THE OPEN COURT.

To make this good, it must be that the only person who admires everybody that admires a given person is that person. This is the analogue of "everything not J is J," which is the principle of exclusiol middle.

A STUDY OF FOLK-SONGS.

By C. L. SANCHEZ.

In the last number of the Journal of American Folklore the editor, Mr. Newell, says that "the time has not yet come for a comparative study of folk-song." It is argued that the materials for such a study are wanting. That may be so—indeed it is. But many students of folk-lore will find the materials already gathered sufficient for their purposes; for example, to show the evolution of song. The evidence is about all in. If any branch of folk-lore has been thoroughly explored, and the results published, it is popular song. It is not likely that many new discoveries will be made to change commonly-accepted opinions on the subject.

The significance and value of folk-song are now pretty well understood. Whenever the folk-song has sprung up and flourished, it has come from the life of the people—men and women, and has grown out of the soil. It is sung in the fields and ploughed. In every country, the men ploughed many a furrow to their song, and poured the war-weapon to their rhythm. Centuries later the Mastersingers came and chanted rude poetic strains.

"As the warrior plied the steel, so he cut the simple strain,
And the youth his feet reverenced in the sacred strain,"

With the migration of the German, the warrior Teuton sang as he lived. The greater part of his life was devoted to hunting and fighting, broken into by idyl enjoyment and wild revelry. Now and then his land-sang was attuned in peaceful key, but more often the singer mounted the battle-axe and war with a dash and a vigor that made Roman enemies fear him as a fierce and cunning foe. It is strains such as these—strains which have sprung out of conflict and plundering expeditions, and out of the every-day joys and sorrows—that reflect human nature in its natural moods and aspects.

Mr. Darwin refers to that deep-seated instinct of man, which impels him in all moments of strong or intense feeling up to break out into a kind of chant. Such emanations well up from the heart; the lover describes in the charms of the maid, the lover casting seed, the reaper swinging his sickle, the shepherd minding his flock, the fisherman mending his nets, the soldier on the march, the mourner at the grave—these chanted a something, when music as an art still was not, and what such was is more or less faithfully reflected in Volkslieder, and in every country's national melodies.

Above all, folk-song tells of the existence and everyday life of the workers, in-door and out-door, and that is of special value and significance. It is the habit of uncivilised people to break out into song at the slightest provocation. Many individuals can compose extempores. Thus the New Zealand singers describe passing events in extempore songs. The Lantaranas, says Park, lightened their labor with a song, "one of which was composed extempore, for I was the subject of it." The Kirghese in Asia, says the Rev. Dr. Lamdrall, "have seen a keen appreciation of singing and improvisation. No young girl commands such admiration as one who is clever at singing: and no men are so liked by the Kirghese girls as good and able singers."

In the lower stages of culture the improvisations often claims to be inspired. He compels his songs from spirits. In Australia the "song-makers" or Bora-arks, or Shamans. According to Mr. A. W. Howitt, the Bora-arks of the Kurnai tribe, "profresse to receive their inspiration from the spirits (mara) as well as the dances, which they are supposed to have seen first performed in ghostland." The Eskimos have singing-masters, who instruct both young and old in the ancient songs. The natives build large houses for singing. The master of the singing house is a totem, or spirit, with whom the Angakou, or Shaman, is supposed to be in communication.

Dr. Franz Boas, who has made a careful study of Eskimo songs, says that "the form of both old and new songs is very strict." There must be no deviation from the words and rhythms fixed for all time. According to the same authority, the Kwakiutl Indians of British Columbia are very particular in this respect, and any mistake made by a singer is considered opprobrious. "On certain occasions the singer who makes a mistake is killed." The savage, in the practice of his religion, regards song as a very serious matter. His medicine-men obtained the verses from the spirits, and they would be offended by any change. Perhaps the most irregular kind of singing are the dirges, or "lamentus," which are chanted over the graves of the dead. And yet a comparative study of these mournful tunes, will show that the ballads of widely-separated people have elements in common. The funeral songs consist simply of howlings and irregular callings. The words of a death dirge sung by the Seniul Indians of California, as given by Mr. Powers, are as follows:

"Here lies ho... Here lies he... He lies here... He lies here."

The Basques of Spain ululate thus:

Leta le! Leta! Leta dead Leta! Leta le! Leta! Leta dead Leta! Leta le! Leta le! Leta le!
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DOMERIL
BY CHARLES S. PRICE.

The mathematician Sylvester, (whose false accusation against me, hastily made and wickedly persisted in, is powerless to affect my estimate of his genius,) created, when he was in this country, a mathematical, journal, which, by virtue of his fecundation, still makes a not quite insignificant figure in the thought-building business of this world; and upon the title-page of it he wrote for a motto that phrase of the Epistle to his people, "Gnouonv Exoif of Apliakulou:ir, the "evidence of things not seen."

One wonders what he meant. Sure, mathematics only makes plain things that are seen, and less than any science is disposed to take anything for faith. But I guess the motto was covertly addressed to the thinkers of Europe, and meant to say, "you may see at the ideas of fruits of the intellect rising to a form; it is, indeed, a thing hardly seen: but the establishment of this journal is my testimony that a germinal capacity for higher things is here."

No doubt, it amused the Jews that the Christians should not renounce their theme of one of their holiest symbols to serve the purpose of a calembourd.

How wonderfully Christian faith has been dissolving away since the appearance of the Origin of Species—especially among the clergy! Whether this is true or not of Christian faith considered as the acceptance of a formula, I am sure that if it is the phrase be taken in its more spiritual sense, for that attitude of the mind to nature which renders the truth of the bestiologies axiomatic, it is a thing strong enough that the general idea of those hyperbolical statements is the first principle of Christianity, from which the rest naturally flow. I am one of those who think this idea is also the heart of truth philosophy,—an idea that ought to be carried out, right away, at all hazards, and at all length. But I find each year fewer people to agree with me in this.

In order to illustrate how I would conceive that the policy of the State ought to be governed by Christian Faith, let me ask upon what justifiable pretense do we punish criminals? They are secluded from everything beautiful and elevating, and are treated in the basest manner and the most tetchful spirit, and just as they are settling down to this mode of life, are turned out, to be caught again in a few months; and this is re-enacted over and over again, all their lives long. If they are capable of being made well that they were when first taken, the imprisonment accomplishes it. The common run do not suffer, because they are utterly insensible. Even those who were respectable are relatively untouched persons,—and if they suffer at first, their imprisonment soon deadens all capacity for pain. The anguish and the misery is for their good wives and children and parents. This is the way we are treating criminals, to-day; and I do not ask what our real motives is; for I have no leisure to dispute with persons who choose to shut their eyes to the fact that we really punish criminals beyond what we dissect them. But I ask, what is our excuse for such behaviour? Some will allege the authority of the bible. But the bible is an assured book if it can properly be used to justify iniquity. An unchristian maxim would be unchristian though the angel Gabriel were to dictate it. The very idea of Christian grace is, that we can draw from within our own hearts the truth of God. We cannot shirk responsibility for wickedness by any bible-texts. Others will say, we must punish criminals, because they are under an obligation to preserve it. This is true. But we speak of the duty of self-preservation in the inner coach of a state in comparison with others, such as the duty of rendering its subjects moral and intelligent, which are its higher duties. But self-preservation, when not high on the scale of duty, is a for-faible excuse for wrong-doing. Others, and they are very many, will hold that punishment is involved in the higher duty of the State to maintain true religion and virtue. Still others, while repudiating any such duty, will maintain the opinion that punishment is justified by the principle of the greatest good to the greatest number.

Here, believe, are all the reasons that are to be alleged for the justification of punishment; and there is many and many a mind who will conceive that the

next problem is to fit these together, like a Chinese puzzle, to cover the case. But that is the practice of a rhetorician, not of a logician, nor of a philosopher. The proper method is to examine each of these reasons, and see whether it be valid or not. The one which, I doubt not, has strongest hold upon the minds of men is imposed upon the people from above, and the people have no say in it, its duties, whatever they may be, are no concern of the people. But just so far as we have any power to determine what the government shall do, its acts become our acts; and we can delegate to it no right to do anything which we have not ourselves a right to do. The theory that the government has rights not derived from the people, but from God, but yet that the people have a right to determine what God's institution shall do and what it shall not do, may be the Protestant doctrine, but it is a miserable device to abrogate man from responsibility for atrocities. In a government by the people, the whole question is, What right has one man to punish another? I will grant that it is every man's duty to maintain true religion and virtue. It is his duty to do this, first, by exemplifying them, and secondly, by boring them. But any unamiable conduct towards that end, is the breach of the precepts of religion and virtue is prohibited by the prime principle of Christianity. Vengeance is mine: I will repay, saith the Lord.

Putting aside this reason, then, there remain the two principles of self-preservation and of general utility. These connect themselves with the right to punish one another, and it is the opposition to the past. Punishment as so justified, ceases to be punishment; it is only prophesy. In that view, a man cannot be punished for anything past and done, as such, but only in so far as he has done it, indicates what he or others may do in the future. But the guilt of a man, upon those principles, can neither justify nor aid in justifying the infliction of any pain. With his guilt, his fellow-citizens can have nothing to do; and in the question of inflicting pains upon him, he is to be looked upon, so far as his action is concerned, as a citizen worthy of the same consideration that any other citizen receives.

The way in which the principle of self-preservation works is best seen in an example. Suppose the authority gets the idea the country is in danger of invasion. They may send an army which may erect an earth-work on the land of one of their own citizens, and ruin his estate. It is an outrage upon him; but the excuse for it is the terror of the people. So far as punishment can be justified by the principle of self-preservation, it is simply the terror of the individual which danger of imminent destruction of the state has rendered necessary. Now it is not truthful to say that the government is put into fear of its existence by the doings of a sneak-thief.

But if the attempt to justify punishment by the principle of self-preservation is ridiculous, the attempt to justify it on utilitarian grounds is far worse. It is barbarous, revolting, and inhuman. The idea of putting a man to death, or, more dreadful still, of imprisoning him for years, degrading his soul and disgracing him for life, not for any guilt of his, but just for the sake of distributing to each unit of the population a fraction of a cent's worth of additional security! Why, such a principle would reduce cannibalism to a question of how much meat a man would yield! The Christian conscience condemns such villainy with its strongest emphasis! Utilitarianism is the spirit of hell.

The amount of it is, you have no right whatever to punish criminals. The most that can be said is that if you can see no other way of defending yourself against them, and are afraid to do the Christian thing, then the weakness of your faith, your inability to keep steadily before you the great principle of Christian law, the Christian course of conduct is always the strongest course, must serve as your excuse. Even this excuse shrinks to small dimensions when we inquire into the situations to which it rests, that punishment prevents crime. Punishment does not prevent all the crime that actually gets committed. As a matter of fact, it is more and more the deterrent influence upon the criminal classes. Some new and horrid penalty might affect their imaginations; but the punishments they know so well do not. A regular criminal, after years of incorrection, will repeat the act so punished, in the fifteen minutes after his release, if he only finds an opportunity. All that punishment affects is, first, to modify minds, and cause, for example, a person to live by swindling instead of by direct theft, and second, to deter some respectable people from yielding to mighty temptations. In the former class of cases the cure is worse than the disease: swindling is more dangerous and more harmful than theft. In the latter class the temptations are mostly owing to the neglect of the state of its higher duties; and it must not plead the effect of its own neglect as its excuse for comitting an out
not give a very wise answer to that question. But I should love them; and should try to treat them with love and trust, and should hope for the blessing of heaven on this my effort. I knew that they are deformed or diseased souls. I feel that their being so is, in some unknown measure, the fault of our own grudging and selfish, thoughtless dis- honesty. Some degree of care and tenderness we owe them as a debt, and the retribution not so owing I would give them if I could. They are weak and miserable, and need better care than other people.

My friend thinks I cannot logically escape proposing some definite plan. If so, I can only offer what my first principle seems directly to suggest. It will serve as a preliminary sketch of a way.

1. A judicial process substantially the same as the present form of trial shall determine the criminality of the accused. I use the word criminality to denote the commission of an act which the state will regard as affording a conclusive presumption of an unsound mind.

2. Upon conviction the criminal will be handed over to the care of an executive commission of psychopathologists, to be appointed by the civil power, but to be dismissed at the bidding of a parliament of criminologists.

3. The criminal, now become a patient, is to be 'unemployed' by this commission until discharged by it as cured.

4. During this time he will be confined in an asylum as close as circumstances will permit, but in the most agreeable possible manner, and with the most refining and elevating surroundings.

5. The patient will be prevented from propagating the species while under treatment.

6. The most essential elements of human happiness being exercise and self-respect, the patient will be trained to earn his share of the expenses of the asylum in which he is confined; and his treatment will be somewhat proportioned to the amount of his earnings.

7. The products of the patient's labor will be disposed of at the highest market prices, and preferably in foreign markets. The whole thing will be run in a business-like and profitable manner.

8. The asylum will be made beautiful, and everything will be done to awaken the higher man. Under a proper economy the distribution of labor, the better man will be the better worker.

9. The patient will be interested in the system, and in works of personal benevolence.

10. Upon his discharge, which, if it ever takes place, will only be after many years, the former patient will be provided with a situation in which he may earn a sufficient living and may aspire to satisfy his desires.

11. At first only the grossest misdeeds will be dealt with, such as violence, theft and murder. All attempt to deal with others will be abandoned for a time, until these worst crimes have been nearly eradicated. When there is room in the asylum, such evil-doing as drunkenness, immorality, gambling, and the like to society will be taken in hand. Finally, perhaps, even dishonesty and idiocy may be attacked.

12. I hold that it is the duty of the individual to do all this, or something better, no matter what the results may be, no matter what the cost may be. At the same time, it is proper to forecast the results and the expense, so far as we are able to do so.

The results are divisible into the effects on the criminals and the effects on society. The first of the former will be that the entire world of habitual criminals will shortly be shut up for good. For convictions will be more readily pronounced than now, offenders will be less treacherous, and confinement will continue during life, or a long series of years, instead of for a few weeks or months, as now. Thus, habitual crime will soon be brought to an end. The small class of non-habitual offenders to which existing punishments are deterrent will, no doubt, be somewhat increased; but only slightly so, because the chief primary part of punishment, which is the social disgrace, will remain only too severe under the new system, as it is now. It will be all the better for the health of the body politic that these malignant humours should find some outlet, and society be purged of those whom nothing but the fear of judicial punishment restrains.

The greater part of the habitual criminals will, I admit, prove to be absolutely incorrigible; and in their disease is congenital and organic. They will, however, be made as happy as it is possible for them to be; and all will become independent and self-supporting citizens.

This will be the case with all non-habitual and non-hygio-societal criminals. There is not one of any class who will not be a happier and a wiser man under the new system than he is at present.

By far the most important effect upon society at large will be the direct impressions received from the public dissemination of and repentance for the present hatred of criminals. Two gospels are current in our day. One is the gospel of Christ. It proclaims that God is Love; that Love it is that is the creative, the vivifying, the evolutionary principle of the universe; and that if we can only enter into the spirit of Love, we can see how it put our trust in It, and we shall be able to bring about a new and nobler type of man's development. The other gospel is the gospel of political economy and of natural selection. It teaches that the race is one of all advance, the redeemers of the world, is the combination of bestial passion, ruthless selfishness, and famine to exterminate the weak. Now there are plenty of people in this world silly enough to accept both these gospels and to get into hell together. They take the gospel of hate as the framework of their belief, and seek to embellish it with fringes torn from the gospel of love. But as Jesus profoundly said, you cannot serve God and Mammon. The moment the state has accepted any plan like the one here modestly suggested for the treatment of criminals, it will have committed itself to the gospel of love and have renounced the gospel of hate. The direct spiritual influence of such a choice upon each and every citizen would be incalculably the most important of all its effects upon society in general.

But the material consequences must be noticed, too. The elevating tone and civilizing influence of such a spirit will in half a generation make itself felt in the diminution of all crime and increased security of property. Ordinary crimes will soon practically cease, because the entire criminal class will be under lock and key, and the criminal breed on its way to extinction. The increase in a small class of crimes will serve to direct attention to defects in our social arrangements, the correction of which will be followed by the happiest results.

In estimating the cost of the new plan, it is to be considered as covering the greatest expense of all the existing system is for the judicial proceedings. It is common now for men to be convicted twenty or thirty times over, and it would be cheaper to provide for them, for life, at the Hotel Richelieu. These expenses, on the new system, will not come to a tithe of their present amount; because no criminal will be convicted more than once if he breaks the criminal laws. These asylums will be terribly expensive; but at length they will become fully self-supporting. Finally, private losses from crime will be diminished to a vanishing point.

Thus, from every side, blessings will be poured upon us, when we can once bring our hard hearts to give up our present worthless miserable brother. For, observe, hatred alone it is that maintains the existing system.

I am perfectly confident that some sapient head will now be ready with the objection that people will commit crimes in order to be put in these asylums. If the people meant are criminals, that is, are about to commit crimes anyway, the sooner the better; they get into the asylums the better. But if the idea is that truly virtuous citizens are going to cut the throats of their grandparents under a false pretense of being wicked, simply that they may enjoy the reward of crime,