all the threads together to the point of guilt, "what are we going to do upon this evidence?"

"I 'll tell you something," said Eli. "I did n't want to say it because I know what you 'll all think, but I 'll tell you, all the same."

"Ah!" said the foreman.

Eli stood up and faced the others.

"'Most all o' you know what our Bar is in a southeast gale. They ain't a man here that would dare to try and cross it when the sea's breakin' on it. The man that says he would, lies!" And he looked at the foreman, and waited a moment.

"When my wife took sick, and I stopped goin' to sea, two year ago, and took up boat-fishin', I did n't know half as much about the coast as the young boys do, and one afternoon it was blowin' a gale, and we was all hands comin' in, and passin' along the Bar to go sheer 'round it to the west'ard, and Captain Fred Cook—he's short-sighted—got on to the Bar before he knew it, and then he hed to go ahead, whether or no; and I was right after him, and I s'posed he knew, and I followed him. Well, he was floated over, as luck was, all right; but when I 'd just got on the Bar, a roller dropped back and let my bowsprit down into the sand, and then come up quicker'n lightnin' and shouldered the boat over, t' other end first, and slung me into the water; and when I come up, I see somethin' black, and there was John Wood's boat runnin' by me before the wind with a rush—and 'fore I knew an'thing, he had me by the hair by one hand, and in his boat, and we was over the Bar. Now, I tell you, a man that looks the way I saw him look when I come over the gunwale, face up, don't go 'round breakin' in and hookin' things. He hed n't one chance in five, and he was a married man, too, with small children. And what's more," he added incautiously, "he did n't stop there. When he found out, this last spring, that I was goin' to lose my place, he lent me money enough to pay the interest that was overdue on the mortgage, of his own accord."

And he stopped suddenly.

"You have certainly explained yourself," said the foreman. "I think we understand you distinctly."

"There is n't one word of truth in that idea," said Eli, flushing up, "and you know it. I 've paid him back every cent. I know him better 'n any of you, that's all, and when I know he ain't guilty, I won't say he is; and I can set here as long as any other man."

"Lively times some folks 'll hev, when they go home," said a spare tin-pedler, stroking his long yellow goatee. "Go into the store: nobody speak to you; go to cattle-show: everybody follow you 'round; go to the wharf: nobody weigh your fish; go to buy seed-cakes to the cart: baker won't give no tick."

"How much does it cost, Mr. Foreman," said the butcher, "for a man 't 's obliged to leave town, to move a family out West? I only ask for information. I have known a case where a man had to leave—could n't live there no longer—wa' n't wanted."

There was a knock. An officer, sent by the judge, inquired whether the jury were likely soon to agree.

"It rests with you, sir," said the foreman, looking at Eli.

But Eli sat doggedly with his hands in his pockets, and did not look up or speak.

"Say to the judge that I cannot tell," said the foreman.

It was eight o'clock when the officer returned, with orders to take the jury across the street to the hotel, to supper. They went out in pairs, except that the jurymen who was left to fall in with Eli made three with the file ahead, and left Eli to walk alone. This was noticed by the bystanders. At the hotel, Eli could not eat a mouthful. He was seated at one end of the table, and was left entirely out of the conversation. When the jury were escorted back to the courthouse, rumors had evidently begun to arise from his having walked alone, for there was quite a little crowd at the hotel door, to see them. They went as before: four pairs, a file of three, and Eli alone. Then the spectators understood it.

When the jury were locked into their room again for the night, Mr. Eldridge sat down by Eli and lit his pipe.

"I understand," he said, "just how you feel. Now, between you and me, there was a good-hearted fellow that kept me out of a bad mess once. I 've never told anybody just what it was, and I don't mean to tell you now, but it brought my blood up standing, to find how near I 'd come to putting a fine steamer and two hundred and forty passengers under water. Well, one day, a year or so after that, this man had a chance to get a good ship, only there was some talk against him, that he drank a little. Well, the owners told him they wanted to see me, and he come to me, and says he, 'Mr. Eldridge, I hope you 'll speak a good word for me; if you do, I 'll get the ship, but if they refuse me this one, I 'm dished everywhere.' Well, the owners put me the square question, and I had to tell 'em. Well, I met him that afternoon on Sacramento Street, as white as a sheet, and he would n't speak to me, but passed right by, and that night he went and shipped before the mast. That's the last I ever heard of him; but I had to do it. Now," he added, "this man 's been good to you; but the case is proved, and you ought to vote with the rest of us."

"It ain't proved," said Eli. "The judge said that if any man had a reasonable doubt, he ought to hold out. Now, I ain't convinced."

"Well, that 's easy said," replied Mr. Eldridge, a little hotly, and he arose, and left him.

The jurymen broke up into little knots, tilted their chairs back, and settled into the easiest positions that

their cramped quarters allowed. Most of them lit their pipes; the captain, and one or two whom he honored, smoked fragrant cigars, and the room was soon filled with a dense cloud.

Eli sat alone by the window.

"Sometimes sell two at one house," said a lank book-agent, arousing himself from a reverie; "once sold three."

"I think the Early Rose is about as profitable as any," said a little farmer, with a large circular beard. "I used to favor Jacobs's Seedling, but they have n't done so well with me of late years."

"Sometimes," said the book-agent, picking his teeth with a quill, "you 'll go to a house, and they 'll say they can't be induced to buy a book of any kind, historical, fictitious, or religious; but you just keep on talking, and show the pictures—'Grant in Boyhood,' 'Grant a Tanner,' Grant at Head-quarters,' 'Grant in the White House,' 'Grant before Queen Victoria,' and they warm up, I tell you, and not infrequently buy."

"Do you sell de 'Illustrated Bible'," asked Washington, "wid de Hypocrypha?"

"No; I have a more popular treatise—the 'Illustrated History of the Bible.' Greater variety. Brings in the surrounding nations, in costume. Cloth, three dollars; sheep, three-fifty; half calf, five-seventy-five; full morocco, gilt edges, seven-fifty. Six hundred and seven illustrations on wood and steel. Three different engravings of Abraham alone. Four of Noah,—'Noah before the Flood,' 'Noah Building the Ark,' 'Noah Welcoming the Dove,' 'Noah on Ararat,' Steel engraving of Ezekiel's Wheel, explaining prophecy. Jonah under the gourd, Nineveh in the distance."

Mr. Eldridge and Captain Thomas had drifted into a discussion of harbors, and the captain had drawn his chair up to the table, and, with a cigar in his mouth, was explaining an ingeniously constructed foreign harbor. He was making a rough sketch, with a pen.

"Here is north," he said; "here is the coastline; here are the flats; here are the sluiceways; they store the water here, in—"

Some of the younger men had their heads together, in a corner, about the tin-pedler, who was telling stories of people he had met in his journeys, which brought out repeated bursts of laughter.

In the corner farthest from Eli, a delicate-looking man began to tell the butcher about Eli's wife.

"Twelve years ago this fall," he said, "I taught district-school in the parish where she lived. She was about fourteen then. Her father was a poor farmer, without any faculty. Her mother was dead, and she kept house. I stayed there one week, boarding 'round."

"Prob'ly did n't git not much of any fresh meat that week," suggested the butcher.

"She never said much, but it used to divert me to see her order around her big brothers, just as if she was their mother. She and I got to be great friends; but she was a queer piece. One day at school the girls in her row were communicating, and annoying me, while the third class was reciting in 'First Steps in Numbers,' and I was so incensed that I called Lizzie—that's her name—right out, and had her stand up for twenty minutes. She was a shy little thing, and set great store by perfect marks. I saw that she was troubled a good deal, to have all of them looking and laughing at her. But she stood there, with her hands folded behind her, and not a smile or a word."

"Look out for a sullen cow," said the butcher.

"I felt afraid I had been too hasty with her, and I was rather sorry I had been so decided—although, to be sure, she did n't pretend to deny that she had been communicating."

"Of course," said the butcher: "no use lyin' when you 're caught in the act."

"Well, after school, she stayed at her desk, fixing her dinner-pail, and putting her books in a strap, and all that, till all the rest had gone, and then she came up to my desk, where I was correcting compositions."

"Now for music!" said the butcher.

"She had been crying a little. Well, she looked straight in my face, and said she, 'Mr. Pollard, I just wanted to say to you that I was n't doing anything at all when you called me up;' and off she went. Now, that was just like her,—too proud to say a word before the school."

But here his listener's attention was diverted by the voice of the book-agent.

"The very best Bible for teachers, of course, is the limp-cover, protected edges, full Levant morocco, Oxford, silk-sewed, kid-lined, Bishop's Divinity Circuit, with concordance, maps of the Holy Land, weights, measures, and money-tables of the Jews. Nothing like having a really—"

"And so," said the captain, moving back his chair, "they let on the whole head of water, and scour out the channel to a T."

And then he rapped upon the table.

"Gentlemen," he said, "please draw your chairs up, and let us take another ballot."

The count resulted as before.

The foreman muttered something which had a scriptural sound. In a few moments he drew Mr. Eldridge and two others aside. "Gentlemen," he said to them, "I shall quietly divide the jury into watches, under your charge: ten can sleep, while one wakes to keep Mr. Smith discussing the question. I don't propose to have the night wasted."

And, by one man or another, Eli was kept awake.

"I don't see," said the book-agent, "why you should feel obliged to stick it out any longer. Of course, you are under obligations. But you 've done more than enough already, so as that he can't complain of you, and if you give in now, everybody 'll give you credit for trying to save your friend, on the one hand, and, on the other hand, for giving in to the evidence. So you 'll get credit both ways."

An hour later, the tin-pedler came on duty. He had not followed closely the story about John Wood's loan, and had got it a little awry.

"Now, how foolish you be," he said, in a confidential tone. "Can't you see that if you cave in now, after



stan'n' out nine hours"—and he looked at a silver watch with a brass chain, and stroked his goatee—"nine hours and twenty-seven minutes—that you 've made jest rumpus enough so as't he won't dare to foreclose on you, for fear they 'll say you went back on a trade. On t' other hand, if you hold clear out, he'll turn you out-o'-doors to-morrow, for a blind, so 's to look as if there wa' n't no trade between you. Once he gits off, he won't know Joseph, you bet! That's what I 'd do," he added, with a sly laugh. "Take your uncle's advice."

"The only trouble with that," said Eli, shortly, "is that I don't owe him anything."

"Oh," said the pedler; "that makes a difference. I understood you did."

Three o'clock came, and brought Mr. Eldridge. He found Eli worn out with excitement.

"Now, I don't judge you the way the others do," said Mr. Eldridge, in a low tone, with his hand on Eli's knee. "I know, as I told you, just the way you feel. But we can't help such things. Suppose, now, that I had kept dark, and allowed to the owners that that man was always sober, and I had heard, six months after, of thirty or forty men going to the bottom because the captain was a little off his base; and then to think of their wives and children at home. We have to do some hard things; but I say, do the square thing, and let her slide."

"But I can't believe he 's guilty," said Eli.

"But don't you allow," said Mr. Eldridge, "that eleven men are more sure to hit it right than one man?"

"Yes," said Eli, reluctantly, "as a general thing."

"Well, there's always got to be some give to a jury, just as in everything else, and you ought to lay right down on the rest of us. It is n't as if we were at all squirmish. Now, you know that if you hold out, he 'll be tried again."

"Yes, I suppose so."

"Got to be—no other way," said Mr. Eldridge. "Now, the next time, there won't be anybody like you to stand out, and the judge 'll know of this scrape, and he'll just sock it to him."

Eli turned uneasily in his chair.

"And then it won't be understood in your place, and folks 'll turn against you every way, and, what's worse, let you alone."

"I can stand it," said Eli, angrily. "Let 'em do as they like. They can't kill me."

"They can kill your wife and break down your children," said Mr. Eldridge. "Women and children can't stand it. Now, there's that man they were speaking of; he lived down my way. He sued a poor, shiftless fellow that had come from Pennsylvania to his daughter's funeral, and had him arrested and taken off, crying, just before the funeral begun—after they 'd even set the flowers on the coffin; and nobody'd speak to him after that—they just let him alone; and after a while his wife took sick of it—she was a nice, kindly woman—and she had sort of hysterics, and finally he moved off West. And 't was n't long before the woman died. Now, you can't undertake to do different from everybody else."

"Well," said Eli, "I know I wish it was done with."

Mr. Eldridge stretched his arms and yawned. Then he began to walk up and down, and hum, out of tune. Then he stopped at Captain Thomas's chair.

"Suppose we try a ballot," he said. "He seems to give a little."

In a moment the foreman rapped.

"It is time we were taking another ballot, gentlemen," he said.

The sleepers rose, grumbling, from uneasy dreams.

"I will write 'guilty' on twelve ballots," said the foreman, "and if any one desires to write in 'not,' of course he can."

When the hat came to Eli, he took one of the ballots and held it in his hand a moment, and then he laid it on the table. There was a general murmur. The picture which Mr. Eldridge had drawn loomed up before him. But with a hasty hand he wrote in "not," dropped in the ballot, and going back to his chair by the window, sat down.

There was a cold wave of silence.

Then Eli suddenly walked up to the foreman and faced him.

"Now," he said, "we 'll stop. The very next turn breaks ground. If you, or any other man that you set on, tries to talk to me when I don't want to hear, to worry me to death—look out!"

How the long hours wore on! How easy, sometimes, to resist an open pressure, and how hard, with the resistance gone, to fight, as one that beats the air! How the prospect of a whole hostile town loomed up, in a mirage, before Eli! And then the picture rose before him of a long, stately bark, now building, whose owner had asked him yesterday to be first mate. And if his wife were only well, and he were only free from this night's trouble, how soon, upon the long, green waves, he could begin to redeem his little home!

And then came Mr. Eldridge, kind and friendly, to have another little chat.

Morning came, cold and drizzly. An officer knocked at the door, and called out, "Breakfast!" And in a moment, unwashed, and all uncombed, except the tin-pedler, who always carried a beard-comb in his pocket, they were marched across the street to the hotel.

There were a number of men on the piazza waiting to see them,—jurymen, witnesses, and the accused himself, for he was on bail. He had seen the procession the night before, and, like the others, had read its meaning.

"Eli knows I would n't do it," he had said to himself, "and he's going to hang out, sure."

The jury began to turn from the court-house door. Everybody looked. A file of two men, another file, another, another; would there come three men, and then one? No; Eli no longer walked alone.

Everybody looked at Wood; he turned sharply away.

But this time the order of march in fact showed nothing, one way or the other. It only meant that the judge,

who had happened to see the jury the night before returning from their supper, had sent for the high sheriff in some temper,—for judges are human,—and had vigorously intimated that if that statesman did not look after his fool of a deputy, who let a jury parade secrets to the public view, he would!

The jury were in their room again. At nine o'clock came a rap, and a summons from the court. The prosecuting attorney was speaking with the judge when they went in. In a moment he took his seat.

"John Wood!" called out the clerk, and the defendant arose. His attorney was not there.

"Mr. Foreman!" said the judge, rising. The jury arose. The silence of the crowded courtroom was intense.

"Before the clerk asks you for a verdict, gentlemen," said the judge, "I have something of the first importance to say to you, which has but this moment come to my knowledge."

Eli changed color, and the whole court-room looked at him.

"There were some most singular rumors, after the case was given to you, gentlemen, to the effect that there had been in this cause a criminal abuse of justice. It is painful to suspect, and shocking to know, that courts and juries are liable ever to suffer by such unprincipled practices. After ten years upon the bench, I never witness a conviction of crime without pain; but that pain is light, compared with the distress of knowing of a wilful perversion of justice. It is a relief to me to be able to say to you that such instances are, in my judgment, exceedingly rare, and—so keen is the awful searching power of truth—are almost invariably discovered."

The foreman touched his neighbor with his elbow. Eli folded his arms.

"As I said," continued the judge, "there were most singular rumors. During the evening and the night, rumor, as is often the case, led to evidence, and evidence has led to confession and to certainty. And the district attorney now desires me to say to you that the chief officer of the bank—who held the second key to the safe—is now under arrest for a heavy defalcation, which a sham robbery was to conceal, and that you may find the prisoner at the bar—not guilty. I congratulate you, gentlemen, that you had not rendered an adverse verdict."

"Your Honor!" said Eli, and he cleared his throat, "I desire it to be known that, even as the case stood last night, this jury had not agreed to convict, and never would have!"

There was a hush, while a loud scratching pen indorsed the record of acquittal. Then Wood walked down to the jury-box and took Eli's hand.

"Just what I told my wife all through," he said. "I knew you 'd hang out!"

Eli's jury was excused for the rest of the day, and by noon he was in his own village, relieved, too, of his most pressing burden: for George Cahoon had met him on the road, and told him that he was not going to the West, after all, for the present, and should not need his money. But, as he turned the bend of the road and neared his house, he felt a rising fear that some disturbing rumor might have reached his wife about his action on the jury. And, to his distress and amazement, there she was, sitting in a chair at the door.

"Lizzie!" he said, "what does this mean? Are you crazy?"

"I'll tell you what it means," she said, as she stood up with a little smile and clasped her hands behind her. "This morning it got around and came to me that you was standing out all alone for John Wood, and that the talk was that they 'd be down on you, and drive you out of town, and that everybody pitied *me,—pitied me!* And when I heard that, I thought I 'd see! And my strength seemed to come all back, and I got right up and dressed myself. And what's more, I 'm going to get well now!"

And she did.

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