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[For the Sunday Republican.]

"SERVE NOT THE PAST, OR FUTURE WAIT."

Serve not the past or future wait;
Through spaces wide our years descend
To rise in after skies of thought,
As prism hues in sunlight blend.
Being nought but in others' joy;
Selfseeking, we ourselves destroy:
Serving ourselves is vain device—
We lose it if we seek our price.

For in the highest height of life,
The outward and the seen above,
Heed is not known of man or time,
To round the perfectness of love.
'Tis one with nature, all in all,
To be or not, to rise or fall
Ourselves, but weightless motes at most
In the illimitable lost.

The being, given, we are held
Nor to, or from, but as we learn;
And still gives the even mean
Of have and lack, or cold or burn.
The balance found, our course is straight;
To measure held, or soon or late,
By ceaseless must, that leads aright,
How much soe'er it mocks our sight.

Nor do our fretted days appear
In detail in the book of light;
Well to be, if the balance struck
Bespeak us clearly for the right.
Counting measure of instant years,
Our scores are but a paltry boast;
They well and longest live who deem
Helping others helps us the most.

Serve not the past, or future wait;
The only real thing is now;
Its meed allotted to us well,
With debt clear for why and how;
So for light and peace to spare,
Striving we answer nature's plan,
And called to whence we were, we move
Ever upward through planes of love.

LEAH.

Easter Sunday.

A LAWYER'S STORY.

It was in the spring of 1848, I was attending circuit court in a little town* in the southern part of Illinois. One night there were several lawyers of us gathered in the room of one of our number.

"By the way," said one, "Does not young Morton's case come up this spring? That murder trial. Who is on his defense?"

"No one is appointed as yet," said Wallace, the resident lawyer of the "place. He has no friends nor money."

"'Twas a very mysterious case," said another. "How was it? I remember reading of it at the time, but I have almost forgotten the circumstances."

"Old Leroy, the murdered man," replied Wallace, "was one of the wealthiest and most influential citizens. He had not many very warm friends, for he was rather stern, pompous and purse proud, but still he had no enemies."

"It was in the evening, before nine o'clock; he was alone in the house, with the exception of this young Morton; his wife had gone out to a neighbor's. Morton was his confidential servant, had lived with him for years, traveled with him, and they had always been on the best terms.

"He is a mild, inoffensive young man, rather prepossessing, but delicate, not calculated for hard work, and the place was one that just suited him. He testified, at the inquest, that Leroy was not well that night, and as soon as his wife left he called Morton to assist him to bed; that he did so, and then retired immediately to his room to bed, for he was very tired, having been up late the night before; that he slept soundly, and heard no noise or disturbance until he was awakened by the screams of Mrs. Leroy, who returned and found him murdered.

"There were several stabs, any one of which was sufficient to cause death. He had evidently been attacked first in bed, and started up and made a desperate struggle. His hand was cut inside across the fingers, as if he had grasped the knife, a chair was overthrown, blood was spattered over the floor and walls, there was every evidence of a desperate resistance, but he was quite dead and cold.

"Young Morton was arrested. Circumstances seemed to point at him as the only one who could have committed the deed; but the strangest thing to account for was the possible motive. It could not have been robbery, for nothing of value was taken, and he had considerable money on him. They could not have quarreled, for they had never had any difficulty, and the death of his employer was the loss of an easy and agreeable situation. And then his previous character, so mild and womanlike, he would not hurt a fly, besides his straightforward story at the inquest, from which he never varied, altogether make it a very perplexing case."

"It is singular," said the one who had first spoken, and then ensued some desultory conversation on the subject of mysterious crimes and the laws of evidence until we retired.

After I had gone to my room I sat a long time, with my eyes fixed on the declining wood fire, musing on the case which, for some reason, made a strong impression on my mind.

"The young man is the guilty party," was the conclusion to which I at length arrived. "It could not have been otherwise, and now the question is to discover the motive."

At this moment a card was brought to me on which was traced: "A lady wishes to speak with you—*alone*." I told the servant to show her up immediately, and it was but a moment until she entered the room. A heavy water-proof cloak shrouded her figure from head to foot; the hood was drawn over her head, and a green veil covered her face. It was evidently stormy without, for drops of rain clung to her cloak and veil.

"Will you please secure the door," said she, in a low, sweet voice, but rather breathlessly, either from hurry or excitement. "I do not wish to be disturbed, or have it known that I have called upon you."

I bolted the door as she advanced to the fire, and, drawing a chair forward, urged her to be seated.

She took the chair, put out her damp gaitered foot into the warmth of the firelight, and began to remove her veil. I noticed that the small, ungloved hand was as white as ivory, and a cluster diamond ring sparkled on one of her slender fingers.

She took off her veil and pushed the hood back from her head, disclosing a pale face, with bright, sparkling eyes, and masses of dark hair combed away from her forehead, and falling in careless, partially curled locks, around it.

"I know you by reputation, Mr. Neville," said she, turning to me with a slight smile, "as one of the most eloquent and successful lawyers in this district;" I bowed. "And I have called to retain your services."

She unclasped a little portemonnaie of pearl and silver, and laid a roll of bills on the table between us.

"It is the case of young Morton," said she; "I wish you to defend him. I know he has no lawyer as yet; he is not able to fee one, and one will be appointed to defend him of no skill or reputation, who will not care whether he gains the case or not, thinking he has no friends, and that public opinion is against him. It is not true," said she, changing her tone to deeper earnestness, raising her dark thrilling eyes to mine, while the color rose to her cheeks: "He has friends, wealthy and influential, if they dared to appear. I have unlimited wealth at my control. Money is no object. If you gain the case you may name your own price."

"I have just heard of the case," said I, slowly and thoughtfully, wishing to gain a little time and information before I committed myself. "I don't know that I have heard sufficiently to enable me to decide whether I could undertake it or not."

"He is innocent, Mr. Neville," exclaimed she, eagerly. "Do not hesitate on that account. I am as certain as my own life."

"Is that only your own conviction?" inquired I, "or could you prove it?"

"I could prove it, if necessary, but there are circumstances—I do not wish to appear in the affair at all, if it can be avoided."

"I think that he will require every evidence in his favor that can be brought forward, for it will be very likely to go hard with him. Why do you not wish to be known? Who are you? What is he to you?" I could no longer avoid this abrupt questioning.

"Is it necessary? I would rather remain entirely unknown to even you," her eyes falling, her voice hesitating.

"There is an old saying "tell the truth to your physician and your lawyer;' if I am to move at all in this matter I require all the light possible," said I.

"Then, if it will assist Arthur—young Morton—I will be frank with you, but it must be entirely confidential. I do not care for myself, but it would be ruin to him and to his case if it were known that I of all the world interested myself in the saving of his life—I am Mrs. Leroy."

"You!" exclaimed I, thrown off my guard for once, "the wife of the murdered man. And you wish to defend his murderer!"

"He did not murder him, Mr. Neville," exclaimed she, excitedly, her eyes sparkling. He is not capable of it. I know him too well—poor fellow—he is as mild and gentle as a child. Must he be hunted to the death!" exclaimed she, more passionately, and yet in a suppressed tone, fearful of being overheard, "because circumstances place him in a suspicious position?"

Sparkling drops flew to her eyes, but she dashed them aside. "Mr. Neville," said she, turning to me appealingly, can I not do anything to save him?"

"Madam," said I sternly, for the light had broken in on my mind, "does not this emotion on your part speak of a warmer, tenderer feeling between you? Does not that supply the motive—the missing motive? Talk not to me of his gentleness and inoffensiveness; love transforms the mildest character. If this is known, nothing in the world can save him."

"But it is not known," cried she. "Mr. Neville, you will not refuse to untertake the case!" wringing her slender hands as she looked anxiously into my face.

I could not answer. A lawyer is accustomed to all the dark phases of human life, but for a moment I was paralyzed. I did not wish to undertake this, and yet how could I refuse this woman?

"Do not refuse me," cried she, rising to her feet. "You can, and you must save his life," as I paced the floor. "It is all my fault; he loved me, but not more than I loved him. I was his temptress at first, and I can not, can not see him dragged to death in consequence of my mad love. He is innocent of this crime; I know it; I can prove it; I will swear to it," she went on incoherently. "It is impossible he should have been guilty, for he was with me when the murder took place."

I paused in my excited walk across the floor, and fixed my eyes keenly on her face. Was that true, or was she willing to swear to anything to save her lover's life?

"How was it?" said I, at length. "Tell me the whole truth."

"It was a bright, moonlight night," said she, more calmly, "when I went out that night. The house to which I was going was in sight, so I did not need any escort. I staid but a few moments. About half way there was a group of trees at the roadside which cast a dense shadow across the road. Returning, I met Arthur there as I had before agreed. When I reached home I found my husband dead. Mr. Neville, he was murdered while we were out. Arthur had nothing to do with it; had he been there and been aroused by the struggle, he would have defended him with his life."

During these words I had fixed my attention keenly, using all my knowledge of human nature to discover if she was telling the exact truth, and I was forced to conclude, as far as I was a judge, she evidently believed what she was saying.

"You will undertake the case," said she, as keenly studying my countenance.

"Yes," said I, after a few moments' thought, "I will see and converse with him first."

"Thank you; God bless you," said she, seeming to be assured of his escape if I undertook to clear him.

"I am obliged to you for your confidence in my ability," said I, "but do not be too sanguine, appearances are very much against him."

"I know it; but you will save him, if any one can; and if you will do so, you can name your own reward. But I must go; good night," and she vanished abruptly.

The next day, as soon as I could conveniently, I called upon the young man in his cell.

I found him as I had been led to expect, rather boyish and effeminate looking, nothing about him that would indicate one who would commit a violent deed.

He was handsome, with the delicate features, the fine soft hair and pure, fair complexion that betokened a refined organization, and there was the dreamy, abstracted air about him of a student or a poet.

I soon discovered that the woman had the strongest mind; but unpractical and boyish as he was, he at least was sufficiently guarded in his conversation. I told him I was his lawyer.

"Ah!" said he, in a listless tone, as if it were a matter of perfect indifference to him. "Appointed for me. I have no money to fee a lawyer."

"No," said I. "Retained by a wealthy and influential friend," said I, cautiously.

He looked up, suddenly a light flashed over his pale features, but he did not speak.

"A lady," added I, "who has confided all to me; now it is your turn to be as frank—tell me all"

He cast a sharp, suspicious glance at me, as if he feared I was trying to get him to make some admissions.

"Her story is true," said he, "if she has told you all; it is useless for me to add more."

"How unfortunate," said I, "that it is impossible to prove the alibi without compromising her."

His countenance did not betray the least consciousness.

"I will never compromise her," said he, after a pause. "She has always been a friend to me—is the best friend I have in the world now—I would a great deal rather have everything come to the worst than say anything to injure her."

"Anything you might say to me will not injure her, and if you should be perfectly frank with me, I might be able to see some light—something on which to organize my defense. For, to be candid with you, it is a very dark-looking prospect for you. Could you not relate the occurrences of that night—something about the murder—by which I might fall on some clue to the murder, some motive for the crime—"

"No! no!" said he, with a faint shudder, "I can not, dare not think of it," passing his hand over his brow, as if to shut out some horrid sight, "he had always been kind to me"—breaking off into incoherent murmurs.

Could this be guilt or natural emotion?

And so, without any more light than this, I was forced to go into my defense. Never had I a case that baffled me more. Generally I make up my mind almost immediately as to the guilt or innocence of my clients, and am almost always right by a kind of intuition.

But now I could not decide to my own satisfaction. I only knew my duty was to defend my client, and make the most of my slender plea—the absence of all possible motive.

But much did I fear that by some untoward accident, the secret of their guilty love might escape, as such things are so hard to elude all prying eyes, and I knew if that should be the case, nothing in the world could save him. I especially feared that when she appeared in court as a witness, that the self control of one or the other would give way.

But what is not a woman equal to when the life of her lover, and her own reputation are at stake? When she was called into court, a murmur of suppressed excitement ran through the crowded room. She was dressed in deep mourning, a crepe veil concealing her features.

I glanced at my client; he was pale as death, but he did not lift his eyes from the floor. He dared not steal a look at her, fearing his self-possession might fail.

But she told her story firmly, calmly, in a low, clear voice, without any wavering under the cross-examination. I had feared lest, by some inadvertence, the story of the stolen interview might come to light, but she steered safely by that, and closed her testimony. At length the prosecuting attorney said:

"Lift your veil and look at the jury."

She uncovered her face, and turned toward the jury. Then the prisoner could not restrain his gaze; he lifted his eyes in one long, lingering gaze of passionate love and regret toward that pale, dazzlingly beautiful countenance.

I alone, of all that crowd, could interpret that gaze. I knew that at that supreme moment he cared naught if death was the consequence, the hunger of his heart must be satisfied.

Fortunately the eyes of everyone else were fixed on her face, pale as marble except an unnatural hectic streak of color in her cheek, with a singularly glittering feverish light in her eyes.

She had evidently braced her nerves with some drug to go through this ordeal.

"Look at the prisoner," said the prosecuting attorney. She turned her eyes for the first time toward him, but his looks were bent on his own hands locked together in his lap, nervously clasping and unclasping.

"Do you think he could have been guilty of the murder?" said the prosecuting attorney, and before I could object to the question, she had answered firmly:

"No, I do not."

And that reply had its influence with the jury.

"She is a woman among a thousand," thought I, as my eyes followed her out of the courtroom. "She has passed through this trial so safely and firmly, giving her testimony without faltering, saying just enough and not too much, as a woman is so apt to do—her evidence has saved his life."

And so it proved. He was cleared, declared not guilty—that is, not proven. But in the minds of many the perplexing doubt remained: "If he is not the murderer, who can be?"

Here was a man murdered on a bright moonlight night, before bedtime, in a civilized community, and the murderer has vanished as completely as if the earth had swallowed him up!

But the steady march of time, that obliterates all the ravages of crime, passed on, and the occurrence faded out of the minds of most of the community.

Overwhelmed with a multiplicity of other business, the occurrence was almost forgotten, until several years after, I heard the conclusion.

After the trial was over, when the necessity for self-possession was passed, young Morton seemed to lose all his calmness and accustomed good spirts. He sank into melancholy and gloom. The suspicions of his neighbors, not entirely removed from their minds, were, he said. more than he could bear, and one day, in a fit of despair, he committed suicide.

But to no one but the woman he loved did he reveal the fatal truth. He left a few lines addressed to her, in which he said it was not the coolness of his friends, but his own burning, guilty conscience that drove him to the deed.

He, and he alone was guilty of the murder. The demon of temptation had attacked him suddenly when alone with the old man that night, with the thought of how completely he was in his power, and how easily he could step into his place, his fortune, the possession of his wife—how easily it could be done, and he never suspected.

That after he had struck the first blow he would have given worlds to have recalled it, but it was begun and must be finished, he must live to tell no tales.

How superhuman was his coolness and self-possession, when he went to his guilty rendezvous, to betray no hurry, no agitation, nor excitement, acting in such a manner that the woman who had the most cause to believe him guilty, knowing his motive, believed him innocent. Was not that retribution for her? To learn that he had come directly with his hands red with the blood of her husband to her embrace And to know that she was the cause of all this. She, with her stronger mind, her powers of will, her fatal beauty, to tempt this weak, yielding, unbalanced nature beyond his strength. Just to gratify her own vanity, her love of excitement and flirtation, she had led him downward with guilty love, murder, despair, madness and suicide. And she was to endure the consciousness of all this. Hers was not a nature that could sink under its burden of guilt and remorse and find refuge in suicide.

Ah! this dallying with temptation, this apparently innocent flirtation, is like standing on the seashore and tempting the rosy-tinted waves.

'Tis fascinating—there can be no danger in allowing the ripples to creep to our very feet, but linger too long, and suddenly and unexpectedly the black and howling waves arise and drag us down to unfathomable depths.

DARWIN'S "DESCENT OF MAN."

[From American Exchange and Review for April.]

Mr. Darwin sends forth the "Descent of Man" to a world ready to welcome it, however much some may regard it as man's descent in a sense not in the title. It was otherwise when "The Origin of Species" was published eleven years ago. Then the few defenders of the theory were in a seemingly hopeless minority. The intervening time has been brief, yet the doctrine of natural selection is now the doctrine of leaders of scientific thought, the only question being as to the extent of its application. The young and rising among naturalists display even an enthusiasm in its support, and the opposition of veterans whose opinions have been fixed by a life-time of antagonism to evolution in any form, grows fainter. Some of the latter are going—they know not whither. Sir Charles Lyell, the highest living authority in geology, opposed all theories of development for forty years, and embodied his opposition in numerous standard works. Yet, in a new edition of his "Principles of Geology," he has abandoned his former views as untenable, and confesses himself forced to accept the new doctrine. The scientific journals now teem with articles, of which the principle of natural selection is a necessary element. It is unhesitatingly assumed without any apology, and is the basis of the researches now made by some of the foremost scientific minds of the world. The classification of animals has a definite principle to conform to—community of descent, and with this advantage to the naturalist, principles discordant with it are sinking rapidly out of sight. When "The Origin of Species" first appeared, Professor Owen's division of the mammalia, according to the structure of their brains, seemed likely to win many adherents, or at least to excite much discussion. Now, it is quietly ignored. The object generally aimed at is to keep descendants of the same form in a group separate from descendants of any other form; and for this purpose numerous minor points of resemblance are of much more importance than the amount of similarity or dissimilarity in a few points. Moreover, resemblances in unimportant structures and useless or rudimentary organs reveal the old lines of descent, and far outweigh great differences in organs whose usefulness has rendered them subjects of modification.

The nature and growth of language is such that he who promulgates an entirely new theory can scarcely find words and groups of words which are not in some way associated with the views he is opposing. Mr. Darwin was at first somewhat negligent in this particular. On the same page with his explanations of the way in which he supposed peculiar forms to have arisen by the survival of such individuals only as were best adapted to the conditions around them, he would use phrases expressing to most minds (though not to his) intention, contrivance, design. Thus he says of one species of orchid, "the labellum is developed into a long nectary, in order to attract lepidoptera, and we shall presently give reasons for suspecting that the nectar is purposely so lodged that it can be sucked only slowly, in order to give time for the curious chemical quality of the viscid matter setting hard and dry." Mr. Darwin has now apparently become aware of the necessity to be careful and consistent in his words, and few, if any, such expressions can be found in his last work.

His great object in "The Descent of Man" is to show that "man, like every other species, is descended from some pre-existing form." In thus confining his attention to a single species, he is obliged to exclude the arguments which are to be found in "The Origin of Species," derived from the relationships of large groups of animals and plants, their geographical distribution and geological succession. He finds, however, sufficient evidence for his purpose in the following three great classes of facts:

1. HOMOLOGOUS STRUCTURES.—It is well known that all the bones in the human skeleton can be compared with corresponding bones in a monkey, bat or seal. The same is the case with the muscles, nerves, blood vessels and internal viscera. Even in the brain of man every chief fissure and fold has its analogy in that of the orang. Equally close correspondences exist with respect to diseases, habits, reproductive and other processes, and even kinds of parasites, both internal and external. "It is, in short, scarcely possible to exaggerate the close correspondence in general structure, in the minute structure of the tissues, in chemical composition and in constitution, between man and the higher animals, especially the anthropomorphic apes."

2. EMBRYONIC DEVELOPMENT.—Man, physically, is developed from a microscopic ovule, which does not differ, as far as can be observed, from the ovules of other animals. The embryo, as it grows, resembles the adult stages of lower forms. For instance, the heart is at first a simple pulsating vessel, and the lower part of the backbone projects like a tail, extending considerably beyond the rudimentary legs. Even as late as the seventh month, as Bischoff informs us, the convolutions of the brain have reached the same stage of development as in a baboon when adult. "Without question," says Professor Huxley, "the mode of origin and the early stages of the development of man are identical with those of the animals immediately below him in the scale. Without a doubt, in these respects, he is far nearer to apes than the apes are to the dog."

3. RUDIMENTARY ORGANS.—The muscles by which many animals prick up their ears and direct them to different points of the compass are in a rudimentary condition in man, as are those by which some animals, especially horses, twitch their skin. The same may be said of the bones which, in most animals, extend into the tail, of the hairs on the body, the "third eyelid," the vermiform appendage of the large intestine, and many minor parts of the structure little known, except to anatomists. Though there are abundant cases of this sort in man, yet there are none so striking as may be found among the lower animals; as, for instance, in snakes, rudiments of hind limbs that never project through the skin; in embryonic birds and whales, teeth that never cut through the gum; in insects, wings incapable of flight and lying under wing cases firmly soldered together. The rudimentary teats and milk glands of male mammals (sometimes capable of imparting nourishment) do not bear so directly on the present subject, because they only show a relation between the two sexes of the same species, not between one species and another.

The three foregoing great classes of facts are intelligible on the theory of evolution; they point to it by strong inductions; they have never been explained on any other hypothesis. It is no scientific explanation to say that vertebrate animals have all been formed on some ideal plan which left useless rudiments here and omitted them elsewhere. If, however, we suppose all vertebrates descended from a common progenitor whose structure, more or less modified, they still inherit, all becomes plain.

Mr. Darwin next considers the human mind, and he considers it within the limitations of the system he builds. It is not merely like the body—an evolution, but it is within the body evolution. The psychology of the treatise, it is hardly necessary to say, comes far short of the excellence of its physiology. His standpoint, in respect to the human mind, is about that of Lord Monboddo a hundred years ago. He construes the difference between brute intelligence and human intelligence to be a difference in degree only. He thus asserts that the brute knows what or *as* man knows, but less; or, what is the same thing, that man knows what or *as* brute knows, but more. He says in substance: In mind there can be no doubt man excels all other animals. The difference is immense. It is, however, not of kind. If no organic being, except man, had been able to perceive, feel or reason, we could not suppose that our mental powers had been developed from anything exhibited by the lower animals. But we must admit that there is a much wider interval in mental power between one of the lowest fishes, as a lamprey or lancelet, and one of the higher apes, than there is between an ape and man. Yet this immense interval is filled up by numberless gradations. The matter of immensity or breadth of interval rather avoids than escapes a difficulty. If between the human mind and animal intelligence there are but different degrees of the same scale, whence is it that the higher can no more reach the lower than the lower can reach the higher? i. e., that there should be an impassable barrier between one knowledge and the like of it. For, as between man and brute, what either knows the other never apprehends or is cognizant of. Exaltation of brute intelligence does not prove a common scale of measurement. Men have existed who have, mentally, what might be called, by all our means of comparison, a lower position than the cunning monkey. But the possibilities in one case have never been unfolded, while in the other the capacities have all been fulfilled. The idiot is brought no nearer to the ape by reason of his deficient intelligence.

But by this digression we are departing from our purpose, as our object is to state Mr. Darwin's theory at its present stage, not to criticise it. We return.

Here, however, we think Mr. Darwin even understates his position; for, by its correlations, we must consider the interval between the ape and the lowest varieties of man much less than between the extremes of man himself. Compare the savages mentioned in Sir John Lubbock's "Prehistoric Times," who have no word to express any number higher than four, and who use no abstract terms for the commonest objects or affections, with a Shakespeare, a Newton, a Herbert Spencer. Is it possibble to do this without a firm conviction that the interval between these extreme specimens of man is immensely greater than the difference between the lowest men and the highest apes?

Man has like outward senses and faculties of immediate perception with other mammals—like avenues of communication to the brain. The same appears to be fundamentally the case with such faculties as memory, attention, curiosity, imitation, discrimination, etc. "Animals may constantly be seen to pause, deliberate, and resolve. It is a significant fact that the more the habits of any particular animal are studied by a naturalist, the more he attributes to reason, and the less to unlearned instincts." If we next turn to the emotions, we often find them highly developed in animals. The grief of female monkeys, of certain kinds, for the loss of their young is so violent as to cause their death. There is a well known case of a dog, suffering under vivisection, licking the hand of his master then engaged in torturing him.* The moral sense is considerably advanced in dogs. They love praise, exhibit self complacency, emulation, fidelity, shame as distinct from fear, and something very like modesty when begging too often for food. Many kinds of animals are social, and social habits necessarily imply some wish to aid others of the same tribe, and some sympathy.

But, however certainly we may prove the lower animals possessed of approximations to man's intellectual and moral faculties, the fact unquestionably remains that man has distinctive and peculiar characteristics. Concerning some of these, Mr. Darwin inquires whether any steps can be traced by which they could have been developed to their present state. Of such distinctions as those indicated by the fashioning of tools, the use of fire, the sense of beauty, the faculty of articulate language, and religion.

The Duke of Argyle says that, though monkeys will use stones to break nuts, they never chip them off, or in any way change them, to make them more suitable for their purpose. This is assuming a purpose broader than the act. He affirms that the fashioning of implements for a special purpose is absolutely peculiar to man; and he considers that this forms an immeasurable gulf between him and the brutes. Sir John Lubbock, however, suggests that when primeval man first used flintstones for any end, he might have accidentally splintered them, and used the sharp fragments. From this step it would be but a small one to intentionally break the flints, and not a very wide one to rudely fashion them. This latter advance, however, may have taken long ages, if we may judge from the immense interval of time which elapsed before the men who used stone tools took to grinding and polishing them. The command of fire may also have originated in the breaking or grinding of flint. Its nature would be easily known in volcanic regions.

As to the sense of beauty, it is not peculiar to man at all. Female birds choose male ones for the beauty of their plumage and the sweetness of their song. The hideous ornaments and the discordant music admired by savages place them far below birds in this respect.

Next, as to language, various imperfect forms of it are found in many animals. Articulate speech is indeed peculiar to man; but few can read the writings of the eminent physiologists, Rev. F. Farrar and Mr. Hensleigh Wedgwood, without receiving added testimony that it originated in the intimation of the winds, waves, other natural sounds, and the instinctive, inarticulate cries of all animals, man's self among the rest. Language once acquired, it would necessarily become a powerful agent in further mental development.

Finally, as to religion, in so far as of human origin, it arose in man's ascribing of life to anything which manifested power or movement. Out of this grew polytheism as a necessity; and finally, monotheism, with its accessories, was a logical sequence.

Mr. Darwin next treats of the processes in which distinguishing characteristics of the human race, both mental and physical, have been developed. Most prominent of these is natural selection, though others are also discussed, and an inability to conjecture an efficient cause for some minor modifications is admitted. Natural selection, in modifying man, has principally developed his mind! The intellectual and moral faculties are variable, and the variations tend to be inherited. In the struggle for existence, the most sagacious, inventive and foreseeing individuals would survive in larger numbers and rear more offspring than others would. Their children would inherit their superiority, and thus, by the accumulation of small differences, great ones would be produced.

These remarks, however, apply mainly to savage nations. Among them the weak in body or mind soon perish, and only the fittest survive. Among civilized men, on the contrary, the imbecile, the deformed, and the feeble are preserved by the care, kindness and self-sacrifice of others. "Thus," says Mr. Darwin, "the weak members of society propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the race of man. It is surprising how soon a want of care, or care wrongly directed, leads to the degeneration of a domestic race; but, excepting in the case of man himself, hardly any one is so ignorant as to allow his worst animals to breed." Mr. Darwin does not, however, advise neglect of the weak and helpless. This, he says, could only be for a contingent benefit, with a certain and great present evil, namely, a deterioration in the noblest part of our nature. Hence, he sees no remedy for the undoubtedly bad effects of the weak surviving and propagating their kind, except one which is more to be hoped for than expected, the advance of opinion and moral feeling sufficiently to keep the weak from marrying.

Assuming now that the human species is a co-descendant with others of some primitive form, Mr. Darwin next considers the proper position of man in the natural system. Most naturalists place man in a separate order, called bimana, co-ordinate with those of the quadrumana, carnivora, etc. Many, however, are returning to the classification of Linnæus, in which man is included with the quadrumana in the order primates. The differences between man and the quadrumana result chiefly from his erect position and progressive intellect; the many points in which he agrees with them far outweigh these variable characteristics. Mr. Darwin thinks that man is no more than a subfamily of the primates. The leading characteristics which distinguish the Old World monkeys from those of the New World are also found in man, showing that the monkeys of the Western continent separated from the original stock before man separated from the remainder. Man also agrees with the anthropomorphous group of the Old World monkeys in the characteristics which distinguish them from the rest of their family. Hence, it is probable that "some ancient member of the anthropomorphous subgroup gave birth to man."

*Mr. Darwin's sympathetic nature forces him to pause in his reasoning when alluding to this case, and remark: "This man, unless he had a heart of stone, must have felt remorse to the last hour of his life."

Henning's Grocery.

This establishment has a high reputation, which is well sustained all the time. A list of fancy groceries is published in this morning's REPUBLICAN, from which the lake excursionist may select for his daily lunches and always be satisfied therewith. It would please an epicure to even read the list, which includes sardines put up in butter, sandwiches put up in tomatoes, potted meats and fish, English, potted meats and game, American, French pates, and other things that are nice. Then he can supply wines and liquors of every quality and variety, ready for immediate use by excursionists.

All the staple groceries constantly on hand. See advertisement.

DUFFIELD HAMS.—We have long known that these delicious hams excelled all others in those essential qualities which are sought for by epicures; but until we had perused the advertisement, published in another column by Messrs. Summer & Brannins, agents for the Duffield Ham and Provision Company, we were ignorant of the cause. This document explains the matter thoroughly, and so completely are we convinced that the company know what they are about that we bank heavier on the Duffield ham than ever. It must have rather mortified the friends of the Westphalia hams when, in 1851, the medal was given to Duffield; Johnny Bull must have rolled his eyes in horror.

It has been a well established fact that among the best pianos brought to this market are those manufactured by Steinway, and sold by Mr. Louis Grunewald, on Canal street. For durability, richness of tone, power, and in fact all the essential qualities of perfect instruments, they stand almost unrivaled, while the extremely low prices at which Mr. Grunewald sells them enables those of the most moderate means to purchase one. Mr. Grunewald also keeps a very large assortment of pianos of other makers, and musical instruments of all kinds, as well as sheet music by all the latest and most popular publishers.

PEYCHAUD'S BITTERS.—Among the many hundred kinds of medicated spirits which have been brought before the public during the past five or ten years, we take a peculiar pleasure in recommending this valuable tonic to the attention of the afflicted. We have seen hundreds of cases where these bitters have proved efficacious, and believe that for everything they are recommended they can not be excelled.

Whether cow peas are a species of fruit or vegetables need not be longer discussed, since it is admitted that they are valuable for forage or fertilizing. Messrs. J. C. Murphy & Co., No. 34 Poydras street, have in store and to arrive three thousand bushels of clay, red ripper, whippoorwill and mixed peas, which they will sell, as usual, at the lowest market prices. They have also for sale a large stock of potatoes, beans, dried fruits, grain and hay at prices so low that competition is not provoked, for the reason that they can not be undersold.

BISMARCK DOUBLE BARRELED NEEDLE GUNS.—Mr. J. F. Dittrich, No. 82 Chartres street, has just received by the Bremen steamer Koln a large invoice of the above-named celebrated fowling pieces, and invites the parties who have left orders for them to call and receive them.

Messrs. Hoffman, Marks & Co., No. 38 Chartres street, will sell to-morrow morning, at ten o'clock, muslins, lawns, jaconets, merinos, alpacas, and at one o'clock, cassimeres, cloths, diagonals, alpacas, tricos and case of tickings.

[Translated from the German.]

THE MOWER.

AFTER THE GERMAN OF UHLAND.

"Mary, my dear, good morrow! So early prepared for the mowing?
Thou truest of maidens! love makes thee for duty more ready and glowing.
So! Mow me this meadow all o'er, in three days' time from this morning,
And you may marry my son, no longer your love I'll be scorning."

The 'Squire, so stately and rich, this promise repeating,
How quick in her deep loving breast Mary felt her heart's beating;
Through every limb flowed her life, warmer, and stronger, and newer;
The scythe, how she swung it in strokes, ever more steady and truer.

The noontide glows, and the mowers, in haste for reposing,
Quench their thirst at the spring, or softly in shadow lie dozing;
Over the meadow so hot, the bees at their labors are singing,
Mary, unresting as they, her scythe is still lustily swinging.

The sun sinks to rest, the evening bells sound sweet through the gloaming;
"'Tis enough for to-day, Mary, dear," say the neighbors, as homewardly roaming,
The mowers, the herdsmen, the herds, from meadow and fields are all going,
But Mary, she sharpens her scythe, and anew beginneth her mowing.

And so on from evening to morning, from morn to night's shadow,
Nourished by love and by hope, she steadily moweth the meadow.
The third time down sinks the sun, the work of poor Mary is over,
There stands she, and weepeth for joy, in the midst of the sweet smelling clover.

"Mary, my dear, good evening; what see I! Oh, diligent maiden,
The meadow is mowed; all its cost your faithful hands shall be paid in;
But as for the wedding—and so you took in earnest my jesting!
How credulous loving folks be, this work is too fully attesting.

He spoke and he passed on his way; then Mary's heart suddenly breaking,
She shuddered and sunk to the earth in a horrible quaking;
Speech, motion and feeling she lost, the fields reeled around her,
And there, in the mead, like one dead, next morning the mowers they found her.

So hung she, from year on to year, 'twixt living and dying,
Of honey, a drop at a time, all the needs of her life is supplying.
Grant her a grave in the meadow; oh, fold her in fragrance forever,
So brave and so loving a maiden, as Mary, on earth has mowed never.

ACADEMY OF MUSIC.

Comedy and Operetta.

A brilliant close to a most successful season is the engagement of the Wyndham Comedy Company, which commences to-morrow evening. On this occasion a grand combined bill of comedy and operetta will be given, and will furnish one of the most delightful and enjoyable entertainments offered this season. The performance will commence with a sparkling operetta entitled "Mephisto's Mission," in which Miss Annie Goodall, the prima donna of the company, will have an opportunity to display her much-praised talents as a singer and versatility as an actress. She appears in three different characters, the first, *Mephisto*, a free and easy infernal young gentleman, charged from below with a diplomatic mission; the second, *Pepito*, a simple young gardener *au naturel*, changed by the first named individual to a worthy companion of his own; the third, *Honesta*, a timid and innocent young bride, who is also transformed by the Satanic wiles of the infernal youth into an exaggerated woman of the period. These characters are assumed in turn with consummate ability, and the changes of costume and character are really wonderful for rapidity and contrast. This amusing little piece is charmingly illustrated by some capital music, in which Miss Goodall is ably assisted by Miss Sydney Cowell, the soubrette of the troupe, and one of its most talented members.

Of course, the *piece de resistance* of the evening will be Robertson's delicious comedy of "Caste," the many beautiful qualities of which are said to be interpreted by this company in a manner never excelled by any other and rarely equaled. We have already spoken of their performance of it. Appended is the cast: *Captain Hawtree*, Charles Wyndham; *George D'Alroy*, J. F. Fitzpatrick; *Eccles*, Beloil Ryan; *Sam Gerridge*, George Giddens; *Esther Eccles*, Miss Margaret Young; *Polly*, Miss Sydney Cowell. The ever popular military drama, "The Lancers," identified with this company, is announced for early production.

Three Days of Jollification.

A Philadelphia dispatch of the twenty-sixth says:

The celebration of the Germans in this city in honor of the close of the French and German war and the establishment of peace, has been fixed for Sunday, Monday and Tuesday, the fourteenth, fifteenth and sixteenth of May. Great preparations are being made for the affair, and upward of one hundred societies have already signified their intention of participating. These comprise singing societies, butchers, bakers, brewers, Odd Fellows, Masons, Knights of Pythias and various benevolent associations. On Sunday there will be appropriate religious services in the churches; Monday there will be a grand parade, and on Tuesday a picnic. The Rifle Club will parade. The premiums will be very large and handsome. All the German societies of the city will take part, and many of the manufacturing establishments having German employes have signified their intention to have wagons in the line, so that the practical workings of the industrial interests of the city will be displayed. The butchers will appear mounted, and will have a representation of a slaughterhouse complete. It is estimated that nearly 30,000 persons will be in line, with an extensive display of banners, flags, devices, etc. The procession will no doubt be one of the handsomest ever witnessed in this city.

CHEAPER THAN THE CHEAPEST.—Mr. George Brauner, No. 605 Magazine street, half a block above the market, has just opened a fresh lot of new style dress goods, which our lady readers would do particularly well to go and examine before they make purchases elsewhere. Those striped, figured and plain grenadines, Lisle thread poplins, white and colored piques and linen cambrics are really magnificent, and can not but excite a desire to buy. Mr. Brauner's prices are very reasonable, as he goes upon the plan to sell quick and renew stock often, so as always to have fresh goods to offer his customers. Such enterprise and liberality deserves patronage, and we feel sure that he will get it.

The fast and favorite packet William S. Pike will make a special trip to-day to the Bonnet Carre crevasse, forty miles above this city, leaving her wharf at the head of Customhouse street at three o'clock P. M., sharp, and returning by nine o'clock. Passage for the excursion only two dollars; children and servants, one dollar. This may, and we hope will, be the last opportunity to see a crevasse of the extent of that at Bonnet Carre, and those who like to indulge in the luxury of sight-seeing should avail themselves of the present chance.

Hon. J. M. Peebles will lecture at Lyceum Hall this morning, at eleven o'clock, on "Heaven and Hell—Where Are They?" This evening, at half-past seven o'clock, he will lecture at the same place. Subject: "Death—What are the conditions of Infants, Idiots, Suicides and the Wicked in the Spirit World?"

TRIBUNALS.

Seventh District Court—Judge Wiltz.

Dominick Koelsel sued the Clinton Railroad for $1200, claiming that amount in damages, because the road built its track across the banquette in front of his house, corner of Force and Elysian Fields streets, and took earth belonging to him to make an embankment. He alleged, also, that the running of the cars so near his house rendered it not only uncomfortable, but unsalable and almost valueless, besides the danger of fire from the passing locomotives. The jury gave him a verdict for $600.

Herbert A. White and James F. Wilkins, engaged as haulers, entered a suit against the firm of Smith & Goldsmith, a commercial firm of this city, to recover $10,000 damages.

They represented that in September, 1870, they entered into a written contract with the said firm, proprietors of the Commercial Cotton Press, to do all their outhauling of cotton from said press for the year commencing September 1, 1870, and ending August 31, 1871, at the rate of seventeen cents per bale. They claimed that to fulfill said contract they were obliged to furnish draught animals and vehicles at a great expense, and proceeded faithfully to carry out the terms of their agreement.

They asserted that on the twenty-ninth of December, 1870, the said firm, without any previous warning, cause or provocation, employed other parties to do their hauling, and informed plaintiffs that their services would no longer be required; that by said action of defendants they were deprived of their business and left without employment for the many men, animals and vehicles which they had obtained and contracted with to carry out their said agreement; that they were thus deprived of large profits which they could have made out of the contract, for which they prayed to recover $10.000. The jury brought in a verdict of $500.

Fourth Justice of the Peace.

Theo. Drouet vs. Louisiana State Lottery.—Theo. Drouet, the plaintiff herein, seeks to recover from the defendant, first, a sum of fourteen dollars, amount of a prize which he alleges to be entitled to as holder and owner of a lottery ticket or certificate of the Louisiana State Lottery Company, class No. 80. Second, a further sum of three dollars and thirty cents for costs of protest.

The defendant, after denying plaintiff's allegations, filed the following peremptory exception: 1. Plaintiff's demand sets forth no cause of action, the certificate or lottery ticket being torn and mutilated. 2. Prescription, no demand for payment being made within three months, according to contract.

The certificates of the commissioners, Messrs. H. Peralta and Adam Giffen, show that the drawing of the Louisiana lottery, class No. 80, took place on the fifth of April, 1870, more than a year before the institution of this suit; it shows also that a prize of fourteen dollars was awarded to the ticket sued upon. Before examining the merits of the exceptions filed by the defendant, the court feels it its duty not to let the evidence pass over in silence. From the testimony adduced on the trial of the case, even on the part of plaintiff, it appears that the ticket sued on had been sold by the employee or agent of the company to Mr. Marcadal, a coffeehouse keeper, at the corner of Burgundy and Ursulines streets, who, upon the payment of the prize (fourteen dollars), returned the ticket, as usual, to the agent from whom he had purchased it.

A few days after the employe or agent of the company, to whom the ticket had been returned by Marcadal, lost the same on certain premises, corner of Mandeville and Moreau streets. After applying in vain to the person who had found said ticket, the employe of the company states that a certain person (whose name is given in his testimony), in whose hand it had passed, called at his office, corner of Ursulines and Burgundy, and demanded payment of the prize. Upon being told that the ticket thus presented had been lost, after payment of the prize to Mr. Marcadal, who was the only bona fide holder of the same at the time of the payment, and Marcadal himself, who had been sent for, being shown the ticket and declaring that it was his, and that he had received the prize, fourteen dollars, that person had left at the office and never called there again; months later, another person (whose name is also given by the witness) presented the same ticket to one C. Vessier, another agent of the company, at his office, corner of Ursulines and Old Levee street.

On being informed how and under what circumstances that ticket had been lost, that person left the office, but not without threatening to sue the company, threats which were not carried into execution by him. Matters stood thus, when, some three months ago, or about, the plaintiff called also at C. Vessien's office, and representing himself as the owner of the ticket sued on, demanded payment of the prize, payment which was emphatically refused to him. Now comes the testimony of the plaintiff himself. He declares under oath that a few months ago he bought the ticket sued on for the sum of fourteen dollars, the exact amount of the prize herein claimed from a poor man, whose name he does not know, or he does not recollect, that he bought it because that poor man had no means to sue the company.

In the opinion of the court, the testimony of the plaintiff gives strength to the evidence already above quoted—evidence very unfavorable, indeed, to his cause. If plaintiff, according to his testimony, bought that ticket or certificate, the sale gives him no claim for the prize against the company. The seller, whether he be a poor or a rich man it matters very little, being not a bona fide holder of the ticket at the time of the pretended sale, had no right to its ownership, and could not, therefore, transfer any to the pretended purchaser. None can transfer more right than he has himself.

Besides, the obligation of the company arising from the sale of the winning ticket had been extinguished since several months by the payment of the prize to Marcadal, the lawful owner of said ticket.

After denying plaintiff's allegation, the defendants filed two peremptory exceptions, one of which, the plea of prescription, seems to be well taken and must be maintained. The certificate or ticket sued on purports on its face in legible characters, that the company is only responsible for the prize if demanded *within three months* from the drawing. This is a clause inserted in the contract of sale entered into between the company and any purchaser of certificates, a clause containing an *accidental stipulation* to which the purchaser gives his assent, if not expressed, at least implied. Such a stipulation being in itself neither contrary to law nor to good morals, nor repugnant to public policy, is certainly binding upon the parties to the contract in which it is embodied. Agreements legally entered into have the effect of laws on those who have joined them. C. C., art. 1901.

It is therefore ordered, adjudged and decreed that the plea of prescription herein filed be maintained, and that plaintiff's suit be dismissed; with costs.

United States District Court—Hon. E. H. Durell, District Judge, Presiding.

In the case of Delphine Francois vs. V. A. Fournet, on motion of J. B. Welles, of counsel for plaintiff, it was ordered that she have permission to take depositions in the case on Monday, May 1, at the office of the clerk of the court, conditional upon giving notice of time and place to counsel for defense.

In the case of Drs. Well, Woolkart & Co., vs. S. A. Stockdale, Collector, etc., on motion of J. R. Beckwith, United States Attorney, on behalf of defendant, and on representing to the court that said defendant is aggrieved by the judgment against him, and praying for a writ of error, returnable to the next term of the Supreme Court of the United States. The writ of error was granted.

Commissioner Weller's Court.

J. Horeman, mate of the schooner C. M. Nevins, was arrested upon a charge of having assaulted and beaten John Nelson, one of the crew of the vessel. It was rather a small affair, and the parties compromised it out of court.

Frank Roosfeldt was arrested upon a charge of attempting to "shove" a two dollar counterfeit greenback. He was held in bail to appear before the United States Circuit Court for trial.

Messrs. Small & Co., coffee brokers, have furnished us with their coffee statement for the past week. This firm sold yesterday six thousand bags of coffee for St. Louis.