

F. Di Millet, A.N.A.; and Mr. Charles Parsons, A.N.A., Superintendent of the Art Department, Harper & Brothers, will act as judges of the competition.

It is intended to engrave the successful drawing on one page of *Harper's Magazine* of December, 1883; and should other drawings submitted be found suitable, second, third, and fourth awards will be made, as follows: one page *Harper's Weekly*, \$300; one page *Harper's Bazar*, \$200; one page *Harper's Young People*, \$100.

If the judge should decide that no one of the drawings is suitable, Messrs. Harper & Brothers reserve the right to extend the limit of time and re-open the competition.

Two Christmas Hymns by Alfred Domett have been published. That published in 1837 is the one for the illustration of which artists are invited to compete, as printed herewith.

In response to inquiries as to the Art Competition, Messrs. Harper & Brothers state that their offer is open to residents in the United States or American art-students abroad, of either sex, who had not completed their twenty-fifth year on the 1st of March, 1883, the date of the offer; that artists have usually found twice or three times the size of the Magazine page most satisfactory for drawings; and that they may be on any material—as canvase, board or paper; and in any method—oil, wash, crayon, ink, or pencil, as the artist can best express himself, though black-and-white is for engraving purposes preferable to color.

HARPER & BROTHERS.

March 1, 1883.

A CHRISTMAS HYMN:

(OLD STYLE 1837.)

By Alfred Domett.

I.

It was the calm and silent night,
Seven hundred years and fifty-three
Had Rome been growing up to night,
And now was Queen of land and sea!
No sound was heard of clashing wars;
Peace brooded o'er the hushed domain;
Pallas, Jove and Mars,
Held undisturbed their ancient reign,
In the solemn midnight
Centuries ago!

II.

It was in the calm and silent night—
The senator of haughty Rome
Impatient urged his chariot's flight,
From lordly revel rolling homeward
Triumphal robes gleaming swell
His breast with thoughts of boundless sway;
That wrecked the Roman what befell
A paltry province far away,
In the solemn midnight
Centuries ago!

III.

Within that province far away
Went plodding home a weary boor:
Streak of light before him lay,
Fall'n through a half-shut stable door
Cross his path. He passed—for naught
Told what was going on within;
Now loom'd the starry sky's only thought;
The air how calm and cold and thin,
In the solemn midnight
Centuries ago!

IV.

Strange indifference!—low and high
Drowsed over common joys and cares:
The earth was still—but knew not why;
The world was listening unaware!
Now calm a moment may precede
One that shall thrill the world for ever!
That still moment none would heed,
Man's doom was linked no more to sever,
In the solemn midnight
Centuries ago!

V.

It is the calm and solemn night!
A thousand bells ring out, and throw
Their joyous peals abroad, and smite
The darkness, charmed and holy now!
The night that erst no name had worn,
To it a happy name is given;
For in that stable lay new-born
The peaceful Prince of Earth and Heaven,
In the solemn midnight
Centuries ago!

[For the DESERT NEWS.]

PHYSICAL BASIS OF POLYGAMY LEGALLY CONSIDERED.

BY WILLIAM B. MAY.

In the case of *Reynolds vs. United States*, it was declared by a majority of the judges forming the United States Supreme Court, that a person might believe anything, no matter what, without breaking any law, but when that belief was manifested by an open physical act, then the law rightfully acquired jurisdiction

of the subject matter. This opinion, issuing from the highest judicial tribunal in the land, we have a right to expect that it shall display the best learning and soundest and truest principles of law, and also that there would be no evasion of issues, but that it would be unprejudiced, impartial and square. Let us see. From this opinion what are we to infer? That the mind and body act independently of each other? Undoubtedly that is the logical conclusion, for if a belief is not a physical act, what is it? Let us understand the difference between belief and a physical action, else we may be led, innocently to break the law. Apparently this opinion should have been preceded by a comprehensive treatise on spiritual philosophy, lacking which, our learned judges are manifestly at fault. But what is a belief? Can it exist without any physical manifestation? If so, how shall we account for

"Such facts as the dependence of our feelings and moods upon hunger, repletion, the state of the stomach, fatigue and rest, pure and impure air, cold and warmth, stimulants and drugs, bodily injuries, disease, sleep, advancing years? These influences extend not merely to the grosser modes of feelings, and to such familiar exhibitions as after-dinner oratory, but also to the highest motives of the mind—love, anger, aesthetic feeling, and moral sensibility. 'Health keeps an atheist in the dark. Bodily affliction is often the cause of a total change in the moral nature.' Again: 'Sudden outbursts of emotion derange the bodily functions. Fear paralyzes the digestion. Great mental depression enfeebles all the organs. Protracted and severe mental labor brings on diseases of the bodily organs. On the other hand, happy outward circumstances are favorable to health and longevity.' (Mind and Body, by Prof. Bain.)

Undoubtedly if a belief is a mental operation, then for every such there is a corresponding physical action which means expenditure of life. Yet we are told that we can believe, but must not manifest it. How can we help it? Evidently either prejudice or ignorance has led our judges astray.

Man is a paradox, a dual being. He is compounded of two extreme elements, the physical and mental, the seen and unseen, the tangible and untangible. For the purposes of municipal law he must be thus considered; the two elements must not be separated; we must take him as we find him; we cannot treat him in the light of the gods as conceived by Aristotle as our learned judges would have it, and what is equally as important, he must be considered from the physical side and not from the mental, for the objective point makes a vast difference in the general view obtained as much, perhaps, as there would be between surrounding scenery as viewed either from a high mountain or from the valley, and, metaphorically speaking, as we are not able to follow the eagle in the eyrie, let us content ourselves among the buds of the valley. It is the attempt to do both these that makes the history of the various governments of the earth one continual history of bloodshed and religious persecution, and though the cloud of error which has enveloped the earth for ages is fast disappearing, thanks be to the establishment of the United States Government, which entered the first wedge into the impenetrable political darkness and made light possible, yet it has not all disappeared as witness the above quoted decision. To make our meaning plain let us take up the question of morality. When can a man be said to be moral or immoral? Now, viewing this from the physical side, we say that a "moral man is one in whom all the physical functions are all discharged in degrees duly adjusted to the conditions of existence." Now this is plain, concrete and unambiguous, there can be no difference of opinion about this, or, if any, it can only be attributed to ignorance; but if we change our standpoint of criticism, then a diversity and confusion ensues which the most erudite philosophies cannot conciliate. The subject becomes complex, abstract and ambiguous, for a difference of opinion will not only exist among men of different religious belief, but even among those professing the same—the strict, devout Catholic will believe that it is immoral to eat meat on Friday, whilst another does not so believe; the orthodox Jew will not touch pork, yet a Christian considers a pork-eating Jew just as moral as the orthodox. Now if we concede that the question of morality is a fit subject of legislation it becomes of the highest importance whether we legislate from the physical side or the spiritual side, from the concrete or the abstract. From one side men of every shade of religious belief can agree, from the other it is impossible.

We have said that, from the standpoint of municipal law, man must be considered as a dual being, and it may be asked—how can we consider him only from the physical side? We must bear in mind that we are dealing with a paradox, and this seeming contradiction is only a reproduction of the seeming contradiction in fact. Man presents a picture that is truly unique in his compound organization, and one that we are utterly unable to parallel; yet the fact still remains. Not having then a perfect knowledge of the subject we cannot make perfect laws; that is the work, only, of Him who made man. To be perfect judges of the acts of men we must not only regard their immediate and special consequences, but also their most remote and general consequences—a thing clearly beyond the reach of humanity. Well, says one, if this be true, why not go ahead, hit or miss, for we are as likely to be right one way as the other. Not so, however. With the relations which the physical sustains to the physical we are tolerably well acquainted; with the physical upon mental and mental upon physical we are not so well informed; in fact, it may be said that on these points our knowledge amounts to nothing but speculation. What then does this show us? It shows us that in making rules to guide or restrain men in their conduct we must, to be consistent, confine ourselves to the effect of physical upon physical; this conclusion reasonably, logically and, as experience proves, imperatively follows. But,

"If all mental facts are at the same time physical facts, some will ask what is the meaning of a proper mental fact? Is there any difference at all between mental agents and physical agents? There is a very broad difference, which may be easily illustrated. When any one is pleased, stimulated, cheered by food, wine, or bracing air, we call the influence physical; it operates on the viscera, and through these upon the nerves. By a chain of sequence purely physical. When one is cheered by good news, by a pleasing spectacle, or by a stroke of success, the influence is mental; sensation, thought and consciousness are part of the chain; although these cannot be sustained without their physical basis. The proper physical fact is a single, one-sided, objective fact; the mental fact is a two-sided fact—one of the sides being a train of feelings, thought, or other subjective elements. We do not fully represent the mental fact unless we take account of both sides. The so-called mental influences—cheerful news, a fine poem, and the rest—cannot operate, except on a frame physically prepared to respond to the stimulation."—Bain.

To make our meaning more obvious, let us take up some of the laws as at present existing in the United States. One law says that murder, speaking in general terms, shall be punished with death. Now, according to the rule here sought to be exemplified, it is in harmony, because we are dealing with a physical subject considered from a physical point of view. It is just and proper because every individual has an inherent right to live, and he who takes that life justly forfeits his own, and it can be properly presumed that if he does it once he may do it twice, therefore, to prevent further loss of life, he is executed, as the only sure and certain preventive known to man. Let us here notice that the punishment follows a crime about which there is no reasonable diversity of opinion, Christian and Jew being united on that point. Looking at it then from this standpoint, all will agree upon the propriety of capital punishment, but if criticized from a metaphysical point of view, we become at once involved in interminable and irreconcilable discussions. Further, in the consideration of the act physically, we do not lose sight of the duality of the individual, and after the commission of the act we examine the intent when we are thrown back upon physical evidence, and as it is better to suffer wrong than to do wrong, the accused is given the benefit of any doubt. All this is a plain and direct way of protecting society, and though it may lack completeness, we have done all that human power can do.

On another hand we have laws that enact that one who threatens another shall give bonds, in default of which he shall be committed and his natural liberty is restrained, not for anything he has done, but, for something he has not done in reality. Yet, but says one, he has done something, he has spoken or written. Well, is it a crime to speak or to write? Clearly not. Then why restrain his liberty? Simply because of the fear, actual or presumed, existing in the mind of some individual. According to our rule municipal authority has then no jurisdiction because the crime, if any there be, must be considered from the mental side, a thing out of our reach. The principles of the foregoing examples are here reversed,

The intent is sought before the commission of the act. The law assumes the position of the conjurer. The punishment precedes an imaginary crime. We are seeking the exercise of a power we do not possess. We are trying to prevent something we cannot. It may be argued that a threat by acting upon the ear or eyes, and consequently upon the nerves and viscera, may derange the bodily functions curtail the life of the individual, all of which may be very true, but alas. It is not the only ill that flesh is heir to for which there is no adequate remedy. In the making of human law we have not to consider the making of man, we must take him as he is with all his infirmities, the matter may be deplored but there is no human help. Perhaps by reason of such laws the life of one individual may be preserved? But shall we deviate from true principle for unknown contingencies? Shall we relinquish the certain for the uncertain? If so where shall we stop? Mark Twain says that in France their laws are made on the principle that it is better to hang five hundred innocent men than to let a guilty one escape, but we must remember that we disclaim any despotic form of government; let us then be consistent.

The province of law is to preserve order among the several units forming society; that, and nothing more. It is not a school for the promulgation of the latest Pagan or Christian philosophies. Apparently as far as the points at issue are concerned our judges have digressed. What, then, are the issues?

Unlike our learned judge we do not desire to prolong the controversy and to "make a long matter short," we will state it thuswise: A small portion of the body politic believe that it is a tenet of their religion that they should marry more than one woman at one and the same time or consecutively. Now the question is: Does the belief—we say belief for it is not one whit more physical when fulfilled, and is just as wrong one way as the other; if one is wrong the other is wrong, if one is right the other is right—contravene any principle of natural law or any of those upon which our government rests? If it can be answered in the affirmative then we will concede that it is a rightful subject of legislation and should be abolished even to a complete extermination; if in the negative, then it must be admitted that the decision and opinion quoted together with the enactment upon which the action was based are a series of religious persecutions worthy of a Roman Inquisition, but a shame and a disgrace to the American people who allow it. This may seem a strong way of putting it, but it must be remembered that the subject is strong whichever way we may look at it.

Let us look at the foundation upon which rests municipal law generally, and particularly that of the United States.

Blackstone says that upon these two foundations, the law of nature and the law of revelation, depend all human law. With due respect to the intelligence and learning of the celebrated jurist this statement of the case is not congruent because it implies that being two sources of authority there may be a variance, and anything depending on a contrary cannot possess that stability which should form one of the main characteristics of law; besides, the law of revelation, if its existence is admitted, is a supernatural law. The supernatural being over and above the natural, the latter must be dependent upon the former which reduces the two foundations to one, and he might have said with more propriety that the human law depended on the supernatural, but this statement is liable to the objection that all men do not agree upon this point, hence, and if it be accepted there would result a state of confusion, leading to anarchy, which would defeat the very aim and object of law. From what has already been said other objections could be added, but this one alone is sufficient. To be brief, then, we will simply make the declaration that upon the law of nature depends all human law. This statement is susceptible of physical demonstration, as we shall see. But, first, what is the law of nature? The law of nature is the conditions upon which depends our physical existence. This definition of a much vexed question is at once simple and comprehensive, but will become more obvious by illustration; let us illustrate:

It is necessary in order to live that we should have pure air, (witness the Black Hole in Calcutta,) it is there-

fore the province of human law to conform to this necessity, not to create pure air, for it exists independently of any human power, but to so order the conduct of every individual that one shall not be permitted with impunity to restrain the other in the enjoyment, if he so desires, of this pure air. We say, if he so desires, for it is clearly an act of supererogation and despotism to attempt to force pure air into every individual whether or no, for if any refuse to enjoy this life-giving element, who can prevent him? Surely no human law. It will be seen that the authority here assumed by human law is not absolute, it is limited and relative, like all human authority, and any legislative enactment which would assume to create pure air, or force it upon every member of society, is a ridiculous assumption of power, akin to the notorious declaration of Pope Gregory VII.

If this illustration is good as to the conditions of existence, then it is applicable to all. Hence, it follows that human or municipal law has a physical basis, and that in its consideration we are debarred from the examination of any other. If this be true, then, as a logical and natural sequence, the municipal standard of morality must be gauged by physical evidence, for whatever may be men's ideas of the divine, they should have no influence in the enactment of human law. This exposition, to some perhaps, may seem blasphemous, but when such reflect that the Creator holds man in absolute subjection to the physical, and leaves him entirely to his own volition in regard to the spiritual, they will not so consider it. Then shall man be more exacting than his Maker? Man may take with impunity to himself, so far as the human eye can see, as much spiritual poison as he pleases and yet live to a good old age, and though we acknowledge this and its consequent physical effects, its influence is only manifest through several and successive generations, and as before stated, laws to be in harmony with their causal relations, the Maker must be able to calculate not only the direct and immediate consequences of acts, but their most remote and general consequences, an impossibility consequent upon the duration of man's life. Not so with physical poison, its effects are direct and immediate, and persistence produces death in the individual. One we can calculate, the other we cannot. Let us confine ourselves to the consistent limit of our knowledge in its application of legal authority.

Having defined and limited the natural law, its application to the questions at issue is simple and easy.

From the standpoint of municipal law, the conditions of existence present a triangular aspect and their three-fold bearing which relates: first, to the individual; secondly, to offspring; thirdly, to society, must be considered in the order enumerated, for to use an old adage, "Self-preservation is the first law of nature." Yet the close alliance and inter-dependence of these three orders are such that individual action simultaneously affects all, and often actions that are well suited to the preservation of one are detrimental to the others, therefore if we consider each separately we are led to enact laws that, however perfect they may be, in regard to one, are either deficient or in excess in regard to the others. Consequently laws should be so framed that the protection of one order would not interfere with the due exercise of the others; nay, they should be such that the protection of one would further the others. Apparently we have a difficult task; but it is not the fact. The order of nature is such that there is a sequent connection pervading the whole, so that by the performance of one act another follows by a chain of sequence perfectly easy and natural. Our burden then is light; the greatest difficulties nature undertakes.

The essential meaning of words is better determined and understood by antithesis, and the principle applies to doctrine as well. Now, suppose that, as we all have an equal right to live, a law should be enacted, that, in harmony with the desires of one class of would be reformers, (?) all property could be used in common. The results of such a law would be fatal to offspring and society, however well adapted to individual life, therefore under the triangular aspect we should be debarred from its enactment.

On another hand, seeing that children entail so much labor on the individual and are often the cause of