

## CHAPTER XVIII.

### LEGAL MARRIAGE.

By Legal Marriage is meant marriage in conformity to civil laws and legislative enactments of man, from time to time.

The purpose of this chapter is two-fold, viz.:

(1) To briefly trace the laws of marriage as they are recorded in the past customs, and upon the statute books of civilized nations.

(2) To show that such regulation is a necessary and natural accompaniment of the higher evolution of man.

The limitations of this work forbid more than the briefest outline of the history of marriage. That outline, however, will enable the reader to trace for himself the rise of the marriage relation from its lowest rational condition to the nearest approach to the perfect relation that has been made under civil codes.

In presenting this brief review of marriage customs and codes, the writer relies largely upon an authority of the modern school who has already been referred to. M. Letorneau, in the "Evolution of Marriage," has undoubtedly presented that subject in fuller detail and with greater accuracy than any other modern student and investigator. The very first question with which that eminent writer deals is the question of promiscuity, as a primitive sex practice. As will be readily seen, almost insurmountable difficulties surround this subject. Exact data concerning prehistoric conditions are out of the question. The best that science may do is to compare traditional report and observe the actual sex conditions among living tribes of low development.

In drawing his final conclusions from meager historical fact and the varied present customs of savages, M. Letorneau takes into consideration another range of fact not usually considered in this connection. He holds that, at its base, human and animal marriage are the same in principle. With animal sex relations as a basis for observation, he draws the following general conclusions as to primitive human marriage:\*

"Do we thus mean to say that there is no example of promiscuity in human societies, primitive or not? Far from it. It would be impossible to affirm this without neglecting a large number of facts observed in antiquity or observable in our own day. But we are warranted in believing that a very inferior stage of promiscuity has never been other than exceptional in "humanity."

The scientist next makes a statement which the reader is called to particularly note, when he adds:† "If it has existed here and there, it is that by the very reason of the relative superiority of his intelligence, man is less rigorously subject to general laws, and that he knows sometimes how to modify or infringe them; there is more room for caprice in his existence than in the life of animals."

The author of this statement did not realize its deep significance. He did not know that these words are clearly corroborative of Natural Science which declares that sex is an intelligent spiritual principle. It will be recalled, that M. Letorneau notes a law of individual preference when he is dealing with animal marriage. This law, he claims, discourages promiscuity and establishes polygamy and monogamy as the common form of marriage, even in the animal kingdom. In this instance his general law is the same law of individual preference. He does not, however, attempt to explain this general law, nor to identify it with the law he had previously observed. In fact, neither here nor elsewhere does he demonstrate the principle involved in that

\*"The Evolution of Marriage," p. 38.

†Same, p. 38.