



NEC REGE, NEC POPULO, SED UTROQUE.

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LITERATURE.

Extract from SEPARATION, a novel, by Lady Charlotte Bury.

A hare, who in a civil way,
Complied with every thing, like Gay;
Known to all the bestial train,
Who haunt the wood, or graze the plain,
Her care was never to offend,
And every creature was her friend.

GAY.

On the evening of the day, when Lady Priscilla read the announcement of her friend's elopement in the newspapers, and apparently found it confirmed by the answers she received from the servants in Hamilton Place, who seemed all in confusion, she was to have had a large party at her house, but this was affected her to such a degree, that she was taken ill; and the impossibility of sending out cards of excuse to all the persons she had invited, made her determine to station servants at her door, to say that sudden indisposition prevented her being able to receive company that night. Half the persons, therefore, who were thus disappointed of their place of rendezvous, betook themselves to the Dowager Lady Marchmont's, who had one of her "at homes," fortunately for them that very evening. Never had she obtained so brilliant an assemblage since the days of her youth; and though the people poured in because they could not help themselves, still they poured in, no matter wherefore. And to have rooms so brilliantly filled, was a circumstance that gave her a new and unexpected interest in the world. "Well, I always thought it would be so—you know the news. That old fool, Mr. Lawrence, is well served for his folly. You remember there was a time when perhaps, not that I ever wished the connexion, God knows, but there was a time when, had he paid me proper attention, for the sake of poor dear Lord Carey's memory, who, you know, made use of old Lawrence in the building of Lawrence Court—well, where was I?—Oh! dear Mr. Newdcomb!" (turning about to a little fat gentleman, with a pair of gooseberry eyes.) "do try and make up a party for me. After all, there is no game so delightful, if one could bring it into fashion again—don't you think so, Lady Marchmont?—But as I was saying, to return to Mr. Lawrence—when, on looking round, she found Lady Marchmont was gone half a room off, with her spying-glass at her eye; so, giving up the idea of going on with her story at that time, she bustled away, in quest of Mr. Newdcomb and Lord Bennis, who she hoped would procure two other people for me.

"Come, my dear Lord Carey" (calling to her son). "do give me your arm; there is no getting on without an arm. Ah, your poor dear father! he had an arm, and a big one;—the men of the present day are mere striplings, poor puny things!—well, I declare—there, get on—I see the card-table."

A knot of persons were sitting dos-a-dos on an ottoman in the middle of the room, when, in her hurry to reach the card table she trod upon the toes of one of them—it was Lord Delborough, who made an exclamation of pain and horror, to which she paid no attention; but stretching herself, and standing upon her toes, looked onwards to the goal of her wishes.

"There are a certain number of persons," said Lord Delborough, "who really ought to be put by—not suffered to come into good society—there is that old vulgar Lady Carey, who has this moment lamed me for life, I believe; who can tolerate such a shaking mass of frippery and diamonds—what is she good for?"

"I would have society drafted every six months," rejoined the lisping Mr. Darnley; it would be the only way to keep it up to the point of perfection; but there is one comfort, that somehow or other, the people always do draft themselves. You know the news, don't you? there is that insufferable puppy, Clayton, gone off with—now, who do you think?—guess with whom?"

"Gone off!—really you don't say so—but with whom—with whom?" echoed many voices all around—do tell us!"

"Why, with that little underbred prude the Golconda heiress."

"The Golconda heiress! what! Lady Fitzharris! O do tell us all about it!"

"Well, I always thought," said Lady Highmore, "that that *menage* never would end well. Poor Lord Fitzharris! his home was quite insufferable to him, by the eternal interference of Mr. and Mrs. Lawrence; the very sight of them was enough to give any man the blue devils—but let us hear all the particulars."

"Pardou me," said Mr. Darnley, "your ladyship seems in error—it is not Lord Fitzharris, but Lady Fitzharris who has run away; and I suppose, from that circumstance, he gave her the blue devils."

"plosion in Hamilton Place," said Lord Blair: "well, it is astonishing that people should like to put themselves *en evidence*, as they do now-a-days. In my time, when people of fashion did not suit each other, *il y avoit l'appartement de Monsieur, l'appartement de Madame*: they did not indiscreetly force themselves on each other's company; but if they did accidentally meet, they were perfectly polite, perfectly tranquil. There is room enough for every body in the world, if people would only have a little consideration for each other's foibles. I have always told my nephew—who, *par parenthese*, every body allows is perfectly delightful, and that merely because he is perfectly well-bred—I have always told my nephew to look upon the world as upon a well-furnished drawing-room: if you walk through it roughly, you will be in danger of knocking your shins against something; but if you will only edge along, and glide past certain corners, nothing will impede your course. But, for instance, this story, which is now in the mouth of every body, from the footman to the king, can any thing have been half so ill-judged as the whole conduct of the business—*avoir des procedes honnetes*—in that consists the great secret of life: but really in these days it seems to be the business of the great to pull down their own distinction, and to lower themselves to the tone of the vulgar."

"Ah, my dear lord," replied Mr. Darnley, "I do believe the *marche de jeu* was on a much better footing in your time. I wish, now that there are schools for every thing, that you would establish an institution, where the young people of the world should be taught to choose their life in a very different line, and under very different auspices;" (and she again glanced at her own train of daughters, and passed on, delighted to think there was another chance in the market for them.)

"I am glad that tiresome woman is gone. Now do," cried the pretty Mrs. Selwin, addressing herself to Mr. Darnley—"do tell us the whole story about Lord and Lady Fitzharris; for, after all, I have never been able to understand why she should run away, as Lord Fitzharris seemed to let her do exactly what she liked; and she gave the best balls, and had always the last Parisian modes, an opera box, and every thing, in short, that can make life desirable—what could she wish for more?"

"Oh! but she was always *outré*," replied Mr. Darnley. "Somehow or other, you never do see a person of that *calibre*, who grafts well into another and a higher stock—never with real good effect—it is always a forced, unnatural thing. But this story is curious enough; and I can tell you exactly the circumstances which brought on the crisis. They do say that Lord Fitzharris murdered a man, to whom he owed money in Paris; and that this became known to Lady Fitzharris, who never could endure to be alone with him afterward."

"Good heavens! no wonder," cried Mrs. Selwin. "Oh, but that is not all! he always insisted upon having his pistols, and a peculiar dagger, that he got somewhere in his travels, laid by his bed-side; and had his favourite bull-dog, on a mat, close to him: all of which disagreeable peculiarities so terrified the poor lady, that she begged to occupy a separate apartment. Under these circumstances, you see, my dear Mrs. Selwin, it really was not astonishing, that when such a handsome, gay gallant as Sir Charles Clayton was continually buzzing about her ear, and a very good-humoured creature too, that she should prefer him to such a Blue Beard as Lord Fitzharris."

"Oh dear no—not at all—it was quite natural—only could she not have avoided the publicity, the awkwardness of the thing?"

"One does not exactly know how that is. The story goes, that Lord Fitzharris was absent for some time from home, and that when he did return, he, being a person exceedingly *range* in his *menage*, got all his household accounts in, as is usual after an absence from home, and among the rest his wine merchant's. When, observing an immense quantity had been recently drunk of St. Peretz, he asked if Lady Fitzharris consumed three bottles a day: upon which the servant said it had been consumed at her ladyship's table; and, upon further investigation, the butler proved, that Sir Charles Clayton entertained a number of young men constantly at supper with Lady Fitzharris; and thus it was the wine was drunk. Lady Fitzharris, when spoken to by her husband, at first denied the fact, but afterward confessed it, and Sir Charles coming in during the scene, the matter took a serious turn, and Lord Fitzharris desired him to leave his house, and never enter it again. 'Oh, do not forsake me!' cried Lady Fitzharris, 'do not forsake me!' (clinging to Sir Charles) 'he will kill me if you leave me in his power. I will follow you to the world's end,'—or words to that effect;

and, in short, played the *desesperée*, till poor Clayton, (he is a good hearted creature) could not in pity refuse; and they went out of the house that moment. Some say Lord Fitzharris has followed them to the continent, to challenge the fortunate hero; others say, that he has gone to Wales, to break the story to his father. The latter part of the story I do not vouch for, but you may depend upon the former, for my valet heard it from Lord Fitzharris's butler. "Well," said Mrs. Selwin, laughing, "that is one way of discovering an amour by one's wine merchant's bill—*est du nouveau*, at least; but yonder is Lady Maynard; do let us go, and tell her the story; it will be so amusing to see how she takes the thing."

At that moment came in Lord and Lady Milsington, apparently quite in their usual spirits. A thunderbolt could not have astonished the story-tellers more.

"Surely, it is not true!" said the company, whispering one to another. "It is very extraordinary at all events; for one can hardly suppose they would have made their appearance, if this story had been known to them. And yet, that they should not know it—seems very incredible."

"But, said Mr. Medcalf to Mr. Percy, who had been listening attentively to the various reports that flew in whispers all around the room; "have you not heard the real circumstances of this extraordinary history?"

"No," said Mr. Percy, shaking his head mournfully, "certainly not, though I have heard a great many."

"Come, then, let us sit down there out of the way," said Mr. Medcalf, "and you will go on for some time increasing, till at last, one night, Lady Fitzharris coming into his room, found him on the floor, with a great many cabalistical circles drawn all around him, and various strange books and images stuck about the room; in short, she discovered him to be quite mad. It seems there always was madness in the family, and that Lord and Lady Milsington were perfectly aware of the fact when they took in poor Miss Lawrence to marry him."

"On this melancholy discovery, she is said to have behaved like an angel, and it was agreed upon, between her and Lord and Lady Milsington, that they should go to the continent, and that he should be placed in a lunatic asylum there. Sir Charles Clayton merely went as a friend of Lord Fitzharris, in order that the poor lady might not be left entirely alone. Now, my dear Sir, you may depend on the truth of this statement, for my sister had it from Mr. Bingley the apothecary, who formerly attended in the family."

"It is very dreadful!" sighed Mr. Percy; "but I am sure, under all circumstances, she would always behave like an angel. It seems, however, almost incredible, that if this be the case, Lord and Lady Milsington should have sufficient command over themselves, or, indeed, I would say more, sufficient confidence and hardness of heart, to show themselves in company, or come into public. Altogether, I know not what to think." And he arose, and left his communicative friend to propagate his edition of the news to more credulous ears.

"How delighted I am to see you!" said Lady Marchmont to the Milsingtons, to whom she, at that moment, had got through the crowd to make her courtesy; "and, pray, tell me, shall I not have the pleasure of seeing the Fitzharris to-night?" This she said purposely to observe in what manner it would be taken.

"Oh dear, do you not know they are gone on a tour to Paris, and Sir Charles Clayton accompanies them?"

This was said so readily and so naturally, that every one who was not as well versed in the art of part playing, could not have possibly believed it to be a deliberate falsehood.

"And do they make any long *sejour* there?"

"I hope not; but you know, when young people are in Paris, there is no saying how long they may remain."

Away went the male gossip, Mr. ——— to Lady Maynard. "Well, you have heard the news, I suppose," he said, speaking in an audible whisper, and putting on a face of melancholy import; "you have heard of Lord Fitzharris's being quite mad, and taken away to be put in confinement on the continent. I am sure you will be vastly shocked—vastly sorry; you have so good a heart, and he was such an old friend of yours."

"You do me a vast deal of honour, Mr. ———, to suppose my heart so very good; but I think it does not require any particular tenderness (I do not pique myself upon that *Misere-press* quality), to be sorry when one hears that any one's acquaintance is in a mad-house. But, I cannot say you at all *surprised* me, for I always thought he must be mad ever since he married that fright, Miss Lawrence."

"Indeed! well what penetration! what insight into character!"

"Not a bit more than my neighbours, Mr. ———, however, I beg to tell you, that

however mad my Lord Fitzharris may be, (and I have no doubt of the fact) there is another reason of this sudden disappearance. He has lost immense sums at play; but, besides that, his great friend the parson there—what do you call him?—oh, you know who I mean—the Vaughan rectory man, Mr. Claremont, has taken out a writ against him for the sum of thirty thousand pounds, which he lent him some three years ago, and of which he has never paid one farthing, interest or principal. This is the real truth of the story; and I believe (for I have it from good authority) that Sir Charles has come forward and promised to become security for the money, giving him a bond for the debt; in consideration of which piece of friendship, he has the advantage of accompanying my lord and my lady on their tour."

"Indeed! you don't say so? ha! ha! ha! It is very likely, for, now I think of it, I saw Mr. Claremont's old green vehicle coming into town a few days ago, and it is very seldom he honours the metropolis. But, dear me, (half disappointed that his own story was not the best of the two) dear me! So, after all, he is not mad; well, you surprise me. I must go and tell Mr. Percy that." And away he went, till he found the unlucky wight. "Mr. Percy, allow me to say one word, and, and, if you please, attend to me," (touching his arm) "what do you think drove Fitzharris mad this last time? Why, his dear college tutor, I believe, took out a writ against him for thirty thousand pounds; and as Lord Milsington refused to pay, he was obliged to apply to Sir Charles—Sir Charles Clayton—"

"Oh, by all means—well! what's the stake?"

"Oh, guinea loo, of course: I never play higher."

"And so, my Lord Bennis, the real state of the case is this. Poor Mr. Claremont, finding himself quite ruined, shot himself; and that drove Lord Fitzharris mad. Was there ever any thing so horrid! Pam turned up, as I shall declare! So you are all loosed!"

"I like that, for the game does not stagnate," observed lady Carey, "that is very agreeable when any one else turns him up; but don't stop, there's my loo—deal on, Lord Bennis. And so, Lord Fitzharris is quite mad? Bless me, I never observed Lady Milsington so near," she whispered to Lord Bennis. "My dear lady Milsington, how does your ladyship do?" (turning and half rising from her seat); "I am vastly happy to see you; pray, tell me. I was shocked to hear Lord Fitzharris was taken ill the other night at Crackford's?"

"Ill!—dear me, don't you know they are gone to Paris?"

"No, I did not—and when do they return?"

"Oh, they will stay, I make no doubt, a couple of months: Paris is so full of temptations! But as to illness, they are both perfectly well; only, you know, there never was such an enamoured couple: they cannot bear to be parted, even for a few weeks. So when he was, although she had issued cards for a great ball, and engaged herself to half a dozen great dinners, every thing was given up, and off they set in an instant. I must do Lady Fitzharris the justice to say, she is quite a paragon of a wife."

"How very happy you must be my dear Lady Milsington."

"I am, indeed, a very happy person in my family. Lady Fitzharris is a very charming creature, and the old Lawrence, to do them justice, never come in our way. But have you heard the poor dear old man has been seized with a fit of apoplexy? And I fear he cannot recover. You know at his death, Henrietta has an addition of fortune to the amount of ten thousand a year."

"I am vastly sorry, very concerned indeed, but people cannot live for ever—and oh dear, I see Lord Hunson waiting for me at the carte table." And away went Lady Milsington.

"Well!" cried Lady Cary, as she disappeared, "I don't know what she means by saying, 'people can't live for ever.' Mr. Lawrence is a few years younger than myself, Lady Milsington is not *de la premiere jeunesse*. People should have some regard to other people's feelings, and if Lady Milsington has none, she need not suppose that other people are equally hard-hearted. Poor dear Mr. Lawrence! I declare I am vastly grieved! Why he is the vigour of his age; nobody any means an old man, to die."

"Oh! but there are young men who die, as well as old men, Lady Cary," observed Lord Newdcomb, coughing. "Age has nothing to do with death at all," (coughing again). "Some old people have a much better life than some young ones: it depends upon how they live."

"Ah! very true: I never hold any cards; there never was such luck as mine. I cannot play any more; I must positively try the carte table."

And as she rose to go away, Mr. ———, the news-monger, flew up to her, saying, "What do you think? Lord and Lady Milsington are sent for express: it is supposed that Lord Fitzharris is killed. Sir Charles and he had high words, and the dispute ended by their going out to fight. Lord Fitzharris fell at the first fire."

"Fire! fire!" cried several voices at once; and, on looking round, the window curtains had come in contact with a girandole, and the whole draperies were in a blaze.

A general confusion ensued. Some screamed; some fainted; and those who retained their senses, rushed out of the house as fast as they could, leaving Lady Marchmont to her fate. So much for a multitude of dear friends.

UPPER CANADA.

PROVINCIAL PARLIAMENT.

HOUSE OF ASSEMBLY.

MR. BIDWELL'S SPEECH ON THE INTESTATE ESTATE BILL.

In the Provincial Assembly of Upper Canada, January 24, 1831.

Mr. Bidwell explained the objects of the bill. By the present law, if a man died without having made a will, and left a son and other children, his land, instead of being divided equally, or in any other proportion, among his children generally, went entirely to the oldest son. In like manner, without a will, left relations of the whole blood, or not, any relations of the half blood, even brothers or sisters, could not possibly inherit the real estate; but it would go to the Lord of the Manor or the Crown, to their exclusion.

It was obvious, upon the first blush, that such principles were absurd, unnatural, unjust. They were opposed to the strongest and most amiable emotions of the heart, and the plain dictates of natural justice. The bill was intended to abrogate them, and to substitute, in their place, the more equitable and reasonable rules which prevailed already, as it respected personal property; so that, if that bill became a law, whenever a man, not having made a will, should die, the estate would pass to all his children equally, or to his parents, if he left no children; and, if he did not leave parents or children, it would descend equally among his next kindred, without any distinction between them in favor of the eldest male. The first clause of the bill established this principle, and particularly described the order and mode of succession to an intestate estate, in almost every possible case: so that, in any case, any person of common understanding, by reading the clause, might ascertain who the heirs were and what was the share of each. The second clause directed the personal property to be distributed in the same manner. The third clause declared that any property advanced by the intestate during his life, towards the portion of any child, should be considered and allowed for in the distribution, and deducted from the share of such child. The fourth clause provided for the partition of the property. The Judge of the Probate or Surrogate Court was to decide, subject to a simple and easy appeal to the King's Bench, who the heirs were, and their proportionate shares, and was to appoint three disinterested freeholders, who were, accordingly, after being sworn, to divide the estate.

He intended, in order to obviate some objections, to propose an addition to the clause, which he had prepared, and which would authorize these freeholders, when they should judge it best, on account of the smallness of the property or any other circumstances, instead of dividing it to appraise it, and then, unless some one or more of the heirs would take it, with the consent of the rest, at that appraisal, and pay the others their proportion, the Judge was to have it sold, and the avails divided amongst all. The bill provided, that any of the heirs, before receiving his share of the estate, might be required to give a bond to pay his proportion of any debt which the Executors or Administrators might afterwards be compelled to pay. This was analogous to a provision in the present law of distribution, by which, before a person could receive his part of the personal property, he could be required to give a similar bond. There was a further clause, authorizing an heir, who had been compelled to pay a debt of the intestate, to recover from his co-heirs their rateable proportions of such debt. These were the provisions of the bill; and it would be observed, that its operation was confined entirely to those cases where a man died without a will. It did not in the least interfere with the right which a man now had, to dispose, as he pleased of his property by will. It applied only to those cases where he died without having made a will, or (which unfortunately was too

common,) where he had made a will, but, from some informality, or other cause, it could have no effect.

As to the principle respecting the exclusion of parents and relations of the half-blood, he did not anticipate any objections against the measure which was proposed. A man was certainly under stronger obligations to his father than to any other human being; yet, that father could not, by the existing law, inherit his intestate estate, although he might have given it to him, or, certainly, by the care of his education and his prudent advice, enabled him to acquire it. The father, indeed, was in the next degree of kindred, the nearest friend, the most entitled by merit, by the ties of nature, and the best feelings and affections of the human heart, to inherit the estate. These claims were recognized by the laws of distribution, which, in such case, gave the personal estate to the father; but, by the law of descent, for artificial reasons from fictitious feudal principles, the father, the natural heir in such a case, and the mother, when there was no surviving father, were absolutely excluded from the inheritance. A more distant relation was preferred; and, if there was no other kindred, even the Lord of the Manor or the Crown. This exclusion of the parents was contrary to nature, and justice, and good policy, and the practice of every other civilized nation. There was certainly no good reason for it in this Province; and he hoped, therefore, that, so far at least, the bill would meet with unanimous support.

But the most important feature of the bill, undoubtedly, was its abolition of the law of primogeniture, and the substitution of a father's care and protection?

He knew it was difficult to argue against prejudices, and to reason people into conviction against the strong current of long cherished feelings. He believed that this was the chief obstacle to the bill. The law of primogeniture was derived from ancient times. It was venerable, therefore, in the eyes of all those who were habitually opposed to improvement, on account of the supposed danger of innovation. With such persons every ancient abuse, every superannuated institution, every law which had long ago ceased to be adapted to the spirit and circumstances of the age, was regarded with about the same reverence as the noblest principles of the constitution, or rather, was itself regarded and spoken of as a fundamental principle of the constitution. He expected, therefore, to hear the bill denounced, as it had been on former occasions, as subversive of the fundamental principles of the constitution. He could, however, easily show, that it did not at all deserve such a terrible character; for, although the law of primogeniture was old, still it was itself an innovation on the constitution. It did not exist until after the principles of the constitution had been settled and established; those noble and life-giving principles of national freedom, which seemed destined by Providence to regenerate the world; such as trial by Jury, the right of representation, &c. Mr. Bidwell here quoted the opinions of Lord Holt, Sir William Blackstone, and others, to confirm this proposition. It would be observed, he continued, that these venerable men, these great luminaries of the law, expressed, in strong and decided terms, the opinion, not only that the law of primogeniture did not prevail at that early period, but, furthermore, that a law precisely similar in its principle to the bill then before the Committee was in force at that time. He was aware, that the latter part of this opinion had been controverted, although, as he thought, without much show of reason. All authors, however, agreed that the law of primogeniture did not then exist, but was introduced afterwards. That was sufficient for his argument. It overturned the objections, and ought to dispel the fears of those who thought that the law of primogeniture was one of the fundamental principles of the constitution, and should therefore, be sacred from the rude and barbarous hand of innovation, and almost from the profane gaze of vulgar irreverence and incredulity.

In fact, this law was a feudal principle and had existed no where but in feudal countries. It was unknown to the ancient nations, the Jews, the Greeks, the Romans, the Saxons, &c. And in proportion as nations emancipated themselves from the artificial rules and oppressive restraints of the feudal system, which was a tremendous system of despotism, this law appeared burdensome, unnatural and odious. It is true, it was still the law of England. And perhaps with her immense population, and the danger of making great alterations in the tenure of real property, and the mode of its transmission, it might not be wise or prudent there to abrogate it. He thought, however, that there was no reason to conclude that it had contributed, in any degree, to the prosperity and exaltation of England. They were owing to other causes, such as the extent and activity of her commerce, the industry and frugality of her people, and the freedom and