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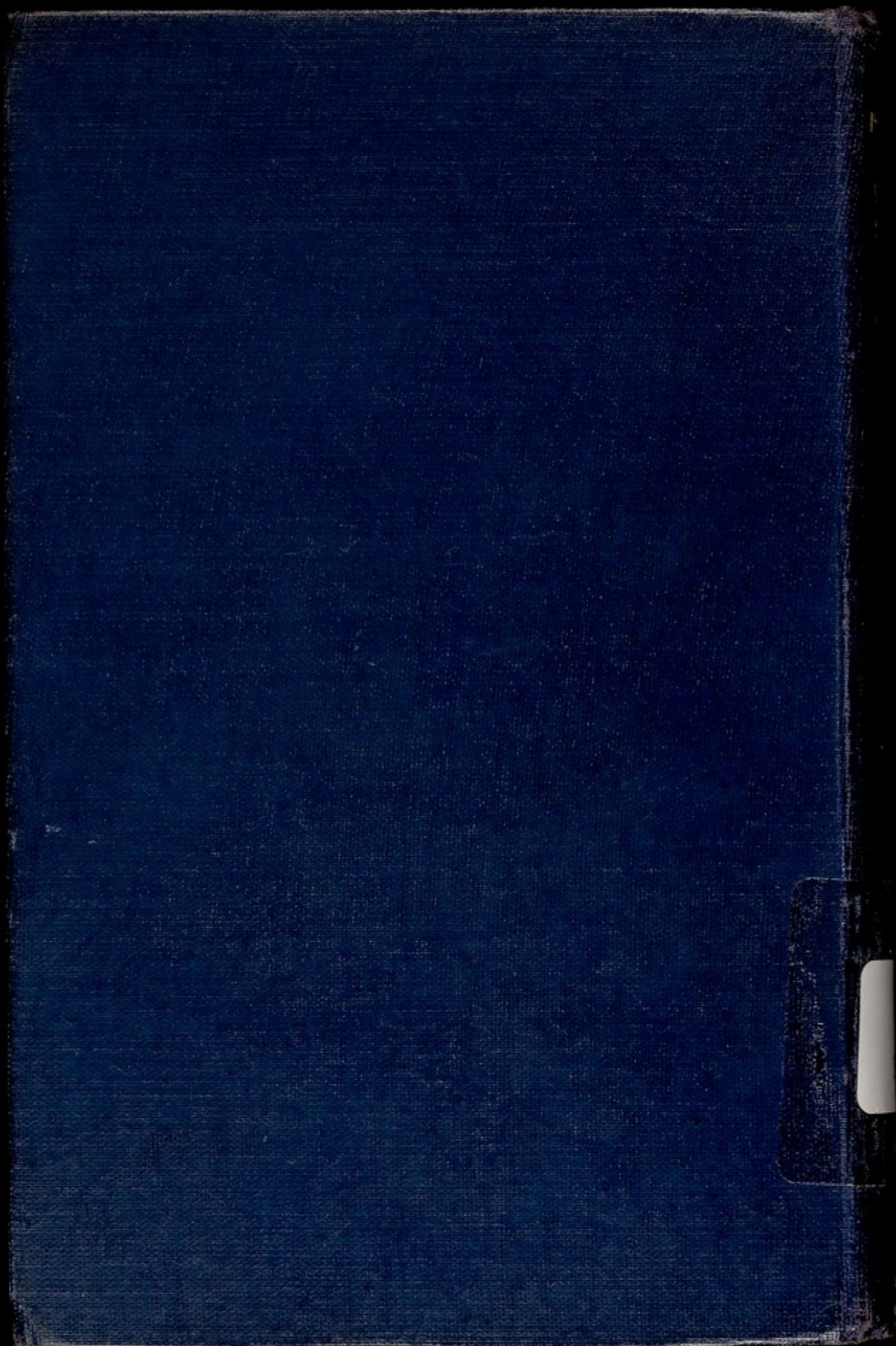
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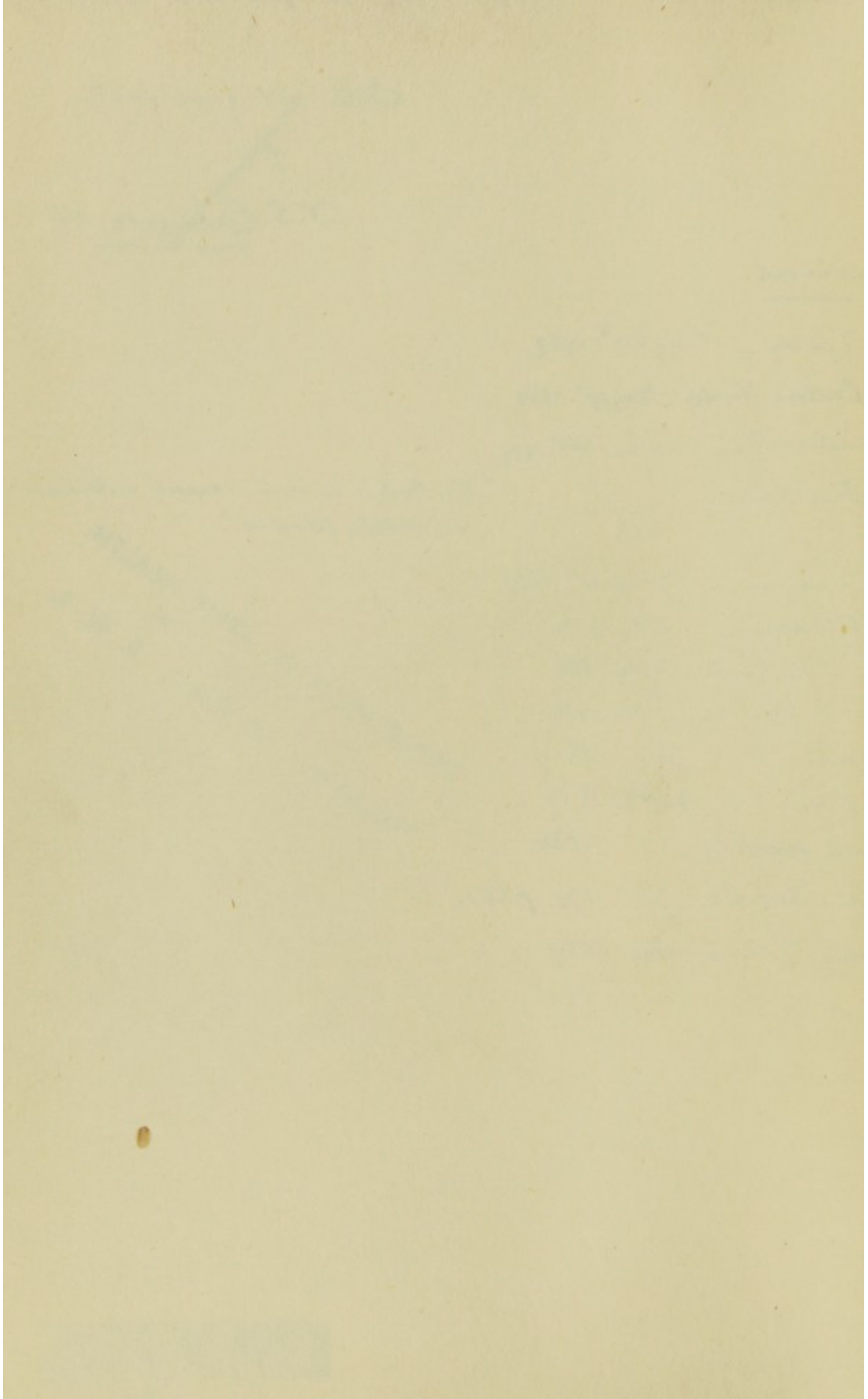
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BY

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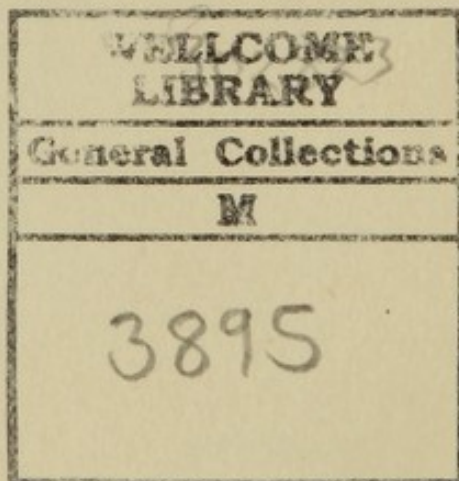
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PREFACE

A RECENT letter in the *Times* from a number of eminent medical authorities stated, "As physicians we are all aware that glandular disturbances may produce mental changes which at times can lead to disordered conduct. . . . In medicine today we are, however, even more aware that psychological factors are of the greatest importance in determining abnormal and anti-social conduct."¹

This authoritative statement is of interest to Moral Theologians who recognize that the question of subjective moral responsibility in the light of the new psychology and psychiatry is one of the most pressing of modern problems, and that there is need of a more detailed examination of the whole problem of moral responsibility in abnormal mental states. It is true, of course, that the influence of abnormal physical conditions on responsibility is also an important question, but as this medical topic is beyond the scope of this work, the present thesis is offered as the first section of a contribution to the subject of responsibility in abnormal mental states.

Now most abnormal mental states are included in the one concept of Insanity which is not a definite medical or clinical entity, but rather a medico-legal term expressing a multitude of disorders of mind and conduct. Originally Insanity meant strictly disorder of mind, but with increasing

¹ *Times*, Jan. 13th, 1938.

knowledge of the nervous system and mental functions, this connotation has widened so that the British Medical Association in its evidence before the Atkin Committee proposed this description: "Unsoundness of mind is no longer regarded as in its essence a disorder of the intellectual or cognitive faculties. The modern view is that it is something much more profoundly related to the whole organism,—a morbid change in the emotional and instinctive activities, with or without intellectual derangement."¹ Insanity, therefore, may be defined as an impaired condition of the mental functions, involving the intellect, emotions and will, or one or more of these functions.

For the purposes of logical description the simplest division of this condition is that of Amentia or Dementia, namely, the *absence* or *derangement* of mental power.

Amentia is arrested development of mind, either congenital or caused by injury or disease before development is complete. This is the concept of Mental Defect.

Dementia is disorder of a developed mind which has been functioning normally.

In this thesis I am limiting myself to a discussion of some of the problems connected with Mental Defect with the hope of adding at a later date another part dealing with the very involved moral problems of Mental Disorder such as affective insanity, impulsive and moral insanity.

¹ "Report of the Committee on Insanity and Crime," p. 5. (*H.M. Stationery Office*, 1924, Cmd. 2005.)

The chief problems of Mental Defect which interest a moralist are : first, the part played by heredity in its causation ; secondly, the notion of moral imbecility ; thirdly, the modern concept of moral defect which has replaced the former theory of moral imbecility both in philosophy and in legal definition. I have treated these points in successive chapters, trying, as far as possible, to state the most widely accepted conclusions of the best English authorities, both medical and legal, on the subject.

This treatment of the problem involves so many points of theology, philosophy, medicine and law that it is not easy to indicate all the sources that have been used. I must, however, acknowledge my special indebtedness to Dr. Burt's invaluable book *The Young Delinquent*, and Dr. Tredgold's standard work *Mental Deficiency*. For the rest, I have tried to make suitable acknowledgments in the footnotes for material used, and here apologize for any omissions.

In general I have tried to collect facts from the standard text-books on the various subjects under discussion, and in cases of doubt have asked the advice of practising experts. This practical help was generously given by Mr. Stanislaus Baron, LL.B., in legal matters ; by Fr. H. Davis, S.J., and Fr. J. Leycester King, S.J., on points of moral theology and psychology ; by the Rev. P. F. M. McSwiney, the Administrator of Besford Court, in matters relating to the legal and administrative side of mental deficiency. Since, however, this

work deals with so many points of medical psychology it could not have been published safely without some expert professional guidance in this matter. I am, therefore, deeply grateful to Dr. Mary Cardwell, M.D., Dr. F. R. M. Walshe, O.B.E., D.Sc., M.D., F.R.C.P., Fr. J. Ryland-Whitaker, S.J., M.C., M.B., B.S., F.R.C.P., who advised me on certain points and helped throughout with candid and constructive criticism.

Finally, I must express my gratitude to the Authorities of Besford Court Mental Welfare Hospital and the Notre Dame Child Guidance Clinic, Glasgow, who have given me every encouragement and practical help ; and to the Rev. A. Gordon, S.J., who helped to correct the proofs and compile the Index.

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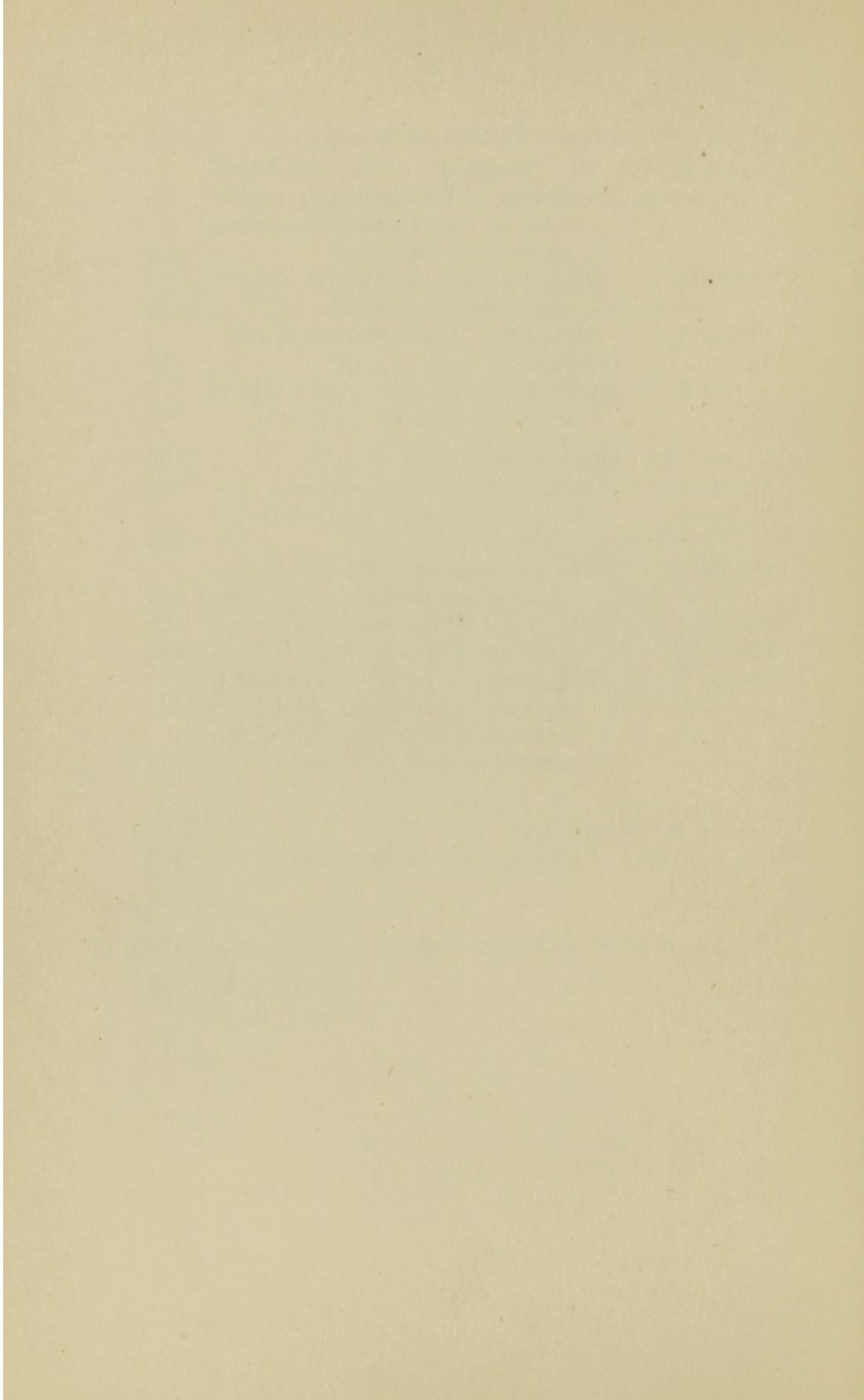
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CHAPTER I

INTRODUCTORY

§ 1. The Problem

TARZAN came into the Chaplain's room and sat down on the floor. He said, "I waited for you from after dinner till two, and came back and waited again half an hour." When it was pointed out that 6 p.m. was the time arranged for the interview, he merely said, "Yes, you said six," and went on to other topics. The long conversation which followed showed other instances of the same unexpected jerky replies and mental confusion appearing in the middle of an interesting conversation in which he showed keen powers of observation and good criticism. In appearance he is now a fine physical specimen, very different from the pale, weedy child who arrived at the School ten years ago at the age of eleven. He is dressed neatly and carefully and his crowning glory is his fair curly hair which is brushed straight back from his forehead in a brilliant glistening marcel wave. Tarzan is very proud of this hair, but not all its beauty and glory can compensate for his marked simian features which have earned him his nickname. His long narrow head, coarse irregular features, perpetually furrowed brow, small close-set eyes and beetling eyebrows do indeed suggest the popular picture of the criminal type. And he has done his best to fulfil that expectation,

for he is a persistent sexual offender and a clever, determined thief. Little is known of his early history except that he was always considered "peculiar"; at the elementary school he was very backward and did little more than learn to read and write. But he was noted for his untruthfulness, immodesty and quarrelsomeness, and at the age of twelve, after a sexual assault on a girl of six, he was certified as being "feebleminded with vicious tendencies," and sent to a Special School. There he made good all-round progress in studies and attained the average general ability of a boy of standard IV. His manual training, however, has been wonderfully successful and he has become a competent and skilful carpenter who could earn his living anywhere if only he could be relied upon to apply consistently the ability he has. But that is just what he either will not, or cannot, do; for he is absolutely unreliable and his whole life is coloured by his abnormal sex and thieving activities. He has an abnormally strong sexual development and these activities are displayed in every direction. His imagination is full of sex fantasies which provide him with a topic of unfailing interest. He has, indeed, a morbid delight in recounting his own exploits in these matters and shows no sign of shame or reticence, even when boasting publicly of his experiences with his sister. He is a menace to the girls of the neighbourhood and to his school companions. Frequently he has made false accusations about others in these matters, and on one occasion he

smilingly presented to an official a list of eighteen boys with whom he alleged he had committed unnatural actions. The boys in question denied the charge, and when Tarzan was accused of lying he at once admitted it. Next morning, however, he handed to another official a further list of twenty-seven names, but again broke down under cross-examination and admitted the story was false. He asserted that he did not know why he had done it. In addition he is a clever and persistent thief with real expert ability in picking locks and manufacturing keys. He plans out his work thoroughly and never uses confederates. He conceals the stolen property with great cunning, but is careless in concealing the keys or tools he uses and is quite willing to explain his methods of dealing with stubborn locks. Obviously no ordinary school could deal with him, and in the end he was reported as a "Moral Defective of the most dangerous type : one who does not appear to recognize the existence of any moral principles," and sent to a State Institution whence he writes most pious letters full of contrition and good resolutions begging to be readmitted to his former school.

Now this case is a type of the legal, moral, medical and administrative problem set by one whose mental and moral life appears quite abnormal. How is such a person to be judged, and what treatment should he receive? The problem in the case of Tarzan has been solved, at least from the administrative point of view, by his permanent segregation ; but a complete answer

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to the question must depend ultimately on the estimate which is made of his freedom in his actions, for responsibility is bound up with freedom and the imputation of praise or blame is proportionate to the measure of the agent's freedom of choice. Hence arises the vast problem of responsibility—moral, legal and psychological, and a complete answer to the problem varies according to the different approach made by the investigator. The MORALIST, interested in the ethical qualities of actions, will consider the moral implications, the free conscious conformity with or difformity from a certain standard. In other words, he will ask: "Did that man commit a moral fault—a sin for which he is morally responsible?" The LAWYER, interested in the action as something detrimental to the social body, will ask: "Did he commit a crime, that is, an action for which he is legally responsible and liable to punishment by the law of England as it exists at present?"¹ The PSYCHOLOGIST, interested in the welfare of the individual and in the action as a symptom of some mental or temperamental maladjustment, will ask: "Is that action a symptom of some mental disease or moral disorder?" If so, then the agent is neither sinner nor criminal, but a patient suffering from a malady over which he has little or no control, and consequently he cannot be held responsible either morally or legally.

The legal standpoint is sharply marked in the phrase, "The Law of England *as it exists.*"

¹ cf. Stephen, *History of the Criminal Law*, Vol. II, p. 127.

Stephen insists that critics of the law usually confound "is" and "ought to be." When they speak of responsibility they mean liability to punishment by the law which they think ought to be in force. But the legal position is quite clear: "Judges when directing juries have to do exclusively with this question: Is this person responsible in the sense of being liable, by the law of England as it is, to be punished for the act which he has done?"¹

This divergence of view is treated from the medical side by Dr. Mercier who acknowledges the legal definition, but defends his opinion that, "if the principles which underlie any law can be investigated and the law shown to be in harmony or in discord with them, then I think that the reasoning is entitled to consideration apart from the person who may conduct the inquiry."²

Now at first sight these points of view seem irreconcilable, and in the course of controversy the gulf between them seems to have widened as each expert resented another trespassing in what he considered his province. Yet these are not separate provinces, they are merely different aspects of the one question of responsibility for acts, which is one of the fundamental problems of both individual and social life. Moralists, Lawyers and Psychologists have each something to contribute to the clarification of the notion of responsibility, and in particular the psychologist can speak of

¹ Stephen, *op. cit.* p. 127.

² Mercier, *Criminal Responsibility*, p. 9.

facts which neither the lawyer nor the moralist can afford to ignore.

The moralist, it is true, is primarily concerned with the personal problems of the individual conscience, and for these he obviously needs the aid of psychology. But he cannot afford to ignore the legal system of his country which is, and must be, based on the essential realities of the freedom of the will and consequent moral responsibility, without which law and civil society cannot exist. Especially is this true of the English legal system in which the concept of legal responsibility was greatly influenced by the theological and canonical doctrine that there could be no moral fault without intellectual appreciation and volitional freedom. Under this influence there was early embodied in the English system the fundamental principle of criminal law that there can be no criminal liability without a mental element or guilty mind—"Actus non facit reum nisi mens sit rea." Later developments have merely been the analysis of the nature of this *mens rea* in various crimes and in decisions as to what mental factors would excuse from guilt. In modern times, however, researches in psychology and psychiatry have shed great light on the mental states of individuals, and further developments both in Criminal Law and Moral Theology would seem to be along the lines of clarifying the legal and moral concepts of responsibility in the light of this new knowledge.¹

¹ The modern legal position is summarized in the "Report of the Committee on Insanity and Crime," 1924, Cmd. 2005.

§ 2. The Moral Problem

The details of the clarification and possible modification of the law are outside the scope and competence of this work, but it would seem that there is a real need and opportunity for the Moral Theologian to take advantage of modern researches in order to revise and amplify his conclusions about moral responsibility in abnormal mental states. In earlier ages it was inevitable that he should consider most vicious actions as a manifestation of conscious sin and depravity, for with the sources of knowledge at his disposal he knew only of ignorance, passion, fear and violence as factors influencing the intellect and will. Now he has at his disposal a vast quantity of scientific data from biological, psychological and psychiatric research which has demonstrated the fact that the factors influencing responsibility are manifold. Yet, even when the modern researches into the abnormal and diseased mind were put at his disposal, the theologian was rightly suspicious of the many books which expounded the new science in terms offensive to Christians, and the Catholic moralist could not accept the theory that all sin was a disease and all perverse actions merely the unavoidable necessities of nature to be explained in terms mainly of unconscious sex-pathology.

There are still over-hasty generalizations and false theories in this field, but on the whole the best modern authorities show an attitude of true scientific caution. It is, for example, a far cry

from Lombroso's "Congenital Criminal,"¹ to the modern concept of the temperamental defective whose lack of balance is due to hereditary, environmental, physical and psychological causes operating concurrently and in various degrees of importance²: or to the sober conclusions of Dr. H. E. Field who utters a caution against the enthusiastic zeal of some amateurs who assert that all crime is a disease, and concludes that: "Psychologists would not now ascribe the bulk of delinquency to mental abnormality. Our conception of the normal mind has widened since research has shown how frequently faults in personality are met with among the general population. While many delinquents are influenced by emotional stresses the great majority are by accepted standards normal."³

The task, therefore, of the moral theologian is to strike a just mean between the two assertions that an apparently vicious action is always either a deliberate sin or a symptom of a disease. His pastoral office as a confessor brings him into intimate contact with souls to whom in the confessional he is both judge and physician. As judge he must be able to form a prudent opinion whether, for instance, a certain action is the result of conscious vice or the unfortunate effect of some physical or mental abnormality. Is the penitent responsible

¹ Lombroso, *Il Reo Nato*, as described in *L'Uomo Delinquente* and in *Crime: Its Causes and Remedies*, Modern Criminal Series, Vol. III.

² Burt, C., *The Young Delinquent*.

³ Field, H. E., *Psychological Aspects of Juvenile Delinquency*. (The Year Book of Education, 1936, p. 869.)

for his action and in what degree? The answer to this will often decide the question of giving or refusing absolution and will be a guide in the worrying problem of habitual sinners and recidivists. Again, as spiritual physician and director, he must have some knowledge of the multitude of mental and physical factors which are at work in his penitent: he must have some knowledge of abnormalities and perversions, whether they are curable or not, whether, for example, marriage can be safely and opportunely advised for one suffering from some long-standing vicious habit. These are some of the problems of the confessor, and for his efficient equipment he needs all the information he can obtain from the best exponents of mental and medical science. How is he to acquire this knowledge?

§ 3. The Materials for Study

In a review of the subject to which he had devoted a long and laborious life, the late Fr. Vermeersch gave it as his opinion that this serious and thorny problem of subjective moral responsibility was one of the most pressing modern problems in Moral Theology.¹ That moralists are preoccupied with it is itself a sign of progress, but so far specialized works on the subject are rare,² and it must

¹ Vermeersch, "Soixante ans de Théologie Morale," *Nouvelle Revue Théologique*, 1929, p. 880.

² Mention should be made of:

Sinéty, *Psychopathologie et Direction*.

Gemelli, *Disquisitiones medicae in usum confessoriorum*.

Merkelbach, *De variis poenitentium categoriis*.

Bless, *Psychiatrie Pastorale*.

be admitted that, with very few exceptions, the text-books are not very helpful. They devote a few pages of the section on human acts to a catalogue of the various psycho-pathological conditions of mind which may affect responsibility : but this treatment is so jejune as to be of little practical utility, and in many instances the statements made need considerable revision in order to bring them into line with the recent advances in psychiatry. Indeed, the criticism often made that most moral text-books are mere compilations repeating the opinions of previous authors, seems justified in regard to the sections which deal with abnormal states of mind. There is a noticeable similarity in the very words used, the same authors are cited as authorities and the direct line of descent can be traced to the common ancestor—Antonelli.¹

What, then, it may be asked, should be expected of a text-book? In the article above quoted, Fr. Vermeersch suggests that the principal task of a manual is to draw attention to cases of irresponsibility or attenuated responsibility : to enumerate the main abnormal temperaments : to give some elements of appreciation. The first two points can easily be satisfied, and indeed most modern manuals do give an exhaustive classification and summary of abnormal mental states. But the elements of appreciation are harder to find, and even special works and articles proceed rather by examples than

¹ Antonelli, *Medicina Pastoralis*. Proof and instances of these assertions will be found in the Chapter on Heredity, p. 42 *infra*.

by giving general criteria and principles for easy application. Such is the opinion of Fr. Vermeersch, and it has, of course, the undoubted weight of his great reputation and authority : but there is also reason to believe that what is wanted above all is sound and reliable data, the true facts of modern scientific research, without which there can be no valid "criteria and principles of easy application." For example, the part played by heredity in mental defect, moral instability and other abnormalities is an important factor in the problem of moral responsibility ; but a study of the treatment of this subject in the manuals shows that it needs considerable revision in order to bring it into line with the conclusions of the modern scientific work. Again, mention is made of such terms as "moral imbecility," "moral insanity," etc., but there is no reference to the new connotation of these terms.¹

These, therefore, are some of the deficiencies of the text-books and the purpose of this thesis is to offer some material to remedy the deficiencies, by collecting the facts ascertained by the best modern investigations of the subject of heredity, moral imbecility and moral defect. It may, indeed, be found ultimately that the text-book is not a suitable medium for the discussion of such an intricate and

¹ It is significant that both French and Latin books use the English phrase "moral insanity." But they do nothing to explain the history of this essentially English term, and the most recent book (Bless, *Psychiatrie Pastorale*, 1936) dismisses it with the statement that it means the born criminal : "C'est la théorie de Caesar Lombroso dans son *L'Uomo delinquente*." (*op. cit.* p. 81.)

involved subject : that it would be advisable to limit the information in the manuals to a statement of the general principles, leaving the further necessary elaboration of the subject to special treatises and oral instruction.¹ But meantime, and in any case, it is essential that any discussion of these moral problems should be based on the accurate data of the best modern scientific research. It is hoped that the present work will supply some of these data to supplement the text-books and to form a basis for further specialized work on the various problems connected with moral responsibility in abnormal mental states.

¹ The author of a modern English manual seems to follow this course when he merely mentions some habitual obstacles to the human act : "tendencies, due to temperament, habit, disease, and perhaps to heredity also." Also, "when morbid conditions have got beyond the control of medical science, we find other distressing phenomena, such as compulsory ideas, melancholy, hysteria, neurasthenia, paranoia, which render the unfortunate victims of them practically incapable of clear thought or deliberate volition. The victims have become to a great extent mere automata and of course are not responsible, before God, for their actions." Davis, *Moral and Pastoral Theology*, Vol. I, pp. 30, 33.

CHAPTER II

MORAL RESPONSIBILITY

§ 1. Definition

SINCE the word responsibility will be used often in the following pages, it will be useful to begin with an accurate notion of this term and with a brief indication of the historical process by which it has been evolved. In order to do this, however, within reasonable limits, it must be assumed as the basis of this chapter that freedom of the will and consequent responsibility for a free act is a reality and that responsibility depends upon free-will.¹ That this is not a gratuitous assumption is shown from the fact that it is one made by the laws of all countries,² and in practice all schools of Philosophy, even Determinists, admit it: for without responsibility there could be no law to direct and harmonize the social body.³

¹ "Ex hoc enim actus dicitur culpabilis quod imputatur agenti: tunc enim actus imputatur agenti, quando est in potestate ipsius, ita quod habeat dominium sui actus. Hoc autem est in omnibus actibus voluntariis: quia per voluntatem homo dominium sui actus habet, ut ex supradictis patet." (S. Thomas, *Summa Theologica*, I, II, q. 21, art. 2.)

² Wharton, *Criminal Law*, p. 53. "The difficulty is practical. No matter what may be our speculative views as to the existence of conscience or of freedom of action, we are obliged when we determine responsibility to affirm both."

³ "If we give up free-will, then (*pace* Professor Huxley) we must give up moral responsibility with it. And this, in

This notion of responsibility, however, is difficult to define because it involves the use of such primary terms as obligation, etc., which defy explanation through lack of simpler notions in which to explain them. But everyone knows what responsibility means. All recognize that in the normal man there is some factor which makes him answerable for his actions to a higher authority for approval or blame. Responsibility, therefore, presupposes the liberty of the agent and implies the consciousness of his obligation to account for his actions. It is, "accountability for conduct, in the case of an agent possessing knowledge of the moral law, with power to govern conduct in harmony with such law."¹ This is also substantially the definition given by moral theologians, and it is the general notion used throughout this thesis.²

A clear idea of the nature of this responsibility, however, cannot be had without a preliminary inquiry into the notion of imputability, for though these terms are frequently used as synonymous there is a distinction between them. To impute anything is to make a judgement that it is the effect of a cause, and if that cause is a conscious free agent then the judgement by which the effect is attributed to him is called moral imputation.

practice, we cannot do. We are bound to assume that men are free agents and responsible for their actions." (Forester, *The Faith of an Agnostic*.)

¹ Calderwood, *Vocabulary of Philosophy*, p. 300.

² e.g. Vermeersch-Creusen, *Epitome Juris Canonici*, Vol. III, n. 387. "Imputabilitas est proprietates actus moralis qua agenti tamquam ejus libero auctori ascribitur."

Hence moral imputability is the character of an *act* by which it is attributed to an agent as its free and conscious cause. Responsibility, on the contrary, connotes the *relation* between the agent and the superior to whom he is bound to account for his action. To God, for example, can be imputed the creation of the world ; but He is not responsible in the strict sense of the word for this creation. Imputability, therefore, is a character of all human actions, but responsibility is only for those actions which are subject to the authority of a lawgiver. But in the moral order all man's human actions are subject to the approval or blame of the supreme, eternal Lawgiver : he is, therefore, responsible for these actions and they are imputed to him for praise or blame according to their deliberate conformity with or difformity from the moral order. In human legal systems, however, where there is usually no reward for virtue, man is held accountable only for his illegal anti-social acts, and these are imputed to him and he is held responsible for them in the sense that he is liable to the punishment attached to them. Thus, in practice, the terms imputability and responsibility have become interchangeable.

A further analysis of this notion of responsibility shows that a distinction is also to be made between the psychological and the moral element in it. Psychological responsibility comes from a consciousness of liberty—the consciousness of the auto-determination of our actions. I am conscious that I am master of my own free choices, therefore it

is *my* action, therefore I am responsible for it. In addition there is the moral element which comes from the consciousness of obligation, the consciousness that I must render an account of my own free acts to some authority. The complete concept includes both these elements—"the exercise of both autonomous and heteronomous liberty"¹—and so responsibility may be adequately defined as the relation between the conscious free agent and a lawgiver by which the former is subjected to the latter in respect of approval or blame for his actions. It is difficult to express in English this apparently simple notion—witness the efforts of Dr. Mercier and others who have written on this subject²—but this definition does, I think, express the essential points of S. Thomas's summary of the Christian doctrine of responsibility³ namely, that human actions are imputable because of free-will: they are virtuous or blameworthy according as they tend to or deviate from man's last end, and that considered from the view-point of justice and man's relation to God they constitute a title to recompense or punishment.⁴

§ 2. The History of this Notion

This notion of responsibility has remained substantially unchanged in the history of Moral

¹ Decoqs, *Praelectiones Theologiae Naturalis*, p. 473.

² Mercier, *Criminal Responsibility*.

³ S. Thomas, *loc. cit.* q. 21, art. 2 and 3.

⁴ cf. Moisant, *La Responsabilité—la notion chrétienne*, Etudes, Vol. 120, September, 1909, pp. 642 sqq., 787 sqq.

Theology, for it is the foundation of the doctrine of sin and an essential element in the Church's legal system. Indeed, it is due to this moral and canonical teaching that the notion of subjective responsibility as an essential element of a crime was introduced, or at least perfected, in all human legal systems.¹

In the primitive systems of law little or no account was taken of the intention of an agent. He was judged on his external action and was held liable for all the consequences of his action, for his liability was measured according to the damage he had caused, not according to the wrong he had done.² Evidence of this fact is found in the English Law even at so late a date as the reign of Henry I, and in theory, at least, it was not until 1828 that a man who killed another by accident

¹ This influence of the canonical doctrine of responsibility is clearly shown in English law, and is treated by the eminent legal historians :

Pollock and Maitland, *History of English Law*, Vol. I, pp. 88-114 : Vol. II, pp. 460-76.

Holdsworth, *History of English Law*, Vol. II, pp. 24, 47-54, 258-9, 358, 452 : Vol. III, pp. 373-5.

Much useful information is also contained in two articles in the Clergy Review by Mr. Richard O'Sullivan, K.C., *Christianity and the Common Law*, Clergy Review, March, 1931. *Canon Law in Mediæval England*, *ibid.* October, 1933.

² cf. Westermarck, *The Origin and Development of Moral Ideas*, Vol. I, pp. 217 sqq.

Buckland, *Manual of Roman Private Law*, p. 317.—“ If we go back to primitive law we find the notion of moral culpability, as the basis of liability, very imperfectly recognized : a man was liable not so much because he had done wrong, as because he had done harm.”

escaped punishment. The assumption of this earlier law, was, according to Professor Holdsworth, the principle that a man acts at his peril. Any action causing physical damage must be paid for, according to the axiom contained in the laws of Henry I : *Qui peccat inscienter, scienter emendet*. Nevertheless, as the same author notes, at this time some attention was being paid to the culpability of the offender, and this was largely due to the influence of the Church. "We have seen that even in Anglo-Saxon times the criminal law had been slightly modified by the higher ethical standards of Christianity. The rise and growth of the canon law tended to increase this influence by giving it a greater precision."¹ Aristotle,² indeed, and many Roman philosophers had insisted that the moral imputability of an action was based on the subjective will of the agent, and the Roman Law had recognized this by the distinction of malice (*dolus*) and negligence (*culpa*) from inevitable accident (*casus*) in its estimation of a criminal act.³

¹ Holdsworth, *op. cit.* Vol. II, pp. 53 and 258.

² Aristotle, *Ethics*, Bk. 3, chs. 1-5, where he treats of voluntary and involuntary action and states the first principle that "praise or blame is given only to what is voluntary."

³ "It was only slowly that the notion of guilt emerged clearly, but in the law of historical times it was fully recognized as the basis of liability. . . . In all the delicts, strictly so called, there was a moral element : the person liable had been fraudulent, negligent or malicious." Buckland, *op. cit.* p. 317.

Thus, the *Lex Aquilia* (c. 200 B.C.) provides remedies for illegal damage, *damnum injuria datum*, fixing penalties, as for example, if a slave is unlawfully killed the offender must pay

Yet the process of fixing a reasonable standard of legal responsibility was a long and gradual evolution which was hastened and perfected by the Church's moral doctrine.

Even in the Church's own external legal system the process was a gradual one, for there are clear indications that penalties were sometimes exacted in the external forum for licit actions which had caused unintentional injury. Thus, the Council of Ancyra (314) distinguishes between voluntary and casual homicide, but still decrees five years of canonical penance before the one who has committed casual murder may be admitted to full communion in the external forum.¹ Traces of the same legislation are also seen in the various Penitential Books, which, in the opinion of many

the highest value the slave had in the previous year. We are told by Justinian (Digest IX, 2) that "if a slave should be killed unlawfully, the *Lex Aquilia* applies. It is very properly added that the killing must be unlawful, as it is not enough that the slave should be killed, but the act must be done unlawfully." This unlawfulness (*injuria*) is a psychological element—malice or negligence. cf. Monro, *Lex Aquilia*, p. 3. Professor de Zulueta suggests that in the intention of the framers of the Lex, inevitable accident was no excuse, but before the end of the Republic *casus* had become an answer to an Aquilian action.

¹ *Conc. Ancyranum*, can. 23. (Kirch: *Enchiridion Fontium*, n. 385.) "De homicidiis non sponte commissis, prior quidem definitio post septennem paenitentiam perfectionem consequi praecipit, secunda vero quinquennii tempus explere." Balsamon (*Migne, P.G.*, Vol. 137, col. 1187 sq.), commenting on this canon, refers to earlier legislation, notably that of St. Basil, which had decreed ten years' canonical penance for this offence.

scholars, had their origin in England and Ireland in the sixth century ; as, for example, in the Penitentiary of Theodore of Canterbury, and the *Excarpsus* of Bede.¹

In the internal forum, however, the foundation principle of imputability was clear from the beginning. Sin is a voluntary transgression of a moral law : it is a human act, and as such requires intellectual advertence and volitional consent. This was the doctrine expounded in reply to the early heresies by Tertullian, Irenaeus and others, and summarized by St. Augustine in the phrase, "Sin is so essentially an evil in the will that if the voluntary element is lacking it is no sin."²

The gradual process by which this principle was applied to legal crime in the external forum belongs to the history of Canon Law, and it is described admirably by, for example, Michiels from whom I have taken many of the facts about this question.³ Here, it is sufficient to notice that by the ninth century the principle was established that an illegal act was legally imputable in the external forum

¹ cf. Roberti, *De Delictis et Poenis*, n. 7.

In general it may be said that this strict legislation is more noticeable in the Eastern Church as exemplified, for example, in the detailed rulings of St. Basil (*Epistola ad Amphiloichium*, *Migne, P.G.*, Vol. 32, col. 794). It is likely, therefore, that Theodore who was born and trained in the East should reflect this stricter tendency : there are, indeed, in his Penitentiary many references to customs in the Eastern Church.

² "Usque adeo peccatum voluntarium est malum, ut nullo modo sit peccatum si non sit voluntarium." *De Vera Religione* 14/27 (*Migne, P.L.*, 34, col. 133).

³ Michiels, *De Delictis et Poenis*, 1934, Vol. I, pp. 82 sqq.

only if it were also morally imputable. Thus, Nicholas I decreed that if a bystander is killed by a falling tree when the woodcutters have taken all due precautions, his death is not imputable to them because they have neither willed nor desired it,¹ and this distinction between culpable and inculpable homicide is expressly stated by the Councils of Worms (868) and Tribur (895).² It is interesting to note that this distinction was not made in English Law even in the twelfth century, for the Laws of Henry I give many examples of cases where compensation is exacted for unintentional harm on the general principle that a man is liable for all the consequences of his acts. Thus, if A hangs his spear on a tree and B knocks it off and so injures anyone, it is A who must pay compensation. If A falls from a tree and kills someone underneath, then the deceased's kinsman, if he insists on vengeance, may climb the tree and fall on A.³ It is not likely, according to all the

¹ *Decreta Papae Nicolai I, Tit. XII, n. 3.* (*Mansi, Vol. 15, col. 442.*) "Hi qui arborem incidere videntur, si contigerit, ut cadens arbor occiderit hominem, inculpabiles sunt atque innoxii : quia nec voluntate eorum, nec desiderio homicidium perpetratum est."

² Both Councils treat at great length the case of the person killed by the falling tree, and assess liability according to the malice or the negligence shown. e.g. *Concilium Wormatiense* (868), *Mansi, Vol. 15, col. 874*; "Si voluntate vel negligentia incidentis arborem factum est, ut homicida poenitentiae debet omnino submitti. Quod si non voto, non incuria illius, non denique scientia contigit . . . homicidae procul dubio non est comparandus."

³ *Leges Henrici, 90, §§ 7 and 11.*

authorities, that these primitive principles were applied at this time in all their rigour, and the fact that they exist at all is partially explained by the special circumstances of the time which demanded that some legal system should supplant the blood-feud or private reprisals. The Anglo-Saxon system had introduced a complicated system of compensation—a legal tariff—for all kinds of damages, and in enforcing this it was likely to think more of the soothing of the injured party than of estimating the exact extent of the injurer's responsibility. But, as Professor Holdsworth notes, the Church was more interested in saving the souls of the sinners than in trying to stop the blood-feud, and consequently all her influence was directed to the subjective state of the offender's mind.¹

Meanwhile, the Canonists were examining thoroughly the whole question of these subjective conditions. The Decretists, for example, were trying to reconcile many of the existing regulations which decreed penalties for unintentional actions with their clear principle that penalty was to be inflicted only for moral fault. It was variously suggested that these penalties were inflicted to preserve the external discipline of the Church and were founded on the legal presumption that the offender was guilty of some moral fault, or that in all cases where these penalties were to be applied there *was* moral fault from want of diligence, wrong motive, or because the act in question was

¹ cf. Holdsworth, *op. cit.* I, pp. 52-4. Pollock and Maitland, *op. cit.* II, p. 469.

the result, the secondary effect, of a previous culpable action directly willed. This last point raises the question of the precise causal relation between an act and its various effects, and from this time on, the task of the theologians and canonists was to clarify the notions of an object voluntary in and for itself, or voluntary in its cause ; to distinguish between a direct and indirect voluntary act and to elaborate the principles of the double effect of an action.¹ Gradually a scientific terminology was evolved. Thus, an object of the will is "voluntary in itself" (*voluntarium in se vel directum*) if it is directly willed in itself as either an end or a means ; it is "voluntary in its cause" (*voluntarium in causa vel indirectum*) if it is the foreseen, but merely *permitted*, effect of a causal action which is directly willed. In practice, however, since most actions may have more than one effect, the difficulty is to decide what precisely is the object of the agent's will. Therefore, another distinction was made between the direct or primary and the indirect or secondary effect of an action. Thus, the **Direct** (primary) effect of an action is the

¹ The Anglican Theologian, Dr. Kirk, comments on this progress : "For five centuries casuistry performs its true function of steadily developing the moral principles of the Church from wise beginnings to wise conclusions in particular cases or types of cases. . . . To understand the painstaking, honest and on the whole salutary work done by the middle ages in this ambitious attempt to educate the Christian conscience through an entire curriculum from first principles to particular conclusions, we have only to wander at large through the pages of S. Thomas's *Secunda Secundae*." *Conscience and its Problems*, pp. 195-6.

finis operis, i.e. that which is produced by the nature of the action ; and the **Indirect** (secondary) effect of an action is one produced not by the nature of the action, but by the presence of some circumstance accompanying the action. It follows from this distinction that if there be only one direct primary effect of a deliberate action the agent cannot plead that he did not intend it : but on the other hand he does not necessarily intend an indirect effect.¹ This complete clarification, however, was the work of a later age. The doctrine that was commonly accepted and applied in the fifteenth century is thus summarized by Michiels in the following propositions :

1. No external action is a legal crime unless it is also a moral fault.

2. It is a moral fault imputable to the agent when the illegal action is either directly and deliberately willed : *or* is indirectly willed in the sense that it is the effect of a free action through negligence and lack of reasonable care.

3. But, in estimating the imputability of these indirectly willed actions, a distinction must be made according as they are the effects of a deliberate action which is either licit or illicit. If the deliberate act which is the cause of the secondary effects is a licit one, then the agent is not responsible for these effects unless he foresaw them or was rash in doing the action. If, however, the action was wrong, either in itself or in the circumstances, then the agent is responsible for *all* the effects of his

¹ cf. Principle of the Double Effect, p. 28 *infra*.

action. Thus, a man who wilfully gets drunk is responsible for all the effects of this drunkenness.¹

These principles, however, still needed further clarification, and later discussion centred mainly on two points : namely, the influence of ignorance on responsibility, and responsibility for the indirect effects of an illicit action. The question of ignorance was treated in the twelfth century by Peter Lombard who began to distinguish the familiar kinds of ignorance as we know them today.² In the writings of his followers and commentators these distinctions were expressed in the technical terms of *invincible* ignorance which excuses from guilt, and *vincible* ignorance which was further subdivided into simple, crass and studied ignorance. Simple and crass ignorance diminish responsibility ; studied ignorance as a rule does not. It is said "as a rule" because, according to most modern authors, studied ignorance will either increase or diminish responsibility according to the motive for which it is fostered.

Further developments in this subject have been merely in the greater precision of these principles

¹ A doctrine expressed in the adage :

"Si licitus, cautus, non est culpabilis actus :

In reliquis culpam reor et pro crimine mulctam."

(Bernardus Papiensis, *Summa Decretalium*, V, tit. 10, § 5.)
cf. Michiels, *op. cit.* pp. 91-5.

² "Ignorantia eorum, qui scire nolunt, cum possint ; ignorantia eorum qui volunt, sed non possunt ; ignorantia eorum qui quasi simpliciter nesciunt non renuentes vel proponentes scire." Petrus Lombardus, *Libri IV Sententiarum*, II, d. 22, n. 9.

on the lines laid down by S. Thomas,¹ and the insistence by later theologians that responsibility for an action done in ignorance depends on the voluntariness of the cause, i.e. responsibility is to be measured not by the resultant action, but by the degree of voluntariness in permitting the ignorance which causes the action.² And this doctrine is authoritatively expressed in Canon 2202 which says that the violation of a law which was not known is not imputable if the ignorance was inculpable, but that if the ignorance was culpable then imputability is to be measured according to the degree of culpability in the ignorance.³

A second point which needed further clarification was the question of responsibility for the secondary effects of actions. It has been noted above that the Canonists had stated the general principle that a man was held responsible for all the effects of a deliberate illicit action, and Michiels quotes from the Gloss of an unknown author the commonly accepted rule that everything connected with an

¹ S. Thomas, Ia, IIae, q. 76, art. 1-4.

² "Quando actus vel effectus denominatur voluntarius ex sola praecedenti voluntate . . . certum est, in re ipsa non habere aliam malitiam neque aliud demeritum, quam fuerit in praecedenti voluntate, ab qua denominatur voluntarius. Exemplum est in actu facto tempore ebrietatis, qui est voluntarius tantum praecedenti voluntate, quia tota malitia et demeritum consistit in voluntate." Suarez, *De Voluntario*, tr. 2, disp. 4, sect. 3, n. 2.

³ "Violatio legis ignoratae nullatenus imputatur, si ignorantia fuerit inculpabilis; secus imputabilitas minuitur plus minusve pro ignorantiae ipsius culpabilitate." *C. J. C.*, can. 2202.

illegal action is imputable to the doer.¹ Theologians, however, soon saw that this principle needed limitation, for it followed from their explanation of the influence of ignorance that no action could be imputed to a man unless he had foreseen it in some degree. They saw, also, that for imputability there must be a real causal connection between the deliberate action and its secondary effects, and not merely an accidental connection or mere temporal sequence. Thus, from his principles on ignorance, S. Thomas had deduced that the unforeseen effects of an action were not imputable to the doer unless this want of foresight was itself deliberate. In that case he would be acting in culpable vincible ignorance, and as expressed by later writers, the effects of his action would be voluntary and so imputable—not in themselves but in their cause. Hence, the true criterion for judging whether the secondary effect of an action is imputable, is its prevision as the natural or probable effect of that action, and the legality or illegality of the action which is directly willed does not affect the morality of its secondary, indirectly willed effects.²

The same conclusion was reached by the investigation of the causal connection between the deliberate act and its various effects, made by the School of Salamanca and later theologians. They

¹ "Cum committitur illicitum, imputandum est agenti quicquid occasione illius provenit." Michiels, *op. cit.* p. 93.

² "Res licita vel illicita impertinens est ad culpam, cum non adest negligentia." M. Cano, *ad. II, II*, p. 64, n. 8.

insisted that in addition to the element of negligence (i.e. the want of foresight in foreseeing the possible effects) there must be real direct causality between the deliberate act and its effects before these could be imputed to the agent. In other words, for imputability the deliberate action must be the direct natural cause (*causa per se*) and not merely the accidental cause (*causa per accidens*) or occasion of the secondary effects.¹

§ 3. The Principle of Double Effect

The distinction that has been noted above (p. 23) between direct and accidental causality is of the utmost importance in Moral Theology, for it is an essential part of the well-known "Principle of Double Effect" which is so frequently used as the test of an agent's moral responsibility for a particular action which has more than one effect. Thus according to Fr. Vermeersch "Every harm to another which follows as a consequence upon a voluntary human act is either entirely unjustifiable, or can be justified only on the principle

¹ Suarez, *De Voluntario et Involuntario*, disp. 1, sect. 4, n. 8. Salmanticensis, *Cursus Theologiae Moralis*, t. 6, tr. 26, c. 7.

"Ut autem dictae causae physicae pollutionis sint causae morales . . . necesse est, quod, dum tales causae applicantur, id fiat cum cognitione virtutis earum, ut sic sit formaliter causa volita in quantum causa; cum nihil sit volitum, quin praecognitum, ut vere dicatur causa volita et consequenter pollutio effectus ejus, opus omnino est, quod prius cognoscatur virtus causae, in quantum hic et nunc est inductiva pollutionis et ex hac cognitione ponatur praedicta causa." *loc. cit.* n. 39.

of double effect.”¹ It may, therefore, be useful to add here a short note on indirect causality, especially in view of the fact that a recent discussion has done a great deal to give precision to this notion, thus providing another illustration of the gradual development of the complete notion of moral responsibility which has been traced in this chapter.²

The Principle of Double Effect is usually enunciated in some such form as the following: “It is lawful to perform an action which produces two effects, one good, the other bad—provided (1) the action viewed in itself is good or at least indifferent; (2) the agent does not intend the evil effect but only the good; (3) the good effect is produced at least as immediately as—i.e. not by means of—the bad; (4) there is a sufficiently weighty reason for permitting the evil effect.”³ These conditions, which must be verified simultaneously, are in the main sufficiently clear: it is only the third condition which needs further clarification and explanation. The requirement that “the good effect must be produced at least equally immediately as the bad effect” is to preclude the possibility of the good being effected *by means of* the

¹ *Theologia Moralis*, Ed. 1924, n. 590.

² A convenient summary of this prolonged discussion, which was conducted in thirteen different European Reviews, will be found in the periodical *Ephemerides Theologiae Lovanienses* in the form of articles by A. Janssen: *L'hystérectomie pendant la grossesse*—1934, pp. 525 sqq. *La controverse sur l'hystérectomie*—1935, pp. 335 sqq.

³ Lehmkuhl, *Theologia Moralis*, I, n. 12.

bad, for an evil means cannot be made good by being used for a good purpose—" *finis non justificat media.*"

In practice, however, it is not always immediately obvious that the good effect is not being procured by means of the bad, because frequently the bad effect is produced *before* the good effect. The general, for example, who in order to prevent the enemy crossing a bridge, destroys it even though innocent civilians may be on it: the surgeon who removes a cancerous, pregnant uterus; are they not obtaining their desired good results by means of an evil, the destruction of innocent life? ¹

This difficulty can only be answered, first by insisting that when it is said that the "good and bad effects must be at least equally immediate" the reference is not to the temporal and chronological order, but strictly to the order of causality. The good effect must not be produced by the bad effect acting as an efficient cause. Now the real criterion of the causality of an action is the intrinsic nature of the action in itself—the *finis operis*, and

¹ For example: in the recent controversy about the morality of the operation of Hysterectomy, i.e. the removal of a diseased uterus, Dr. Gemelli, O.F.M., contended that it was not lawful because before he removes the uterus, the surgeon must ligature the arteries and veins which join the uterus to the rest of the maternal organism. As soon as these ligatures are made the fetus dies because the materno-fetal bloodstream is interrupted. Therefore these ligatures are a direct lethal attack on the fetus, and the cure of the mother is only obtained by means of this lethal attack which is used as a means to an end. cf. *Nouvelle Revue Théologique*, 1933, p. 523: *Eph. Theol. Lov.*, 1934, p. 536.

the chronological order in which different effects may appear does not alter that intrinsic nature of the action. Therefore, if the good effect is due to the natural direct causative power of the action—i.e. if it is the *finis operis* of the action, then there is room for the application of the Principle of Double Effect if the other conditions are fulfilled. Secondly, a distinction must be made between direct causality (*causalitas per se*) and indirect causality (*causalitas per accidens*), for as has been stated above if an effect is in the philosophical sense an “accidental” effect it is not voluntary and so not imputable to the agent.¹

The basis of this distinction is found in S. Thomas, where in the question about self-defence he says: “There is nothing to prevent one act from having two effects, of which one is in the intention of the agent, the other is outside his intention. Now moral actions receive their character according to what is intended, not from what is outside the intention, since that is *per accidens* as has been stated.”² Some authors, it is true, deny that in this place S. Thomas is discussing the Principle of Double Effect,³ but it would indeed be strange if

¹ Some authors say that it is voluntary in its cause but not imputable, but it seems better to say that it is simply not voluntary, because it is in no way according to the inclination of the agent's will. It is, in fact, *actively permitted*.

² S.T. IIa, IIae, q. 64, art. 7. cf. Cajetan's explicit explanation in *Commentaria in loco*.

³ e.g. Lessius, Soto, Bishop Waffelaert in *N.R.T.*, Vol. 9, pp. 83 sqq. cf. Van Hove, “Circa Quaestionem de Defensione Occisiva,” *Eph. Theol. Lov.*, 1929, vol. 6, p. 655.

that were true seeing that this is the only place in the Summa where S. Thomas uses the formal expression "double effect," and that the phrase "praeter intentionem" is the classical formula to express accidental causality! ¹ The traditional view, however, is clearly expressed by Suarez: "An effect can follow in two ways from a voluntary action. Firstly, it may result *per se* from the precise force of my action considered in itself. Secondly, it may result not *per se* and from the force of that action, but from other circumstances: yet in such a way that it may infallibly follow, and may be foreseen to follow." ²

Hence the traditional notion of indirect (accidental) causality would provide the following criterion for the causal influence of any action:

The **Direct** effect (*effectus per se*) is that which is willed by the agent, and produced by the intrinsic nature of the action prescindingly entirely from any accidental circumstances.

The **Indirect** effect (*effectus per accidens*) is that produced neither by the will of the agent nor by the intrinsic nature of the action itself.

In other words, the nature of the action is to

¹ cf. Vermeersch, "de Mendacio," *Gregorianum*, 1920, p. 465.

² "Duobus enim modis accidere potest, ut posita actione in se voluntaria aliquid sequatur. Primo quod sequatur per se ex vi meae actionis precise sumptae. Secundo quod non sequatur per se, neque ex vi illius tantum, sed ex aliis adjunctis: ita tamen, ut hic et nunc infallibiliter sequatur, et sequendum praevideatur." Suarez, *De Voluntario*, disp. 1, sect. 4, n. 8.

produce a certain effect: it does that, but on account of some accidental circumstance which is present there ensues also another secondary result, which, since it is neither willed by the agent nor produced by the intrinsic specific nature of the action, is said to be actively permitted, caused indirectly or caused accidentally.¹ Therefore the Principle of Double Effect might be formulated in this way: If an action, not in itself evil, has two or more effects and one of these is a bad effect which is not willed in itself, this bad effect is not imputable to the agent if there is also a good direct (*per se*) effect of sufficient importance to outweigh the evil effect, and if the agent has no special obligation to refrain from acting as he does, precisely in order to avoid the bad effect. Or in less technical language: The Principle of Double Effect is that an action, good in itself, is not vitiated by reason of a *secondary indirect* effect due to circumstances which the human will is powerless to remove: provided that in performing the action the agent does not intend the evil effect and that he has a sufficient reason for permitting it.²

§ 4. Summary

In the above short historical account I have not attempted to give a complete or even adequate

¹ cf. Vermeersch, "De Causalitate per se et per accidens, seu directa et indirecta," *Periodica*, Vol. 21, April, 1932, pp. 101 sqq. "Avortement direct ou indirect," *N.R.T.*, Vol. 60, 1933, pp. 600 sqq.

² cf. Vermeersch, *N.R.T.*, September-October, 1933, p. 694.

précis of the many discussions involved in the process of elaborating the doctrine of moral responsibility. But sufficient has been said to indicate the main lines of progress in the formation of what has been for centuries the common moral doctrine which is now expressed succinctly and authoritatively in the Code of Canon Law. The main points of this doctrine may be summarized in the following principles :

1. Man is responsible for all his true human acts—acts done with full knowledge and freedom.

2. Therefore, any factor, not deliberately introduced by the agent, which destroys or lessens this intellectual advertence and volitional freedom, destroys or lessens his responsibility.

3. Factors, culpably introduced, which influence intellect or will may cause secondary effects which are not directly willed in themselves. But these effects are voluntary in their cause, and responsibility for them is to be judged from the degree of culpability in putting the cause into action.

4. Thus, an evil effect which is voluntary in its cause is imputable to the agent only if it is foreseen, if though foreseen it could have been prevented, and if it ought to have been prevented.

Finally, this doctrine is summarized for the external forum in Canon 2199 which lays down the general principle that the imputability of a crime depends on the agent's deliberate intention of violating the law (*dolus*) or on his guilt (*culpa*) arising from his ignorance of the law or want of due care. Hence any factor which increases, diminishes or destroys

either *dolus* or *culpa*, increases, diminishes or destroys imputability.¹

NOTE. It is interesting to compare this precise canonical definition with the involved and disputed doctrine of English Law as stated in the McNaghten Rules on Insanity.²

This doctrine is summarized by Stephen³ in the following propositions in which the doubtful parts are enclosed in brackets :

“ No act is a crime if the person who does it is at the time when it is done prevented (either by defective mental power or) by any disease affecting his mind—

(a) from knowing the nature and quality of his act ; or,

(b) from knowing that the act is wrong ;

(c) (or from controlling his own conduct, unless the absence of the power of control has been produced by his own default).

But an act may be a crime although the mind of a person who does it is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act.”

Again, in a lecture on “ Criminal Responsibility ” Mr. Everard Dickson, the Metropolitan Police Magistrate, said that the present position might be stated in the words of the Atkin Report :

“ A crime no doubt implies an act of conscious

¹ “ Imputabilitas delicti pendet ex dolo delinquentis vel ex ejusdem culpa in ignorantia legis violatae aut in omissione debitae diligentiae ; quare omnes causae quae augent, minuunt, tollunt dolum aut culpam, eo ipso augent, minuunt, tollunt delicti imputabilitatem.” *C. J. C.*, canon 2199.

² cf. Appendix, p. 36 *infra* and pp. 92 sqq. *infra*.

³ Stephen, *Digest of Criminal Law*, 6th ed., ch. 3, art. 28.

volition ; but if a person intends to do a criminal act, has the capacity to know what the act is, and to know he ought not to do it, he commits a crime.”¹

The difficulties involved in this definition are clearly shown in the words of Mr. Justice Asquith when directing the jury in a recent murder trial where the defence had asked for a verdict of “Guilty but Insane.” The Judge said : “What insanity would justify that verdict? Abnormality is not enough nor even is certifiable insanity necessarily enough. There have been cases where a man has been convicted and the conviction upheld by the Court of Criminal Appeal, although every one of the medical witnesses said he would be willing to certify him insane in the ordinary sense.”²

APPENDIX

RULES IN McNAGHTEN'S CASE (1843)

10 C.L. AND F. 200 AT P. 209

“(Q. I.) ‘What is the law respecting alleged crimes committed by persons afflicted with insane delusion in respect of one or more particular subjects or persons : as for instance, where, at the time of the commission of the alleged crime, the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or

¹ The *Times*, December 14th, 1935.

² Rex *v.* Phillips, *ibid.* March 8th, 1938.

revenging some supposed grievance or injury, or of producing some supposed public benefit?'

"(A. I.) 'Assuming that your lordships' inquiries are confined to those persons who labour under such partial delusions only, and are not in other respects insane, we are of opinion that notwithstanding the accused did the act complained of with a view, under the influence of insane delusion, of redressing or avenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable, according to the nature of the crime committed, if he knew at the time of committing such crime that he was acting contrary to law, by which expression we understand your lordships to mean the law of the land.'

"(Q. II.) 'What are the proper questions to be submitted to the jury where a person alleged to be afflicted with insane delusion respecting one or more particular subjects or persons, is charged with the commission of a crime (murder, for example), and insanity is set up as a defence?'

"(Q. III.) 'In what terms ought the question to be left to the jury as to the prisoner's state of mind, at the time when the act was committed?'

"(A. II *and* III.) 'As these two questions appear to us to be more conveniently answered together, we submit our opinion to be that the jury ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that to establish a defence on the ground of insanity it must be clearly proved that, at the time of committing the act, the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong. The mode of putting the latter part of the question to the jury on these occasions has generally

been, whether the accused at the time of doing the act knew the difference between right and wrong : which mode, though rarely, if ever, leading to any mistake with the jury, is not, as we conceive, so accurate when put generally and in the abstract, as when put with reference to the party's knowledge of right and wrong, in respect to the very act with which he is charged. If the question were to be put as to the knowledge of the accused solely and exclusively with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction : whereas, the law is administered upon the principle that every one must be taken conclusively to know it, without proof that he does know it. If the accused was conscious that the act was one that he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable ; and the usual course, therefore, has been to leave the question to the jury, whether the accused had a sufficient degree of reason to know that he was doing an act that was wrong ; and this course we think is correct, accompanied with such observations and explanations as the circumstances of each particular case may require.'

“(Q. IV.) ‘ If a person under an insane delusion as to existing facts commits an offence in consequence thereof, is he thereby excused ? ’

“(A. IV.) ‘ The answer must, of course, depend on the nature of the delusion ; but making the same assumption as we did before, namely, that he labours under such partial delusion only, and is not in other respects insane, we think he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. For example, if, under the influence of his delusion he supposes another man to be in the act of attempting to take away his life, and he kills that man, as he supposes, in self-defence, he

would be exempt from punishment. If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment.'

"(Q. V.) 'Can a medical man, conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial, and the examination of the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any, and what, delusion at the time?'

"(A. V.) 'We think the medical man, under the circumstances supposed, cannot, in strictness, be asked his opinion in the terms above stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide, and the questions are not questions upon a mere matter of science, in which case such evidence is admissible. But where the facts are admitted, or not disputed, and the question becomes substantially one of science only, it may be convenient to allow the question to be put in that general form, though the same cannot be insisted on as a matter of right.'"

CHAPTER III

HEREDITY AND MORAL RESPONSIBILITY

§ 1. Mental Defect and Delinquency

THE general principle established in the previous chapter that, "any factor, not deliberately introduced by the agent, which destroys or lessens intellectual advertence, destroys or lessens his responsibility" raises the question as to what these factors are. Mental Defect is certainly one, for it is an arrested development of mental power; heredity is another, in the sense that hereditary dispositions and tendencies can and do constitute an obstacle to the completely free human act. If, therefore, mental defect is hereditary it is a double factor influencing moral responsibility, and is considered as such in the two following chapters.

In the first place, there can be no doubt that mental defect is an important factor in the production of delinquency, though its exact causal importance is disputed. Dr. Goring, an undoubted English expert, who made an exhaustive examination of 3,000 convicts, concluded that, "The one vital mental constitutional factor in the etiology of crime is defective intelligence," and estimated the proportion of mentally defective criminals at from 10-20%.¹ Later estimates, however, are con-

¹ Goring, *The English Convict* (1913), pp. 179, 184.

siderably lower. In September, 1937, there were 398 convicts at Parkhurst, the prison to which mentally and physically unfit convicts are sent. Of this number there were 8 mental cases in the hospital, 19 in special cells, 18 under observation and 8 "border-line" mental cases. This gives a total of 53 mentally unfit cases—i.e. 13%. Dr. Burt, in his studies of juvenile delinquency in London, found only 8% who were mentally defective: Dr. Littlejohn gives the number of defective delinquents as possibly 5–10% of all mental defectives; and the current Report of the Notre Dame Child Guidance Clinic at Glasgow states that of the 233 children referred to them during the year + 13% were found to be mentally defective.¹ Yet, whatever be the exact proportion, the fact remains that mental defect is one of the causes of material sin and crime, for the defective has not the necessary insight to perceive for himself, or to hold effectively in mind, that what tempts him is dishonest, and that dishonesty is wrong—wrong in itself, and bad policy in the long run.² Robert, whom I have discussed in detail in a later chapter, (pp. 116 sqq. *infra*) gave me an excellent illustration of this in a friendly talk about his thieving: "Oh, yes I took the cigarettes: you see afterwards how

¹ Burt, *The Young Delinquent* (1927), p. 300.

Littlejohn, Public Health Congress 1930, *Report*, p. 120.

Notre Dame Child Guidance Clinic, *Annual Report*, 1936–7, p. 10.

Page. *Crime and the Community*, p. 186.

² Burt, *op. cit.* p. 301.

Cf "Nature" Vol. 145, June 5th 1940. Review of "Intelligence & Crime" by S.H. Tulchin
Camb. Univ. Press. 1939.

"Serious doubt is thrown upon the traditional view of Goddard, Healy & others that there is an abnormally high percentage of feeble-minded among the criminal population. Tulchin shows that the distribution of ability in his criminal subjects scarcely

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silly it is, but you don't think at the time." "Why don't you think at the time?" "Oh, I don't know. You get all anxious wanting to get them, and then afterwards when it is too late you see it was a foolish thing to do."¹

§ 2. Heredity and Delinquency

Secondly, heredity as a factor influencing moral responsibility, finds a place among the habitual obstacles to free action enumerated in the textbooks of moral theology. Some of these manuals merely mention the fact of the existence of hereditary influences,² others attempt some further description and definite evaluation.³ One thing common to both classes, however, is the definition

¹ Robert. Age 17.

Family history : an illegitimate child born in an institution, mother died, no known relatives.

Physical condition : normal development, no noticeable defect.

Intellectual attainments : At elementary school could just read and write, but unable to count. Age 10, mental age $6\frac{1}{2}$: aged 12, m.a. $7\frac{3}{4}$: aged 17, m.a. 11.

² e.g. Noldin, *Summa Theologiae Moralis*, I, n. 59.

Prummer, *Manuale Theologiae Moralis*, I, n. 91.

de Loiano, *Institutiones Theologiae Moralis*, I, n. 47.

Aertnys-Damen, *Theologia Moralis*, I, n. 28.

³ Antonelli, *Medicina Pastoralis*. 1909. Vol. II, chap. 7.

Capellmann-Bergmann, *La Médecine Pastorale* (19th edition, 1926), pp. 1-28.

Merkelbach, *Summa Theologiae Moralis*, I, n. 89.

Tanquery, *Synopsis Theologiae Moralis et Pastoralis*, II, n. 112 ; III, n. 273.

which is taken substantially from Antonelli,¹ and in many cases the assertion that, "it is certain that not only physical qualities can be transmitted by generation, but also moral qualities—good ones such as intelligence, and bad qualities such as a propensity to anger, drunkenness, theft, carnal vice etc."² [The statement that "intelligence can be transmitted by generation" must obviously be interpreted to mean that the physical conditions necessary for the expression of intelligence can be transmitted. "Intelligence" as such is a spiritual power intrinsically independent of matter.] And in proof of this assertion Tanquery, Merkelbach and Antonelli adduce the evidence of families who have a long criminal or vicious record: "Examples are produced in some countries of families in which certain virtues or vices have been transmitted through many generations."³ As authorities for this statement reference is made in the footnote to Ribot,⁴ Aubry,⁵ and in particular to Dugdale's

¹ Antonelli, *op. cit.* n. 697.

de Loiano, *op. cit.* n. 47. De Hereditate. "Hoc nomine intelligitur factum, quo filii in seipsis ostendunt characteres speciales, tum physiologicos et pathologicos, tum morales vel parentum, qui eos genuerunt (hereditas directa vocatur), vel eorum patruorum vel avunculorum et avorum (hereditas indirecta seu atavismus vocatur), et transmissio eorum characterum ad sequentes generationes."

² de Loiano, *loc. cit.*

³ Tanquery, *op. cit.* II, n. 112. "Revera, in plerisque regionibus, exempla allegantur familiarum, in quibus quaedam virtutes aut vitia per multas generationes transmissa fuerunt."

⁴ Ribot, *L'Hérédité psychologique*, 1890, pp. 86-102.

⁵ Aubry, *La Contagion du Meurtre*, 1894, pp. 17-51.

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work¹ on the Jukes family of New York where
“there is a description through five generations
of an American family whose members were
practically all criminals.”²

Thus the information obtainable from these manuals is limited to the statement that immoral traits can be transmitted by heredity as is proved by concrete examples investigated, be it noted, many years ago. Now this is a serious admission for a moralist to make, for he has to defend the traditional doctrine of individual responsibility and free-will against materialists and determinists of all schools. He has to meet the criminologists who assert that all vice and crime is a disease over which the sufferer has no control because he is a biological abnormality with organic and psychic degeneration (Lombroso) or pathological neurosis (Maudsley). He has also to meet the Eugenist and his pressing modern problems of sterilization and euthanasia—McKim, for example, who urges that “defectives and degenerates committing heinous crimes merit gentle removal from life.”³ Another modern writer, while admitting that the weight of humane opinion is with McKim, suggests that a start should be made with eugenic sterilization and segregation. He claims that the criminal is the inevitable resultant of a given heredity and environ-

¹ Dugdale, *The Jukes: A Study in Crime and Heredity*.

² Tanquery, *op. cit.* II, n. 112, footnote.

The same reference to the Jukes Family is made by Capellmann-Bergmann, *op. cit.* p. 8.

³ McKim, *Heredity and Human Progress*.

ment: all intelligence tests show him to be subnormal, physically there is the same tale of stunted subnormality and disease, and the hereditary tendency to crime is also well established—"the record of some six generations of the Jukes family is itself sufficiently convincing, but that evidence is now a mere drop in the general pool of evidence."¹

Now it is true that the moralist can easily meet these difficulties. He has, as has been shown above, a set of clear principles about the factors which affect moral responsibility; he can say quite simply that the will as such remains free, but that the power to use that freedom is partially or totally inhibited by some extrinsic factor. Also he has no difficulty in proving that even for a criminal of the most desperate type, sterilization as a preventive of procreation, is indefensible, and that euthanasia is under all circumstances to be condemned. All this is true, but the point here is that sometimes the moralist makes his task harder by accepting as facts what really are not facts, and so attempts to answer an objection which in reality is nonexistent. Thus the moral theologians who have accepted the data of the pedigree studies of delinquency and have admitted that mental and moral defect does run in families, have to safeguard individual liberty and responsibility by pointing out that even in those families not all the members are always doing wrong all the time—some members live well spasmodically, some live well alto-

¹ Cattell, *Psychology and Social Progress*, p. 165.

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gether—therefore the power of free-will is not
totally lost.¹

This, of course, is a satisfactory, and indeed the only answer, to the difficulty raised by the admission of the facts. But the more fundamental question is about these very facts alleged, namely, is the evidence so trustworthy and cogent as to form a satisfactory basis for the deduction and formulation of scientific moral principles? The remainder of this chapter will be devoted to a brief historical review of these family investigations and pedigrees: a review which will show a progressive scepticism as to their accuracy and scientific value.

§ 3. Family Pedigrees

The ancient treatises on demonology and phrenology bear witness to a constant interest in criminal physiognomy and the physical traits that apparently accompanied all forms of defect. The nineteenth century, however, brought a great scientific development when all the new knowledge of natural laws, theories of evolution, psychiatry and the science of statistics were utilized to establish a naturalistic theory of crime which reached its culminating expression in Lombroso. Previous to him, Morel in France with his theory of *moral degeneracy* which explains the criminal as a biological reversion to a primitive type,² and Maudsley in England with his theory of congenital *moral in-*

¹ Tanquery, *op. cit.* II, n. 114.

² Morel, *Traité des dégénérences physiques, intellectuelles et morales*, Paris, 1857.

sanity,¹ had prepared the way for the complete theory of *il reo nato*—the congenital offender who by heredity is devoid of all moral feeling and is identifiable as such by his pathological traits of both body and mind.² Now a theory of this kind lends itself to scientific methods of investigation and verification, and many inquirers have attempted to collect the data, physical characteristics and statistics of abnormal types and pedigrees which seemed to support the widely accepted conclusion that intellectual and moral defect was mainly hereditary in the Mendelian sense of the term. Thus, for example, there are the studies of Joerger "The Zero Family," 1908, "The Hill Folk" by Davenport and Davidson, 1912, "The Pineys" by E. S. Kite, 1913, and most widely quoted of all, the studies of what have been called the royal lines of degeneracy—the Jukes, Nam and Kallikak families.

The study of the Jukes began in America when a certain Dr. Harris noticed that in one locality a great number of crimes were committed by persons of the same name. On consulting the registers he found that most of these people were descended from a certain Margaret who had lived two centuries ago, and among whose descendants were 200 criminals and 200 insane. These facts, tentatively suggested in the *Atlantic Monthly* in 1875, suggested to Dugdale the need for a further investigation of

¹ Maudsley, *Responsibility in Mental Disease*, 1881.

² Lombroso, *Crime—its Causes and Remedies* (Modern Criminal Series, Vol. III).

which he published an account in 1877,¹ and a further and more detailed inquiry was made in 1915 by Estabrook.² The result of this investigation, now extended to nine generations, truly makes appalling reading, for of the nearly 3,000 descendants of the original Max Juke, 34% have been found to be paupers, prostitutes, vagabonds or thieves, and Estabrook concludes, "one-half of the Jukes were and are feeble-minded, mentally incapable of responding normally to the expectations of society . . . and *all* of the Juke criminals were feeble-minded."³ From these statistics it was a short step to the conclusion that general degeneracy was the result of an hereditary taint of mental and moral defect passed down the generations by inbreeding within an isolated environment. Thus Lombroso himself claimed that "the most striking proof of the hereditary nature of crime and its relation to prostitution and mental disease is furnished us by the fine study which Dugdale has made of the Jukes Family."⁴

Confirmation of these conclusions was claimed from the investigation of the Nams⁵ and Dr. Goddard's researches into the Kallikak family.⁶ This latter study is the more important because of the more scientific nature of the inquiry and the undoubted authority of its author and so will be

¹ Dugdale, *The Jukes: A Study in Crime and Heredity*, 1877.

² Estabrook, *The Jukes in 1915*, Carnegie Institute 240.

³ Estabrook, *op. cit.* p. 85.

⁴ Lombroso, *op. cit.* p. 161.

⁵ Estabrook and Davenport, *The Nam Family*, 1912.

⁶ Goddard, *The Kallikak Family*, 1912.

retailed in some detail.¹ The name "Kallikak" is, of course, fictitious and is coined from the Greek to express the salient feature of this family which is a good line and a bad line springing from the union of a normal man with first a defective and then a normal woman. It is, in short "The Good-Bad Family." This is its history.

In the training school at Vineland, New Jersey, where Dr. Goddard was an official, there was a feeble-minded inmate Deborah whose descent was traceable back six generations to a certain Martin—a man of good family and more than average mentality. This man enlisted in the Colonial forces during the Revolution and became the father of a son borne to him by a feeble-minded girl whom he had met in an inn. This son, Martin Junior, was himself mentally defective, and in turn became the ancestor of 480 descendants of whom only 46 could be considered absolutely normal: while 143 were proved, according to Goddard, to be mental defectives. Moreover, included in these descendants were 36 illegitimates, 33 sexually immoral, 24 alcoholics, 8 keepers of disorderly houses, etc. This is the bad branch of the family. But, parallel with this line there is a good branch founded also by the original Martin Senior who, after his youthful lapse, settled down and contracted a legitimate and honourable marriage. From this union with a normal woman came a family tree of 496 lineal

¹ A concise account and reasoned criticism of this inquiry is given by Davies, *Social Control of the Mentally Deficient*, 1930.

descendants who, with only three exceptions, were normal good citizens.

The important question now is what conclusion about the inheritance of mental defect can be drawn from these facts, for the Kallikak study is primarily an investigation into the inheritance of mental defect and not crime.

In the year previous to the publication of the "Kallikak" Dr. Goddard had published charts of the family histories of many mental defectives showing the presence of this defect in succeeding generations. He, himself, was not prepared to draw any definite conclusions, but others were ready to frame laws of inheritance according to the Mendelian formulæ. Thus, Dr. Davenport claimed "There are laws of inheritance of general mental ability that can be sharply expressed. Low mentality is due to the *absence* of some factor, and if this factor that determines normal development is lacking in both parents, it will be lacking in all of their offspring. *Two mentally defective parents will produce only mentally defective offspring.* This is the first law of inheritance of mental ability. . . . The second law . . . is that probably no imbecile is born except of parents who, if not mentally defective themselves, both carry mental defect in their germ plasm."¹

¹ Davenport, C. B., *Heredity in Relation to Eugenics*, pp. 66-7. It should be noticed that in the year following Dr. Davenport found in his study of the "Hill Folk" that the data he obtained did not square with his previously enunciated laws of inheritance. cf. Davidson and Davenport, *The Hill Folk*, 1912.

As a result of the Kallikak researches Dr. Goddard felt justified in inferring that "Feeble-mindedness is hereditary and transmitted as surely as any other character,"¹ but in the preface he was cautious in claiming anything about the method of transmission, and expressly said that the application of the Mendelian laws to human heredity was merely an assumption. Later, however, he modified this cautious attitude, and after further researches into 300 cases he asserted that, "It is clear from the data already presented that feeble-mindedness is hereditary in a large percentage of the cases, and that it is transmitted in accordance with the Mendelian formula."² This conclusion was widely accepted by most authorities for some years, and as has been noted, it is the conclusion accepted by even modern text-books of moral theology when they produce family records as proof of the inheritance of mental and even moral defect.³

§ 4. Criticism of the Evidence

It was not long, however, before it became clear that the facts alleged and the consequent inference drawn from them were open to the gravest suspicion. The criticism of them has been directed mainly to two points—first the trustworthiness of the evidence itself, and secondly the theory of heredity which it is supposed to prove. This second

¹ Goddard, *op. cit.* p. 117.

² Goddard, *Feeble-mindedness: Its causes and consequences*, p. 560.

³ cf. p. 42 *supra*.

point will be dealt with in the following chapter when an attempt will be made to summarize the modern findings on this subject. The present task is to examine the evidence and indicate the criticisms which enable Dr. F. E. Williams, the Medical Director of the American National Committee for Mental Hygiene, to assert that, "no expert in the field of mental deficiency would today base his remarks on the Kallikak family. . . . One may possibly still mention the Kallikaks, but it would not be with bated breath."¹ Fortunately, there is no need to examine the evidence in detail, for there is an authoritative statement of the recent Departmental Committee on Sterilization whose report contains this most damning indictment of the evidence that could be imagined: "The earliest and still the most widely known attempt to demonstrate the inheritance of mental defect was the investigation of the famous Kallikak family conducted in the United States by Dr. H. H. Goddard. Judged by modern standards the technique was unscientific and the instructions to the field workers so tendentious that it is not surprising that they succeeded in finding what they were told to seek. The criticism made by Dr. Myerson and others of this and similar inquiries has never been answered, and we do not think it necessary to spend time on any analysis of the dismal chronicles of the Kallikaks, the Jukes and the Nams."²

¹ Foreword to Davies, *op. cit.* pp. xi-xii.

² *Report of the Departmental Committee on Sterilization*, (Brock Report), p. 13.

The truth is that reliability of all statistics collected by this kind of investigation depends fundamentally on the accurate and certain diagnosis of mental defect in any given individual examined. Unfortunately, even today, the standard degree of abnormality taken to constitute mental defect varies in different countries, with different investigators and even according to the type of testing used. If these difficulties are recognized today with all the modern apparatus and experience, how little accuracy may be expected when it is a question of delving into the past and trying to ascertain the intelligence quotient of a man who lived and died many years ago? Thus the question may be asked—how could the girl with whom the original Martin Kallikak had the illicit affair be reliably diagnosed as feeble-minded a century after her death? How could the hundreds of descendants be diagnosed? The value of the investigation and the conclusion depends upon this diagnosis, yet the only evidence available was the impressions and memories of ordinary people. Dr. Goddard claimed that some record or memory was generally obtainable which was sufficient to enable the investigator to determine with a high degree of accuracy whether the individual was normal or otherwise, and that, “after some experience, the field worker becomes expert in inferring the condition of those persons who are not seen from the similarity of the language used in describing them to that used in describing persons whom she has seen.”¹

¹ Goddard, *op. cit.* p. 15.

But, as critics have pointed out, it is impossible to avoid the conclusion that if this hearsay evidence showed the individual as in *any way* peculiar or shiftless the label of feeble-minded was given him. Finally, as Dr. Davies also pertinently remarks, the history given of this family fitted well into the current theories of heredity—too well to be true. The almost perfect contrast between the two lines of descendants is letter perfect : but, “in human affairs, judging from what is now known of hereditary mechanisms, family histories do not follow such invariably true courses, almost all black on the one side, and almost all white on the other.”¹

§ 5. Conclusion

As a result of these criticisms and in view of later research it can, therefore, be safely said that the early investigations into the “royal lines of degeneracy” have been discredited. There are still, it is true, some defenders of these early investigations : thus, at the 1932 Conference on Mental Welfare, Professor R. Ruggles Gates defended the Kallikak inquiries as part of the evidence of his own main conclusion that there can be no doubt of the inheritance of feeble-mindedness.² But this defence was immediately questioned at the same Conference by competent experts such as Drs. Penrose, Shrubbsall and Herd, and the comments,

¹ Davies, *op. cit.* pp. 153-4.

² Report of a Conference on Mental Welfare, London, 1932. *The Inheritance of Mental Deficiency*, pp. 106-42.

quoted above, of the Brock Report two years later make it clear that the findings of these early investigations cannot be accepted as a valid basis for the formation of principles on this difficult and complex subject. Thus, the final conclusion of this chapter must be that the references in the textbooks of moral theology to these family records should be omitted, and that some of the general principles about the facts of the inheritance of mental and moral defect should be amended.

CHAPTER IV

HEREDITY—THE MODERN FINDINGS

§ 1. Pedigree Research

THE criticism of the family records given in the previous chapter does not mean that the method and the idea underlying the investigation was unsound. The workers were not sufficiently skilled, they accepted facts on too flimsy evidence, they were too anxious to find support for preconceived theories ; all this is true, but it merely means that the facts and the figures produced are unreliable. The method was correct—indeed there is no other method available, and all experts are agreed that there is need of intensive, thorough and cautious investigation of pedigrees and family records.¹

¹ Yet at the Conference on Mental Welfare in 1932 some of the experts showed themselves very cautious about the ultimate value of pedigree research. Thus Dr. Penrose, who was at the time engaged in the important Colchester inquiry, said : “ I think that pedigree studies are very useful indeed for pointing the way when one is looking for a possible or probable explanation of things. But I do not think that the pedigree study by itself will ever give us any definite information on the cause of mental deficiency.” (*Report*, p. 130.) Again, Dr. Shruballs insisted that such studies to be of value must include an assessment of *all* the members of a family for three generations (*ibid.* p. 131), and others pointed out the extraordinary difficulty, even impossibility of obtaining such detailed reliable information (p. 134, p. 137). Since this Conference, however, great scientific progress has been made by the foundation in London (1936) of the Bureau of Human Heredity for the collection and collation of data.

These investigations have been made in various countries, and at the present time there is a vast amount of research being made into the problem of mental defect. An attempt will be made in this chapter to give a summary of the modern findings about the hereditary nature of mental defect, and the problem of the so-called inheritance of moral defect will be considered in a separate chapter dealing with the technical term of moral imbecility.

§ 2. Causation of Mental Defect

The most important question to be discussed is the causation of this mental defect : is it hereditary, and if so, what is the mode by which it is inherited ? In the first place, there is abundant evidence to show that the vast majority of mentally defective children are not the offspring of similarly defective parents. Dr. Tredgold says that 4 or 5% at the most can be so classified, and Dr. Turner states, " I found that going back two generations in the direct line, only 2½% in each generation was due to the fact that a parent or a grandparent was mentally defective."¹ The Brock Committee similarly reported, " We find a remarkable consensus of opinion among those who have had long experience of institutional work and of defectives

¹ Turner, *Conference on Mental Welfare*, 1930. *Report*, p. 20. Tredgold, *ibid.* p. 11. But in the 1937 edition of his book (*op. cit.* p. 29), he says : " I think it may be said that in England somewhere between 5 and 15 per cent., probably taking aments as a whole round about 10 per cent. of the total number, are the offspring of a defective parent or parents."

in general that the proportion of defectives with certifiably defective parents is small.”¹ But this finding does not disprove the theory of heredity or exclude it as an explanation of the causation of mental defect, for it is claimed that in many cases the ancestors are abnormal in some way, and in any case all are agreed that many normal persons may be “carriers” of this defect.² Indeed there can be no doubt that heredity is an important factor in the causation of mental defect, and the conclusion of the Brock Committee may be accepted as the unanimous expression of expert opinion that, “In many cases of mental defect there exists in the family some form of mental abnormality, i.e. insanity, psychoneurosis, epilepsy, defect or dullness. In the majority of such cases there is evidence of heredity.”³ There is, however, no unanimity in the conclusion reached about the percentage of cases which are to be considered as inherited mental defect, and this problem is really part of the larger and very disputed question of the causation of mental defect.

In general it may be said that this abnormality is caused by heredity or environment, or a combination of both factors. By heredity is meant the impairment of the germ plasm before the union of the germ cells: and by environment is meant all

¹ *Report of the Committee on Sterilization*, p. 14.

² i.e. individuals who have in a latent form a recessive genetic character. If such an individual mates with one who is also a carrier of the same character, then the latent character will appear in a proportion of their offspring.

³ *Report*, 1934, p. 20.

the social, psychological, chemical, toxic or bacterial factors which may influence the fertilized ovum both in ante-natal and post-natal life.¹ Thus amentia is sub-divided into *primary*, which is considered hereditary and *secondary* which is due to environment, and the dispute is about the relative proportions of these two classes.² Unfortunately no certain conclusion can be reached on this point as the investigators of families vary widely in their estimates, but it may safely be said that the general trend has been towards a progressive lowering of the figures given for the heredity factor, and Dr. Douglas Turner has said, "My personal opinion

¹ *Report*, 1934, p. 18. "We use the term (environment) in a wide sense to include any adverse conditions of the surroundings which have been noted during the life history of mentally defective individuals at any stage from the fertilization of the ovum up to the time at which the development of the mind is complete." Though this definition is framed in terms of general environment, there is good reason to believe that one of the strongest factors at work in post-natal environment is the personality of the mother, which is the infant's sole conscious environment for a very important period of development. cf. Allers, *Psychology of Character*, pp. 151-2.

² cf. Eldon Moore. *Heredity: mainly human*, 1934, p. 167.

The author, who was editor of the *Eugenics Review*, says, "The relative proportions of the two classes have been much disputed, Roman Catholics and others with political reasons for underrating the hereditary element putting the primary class as low, sometimes, as 5 or 10 per cent., and enthusiastic eugenists placing it at little less than 99.9."

I have not discovered these low figures in Catholic works, nor are there any traces of "political reasons" in the clear fundamental moral issues of Sterilization and other eugenic proposals.

is that the more research, the more knowledge we get, the less stress shall we lay on heredity, and the more on preventable causes.”¹ The value of this conclusion is enhanced by the undoubted scientific authority of the author who was one of the investigators of the Medical Research Council and the Darwin Trustees in the important Colchester researches.

It is, however, impossible to arrive at any conclusion of value by quoting the opinion of any author however eminent. When I began this inquiry I thought that the matter could easily be settled by consulting the findings of a few authorities, but very little research soon showed the impossibility of that, for it was apparent that expert authority could be quoted for figures which varied between 20 and 80%. In these circumstances it seemed that the only available method was to tabulate a representative selection of the investigations in different countries, to try to see where and why they differed, and then if possible to form a conclusion which would represent the best modern reliable research. I have, therefore, compiled three tables of Continental, American and British findings from all the sources I have been able to consult,² and from them attempted to draw

¹ *Conference on Mental Welfare*, 1930, p. 20.

² Wood Report, 1929. *Report of Mental Deficiency Committee*. Brock Report, 1934, p. 131, Appendix 9. “Memorandum regarding Foreign Investigations into Mental Deficiency.”

Tredgold, A. F., *Mental Deficiency*, 6th ed., 1937.

Penrose, L. S., *Mental Defect*.

Moore, E., *Heredity : mainly human*.

the conclusion which would be accepted by most English authorities.

§ 3. The Proportion of Hereditary Mental Defect

I. Continental Investigations into the proportion of hereditary Mental Defect

These investigators usually employ the terms endogenous and exogenous to express hereditary and environmental causes respectively. An endogenous cause is one which modifies the reproductive cells before conception takes place—i.e. what is called in England, primary amentia. An exogenous cause is one which modifies the development of brain or body or both either within or outside the uterus, i.e. secondary amentia. Thus, in various investigations cases of mental defect were considered as endogenous in the proportions shown on the next page (Fig. I).

These figures agree in the main in the conclusion that the proportion of hereditary defect is high ; but the chief difficulty in interpreting them comes from the fact that they are the results of investigations of very small classes, and from the difference of terminology and the standard taken of what constitutes mental defect. In many Continental

Devine, H., *Recent Advances in Psychiatry*.

Myerson, A., *The Inheritance of Mental Disease*.

Davies, S. P., *Social Control of the Mentally Deficient*.

Hauber, U. A., *Inheritance of Mental Defect*.

Bernstein, C., *Social Care of the Mentally Deficient*.

Shrubsall and Williams, *Mental Deficiency Practice*, 1923.

Blacker, C. P., *The Chances of Morbid Inheritance*.

FIG. I.—CONTINENTAL FINDINGS

| GERMANY (a) | | | | DENMARK (b) | | SWITZERLAND (c) |
|-------------|--------|-------|--------|-------------|------------|-----------------|
| Brugger | Pleger | Lokay | Reiter | Koch | Wildenskov | Larsen |
| 80% | 76% | 69% | 67% | 60% | 90% | 76% |
| | | | | | | 20% |
| | | | | | | — |
| | | | | | | 55% |

Sources.

(a) Figures taken from the Brock Report, *Appendix IX*, pp. 131-4. Koch cited in *Eugenic Sterilization*, p. 6, 2nd edition, London. The Eugenics Society.

(b) Wildenskov, H. O., "Investigations into the causes of Mental Deficiency," 1934. Cited in Tredgold, *op. cit.* 6th edition, p. 26.

Larsen, *Acta Psychiatrica et Neurologica*, Vol. VI, 1931. Tredgold, *loc. cit.*

Dr. Penrose (*op. cit.* p. 89) quotes Larsen's result with the criticism that hereditary disposition was only actually found in less than half the cases classified as endogenous, the remainder being included in this group on the negative grounds that there was no other apparent cause.

The lowest Danish percentage (20%) is cited by Turner. Report of the Conference on Mental Welfare, 1930, p. 20.

(c) Result of a census of Idiots in Berne. *Eugenic Sterilization*, p. 6.

inquiries the figures include some subnormal persons who would not be considered mental defectives in England, for the Continental term "oligophrenia" is wider than the English "mental defect," and includes merely retarded or dull people.¹ Dr. Tredgold stresses these differences when he is explaining the widely different figures given of the proportion of defectives who have one or both parents defective, but he seems to have unduly minimized them when he uses the Continental figures as confirmation of his own conclusion that approximately four-fifths of all mental defect is due to hereditary causes.²

II. American Investigations into the proportion of hereditary Mental Defect

Dr. Tredgold does not include in his table the results of American inquiries, though he gives English and Continental ones. Yet these investigations should be considered because they give clear and detailed evidence of findings which considerably modify Dr. Tredgold's own conclusion on this subject. Moreover, these American inquiries are the more valuable because the difference of terminology is less than in Continental inquiries, and also because with one exception these investigations were on a much bigger scale than those conducted in Europe. Thus, the largest scale German inquiry was an examination of 400 cases: whereas three of the American inquiries each dealt with

¹ Brock Report, pp. 8, 15.

² Tredgold, *op. cit.* (6th edition, 1937), pp. 27-9.

over 3,000 cases. The one exception is that of Moorrees who examined only 45 institutional cases, a fact which is significant in view of the high figure he gives as the result.

I have, therefore, selected the American authorities who conducted large-scale investigations and who state definite conclusions. These findings are tabulated on the page opposite (Fig. II).

In interpreting the results account must be taken of the difference of terminology as in the Continental inquiries. In America the term "feeble-minded" is wider than our "mental defective," and in their class of "Morons," i.e. higher-grade defectives, would be placed many who in England would not be certifiable. But taking these figures and using their terminology it would seem a safe conclusion that about half the cases of mental defect are hereditary. This estimate is accepted by Dr. Davies—himself an American expert—"From these data it would tentatively appear that *half or less* of the mental deficiencies found among the institutional group, and possibly an even smaller proportion of the mental deficiencies discovered in the community are of the familial or hereditary type."¹ Hauber, who quotes additional authorities, concludes that, "if the majority of opinions were to prevail, a percentage between 25 and 33 would probably be near the average."² If, however, allowance is made for the difference of terminology and classification, the American figures would be still further reduced and would agree approxi-

¹ Davies, *op. cit.* p. 163.

² Hauber, *op. cit.* p. 34.

FIG. II.—AMERICAN FINDINGS

| Moorrees (1) | Moore (2) | Fernald (3) | Potter (4) | Davies (5) | Wallin (6) | Dayton (7) | Hauber (8) |
|-----------------|--------------|----------------|---------------|---------------|---------------|----------------|-------------------|
| 73% | 54% | 50% | 50% | 50% | 46% | 19% and 39% | 25-33% average |

Sources.

- (1) Moorrees, V., "The immediate heredity of Primary Aments committed to a Public Institution." A study of the parents of 45 cases at New York City Children's Hospital. 1924.
- (2) Moore, T. V., A study of 178 cases in the psychiatric clinic, Providence Hospital, Washington (Bernstein, *op. cit.* p. 26).
- (3) Fernald, W., "Thirty Years' progress in the Care of the Feeble-minded," *Journal of Psycho-Asthenics*, 1924. After thirty years' experience during which he examined 5,000 cases, Fernald claimed that fully half of all cases of mental defect are of the non-hereditary type.
- (4) Potter, H., *Archives of Neurology and Psychiatry*, March, 1923.
- (5) Davies, S. P., *Social Control of the Mentally Deficient*, pp. 146-63.
- (6) Wallin, J. E., "Studies of Mental Defect and Handicaps." Tables cited in Bernstein, *op. cit.* pp. 27-9. After an analysis of 3,300 cases, Wallin concludes that, "If these three (i.e. feeble-mindedness, epilepsy and insanity) constitute the evidence par excellence of hereditary taint, the majority of my cases have been non-hereditary."
- (7) Dayton, N. A., "Investigation of the Travelling School Clinics of the W. E. Fernald and Wrentham State Schools. 1921-3." Dr. Dayton examined 3,553 cases and collected data about their parents only. Thus his results are not complete family histories, and he himself was unwilling to draw any definite conclusions about heredity, but his investigation is important because of wide extent and thoroughness. The Brock Report (p. 133) gives his data which work out to the figures given in the above table; i.e. 19% of the total number had parents who were either feeble-minded, insane or epileptic, and of the 1,000 cases at Wrentham 39% came from similar parents.
- (8) Hauber, U. A., *Inheritance of mental defect*, p. 34. "If the majority of opinions were to prevail a percentage between 25 and 33 would probably be near the average."

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mately with the results of some modern English investigations.

III. English Investigations into the proportion of hereditary Mental Defect

In the table on the opposite page I have recorded only the conclusions of those investigators who have given specific conclusions on the proportion of what they consider hereditary mental defect. There are, in addition, other inquiries into the familial records of defective children which show the proportion of those who have defective relatives, but the investigators do not necessarily commit themselves to the conclusion that this defect is caused specifically by an hereditary factor. Thus in the Report of the Social Survey of Merseyside it is stated that out of 1,625 mentally defective persons examined, 33% were found to have one or more relatives defective or retarded, but it is admitted that "one cannot always be sure how much is due to accident and how much to predisposition."¹ The National Society for the Prevention of Cruelty to Children also submitted to the Brock Committee a memorandum concerning the cases of mental defect which they had dealt with in the year 1931-2. In all, they investigated 38,984 complaints, and in 2,310 (5.9%) there was a degree of mental deficiency in one or other of the parents. Then, under the sub-heading of "Heredity" they state that in these 2,310 cases where mentally

¹ *Report of the Social Survey of Merseyside.* cf. Brock Report, pp. 99-101.

FIG. III.—ENGLISH FINDINGS

| Tredgold (1) | Grundy (2) | Shrubsall and Williams (3) | Turner (4) | Lapage (5) | Potts (6) | Newth (7) | Beach and Shuttleworth (8) | Penrose (9) |
|-----------------|---------------|----------------------------------|---------------|---------------|--------------|--------------|----------------------------------|----------------|
| 80% | 75% | 71% | 50% | 48% | 48% | 40.5% | 24% | 29% |

The sources of these findings are :

- (1) Tredgold, A. F., *Mental Deficiency*, 1929, pp. 18 sqq.
- (2) Grundy, F., *British Medical Journal*, June 30th, 1934, quoted in Tredgold, 1937 edition, p. 26.
- (3) Shrubsall and Williams, *Mental Deficiency Practice*, p. 20.
- (4) Turner, D. F., *The Medical Officer*, June 20th, 1931. Public Health Congress 1930. *Report*, p. 131. Conference on Mental Welfare, *Report*, p. 20. On these occasions Dr. Turner repeatedly stated his opinion that at least 50% of mental deficiency is due to secondary causes, i.e. non-hereditary. Since that time he has been engaged with Dr. Penrose on the important Colchester inquiry which, as will be seen, has resulted in a much higher estimate of the proportion of secondary amentia.
- (5) Lapage, C. P., *Feeble-mindedness in Children of School Age*.
- (6) Potts, W. A., *British Journal of Children's Diseases*, 1909. Quoted in *Eugenic Sterilization*, p. 6.
- (7) Newth, A. A. E., Memorandum submitted to the Brock Committee. Brock Report, Appendix V, pp. 95-8. It should be noted that Dr. Newth makes the assumption that, "Hereditiy is assumed where there is a definite history of one, or more than one, near relative who is defective." The validity of this assumption is open to the gravest criticism.

A pamphlet of the Eugenics Society written in 1930 quotes Dr. Newth as saying that, "Our impression is that quite eighty per cent. of our defectives are the victims of heredity." (*Eugenic Sterilization*, p. 6.) But in the memorandum quoted above he gives data which work out to the figure I have reproduced, namely, 40.5%. It is true that he classifies 40.7% of feeble-minded as due to heredity and 40% of idiots as hereditary, but he is not likely to have committed the simple error of adding the percentages together and so making 80% of his total. I can only conclude that his later investigations have caused him to lower his previous estimate.

(8) Beach and Shuttleworth, Allbutt's, *System of Medicine*, Vol. 8, p. 875.

(9) Penrose, L. S., *Mental Defect*, 1933, pp. 89-90. *The Influence of Heredity on Disease*, 1934.

deficient parents were concerned, there were 771 (33·4%) cases in which one or more of the children were also feeble-minded.¹

Finally, the London County Council reported of an investigation into the history of 4,366 families, one member of which was mentally defective, that 2,999 or 68·7% were classified as Primary Amentia and 1,367 or 31·3% as Secondary Amentia.² But any inference from these figures must be qualified in view of their definition of Primary Amentia—viz., “A residual heading after the exclusion of cases where defect may be due to epilepsy or to toxic, inflammatory or traumatic causes as arising after conception.” This residual heading is not necessarily co-extensive with heredity, indeed it may be nothing more than a label to attach to a number of different causal factors which are unidentifiable. For this reason some authorities are questioning the utility of the division of amentia into primary and secondary. The division is useful for administrative purposes, but for scientific diagnosis and the establishment of causation it is suggested that primary amentia may be nothing more than a convenient fiction covering ignorance.³

§ 4. Theories of Heredity

The results, therefore, of these English inquiries

¹ Memorandum of N.S.P.C.C. to Brock Committee. *Report*, p. 86.

² Memorandum of L.C.C., *ibid.* p. 93.

³ cf. Penrose, *op. cit.* pp. 87–8.

Lewis, E. O., in *Journal of Mental Science*, April, 1933, suggests a new division of subcultural and pathological.

would lead to the unsatisfactory conclusion that mental defect is due to hereditary causes in about 80% of the cases according to Tredgold and his followers,¹ or in a much lesser degree, roughly about 35%, according to the average of a number of modern experts. Which is the more acceptable? The answer really depends on the meaning given to the words "hereditary causes," and on the particular theory held as to their mode of operation. If by heredity is meant something derived from the parents which is present in the parent cells before conception, and in the offspring from the moment of conception,—a gene or a combination of many genes—then in the case of such an involved characteristic as mental defect the investigator will report a relatively small proportion of hereditary mental defect. If, on the other hand, there is adopted the theory of germ-mutation—the so-called law of blastophthoria—which postulates the weakening or poisoning of the germ-plasm by

¹ Dr. Tredgold's findings seem to be the most popular and most quoted. He is supported by Littlejohn, Myerson, Berry and Gordon, Shrubbsall and Williams, etc. The supporters of eugenic proposals use his figures to prove the urgency of the social problem of mental defect and to support their proposed remedy of sterilization. Dr. Tredgold, however, was always a determined opponent of sterilization as an efficacious remedy, but in his latest edition which has just appeared he has changed his opinion, and says that as a result of the evidence given to the Brock Committee, of which he was a member, "I have come to the conclusion that the voluntary sterilization of certain selected defectives, under proper safeguards, would be a useful measure and that it should be permitted by law." Tredgold, *op. cit.* (1937), p. 520.

toxic influences thus giving rise to a "neuropathic inheritance" transmissible to succeeding generations, then the investigator will find a high percentage of hereditary mental defect. He will find in the pedigrees of his cases every sort of mental, nervous, emotional, social abnormalities, insanity, drunkenness, mental defect of all forms ranging from idiocy to mere dullness or retardation and count them all as evidence of the neuropathic inheritance. Now this theory of the neuropathic inheritance was introduced and popularized by Tredgold, and it is in support of this theory that he and his followers claim that at least 80% of mental defect is inherited in this way. It is impossible here to discuss fully this theory about which there is a vast literature, but I shall try to give a short summary of its outlines and then indicate the main modern criticisms.¹

§ 5. Neuropathic Inheritance

Briefly, Dr. Tredgold's view is that mental defect is due to an impairment of developmental potentiality in the germ-cell (primary amentia) or in the cerebral development of the individual after conception (secondary amentia). Primary amentia is an heritable quality, secondary amentia is an acquired non-heritable character. According to this view,

¹ At the time of writing most of this thesis the latest edition available of Dr. Tredgold's work was the 1929 edition. The sixth edition has now appeared, but it does not appear to contain any substantial changes. Therefore, the references to the earlier edition have been retained in the text except for a few minor points which could be inserted at the end.

the germ-plasm is a kind of pathological material which has been infected and damaged by various poisons, e.g. tuberculosis, alcohol, syphilis, etc., and the effect of this impaired germ-plasm may be manifested in the offspring in numerous varieties of defect, physical or mental, or both. Thus, what is inherited is not a single gene or genes, but a "neuropathic constitution" which manifests itself in different kinds of abnormalities according as the different environmental factors affect this impaired germ-plasm. This general concept is expressed in the word *Blastophthoria*,—i.e. bud destruction or corruption — (*βλαστός φθόρος*). Support for this theory is claimed from the experimental investigations of Féré, Stockard and others on the effect of alcohol on eggs, guinea-pigs and rabbits,¹ and from what is called familial concentration observed in the pedigree study of human beings, i.e. the occurrence in several members of a family of a general type of abnormality which is manifested in various forms and degrees.

§ 6. Criticism

This brief sketch of a highly contentious subject is necessarily inadequate, but it will suffice for an appreciation of the following criticisms which have been made of this particular theory of the inheritance of mental defect.

Firstly : the general modern biological opinion tends to discount the importance of blastophthoria in human inheritance. Professor Crew, while ad-

¹ cf. Devine, H., *Recent Advances in Psychiatry*, ch. 2

mitting that mutation can be induced, states that, "nothing that has so far emerged from this work permits me to share Tredgold's views that systematic poisons can cause specific changes in the genetic constitution of the gametes."¹ Stockard's experiments of the effect of alcohol on guinea-pigs have been repeated with the result that his findings were not confirmed,² and Dr. Penrose concludes that though a few oddities may be due to this blastophthoria, the hypothesis is not valuable for describing the causes of mental deficiency.³ The Brock Committee did not attempt to decide between the diverse theories, but in its summary of the causation of mental defect it states with reference to this theory that : "There is no evidence that parental alcoholism is responsible for any appreciable amount of mental defect. Recent research on this matter casts doubt on some of the earlier conclusions based on animal experiments. Our evidence does not indicate any causal connection between tuberculosis and mental defect. Syphilis is responsible for some, though an undetermined amount of, mental defect."⁴

¹ Crew, F. A. E., Address to British Association, Section J, 1931.

² Durham and Woods, *Alcohol and Inheritance* (H.M. Stationery Office, 1932).

³ Penrose, *op. cit.* p. 55.

⁴ Brock Report, p. 21. The subject is discussed fully by Dr. Herd in the chapter, *Inheritance of Mental Deficiency*, which is chapter V of the book edited by C. P. Blacker, *The Chances of Morbid Inheritance*, 1934. After an examination of the evidence he concludes : "To sum up what has been said on

Secondly, the evidence of familial concentration was questioned by witnesses before the Brock Committee on the ground that the multitude of environmental causes at work may account completely or partially for the mental abnormalities of several members of the same family.

Finally, there is Dr. Penrose's criticism alluded to above. He considers that the classification, primary or secondary amentia, is misleading because it is too simple, too sweeping and too vague. His own researches have led him to the conclusion that in the majority of cases both hereditary and environmental causes may be working, and if this be true, "the attempt to classify mental defectives as primary or secondary, congenital or acquired, is foredoomed to failure."¹

As a result, therefore, of these criticisms it may safely be said that there is good reason for believing that Tredgold's figure of 80% heritable mental defect is too high, and justifiable only when it is based on the interesting but still unproved hypothesis of blastophthoria. Moreover, the proportion of 20% which he allots to secondary amentia does not truly represent the activity of the environmental causes which may be working, for these ante-natal influences and birth traumata might of their nature be expected to reduce materially the possible number of subjects for investigation. This is admitted by Dr. Tredgold: "No doubt, as the suggested toxic causation of mental defect, one is safe only in saying that the case is so far unproved" (p. 156).

¹ Penrose, *op. cit.* p. 94.

already remarked, the actual proportion of secondary cases which are produced is considerably higher than this, but a large number die in the early months or years of life.”¹

What figure, then, it may be asked, is it proposed to substitute in place of Dr. Tredgold's findings? The Brock Report, which may be taken as a fair representation of modern English opinion, refers especially to the Colchester inquiries conducted by Drs. Penrose and Turner. This was a careful and systematic physical and mental examination of cases in the Colchester Institution, and a full investigation of the family histories with a view to identifying the causation of mental defect. The examination of the first 513 cases resulted in the classification of 29% as primary aments, 9% as secondary aments and 62% as unclassifiable because it was considered that both hereditary and environment were causative factors.² In a discussion of these findings Dr. Penrose stresses the difficulty there is in making this classification, especially in the highest and lowest grades of mental defect, and his conclusion is that, “the net result, therefore, of this method of classification is merely to indicate wide limits for the possibility of eradicating defect by altering either environment or heredity. By subsuming the unclassifiables to the secondary or primary categories in turn, we obtain the limiting values that somewhere between 9 per cent. and 71 per cent. of the cases are preventable by altering environment and on

¹ Tredgold, *op. cit.* p. 33. ² Brock Report, p. 14.

this basis it is logical to say that 91 per cent. of cases are due in some measure to heredity and 71 per cent. are due in some measure to environment.”¹

The Brock Report emended the Colchester figures to the extent of allowing a bigger proportion to the environmental factor. They considered that the differences of material investigated might account for the variant figures which were proposed and concluded. “On the whole it seems probable that between 9 and 20 per cent. of all defectives owe their condition solely to some adverse factors of the environment. The mental defect in these cases is usually due to injury or disease, and there is no evidence that it is transmissible to a subsequent generation.”²

§ 7. Summary

From this material it is possible to represent the findings of those experts who give definite classifi-

¹ Penrose, *op. cit.* p. 91. Since the above was written Dr. Penrose has published the results of the completed Colchester Inquiry upon which he has been engaged for eight years—*A Clinical and Genetic Study of 1,280 Cases of Mental Defect*. He has found evidence for the hereditary causation, both dominant and recessive, in nine of the rarer classes of mental defect, and equally certain evidence for the environmental causation of other classes. But he considers it impossible to draw up tables showing the relative importance of these two factors and concludes: “The ætiology of mental defect is multiple and a facile classification of patients in the series into primary or secondary, endogenous or exogenous, cases would have only led to a fictitious simplification of the real problems inherent in the data.” (*loc. cit.* p. 70.)

² Brock Report, p. 19.

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 cations of the causes of mental defect in the following
 table :

FIG. IV.—SUMMARY OF CLASSIFICATIONS

| <i>Cause</i> | Tredgold (Eng.) | Wallin (U.S.A.) | Newth (Eng.) | Penrose (Eng.) | Brock Report (Eng.) |
|--------------|--------------------|--------------------|-----------------|-------------------|---------------------------|
| Heredity . . | 80% | 46% | 40.5% | 29% | 9%—20% |
| Environment | 10% | 37% | 7.7% | 9% | |
| Mixed . . . | 10% | 17% | 51.8% | 62% | |

For the interpretation of this summary reasons have been given to show that there is good ground for doubting the accuracy of the high percentage given by Dr. Tredgold. It has also been pointed out that owing to the different terminology used, the American figures must be lowered if they are to be compared with the English findings. Therefore, as a final conclusion, it would seem fair to say that modern representative opinion would agree that perhaps about 30% of mental defect is due to heredity, 15% due to environmental causes, and about 55% due to a combination of both heredity and environment in varying degrees. This conclusion is, of course, no more than a rough estimate with no strict scientific value, but it does, I think, represent the general trend of modern opinion. All that can be said with certainty is that in some cases heredity is the sole cause of mental defect (though even in these cases it is, of course, only an indirect cause), in other cases environment is the sole cause, and that in the majority of cases

both heredity and environment are joint causes in the sense that an unfavourable environment strengthens and develops a latent generalized predisposition to some form of mental or physical weakness which has been transmitted.

It is abundantly clear that at the present time the data for establishing the relative importance of these causes does not exist. It may, indeed, be questioned whether such data will ever be available since in man the characters to be investigated are so manifold, the external agencies affecting them so numerous and the method of research so limited.¹ The conclusions which have been established about heredity have been reached as the result of experiments in the vegetable and animal world. These experiments may be considered as useful pointers in the study of the inherited characters of man, as for example, in the study of such external characters as colour blindness, brachydactyly and hæmophilia which have been proved to follow the Mendelian ratios in man. But the investigation of such complicated characters as mental disorders, which involve a multitude of factors of body and mind and are so much influenced by an environment over which the investigator has no control, is quite a different matter. The investi-

¹ "It has to be assumed, indeed, that in most, if not in all, cases of hereditary mental defect, both genetic and environmental factors have been operating, and therefore it cannot be expected that the results of matings will yield such simple numerical ratios as are obtained in the Mendelian analysis of clear-cut structural characters, the expression of which is not affected by external agencies." Crew, *art. cit.* p. 10.

gator cannot select the material he wants and experiment on it, checking and re-checking by repeated experiments each cautious conclusion. His evidence must be obtained from pedigree studies which, as we have seen, need very careful handling if they are to yield any reliable data ;¹ and even when they are compiled with the greatest care and accuracy the reliability of the inferences to be made from them is questioned by a growing number of experts.² Thus a number of witnesses at the Inquiry of the Committee on Sterilization urged that familial concentration alone is not proof that mental disease or defect has been transmitted by inheritance because, "From the stage at which the ovum is fertilized to that at which the individual has reached maturity a multitude of environmental factors operating during the prenatal, natal, and neo-natal periods, or later during infancy and childhood, may impair development and growth ; and one or more of these factors may account completely or partially for the mental abnormality of several members of the same family."³

¹ "The fact that two eminent biologists who favoured different theories of heredity, the Galtonian and the Mendelian, were able, using exactly the same set of pedigrees in race-horses, to deduce evidence in favour of their almost diametrically opposed views, serves as a warning to us of the doubtful usefulness of such sources of evidence." Waddington, G., *Principles of Biology*, p. 288.

² cf. the discussion of a Paper on *The Value of Family Histories in the study of the inheritance of Mental Defect*, at the Conference on Mental Welfare 1932. *Report*, pp. 118-42.

³ Brock Report, p. 11.

§ 8. Conclusion

Reasons have been given in this chapter to show that a rough estimate of the proportion of hereditary mental defect would be about 30% and the difficulties in the way of forming any exact findings have been indicated. The investigation and the discussion which have been necessary to formulate even this meagre conclusion do at least show that the subject is very involved and so uncertain that it may be doubted whether, in the present state of knowledge, there is space or need for a treatment of it in a text-book of moral theology. If it is to be discussed at all, it cannot be dismissed in a few general statements; the latest and the best research must be utilized and conclusions framed with true scientific caution.

If this attitude is not maintained there is a danger of making simple general statements which may be misleading because of their excessive simplicity. Thus, the author of a recent and very useful manual of Pastoral Theology, in a chapter on heredity, advises priests to persuade persons tainted with grave hereditary defects to renounce marriage voluntarily, if there are no moral considerations to the contrary. The advice in general principle is obviously sound, but when the classes of people who should thus renounce marriage are indicated it is clear that the author is going beyond anything warranted by the available evidence. "Such persons are, for instance: epileptics, sufferers from serious neurasthenia, insane persons,

those afflicted with hæmophilia (bleeding disease), consumptives, etc.”¹

The first thing to be noticed about this catalogue is that it supposes an equally potent inheritability of various categories of disease which in reality differ widely. Hæmophilia undoubtedly is transmitted by heredity and according to strict Mendelian ratios. Tuberculosis, equally certainly, is *not* transmitted by heredity at all in the strict sense of specific transmission. At the most, what is inherited is a more or less general predisposition to the disease which may or may not develop into the actual disease according to the environment; for it is now universally admitted that tuberculosis is an infectious disease—the embryo may become infected from the maternal placenta, but in that case the disease in the offspring would be congenital but not hereditary. This point is authoritatively stated in the latest edition of a standard medical text-book: “Inheritance of tissue-susceptibility to infection by tuberculosis is a definite fact. But inheritance of tuberculosis is problematical, if by this is meant the transmission of tubercle bacilli in the spermatozoön or in the ovum. In the few cases of ‘congenital tuberculosis’ that have been authentically described, the transmission has probably been from a diseased placenta to the blood of the fœtus.”² Similarly, of epilepsy it is said: “In the past undue stress has been laid upon this

¹ Ruland, *Pastoral Medicine*, 1934, Vol. I, p. 21.

² F. W. Price, *A Text-Book of the Practice of Medicine*, 5th ed. 1937, p. 105.

factor (heredity) in the causation of epilepsy. Direct transmission from parent to child is exceptional, and in a recent review of the subject, Cobb has said that on so-called eugenic grounds as high a proportion as 90 per cent. of epileptics cannot be reasonably advised against marriage.”¹

Finally, the inheritance of mental abnormalities is, as we have seen, very involved and uncertain, and rules for both physical and psychic inheritance cannot be included in the one general statement.

It is instructive to compare this quotation from a book on pastoral theology with the cautious attitude of a recent scientific book which is a symposium by experts in their respective subjects.² The aim of the book is to help the doctor to make a “eugenic prognosis” when he is consulted about the advisability of marriage or the procreation of children. All the writers agree that it is a difficult question which can only be decided, in most cases, on general probabilities, and they insist that each case must be examined on its own merits. A few quotations of the conclusions reached by them on particular subjects will illustrate the need of expanding the general statement made by the pastoral theologian :

Epilepsy

“In the case of an epileptic individual the risks of transmitting epilepsy to the offspring appear to be

¹ *Ibid.* p. 1,654. This article is by the late Dr. Collier—revised by Dr. F. M. R. Walshe.

² C. P. Blacker, *The Chances of Morbid Inheritance*, 1934.

approximately one in ten, that is, if there are ten children one is likely to be epileptic." (W. Russell Brain, *Inheritance of Epilepsy*, *op. cit.* p. 83.)

Tuberculosis

"If asked for an opinion in a case where the family history showed an exceptionally high mortality from the disease, both in the direct line and the collaterals, and if exceptional opportunities of acquiring contagion could be excluded in the families dealt with, there are cases in which I might advise against having children; but in general I should confine myself to giving advice which was directed mainly to the risks of contagion, and the means of avoiding them." (E. R. Boland, *Heredity and Tuberculosis*, *op. cit.* pp. 369-70.)

Mental Disorders

It is impossible to give any one representative quotation because, "Each mental disorder presents its special problem in this matter . . . Few disorders permit so simple and straightforward a decision as do Huntington's chorea, or myoclonus epilepsy. . . . When one comes to the incomparably more common schizophrenic, manic-depressive, paranoid, hysterical, obsessive and other disorders, general rules will not serve. It is necessary not merely to inquire into the precise form of the disorder, i.e. to make an expert diagnosis, but also to consider the tendencies and qualities of the relatives and of the proposed partner." (Aubrey Lewis, *Inheritance of Mental Disorders*, *op. cit.* p. 126.)

Secondly, the author is assuming, or at least leading his readers to assume, that the inheritance of all these diverse characters is on the Mendelian lines for, still speaking of these classes of people who should renounce marriage, he says: "The laws of heredity produce their effects with natural

necessity. If a couple with one partner so diseased were to bring forth twelve children, there might perhaps be only three healthy ones among them, three might show the dominant predisposition to the disease, and six be tainted with that same disease in the recessive form.”¹

These proportions will, of course, be verified in the case of the external physical defects which have been proved to follow the Mendelian laws, but they can have no meaning when applied to tuberculosis and no probability even when applied to mental powers. This latter conclusion is endorsed by the Sterilization Committee: “It is impossible in the present state of our knowledge about the causation of mental defect to forecast with certainty whether a child of any given union will exhibit mental abnormalities.”² Dr. Penrose, indeed, has cited the extraordinary case of two mentally normal children resulting from the union of an insane man with his mentally defective sister.³

Examples such as this do but strengthen the conviction that great care and caution is needed when it is a question of stating the principles of human heredity, especially in the case of the very involved and complex characters of mental abnormalities. Therefore, the needs of the student of moral theology would perhaps be sufficiently catered for by the following statements on the general subject of

¹ Ruland, *loc. cit.*

² Brock Report, p. 21.

³ Penrose, L. S., *British Medical Journal*, January 6th, 1934, p. 10.

heredity, and of hereditary mental defect in particular :

1. Heredity is the organic relationship between successive generations by which some character present in the parent cells before conception is transmitted to the offspring at the moment of conception.

2. The hereditary transmission of characters in this strict sense must be distinguished from the acquisition of characters which are commonly called congenital. The words heredity and innate or congenital are frequently used as synonyms ; but nothing is really innate except what is present in the germinal cells and it is this only which can be transmitted to succeeding generations. Any other character not present in the parental cells is said to be acquired—it may be congenital, i.e. present at birth, but it is not strictly innate and so not transmissible by heredity. Thus, for example, tuberculosis may be congenital in the limited sense that it is present in the individual at birth, but it is not hereditary and transmissible *as such* to succeeding generations. The importance of this distinction lies in the fact that congenital defects may be altered or eliminated by an alteration of the environmental factors.

3. It is certain that in man some physical characters are transmitted by strict heredity and in accordance with the Mendelian ratios. But in the present state of knowledge very little can be stated with certainty about the hereditary transmission of mental abnormalities and defects.

4. Regarding the inheritance of MENTAL DISORDERS the conclusions to be drawn from the available data may be thus summarily stated¹ :

(a) Two rare types of mental disorder, Huntington's chorea and myoclonus epilepsy, are transmitted in the Mendelian ratios. In other types the part played by heredity varies widely.

(b) Psychopathic parents tend to have psychopathic children, but what appears to be transmitted in many cases is not a specific character but a generalized predisposition.

(c) While the evidence is to the effect that inheritance is the commonest single cause of mental disorder in general, environmental factors also play a part, and in many cases a very important part, in causation. Probably in the majority of cases environmental factors play a contributory rôle in that they precipitate a disorder of mind in an individual who has an inherited or acquired predisposition.

5. As regards MENTAL DEFECT the following conclusions may be drawn² :

(a) A few rare types of mental defect such as amaurotic idiocy, etc., are transmitted according to the Mendelian ratios, but there is no reliable evidence that mental defect in general is transmitted according to the Mendelian principles.

(b) Heredity is undoubtedly a factor in the causation of many cases of mental defect but the

¹ cf. Brock Report, pp. 22-8.

² Brock Report, pp. 10-21.

mode of transmission is unknown, and it is impossible to determine exactly the proportion of mental defect which is due solely to hereditary causes. Reasons have been given in this chapter for the conclusion that about 30% would be a fair estimate of the proportion of mental defect due solely to heredity.

Finally, one practical note may be added here on the apologetic value of the data and the conclusions collected in this chapter. Nowadays the Moral Theologian has to combat the insistent and growing demand for the sterilization of those who are vaguely called the "Unfit," and in fact excellent refutations of these proposals have been given by, for example, Fr. Bonnar and Fr. Davis.¹ The findings of this brief investigation may, however, provide them with another weapon, for they supply a refutation of these eugenic proposals compiled from the conclusions of scientific experts who cannot be accused of any theological or religious bias. It is, in fact, sufficient to read the proposed eugenic legislation in the light of the conclusions collected in this chapter, to see that it is based on unproved data. Thus, when the speaker in a recent Parliamentary debate² on the sterilization of the unfit, stated without any qualification that, "Mental Deficiency is highly hereditary," he was making a wide generalization which, as has been shown

¹ A. Bonnar, O.F.M., *The Catholic Doctor*, pp. 107 sqq.

H. Davis, S.J., *State Sterilization of the Unfit; Eugenics, Aims and Methods, etc.*

² The *Times*, April 14th, 1937.

in this chapter, has no real scientific support. When he added that, "One of the obstacles to this desirable reform was the position of the Roman Catholic Church," he was unconsciously paying a tribute to the scientific accuracy of the Church's moral attitude!

Similarly, the text of the proposed English "Voluntary Sterilization Bill" provides for the sterilization of four classes of people: (a) mental defectives; (b) those who have suffered from mental disorder in the past; (c) those who suffer from grave physical disability which is likely to be inherited; (d) those who are deemed likely to transmit a mental defect or grave physical disability to subsequent generations.¹

It is sufficient to quote two opinions in comment on this proposal. The first concerns the "voluntary" nature of the proposed operation in the case of mental defectives. It is a commonplace that mental defectives are extremely suggestible, and Dr. Turner makes the apt comment: "I venture to say I should not be fitted to hold my present office of medical superintendent of an institute for the care of mentally defectives if I could not induce practically every one of my patients to be

¹ *Eugenics Review*, July, 1935. The *Times*, April 14th, 1937. The German legislation (1933) enacts, "Anyone who is hereditarily ailing may be sterilized if in the experience of medical science it is with great probability to be expected that his progeny will suffer from severe bodily or mental hereditary disorders." Thus where the German law demands "great probability" the proposed English law is satisfied if the person is "deemed likely" to transmit the defect.

operated on or to refuse an operation just as I myself might wish.”¹

The second comment is in reality an attack on the false assumptions which underlie this suggested eugenic measure. It is proposed to sterilize those who are “deemed likely” to transmit mental defect; but even the short examination of the subject in this chapter has shown that the problem of the inheritance of mental defect has not yet been sufficiently investigated to allow the formation of clear scientific conclusions. The position is well summarized by Professor J. B. S. Haldane in his latest work: “I think that the following proposition would be accepted by most biologists: ‘It is never possible, from a knowledge of a person’s parents, to predict with certainty that he or she will be either a more adequate or a less adequate member of society than the majority.’ In a very few cases, it is true, we can predict with certainty that a given unborn child, if legitimate, will have a certain physical defect. Thus two albinos probably always produce albino children. But our knowledge of the heredity of psychological characters, desirable or otherwise, is insufficient to make predictions of this kind. We can, of course, make statistical predictions. But we do not, in my opinion, know enough to accord rights to any individual, or to deprive him or her of any rights, on the basis of ancestry only.”²

¹ Dr. Turner is Medical Superintendent of the famous Royal Eastern Counties Institution. His opinion is given in a letter quoted by Dr. Penrose in his work *Mental Defect*, p. 170.

² Haldane, J. B. S., *Heredity and Politics*, pp. 86-7.

CHAPTER V

MORAL IMBECILITY

§ 1. History of the Notion

IN the previous chapters the possibility of the inheritance of mental defect has been discussed, and the conclusion reached that heredity is one of the factors in the causation of this abnormality. Another and more interesting question remains—is moral defect heritable? It may come as a shock to read in a scientific medical work the statement that, “the moral imbecile is born without moral sense; and lack of ethical feeling and lack of consideration for others make him a very dangerous member of the community,”¹ and then to find the same term moral imbecility or moral insanity used by Catholic authorities.² The matter is more complicated for English readers from the fact that the terms moral defect, imbecility or insanity, have a technical English legal meaning and a history of their own. Before, therefore, any attempt is made to discuss the philosophical or theological implications of these notions it is necessary to establish their exact meaning, and this can only be done by an examination of the process which brought them into existence.

¹ Smith, S., *Forensic Medicine*, 3rd. ed., 1931, pp. 380-81.

² G. Bless, *Psychiatrie Pastorale*, p. 81; Aertnys-Damen, *op. cit.* Vol. I, n. 295; Wouters, *op. cit.* n. 55; Mercier, *Manual of Scholastic Philosophy*, p. 293.

The first stage of this process is connected with the new criminological theories of the nineteenth century which began by explaining crime as some form of biological abnormality due either to organic and psychic degeneration or to a pathological neurosis. It is generally considered that the foundations of these views were laid by Pinel who began the modern science of psychiatry,¹ and by his studies paved the way for the two theories of degeneration (i.e. criminal anthropology and moral insanity). The various forms of anthropological theories were developed and popularized by such men as, Morel in France, Lombroso, Ferri, Garofalo in Italy and their followers who agree in the fundamental assumption that crime is the result of a specific inborn biological predisposition.² There is no need to discuss and refute this conception here.³ Some text-books of moral theology

¹ Pinel, *A Medical and Philosophical Treatise on Mental Alienation*, 1801.

² Morel, *Physical, Intellectual and Moral Degeneration of the Human Species*, Paris, 1857. A complete account of the different theories of these and many other authors is given by De Quirós, *Modern Theories of Criminality*, pp. 1-122 (Trans. de Salvio. Heinemann, London, 1911).

³ The extravagances of many of these pseudo-scientific biological and anthropological theories were sufficient to secure their speedy rejection. I give one instance culled from De Quirós (*op. cit.* p. 34). He quotes Kropotkin's statement that, "By the statistics of previous years one could foretell with astonishing exactness the number of crimes to be committed during the following year in every country of Europe. Through a very simple mathematical operation we can find the formula that enables us to foretell the number of crimes merely by consulting the thermometer and hygrometer.

do, indeed, reproduce the arguments which refute the materialistic and determinist philosophy upon which it is based, but nowadays it seems sufficient to state the fact that no reputable authority can be found to support it: "Under whatever form it may be presented, the theory of a specific inborn tendency as the origin of criminal conduct is plainly unsound in its fundamental assumptions. . . . As far as it can be tested by positive evidence it not only fails to give a plausible explanation of the facts of criminality, but is found to be clearly inconsistent with them in points of importance."¹

The other theory introduced in the nineteenth century—the theory of moral insanity—will be treated in detail in a later discussion on mental disorder: but it is necessary to refer to it briefly here because of its connection with the notion of moral imbecility and the whole subject of moral defect. While on the Continent, as we have seen, the various theories of degeneration were being formulated and finding many adherents, in England great interest was being shown in the more specifically psychological elements in crime. In particular

Take the average temperature of the month and multiply it by 7: then add the average humidity, multiply again by 2 and you will obtain the number of homicides that are to be committed during the month." $H = t \times 7 + h \times 2!!$ One is irresistibly reminded of the pyramidal calculations of British Israel and Mgr. Knox's satire.

¹ Sullivan, W. C., *Crime and Insanity*, pp. 10-11. Dr. Sullivan's opinion is backed by his many years' experience as Medical Superintendent of Broadmoor Criminal Lunatic Asylum.

the question of insanity was receiving a special attention due, I think, in large measure to disputes about the English legal notion of criminal responsibility. Then in the year 1843 the public interest was focussed on this subject by the trial for murder and acquittal of McNaghten on the grounds of insanity. As a result of the public clamour against this verdict the House of Lords submitted to the Judges a series of questions on the general principles of the criminal responsibility of the insane, and the answers to these questions known as "The Rules in McNaghten's Case" form the present common law doctrine on this subject.¹ For the purposes of this chapter it is sufficient to refer to that part of the Rules which deals with the amount of knowledge required to make an act legally imputable, and this point has been authoritatively defined by the present Lord Chief Justice as follows :

"The law on the matter was, fortunately, quite clear and precise. The burden of establishing the defence of insanity remained where it always had been—on the defence. To establish that defence three essential matters had to be clearly proved : first, that at the material time

¹ In a recent murder appeal the Lord Chief Justice expounded the law of insanity practically verbatim from the McNaghten Rules. Court of Criminal Appeal, *Rex v. North*. *Times Law Report*, December 14th, 1936.

Also in *Sodeman v. The King* (1936) the Privy Council has reaffirmed the binding force of the McNaghten Rules which, they state, are still "an exhaustive statement of the law with regard to insanity." (*Sodeman v. The King*. 2 *All. E.R.* 1138.) cf. *Law Quarterly Review*, January, 1937, p. 6.

the accused person was suffering from a disease of the mind ; secondly, that because of that disease of the mind he was suffering from a defect of reason ; thirdly, that that defect of reason exhibited itself in one of two ways—either that he did not know the nature and quality of his act (that was to say, did not know what he was doing), or, alternatively, that he did not know that what he was doing was wrong. Not until those three conditions had been fulfilled and until proof had been clearly made was a jury entitled to find a verdict of *Guilty but insane*.”¹

The substance, therefore, of this doctrine is that for a successful defence on the ground of insanity it must be proved that when he was performing the action the accused either did not know what he was doing, or, if he did know this, that he did not know he was doing wrong. Now, whatever interpretation is given to the words “know” and “wrong” the main fact remains that the legal test of responsibility is thus stated to be an intellectual one, and it is precisely on this point that subsequent controversy has been engaged and the theory of moral insanity evolved. When the witnesses for the British Medical Association stated to the Atkin Committee in 1923 that “Unsoundness of mind is no longer regarded as in essence a disorder of the intellectual or cognitive faculties,”² they were merely expressing in an authoritative form the medical opinion which had first been stated by Dr. Pritchard in 1835³ and expounded later with the greatest effect by

¹ *Rex. v. Edwards. Times, L.R., April 26th, 1937.*

² *Committee on Insanity and Crime, Cmd. 2005, 1924, p. 5.*

³ Pritchard, J. C., *Treatise on Insanity*, London, 1835.

Dr. Maudsley.¹ The traditional view of mental disorder was that it was a disorder of the intellect, confined strictly to the intellectual faculties of reason and judgement. The newer view proposed to distinguish between the intellectual and the moral faculties : and by moral faculties was meant the will and emotions considered as the well-springs of action.

Thus, as there is a disorder of reason (intellectual insanity), so there is a disorder of the moral faculties in which the reason might be quite normal and only moral behaviour affected, and it was for this disorder that Pritchard proposed the term moral insanity. Perhaps the clearest definition of this state is that given by Dr. Mercier : “ There is also moral disorder, which is disorder of mind, and may amount to actual insanity, but is unaccompanied by any delusion or by any discoverable disorder of intellect. In such cases, the intellect may be acute, and the reasoning powers equal to, or above, the average : but the person affected has an incurable kink in his mind, which renders him insensible to the obligations of morality.”²

¹ Maudsley, H., *Responsibility in Mental Disease*, London, 1872.

² Mercier, *Crime and Insanity*, p. 35.

The same idea is expressed by Dr. Maudsley (*op. cit.* pp. 33-4). “ There are various degrees of moral power between the highest energy of a well-fashioned will and the complete absence of moral sense. Nor are intellect and will so dependent mutually as necessarily to vary together . . . experience proves conclusively that there may be much intellect with little morality and much morality with little intellect.”

The fact that very intelligent people may be, and often

Historically, therefore, the first stage in the formation of the notion of moral defect is the distinction made between intellectual and moral insanity. But, as has been noted above¹ intellectual disorder was itself distinguished into amentia and dementia according as it was an *absence* of or a *derangement* of mental power.² Therefore, it was

are, great sinners is indeed obvious: but this is no proof that their intellect and moral perceptions are in two distinct watertight compartments. Intellect and will are to this extent interdependent that "ubicumque est intellectus, est liberum arbitrium" (S. Thomas, P. 1, q. 59, art. 3), but it has never been claimed that intellectual perception of morality will ensure action according to that knowledge: indeed the contrary supposition is the foundation of the whole Catholic doctrine of free-will and the whole trend of modern psychology supports this. It is almost universally accepted now that real moral action is not based on mere abstract knowledge, but on deeper "sentiments" which provide adequate motives for action by organizing groups of emotions around, and in association with, certain intellectual perceptions. Hence, in this view, the importance of education and the right training in self-discipline which has always been the aim of Catholic educational activity. cf. Pope Pius XI, Encyclical, *The Christian Education of Youth*, December, 31st, 1929.

¹ *vide* Amentia and Dementia, p. vi *supra*.

² A short account of the history of this process is given in the Wood Report—Report of the Mental Deficiency Committee, 1929, pp. 14 sqq.

It is interesting to note that the distinction between congenital and acquired mental disorder was made as early as the reign of Edward I when the "born fool" (*fatuus naturalis*) was distinguished from the person who had lost the use of his reason (*non compos mentis*). For legal purposes Coke divides those who are *non compos mentis* into: idiots who are born so, those who have lost the use of reason they once had, lunatics who have lucid intervals, and drunkards. Hale's classification (1 P.C., 29) is (1) idiocy—*dementia naturalis*. (2)

logical for the exponents of moral defect to subdivide it also into that which was due to an absence of moral sense, and that due to a perversion or derangement of a moral sense which had existed. To these forms the terms moral imbecility and moral insanity were applied respectively, and are thus defined by Dr. Mercier : "Moral insanity is a perversion of feeling and conduct, leading to vicious or criminal acts in those who have previously lived upright and reputable lives. . . . Moral imbecility is an original defect of character displayed from an early age, and consists in inability to be deterred by punishment, however severe, certain and prompt, from wrongful acts."¹

An abnormality, therefore, might be either intellectual or moral, and each could be either an undeveloped faculty or the impairment of a once developed faculty : thus—

I. Intellectual faculties :

- A. Deficient—mental defect.
- B. Disordered—insanity.

II. Moral faculties :

- A. Deficient—moral imbecility.
- B. Disordered—moral insanity.

lunacy—*dementia accidentalis*. (3) drunkenness—*dementia affectata*. cf. *Encyclopædia of the Laws of England*, Vol. 8, p. 46.

These distinctions seem to have been neglected in later legislation until they were reintroduced in the Idiots Act of 1886, "which suggests, though it does not specifically state, that idiocy and imbecility must exist from birth or from early age" (Wood Report, p. 15).

¹ Mercier, *Criminal Responsibility*, p. 201.

This schematic classification does not pretend to be the one actually proposed by any of the authorities who were discussing the subject in the period of about 1870 to 1913, rather is it an attempt to show clearly the two main tendencies underlying the investigations and the remedies proposed during this period which ended with the first Mental Deficiency Act in 1913. This period was prolific in educational legislation as may be seen from the following brief summary.

The latter half of the nineteenth century saw the beginning of special interest in the Education question and consequently attention was drawn to those who on account of their mental condition could not profit by the ordinary educative methods provided. I have marked the beginning of this period by the Education Act of 1870. There followed the Idiots Act of 1886, the Royal Commission on the Deaf and Dumb, 1889, and in 1897 the inquiry of a Departmental Committee into the existing systems for the education of feeble-minded and defective children. Then followed in 1899 the Elementary Education Act dealing with Defective and Epileptic children which made provision for special classes and schools. Finally, the appreciation of mental defect as an urgent social problem led to the appointment in 1904 of a Royal Commission to "consider the existing methods of dealing with idiots and epileptics and with imbecile, feeble-minded or defective persons not certified under the lunacy laws." The Report of this Commission issued in 1908 led to the enactment of new legisla-

tion—The Mental Deficiency Act, 1913, which for the first time defined the classes of idiots, imbeciles, feeble-minded and moral imbeciles.¹

§ 2. Two Assumptions

Now it has already been indicated that during this period of legislative activity there were two tendencies of ideas which were being worked into a logical scheme.

The first of these tendencies is towards the assumption that the rational and the moral faculties are separate and distinct entities : this is the foundation of the distinction between mental and moral disorder. The medical men such as Dr. Maudsley and Dr. Mercier who insisted vehemently on this distinction were, no doubt, moved to do so by their practical experience of cases which seemed to them to prove this fact, and by the growing psychological opinion which rightly insisted on the importance of instinct and emotion as factors in moral behaviour. But there is no doubt, also, that they were greatly influenced, perhaps even without realizing it, by the various philosophical theories current in England which explained conscience as a moral faculty, distinct from the intellect, which intuitively perceived notions of right and wrong. It is at least significant that England, the

¹ It is important to notice that there are thus two classes of legislation dealing with mental defectives : the Education Acts whose chief criterion of mental defect is ineducability, and the Mental Deficiency Acts which consider mental defect from the point of view of social adaptation. cf. Herd, *The Diagnosis of Mental Deficiency*, p. 4.

home of intuitionist theories of morality, should have provided the theory of moral defect, and it is clear from the statements of Dr. Mercier¹ that he considered moral conscience to be a special faculty distinct from the intellect, a true "moral sense" on the analogy of the physical senses as explained by Shaftesbury, Hutcheson and Hume.²

The second tendency is noticeable in the increasing stress laid upon the distinction between innate and acquired abnormality which, as has already been indicated, resulted in the division of mental disorder into amentia and dementia. Consequently there was a tendency to make the same distinction in moral disorder. The theory of "moral sense" had postulated that this was an innate faculty and Dr. Maudsley apparently adopted this in its crudest form—"as there are persons who cannot distinguish certain colours, and others who, having no ear for music, cannot distinguish one tune from another, so there are some who are congenitally deprived of the moral sense."³ Finally, Dr. Mercier, as we have seen, distinguished moral insanity which was a *perversion* of feeling, from moral imbecility which was an *original defect* of character; and so the complete scheme comprises the parallel classes of intellectual defect and dis-

¹ Mercier, "Moral Imbecility," *Practitioner*, 99, 1917, IV, pp. 301-8.

² cf. Bonar, J., *Moral Sense*, London, 1930.

cf. also Cronin, *The Science of Ethics*, 1909, chs. 14-15.

³ Maudsley, *op. cit.* p. 58.

order, and moral defect and disorder, wherein defect is innate and disorder an acquired quality.

§ 3. Legal Definition

This digression into the history of the notion of moral defect has been necessary for an understanding of the first definition of moral imbecility which is contained in the Mental Deficiency Act of 1913, for this Act is an authoritative expression of the current theories of the time and Dr. Mercier claims that it was he who succeeded in getting the legal definition of moral imbecility framed.¹

The Act defines four classes of mental defectives : idiots, imbeciles, feeble-minded persons and moral imbeciles. The first three categories are defined as persons who *from birth or from an early age* suffer from degrees of mental defect which prevent their competent management of themselves and their affairs. The fourth category is that of "Moral Imbeciles ; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect."

The points to be noticed about this definition are first the phrase "from birth or from an early age," and secondly the inclusion of mental defect

¹ Mercier, *Practitioner*, *loc. cit.* p. 301. "It was I who invented this term, and formulated the definition of it which was adopted successively by the Royal College of Physicians, the Royal Commission on the Feeble-minded, and by Parliament."

in the definition of apparent moral disorder. Dr. Burt says roundly that, "The phrase 'from birth or from an early age' is little more than a seven-worded periphrasis for the single adjective inborn."¹ The phrase is, in fact, a result and a proof of the second tendency alluded to above, and Dr. Mercier's own words are sufficient proof of this assertion,— "The mental defect must have existed from as early an age as it is possible to recognize it. It must in short be congenital."² The assumption, therefore, underlying the definition is that moral imbecility is an innate quality—a kind of inborn immorality resulting from an absence of a moral sense.

§ 4. Interpretation

When it is inquired what precisely is this quality which constitutes the moral imbecile, the answer appears to be given in the perplexing phrase of the definition—"Some permanent mental defect coupled with strong vicious or criminal propensities." But this does nothing to answer the question about the essence of moral imbecility. Is it intellectual deficiency plus some moral lapses, or is it

¹ Burt, *The Young Delinquent*, p. 30, footnote. Dr. Burt subjects the theory of moral imbecility to a very penetrating and severe criticism. It will be seen later that the Mental Deficiency Act of 1927 substantially modified the earlier notion of moral deficiency. But Dr. Burt's criticism of the earlier Act is valid for the later legislation which is still ambiguous and shows traces of the influence of the earlier notion of inborn moral defect.

² Mercier, *loc. cit.* p. 304.

moral deficiency alone? In other words, is the moral imbecile a mental defective who happens also to commit frequent moral offences, or is he a mental defective *because* he has no moral sense? The definition can mean either, as has been recognized by all authorities, and the ambiguity is thus clearly stated by Dr. Burt: "The words may mean, first of all, one who is primarily defective in intelligence, but happens, in addition, to possess an incorrigible propensity to crime, a propensity itself independent of, and superimposed upon, the essential defect of intelligence. But, secondly, the clause may bear, almost equally well, a totally different sense: it may denote a person whose incorrigible criminality is of itself enough to constitute, or is of itself the necessary result of, an inborn mental defect. With the former meaning, by a curious paradox of legal grammar, a moral imbecile would be an imbecile whose behaviour is not moral; with the latter, he would be an intelligent person whose morals are imbecile. The difference is plain. The one is an immoral defective; the other is defective morally."¹

When the dilemma is stated in this form it is clear that the correct interpretation is of the utmost interest to a moral theologian. If the moral imbecile is merely an "immoral defective" there is no difficulty in accepting this term (though objection might be taken to the misleading designation), for in that case he would be merely a mentally defective person who commits moral faults. He

¹ Burt, *op. cit.* p. 31.

would be responsible for these faults¹ precisely in so far as his defective constitution did not interfere completely with his understanding and consent. In all cases his responsibility would be lessened and due allowance would be made for all the factors which cloud his judgement and lessen his self-control, but no one who has had any experience of these cases could fail to observe that, at least in the higher grades of mental defect, there is sufficient intellectual capacity to discriminate between right and wrong and usually sufficient volitional control to constitute real, though attenuated, moral responsibility.²

If, on the other hand, the moral imbecile is a moral defective in the sense that he is totally lacking in the capacity for moral discrimination and choice because of his innate lack of moral sense, then he is completely irresponsible. This is the notion as stated in its crudest form, for example, by Dr. Maudsley: "Habitual criminals are with-

¹ Canon 2201, § 4. "Debilitas mentis delicti imputabilitatem minuit, sed non omnino tollit."

² Examples in support of this statement will be given at the end of this chapter. Here it is sufficient to cite the evidence of two competent observers:

"They (delinquents) tend to be narrow and formal in their conceptions of right and wrong: rarely, however, does an observer fail to find some evidences of moral feeling." (Field, "Psychological Aspects of Juvenile Delinquency," *The Year Book of Education*, 1936, p. 880.)

"The delinquent youth never appears to lose sight of the fact that what he is doing is wrong, while he knows what he is doing." (Christie, *British Journal of Medical Psychology*, 1932, p. 257.)

out moral sense—are true moral imbeciles ; their moral insensibility is such that in the presence of temptation they have no self-control against crime.” This is proved by the cases of young children, “who long before they have known what vice meant, have evinced an entire absence of moral feeling with the active display of all sorts of immoral tendencies—a genuine moral imbecility.”¹ If this is the true notion of the moral imbecile then he is completely irresponsible for his actions and could be judged neither in a human court nor in the sacramental tribunal of Penance.

Which of these two categories—the immoral defective or the moral defective—does the Act of 1913 mean by the term moral imbecile? There can, I think, be no doubt but that the sponsors of this clause intended to frame a definition of the moral defective—i.e. a person totally deficient in moral sense, who was so from birth and whose defect was only too readily assumed to be hereditary. That this was their intention is clear from Dr. Mercier's statements which have already been quoted. Moreover, the immoral defective was covered by the first three clauses and could be certified as an idiot, imbecile or feeble-minded. The fact that a fourth class, the moral imbecile, was introduced shows that they intended to legislate for others who were not defective in the ordinary sense of mental (i.e. intellectual) defect, but who were defective morally. That authorities understood them in this sense is shown by the attacks

¹ Maudsley, *op. cit.* pp. 31, 57.

made on this notion by Dr. Burt and others¹ and the acceptance of this class of defective in standard text-books.² Later we shall see the new notion of moral defective that has been substituted by the Act of 1927, but traces of this obsolete conception are still to be found in its crude form in books written even after this Act.³

If such was the intention of the framers of the legal definition how is it that the clause contains the apparently superfluous reference to mental defect? I think that it is to be explained by Dr. Mercier's preoccupation with the assumption of his philosophy, namely, that the intellectual and moral perceptions are totally distinct. It is known that the original definition proposed by the Royal College of Physicians was that moral imbeciles

¹ Burt, *op. cit.* ch. 2, and especially p. 31, footnote, where he explicitly states: "The latter, too, is the interpretation that the psychologist seems bound to adopt, even if he doubts whether persons answering to this interpretation really exist."

² e.g. the best-known work—Tredgold, *Mental Deficiency*, now in its 6th edition. In earlier editions immediately after the 1913 Act, Dr. Tredgold spoke of moral defectives fundamentally lacking in the moral sense: which condition is inborn and makes them irreformable. In later editions he has modified and finally abandoned this position, but his explanation of moral defect still labours, I think, under the disadvantages of remnants of his previous ideas.

³ I have already quoted (p. 89) the definition given in Smith's *Forensic Medicine* of the moral imbecile "born without moral sense." Apart from the unsound philosophy of this statement, it is completely incorrect on the question of fact. It is evidence of very careless revision that a new edition written four years after the 1927 Act should not have noticed the essential changes introduced by this Act.

were persons “who display from an early age, *and in spite of careful upbringing*, strong vicious or criminal propensities, etc.”¹ The words about careful upbringing were omitted, and at the instance of Dr. Mercier, as he himself claims, the phrase about mental defect was substituted. He seems to have thought—correctly, as experience has shown—that others would not make the clear distinction between mental and moral defect as he did, and that certifying authorities would hesitate to certify as mentally defective those whose mental defect was solely constituted by, and shown in, moral lapses. He, therefore, pressed for the inclusion of the phrase about mental defect as a concession to their unenlightened prejudices. This, too, seems to be the opinion of Dr. Tredgold even now, when he complains that, “As things are, however, most magistrates, and a good many medical men, appear to be so convinced that mental defect cannot exist without scholastic backwardness and an obvious want of common understanding that certification under this designation (i.e. moral defect) is practically impossible. It was the recognition of this fact by those responsible for framing the Act which caused them to draft a separate definition.”²

Later we shall see the confusion that has been caused by this phrase, and the changes that have been introduced into this notion, but sufficient has been said here to show that in the minds of the

¹ *Italics mine.*

² Tredgold, *Mental Deficiency*, 5th ed., p. 340.

framers of the 1913 Act the moral imbecile is one totally deficient congenitally or from a very early age in moral sense, a person, that is, whose mental powers are normal, but who has no faculty for forming and executing moral judgements. This type is thus described in a text-book written in 1921: "In every grade of moral imbecility . . . psychic forces are marked, and are peculiar and distinctive features, the perversion or complete absence of the moral sense being revealed according to the character of the grade in which it appears. Indeed this class is so crooked that it is just parallel to nothing, and those who belong to it are morally blind just as other children are physically blind. They are simply amoral, with no morals in the highest acceptation of the term."¹

§ 5. Criticism of the Theory

The moral imbecile, therefore, according to the theory in its crudest form, is one who while possessing a normal intellect suffers from an innate defect in his moral faculty. It is this notion of an inborn deficiency of moral sense which must now be tested and appraised, and at once two criteria suggest themselves: the one philosophical and psychological—is this theory based on sound philosophy?—the other experimental—does this class of person exist in fact?

Now the philosophy upon which this theory is based is, as we have seen, that of the "Moral

¹ Barr and Maloney, *Types of Mental Defectives*, 1921, p. 74.

Sense" school of English philosophers who postulated various forms of a special moral faculty, distinct from intellect, for the perception of moral truths and judgements. It would be tedious to outline the different forms of this special faculty, and equally superfluous to reproduce the obvious objections to which it is open.¹ It is sufficient to say that there is no modern supporter of this theory and no place for it in the modern psychology of conduct which rightly stresses the importance of instinct and emotion as a basis of behaviour.

Secondly, moral imbecility is a theory which must be tested by evidence. What, then, is the evidence for the existence of a person with a sound intellect combined with an innate defect in moral judgements and actions? It might be thought at first sight that there is evidence in abundance in the numerous illustrative cases which are a feature of all the text-books, but the merest casual acquaintance with the literature of the subject shows that these case records need the closest scrutiny before they can yield any relevant data. In the first place, it is agreed by all authorities that this is the most difficult and most contentious of the problems

¹ The subject is fully treated in all Catholic text-books in the treatise on Conscience: cf. Cronin, *The Science of Ethics*, Vol. I, pp. 448 sqq. From a different view-point the theory is also discussed and refuted in:

Bonar, *The Moral Sense*—the latest and most complete treatment of the subject.

Mackenzie, *Manual of Ethics*, ch. 3.

McDougall, *Social Psychology*, pp. 213 sqq.

Westermarck, *Ethical Relativity*.

of mental deficiency, and Dr. Norwood East, for example, admits that, "Some, like myself, consider that in moral imbecility there need be no intelligence defect, others assert that some defect of intelligence always exists, some go so far as to say that they have never seen a case of moral imbecility." ¹

This difference of opinion is, I believe, due to the varying interpretation given to the term "moral imbecile" as will be seen later from examples of cases adduced; and this difference of interpretation comes in turn from the difference between the strict definition of moral imbecility as I have explained it, and its legal definition. Thus, using the term as I have defined it, the foremost American authority on the subject who examined a great number of cases, concludes emphatically: "When we began our work there was no point on which we expected more data. We have been constantly on the lookout for a moral imbecile—that is, a person intact in mental powers, but devoid of moral feelings. Many cases have been brought to us as such. We have not found one." ²

On the other hand the legal definition of moral imbeciles as, "persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect" at least suggests, if it does not demand,

¹ W. Norwood East, "Delinquency and Mental Defect," *British Journal of Medical Psychology*, III, p. 164.

² Healy, Wm., *The Individual Delinquent*, 1915, p. 783.

the presence of intellectual defect.¹ Hence it is that nearly all the case records which I have seen are those of persons with obvious, often even gross, intellectual defect.²

Thus an examination of the thirty-eight cases of moral imbeciles described by Barr and Maloney³ yields the following data :

1. *Low grade defect.* All the eleven cases are those of gross intellectual defectives described in such phrases as, "could not read or write, could never learn to count more than ten," etc.

2. *Middle grade defect.* Of the thirteen cases produced, nine are intellectual defectives—e.g. Case I aged 20 has a mental age of 11 years. Three have the suspicious physical history of meningitis, paralysis, epilepsy, hysteria and fractured skull which, at the very least, suggest alternative explanations of their misbehaviour.

The solitary case which seems at first sight to exemplify the theory is Case K : "This girl was in a foundling asylum from birth. She is indolent,

¹ Even today under the amended Act, 1927, there is the same anomaly so that, "Even in cases where there is clear clinical evidence of antisocial behaviour dependent on some form of mental defectiveness—in the wider sense of incomplete mental development—certifying practitioners and committing authorities usually require evidence as to intellectual failure before they will take active steps." *Mental Welfare*, October, 1935, p. 77.

² "In almost every case-description, adduced by contemporary supporters of this doctrine to illustrate what they regard as moral imbecility, some measure of intellectual defect is avowedly present." Burt, *op. cit.* p. 43.

³ Barr and Maloney, *op. cit.* pp. 74-110.

passionate, heedless of danger, stealthy, destructive, high-tempered, dangerous with fire, very jealous and morally perverted. She was 15 years old when the photo was taken : and had an illegitimate child born the same year. She has a shifty look and an internal strabismus. She learned to read and write, and became an excellent housemaid." For a moment this sounds very convincing, yet in reality the scientific diagnostic evidence is limited to the facts of a person who learned to read and write and who apparently from the age of 15 has all the vices ! There is no evidence of the degree of intellectual ability or of conduct during childhood so that the case does not fulfil either the theoretical or legal definition of persons who from *an early age* display vicious or criminal propensities.¹ Moreover, on the evidence produced it would be possible to diagnose this as probably a case of adolescent crisis, not of moral imbecility.

3. *High Grade Defect.* The fourteen cases in this class exhibit, as might be expected, more intellectual development. Still, more than half of them are obviously intellectual defectives—e.g. "his reasoning powers (aged 15) are as limited as those of a small child (Case E) : at school could make little progress, could spell a little (Case B)" and

¹ The phrase "early age" was, as we have seen, practically a synonym of "innate." But, as a legal fact, it required legal proof, and though, as a matter of fact, no judicial decision was ever given on the point, it is suggested that the latest age at which the defect must have shown itself is 6 or 7 years (Burt, *op. cit.* p. 31), or 3 or 4 years (Herd, *op. cit.* p. 205).

Case N which is described at the greatest length as the perfect picture of the moral imbecile—clever, intelligent, cunning—yet has this significant phrase which seems to have slipped out by accident towards the end, “records show mentality of poor quality.” Again Case A who was normal till the age of 6, at 9 could read and write a little and at 16 suddenly became incorrigible is certainly not a moral imbecile either according to the theory or the legal definition. Similarly, the remaining four or five cases are capable of being explained as persistent misconduct due to faulty environment, brain disease, neuroses, or an adolescent crisis. The general conclusion, therefore, to be drawn from these cases is that they are pictures not of moral imbeciles in the strict sense, but immoral defectives: that is, persons of subnormal mentality who happen also to be moral offenders because of their subnormality.

This conclusion was stated by Dr. Sullivan, the Medical Superintendent of Broadmoor, in an article in the *Lancet*: “The moral imbecile is not simply an amoral person; he is an amoral person who presents also some degree of intellectual deficiency,” and in a later book he gives five examples of delinquents who would be classified as moral imbeciles. Of these cases, two are clearly intellectual defectives and of the remainder “some intellectual debility must be inferred from the general character of their conduct.”¹

¹ Sullivan, W. C., “Crime and Mental Deficiency,” *Lancet*, 1921, p. 787. *Crime and Insanity*, 1924, ch. 13, p. 121 sq.

Many other cases produced by various authorities could be cited in support of the same conclusion, but enough has been said to support the contention that the moral imbecile does not exist. Reference, however, must be made to the famous case cited by Dr. W. Norwood East, Senior Medical Officer of Brixton Prison.¹ It is quoted in full by Dr. Tredgold as an excellent example of a moral defective and will be mentioned again in a subsequent chapter on moral defect. Here I am treating it, as it was originally proposed by Dr. East, as an example of moral *imbecility*. The case is of a young intelligent woman who from the age of 15 has an appalling criminal record which includes the varieties of nearly every imaginable crime and who shows an almost complete lack of any decent feelings of honour, gratitude, affection or remorse. Three pages are needed to chronicle the details of this career, but what would be the most valuable evidence of her early years is sum-

It seems to me that the three of Dr. Sullivan's cases who were not intellectual defectives, were suffering from dementia and so are, *ex hypothesi*, entirely outside the category of moral imbeciles. All three at some time had been certified as insane and one is said to be a case of suspected paranoid dementia *præcox*.

¹ East, W. N., "A case of Moral Imbecility," *Lancet*, 1921, p. 1,052, quoted by Tredgold, *Mental Deficiency*, 5th ed., pp. 353-6. In earlier editions Dr. Tredgold cited a number of cases of moral imbeciles, but they are all mental defectives—cf. 2nd ed., 1914, pp. 328 sqq. In later editions, however, he has substituted five cases in which no intellectual defect is apparent, and described other cases rightly as defective delinquents.

marized in four brief lines : " She attended various schools and is described as possessing an intellectual capacity considerably above the average, a singer and pianist of more than ordinary merit, and with attractive conversational powers. She was dismissed from her last school for pilfering. When about fifteen years of age . . . etc."—then follows the criminal record.¹

The question at once springs to the mind : did this immoral career begin at the age of 15?—no evidence is produced to show that it did not, and without that evidence it is impossible to satisfy the definition of moral imbecility. The reading of this and many similar cases suggests most strongly the idea that the 1913 Act with its class of " moral imbeciles " provided a convenient pigeon-hole into which difficult cases which presented difficulties of diagnosis and effective administration could be shelved. The suggestion is not meant to deny that there are some extremely difficult cases of delinquents who urgently require care, supervision and control and yet defy exact legal classification ; but it does seem unfair to give them the misleading label of moral imbecility with its connotation of innate, incurable depravity.

§ 6. Illustrative Cases

I have had personal experience of only three cases who have been certified under this 1913 Act as moral imbeciles, and these cases also support the contention that moral imbecility in the strict

¹ Tredgold, *op. cit.* p. 354.

sense does not exist and that cases so certified were merely given this label in order to provide for them the care and supervision which could not otherwise be obtained. These cases, it is true, are very few in number, but they are probably fairly representative since even the most ardent supporters of this theory admitted that moral imbecility was a rare occurrence. Dr. East, for instance, diagnosed only five cases of moral imbecility in 200 consecutive cases of criminal defectives.¹ Now, of my three cases, two showed marked mental defect, and the third was diagnosed at different times as normal and subnormal and was finally certified as being "slightly defective and a moral imbecile." All three, however, were in urgent need of supervision and control on account of their persistent misbehaviour: that fact is beyond dispute, but the point to be established from the following details of their histories is whether they were moral imbeciles in the strict meaning of the term.

Case I. Tarzan, aged 12

This is the boy whom I have described in detail in the introductory chapter as typical of the many problems connected with this subject, and he will be considered again at a later stage of his develop-

¹ "Of 200 consecutive cases of male defectives seen in prison, 180 were diagnosed as feeble-minded, 15 as imbeciles, and 5 as moral imbeciles. . . . In my own experience it is a rare condition to meet with in prison, but I have no doubt that it exists." East, W. N., "Delinquency and Mental Defect," *British Journal of Medical Psychology*, III, p. 164.

ment when he was classified as a moral defective under the 1927 Act. Here it is sufficient to indicate a few facts illustrating his position as a moral imbecile under the 1913 Act. From an early age he was considered mentally defective, at school made no progress, and aged 12 had a mental age of $6\frac{1}{2}$, mental ratio 55. As regards conduct, there is no specific evidence of persistent misbehaviour from a very early age, but he was reported at school to be untruthful, immodest and quarrelsome, and finally an assault on a six-year-old girl led to his committal to a Special School as a "mental defective with vicious tendencies."

Now was Tarzan a moral imbecile? There was, indeed, sufficient evidence available that he conformed to the legal definition of "a person who from an early age displays some permanent mental defect coupled with strong vicious or criminal propensities," though it might possibly be questioned whether he had shown sufficient persistent *all-round* misbehaviour and from an early enough age to conform to the legal standard. But, however this may be, there can be no doubt that he was a mental defective and so not a moral imbecile in the strict or philosophical sense of the term as I have described it. He was, in fact, not a moral imbecile but an immoral defective, that is to say, a mental defective who because of his mental defect committed moral faults.

Case II. Robert

Robert was an illegitimate child born in a Poor

Law Institution. His mother died shortly afterwards and since he had no known relatives he was under the care of the Guardians till he was transferred at the age of 10 to the Local Authority under the Mental Deficiency Act. He attended an ordinary school for four years, but made little or no progress and at the age of 9 was certified under the Education Act and sent to a Special School. After a year there it was considered that he could not be educated without detriment to the others, and so he was certified as a moral imbecile and transferred first to another school for two years and then to an Institution where he remained for eight years. Unfortunately the early records are very incomplete: his intellectual capacity is summarized as, "an ability to read and write, but not able to count and does not know how many pennies in half a crown"; and the grounds on which he was certified as a moral imbecile are not stated. The only evidence on this point is his own statement that the boys at the various homes he was at taught him to steal and that he used to steal from shops but was never found out. The record of the eight years (age 10-18) at the Institution is, however, very complete and clear. His mental ratio is given as 65: his mental age at 10 is $6\frac{1}{2}$ and at 12 it is $7\frac{3}{4}$ years. At 17 he is considered to have a mental age of nearly 11. There can be no doubt, therefore, that he is mentally deficient.

His conduct during this period may be summarized as uniformly excellent for six successive

years, but in the seventh year (his eighteenth) there was a complete reaction and continuous revolt against authority. Now the record of this six years' exemplary behaviour from the time he entered the Institution may sound too good to be true, but it is supported by the fullest evidence of monthly reports during the whole of that period covering every sphere of his activities. Thus in class his conduct is uniformly excellent: in the dining-hall his conduct and behaviour are normal: in the wood-working class he is slow and is unable to picture in his mind and memorize the work to be done, but he is easily controlled and is at all times well mannered, obedient and respectful. In brief, at the age of 17 he could be thus described by a competent psychologist who had been in close contact with him for some years: "He has a good intelligence, memory and power of concentration with a bright sense of humour, and has also marked artistic abilities which are being realized in wood-carving, in which he shows considerable proficiency. He is of an even temperament with good self-control; is naturally honest, truthful and trustworthy. I should describe him as one of the positively stable types who may succeed very well in the occupation of wood-carving." But within a week of the writing of this opinion Robert had started on a wild career which lasted for just over a year, during which period he absconded five times, on each occasion stealing a bicycle, breaking into stores and stealing cigarettes, clothing, etc. He is reported as self-centred and secretive, without

sense of honour, abusive of all privileges, thieving on every opportunity and in constant revolt against discipline and authority.

The urgent problem was to find out what was in the background of this revolt causing an apparent change of character. It could not, of course, be settled at once, but a careful review of the circumstances shows, I think, some very significant facts. First, the outbreak coincided with the departure of a master who had taken a great interest in him and had made him prominent in dancing, theatricals, etc., and in general had trained him to act in positions of authority, for example, serving in the school shop. Secondly, there are indications of rapid adolescence in an appreciable physical growth and thickening. Thirdly, and most important of all, during this period he was closely associated with a small gang which was the centre of all the difficulties in the school, and it was with the same two companions that all his misbehaviour occurred. In the end it was decided that the only solution was to disperse the gang and give them a change of environment. This was done and in another Institution Robert appears to be settling down again to his previous stable condition.

The review of this history suggests that Robert's behaviour during that year was the result of an adolescent crisis, precipitated by the loss of his friend's support and turned into the channel of delinquency by his environment which did not allow him sufficient scope for his growing sense of power. But whatever be the correct explana-

tion, the earlier period of six years' normal conduct makes it abundantly clear that he was not a moral imbecile in the strict sense of the term.

Case III. Albèrt

Albert at the age of 13 was certified to be "slightly defective and a moral imbecile," but his case provides much matter for speculation for he has also been certified as a mental defective and then as not being one. In addition, different psychiatrists have diagnosed him as: a moral imbecile, an epileptic, a psycho-neurotic, a hystero-epileptic, an innate homosexual—i.e. a male with feminine psychic sexual traits. The following facts will provide some material for a judgement upon the relative value of these diagnoses.¹

¹ Albert, aged 16.

Family and home conditions. Parents and seven other children all normal mentally and morally, living in small house with one living-room and two bedrooms. The parents are respectable working-class people (father 50s. p.w.), the home is as good as possible in the terribly overcrowded conditions. The other children are normal and two are attending a secondary school.

Physical history and condition. Birth normal: slight convulsions while teething. As a small child he twice fell into the river near his home and was nearly drowned. At the age of 9 he had occasional "seizures" during which he was unable to speak for a few minutes. These attacks were usually excited by fear or excitement and were diagnosed as hystero-epileptic in character. Subsequently there is a long history of these attacks (see text). Physically he is absolutely normal, well developed and proportioned. Height 5 ft. 10 in. Weight 11 st. 10 lb.

Intellectual and educational attainments. Aged 10, at elementary

These facts may be conveniently dealt with under three headings—intellectual, moral and psychological.

1. *Intellectual capacity.* Albert attended an elementary school till the age of ten and is reported to have learned to read and write and to be very good at arithmetic. Unfortunately there are no details available, but he must have been considered at least sufficiently backward to warrant his committal to a special school under Section 8 of the M.D. Act for stealing. After a year and a half at this school he was discharged on the certificate of the medical officer who stated that he was not mentally defective. He then returned to his elementary school and at the age of 13 had reached Standard V, where he was reported to be making satisfactory progress. He thus at this stage appears to be retarded educationally about a year, but some allowance must be made for the change of school. In the same year he was again in the hands of the police, was certified to be “slightly defective and a moral imbecile” and sent to

school said “to be able to read and write and quite good at arithmetic.” Aged 16, Mental Age (Binet tests) 12·1 ; (performance tests 13) average M.R. 79. Reading : speed 10, accuracy 9·7, comprehension 8. There is, however, considerable divergence of opinion about his intelligence (see text).

Character and temperament. Emotional, unstable, aggressive. Sudden likes and dislikes, sudden moods of wild excitement and sullenness. Restless energy—“always doing something,” will throw himself heart and soul into any new work or project but soon tires of it. His behaviour varies from extreme docility to extreme hostility. When in one of his obstinate moods he is very insolent.

another special school where he remained for three years till the age of 16. Here he was thoroughly tested and classified as having a mental ratio of 75-80, i.e. he would be considered a dull and backward boy. Yet this mental ratio given by the formal tests is considered by all his instructors to be much too low : they say that his educational ability is practically the same as that of the average elementary schoolboy of the same age. "He can do fairly advanced problems involving number, money, time and measure. Reads difficult books with ease and intelligence. Can compose a very good letter and writes very fair essays. Does not appear to have any special educational disability, has good general knowledge and converses well." It would seem, then, that he is not defective in scholastic educability, but there can be no doubt that he is mentally defective in the wider sense of being incompletely developed in "mind" because he lacks some factor or factors which would enable him to adjust, adapt, co-ordinate and organize the various springs of a completely balanced mental life.¹

2. *Moral behaviour.* There is no evidence of the appearance at a very early age of abnormal behaviour. At school his conduct was fairly satisfactory but in the lax conditions of his home life

¹ To decide exactly what is lacking is, of course, the crux of the whole mental deficiency problem which cannot be treated here. Dr. Tredgold claims that it is the quality of "Wisdom," others suggest a lack of "general intelligence," others, a maladjustment either of deficiency or excess in emotions and temperament.

he was unruly, disobedient and a pilferer of food. At the age of 10 he was caught stealing from a shop and was committed to a special school by the Court. On his return after eighteen months his mother reported that he was constantly stealing small sums of money and was teaching his little brother to do the same. Finally, at the age of 13 he was again before the Court for stealing £4 and sent to another special school. The subsequent three years show a record of very erratic behaviour—mostly in the line of thieving and sexual faults—complicated by the unfortunate experience he had during one holiday of consorting with a man who undoubtedly used him for perverted practices. At the age of 16, he is a tall, handsome, rather effeminate type of boy : very conceited and inordinately vain of his personal appearance, ready to steal clothes, hair oil, etc., to decorate himself, ready to accept any pleasure where it can be found and always on the look-out to pick up anything that can satisfy him—mainly money and cigarettes. He is a persistent liar, but his lying is a defensive means of avoiding an unpleasant situation or facing up to a difficulty. He is affectionate but his friendships are superficial and mostly formed in order to get something : his intimate friendships have undoubtedly a homosexual basis, and there is no evidence at all of any heterosexual misconduct. Perhaps the clearest light is shed on his general character by the following fragment of conversation with one who had been a real benefactor of his :

Q. When people do things for you do you show that you are grateful to them?

A. Oh yes. I say "thank you."

Q. But surely that isn't always enough? Suppose you saw me lying in the road hurt what would you do?

A. I'd stop and help you if I wasn't in a hurry.

Q. But why should you be in a hurry so that you couldn't stop?

A. Oh! well, I might be hurrying to the cinema.

Finally, his career in the school came to an end with a period of three days' absolute stubborn defiance of all authority. It was wisely decided to send him home on licence in the hope that the freer life would relieve the tension.

3. *Psychological.* I am using this as a general term to include certain symptoms which are one of the most puzzling features of this case:—I mean the "seizures" which he is reported to have had from the age of 9 onwards. These were first described as a mental excitement during which his face was flushed and he appeared unable to speak. The following description is given of an attack in his sixteenth year: "He was stooping over the gramophone to put on a new record when suddenly he stood upright, stretched his body and spasmodically raised his arms sideways as if suddenly seized by cramp. His face turned red, his mouth was open, and his eyes were staring wildly. He kept this position for a few seconds and then

gradually relaxed." On other occasions he has fallen: once when working on a roof he rolled down the tiles but managed to cling to a scaffold pole—he was foaming slightly at the mouth but in a few moments was quite calm and collected except that he appeared slightly dazed and his pupils were slightly dilated. On several occasions he has told his companions that he is going to have a fit soon and has offered "to throw a fit for them." It would appear that he vaguely recognizes the previous symptoms—observers report that he is greatly excited beforehand: he himself says he feels very happy before a fit or he sees a place he wants to go to—and imagines or boasts that they are voluntary to attract attention. It is interesting to note that he has never hurt himself in any of these attacks and indeed on many occasions he seems to lie down rather than to fall down,—there is no sign of injury such as biting the tongue, he does not seem to lose consciousness completely and recovers very quickly. Finally, a doctor who observed two of these fits which occurred after his leaving the school, stated that they appeared to be of Jacksonian type, but were accompanied by strange actions of the left hand which could be described as masturbatory. There is very strong support, therefore, for the view that these fits are not due to true epilepsy nor arise from any organic lesion, but come from some functional nervous cause. In other words it is a psychoneurosis or substitution-neurosis which causes him to relieve the emotional tension of facing any difficulty by

substituting a physical outlet. It must be noted, however, that the diagnosis of this case is by no means certain. The fact that it may be, and has been, seriously questioned illustrates the extreme complexity of these cases and the difficulty in deciding on the correct remedial treatment. It illustrates, also, the divergence which separates the various schools of psychological medicine ; a divergence which makes their verdict sometimes an insecure ground for the application of moral principles. In this case, as has been stated above, various psychiatrists agreed that it was a case of psychoneurosis, but differed in their conclusion as to the origin and the nature of this neurosis. Yet, an eminent neurologist to whom the data were submitted, replied : " There can be no reasonable doubt that the attacks are true epileptic fits. The account is typical. . . . Some epileptics do not suffer a total loss of consciousness, never hurt themselves or fall, are not incontinent and do not bite the tongue." Fortunately, for the purposes of this thesis it is not necessary to decide which is the correct diagnosis : the point at issue is—was Albert a moral imbecile ?

All the facts of his history when collated give the picture of a handsome youth who is not noticeably mentally deficient or rather, whose deficiency is more marked in character and temperament than in scholastic intelligence : who possibly suffers from some form of hysteria or neurosis : who is vain, pleasure seeking, completely self-centred, an inveterate liar, persistent pilferer and sexual offender.

Certainly, not an attractive picture ! But is he a moral imbecile as he was once certified ? Possibly he might be considered one from the legal standpoint because there was sufficient mental defect, even intellectual, to class him as slightly defective, but on the other hand it may be doubted whether this defect was so "coupled with strong vicious or criminal propensities from an early age" as to bring him under this section of the 1913 Act. There is no evidence of abnormal behaviour, say from the age of 7, and even when this misbehaviour began it was practically confined to stealing : but most authorities insist that there must be evidence of all-round misbehaviour involving many instincts.¹ Still less does this case fit the strict theoretical definition of the moral imbecile as a person with normal intellectual powers who has an innate defect of the moral faculties. Albert is mentally subnormal even in the more restricted sense of "intellect" and he is mentally deficient in the wider sense of the term. Finally, the evidence of the curious fits from which he has suffered over a long period of years gives good grounds for the belief that he is suffering from some form of psycho-neurosis, and in that case he is, *ex hypothesi*, outside the category of moral imbeciles.²

¹ cf. Herd, *The Diagnosis of Mental Deficiency*, p. 206. Shrub-sall and Williams, *Mental Deficiency Practice*, pp. 16, 152. Burt, *op. cit.* p. 513, footnote.

² His later history is, I am afraid, proving the accuracy of this latter suggestion. Since leaving the Institution he has had numerous jobs in his own trade at which he is quite proficient and happy, but he has lost them all on account of

These cases, therefore, do nothing to substantiate the strict notion of moral imbecility ; nor do they disprove the traditional explanation of conscience as essentially an intellectual faculty—or rather, a particular modification of the one same faculty by which it perceives moral truths just as by other intellectual “ habits ” it perceives religious, æsthetic and scientific truths. Most of the cases that have been cited showed sufficient intellectual defect to make it clear that the normal working of this faculty was obstructed to the extent of destroying or lessening moral responsibility for their wrong actions. Not that they were unable to form correct moral judgements, but it is obvious that for a mental defective it is more difficult to form accurate detailed judgements and to hold them firmly in mind especially since his excessive suggestibility makes him liable to succumb easily to evil influences. On the other hand this very suggestibility makes them apt pupils once their interest is aroused, and it is interesting to note that, at least in a Catholic Institution, I found it easier to stimulate this interest in religious topics than in others. On one occasion I agreed, with much trepidation, to answer in public questions on these subjects. I was subjected to a barrage of surprisingly acute questions which led to a lively and interesting two-hour discussion. Later, I received over fifty written questions and the staff reported some weeks

these “ fits.” A doctor who has taken great interest in his case and spared no pains to help him now considers that he should be sent to a mental hospital for observation and care.

later that the boys had been debating these topics among themselves.

In practice, moreover, I have found that defectives, at least of the higher grades, can and do have surprisingly accurate perceptions of both theoretical and practical morality—far superior to the mere vague verbal morality which they are frequently alleged to possess. I would even suggest that in addition to this intellectual perception they have many real moral sentiments which are admitted by all to be the powerful springs of conduct.¹ But their real difficulty seems to me to lie in a kind of general mental confusion which makes them incapable of co-ordinating their moral ideas and keeping up a sustained effort against the forces of instinct and sensitive appetite.

Support for this contention is found in the previously quoted remark of Robert's in explanation of his thieving: "You get all anxious wanting to get them, and then afterwards when it is too late you see it was a foolish thing to do."² The same difficulty is noticeable in all matters pertaining to sex. Here the natural instinct is perhaps strongest of all, and even normal people have to do some hard thinking in order to achieve the necessary self-discipline for effective control. The defective cannot do this necessary thinking, or at least he

¹ This view, it must be admitted, is contrary to the widely accepted view to be discussed in the next chapter, namely that the essence of moral defect consists in an innate incapacity for forming moral sentiments.

² cf. p. 42 *supra*.

cannot correlate his ideas and in the resultant confusion his instincts too often have free play.

This simple explanation applies obviously to those who are clearly mentally defective in the ordinary sense of being intellectually defective. But what is to be said of those whose defect is not noticeably intellectual but mainly marked on the moral side? Various explanations of this anomaly will be discussed later, but it may be indicated here that in many of these cases the intellect *is* affected, not primarily, but as a result of some temperamental or other abnormality. Albert, who has been described above, is an example of this. He was classified as a moral imbecile and certainly showed very little obvious signs of mental defect in the ordinary meaning of the word. But it is very probable that his moral difficulties were caused by a conflict between a fundamentally asthenic psychophysical constitution and a strong instinctive emotional make-up. His intellectual functions did not *in themselves* show defect, but they were affected and partially inhibited by the underlying conflict. In such cases there will, indeed, always be a certain amount of "backwardness" because the emotional conflict will hinder concentration and scholastic progress. Everyday experience, in fact, shows that even in the normal adult an emotional struggle interferes with effective work; so that it may readily be admitted that an emotional conflict can work such havoc with the intellectual powers as to make a child seem almost mentally deficient. If this is admitted it may be objected (as one

friendly critic objected) that it was not necessary to prove in detail that in the cases discussed in this chapter there was some intellectual defect: why not just accept the possibility that cases can exist in which there is abnormal moral behaviour with little or no intellectual defect, and explain any intellectual deficiency as "backwardness" due to an emotional conflict? ¹ In reply it may be said that since this chapter is concerned with the specific medico-legal notion of moral imbecility it seemed necessary to examine in detail the actual cases of alleged moral imbecility to expose the fallacy and to show that the notion of an innate defect of the moral faculty is not verified in the cases adduced as evidence of its existence. If it be further objected that the apparent mental defect in all the cited cases can be explained by an emotional conflict, the answer would be that that hypothesis does not explain *all* the cases: to take but one instance—some of the cases cited by Barr and Maloney have a medical history which suggests at once that there exists a real mental defect due to physical damage to the brain.

§ 7. Conclusion

Practical experience, therefore, will provide many

¹ Extract from a letter: "If you establish that these cases are not to be explained by saying that there is an innate defect of the moral faculty, there is no need to go to such lengths as you do to prove that there is always some mental defect present. There will always be a certain amount of backwardness in the child taken up with emotional conflicts. I think all the cases you cite could be explained in that way."

cases of immoral defectives, but I have not been able to find, either in books or in practice, a case of one who is defective morally ; that is, one sound in intellect who cannot form correct moral judgements and exercise at least some limited control in the execution of these judgements. The earlier writers on this subject, influenced by their "moral sense" philosophy, believed that such people existed and succeeded in enacting legislation to define and provide for this class. Since, however, the philosophical basis of this theory was never commonly accepted and actual practice convinced many experts that no such cases existed, the legal classification of moral imbecility soon became in reality merely a convenient administrative method of providing for mental defectives who were in addition persistent delinquents, or for delinquents who urgently needed some effective control, yet who were not so obviously mentally deficient in the ordinary sense of the word as to conform to the definition of mental defect within the meaning of the Act.

APPENDIX

REPORT OF PART OF A CONVERSATION WITH TARZAN

TARZAN, it may be remembered, was certified as a moral imbecile. The following is an extract from a long conversation with him, and it is reproduced

here to illustrate the processes of his mind and his confused grasp of moral ideas. It is a queer mixture of acute observation and clear logical thought interspersed with unexpected illogicalities and much mental confusion. This is most marked in the part of his talk which deals with religion. He was, it must be noted, a non-Catholic in a Catholic Institution and apparently had imbibed a good deal of the religious knowledge in a confused way and was trying to puzzle it out for himself. His reference at the end to the misbehaviour of Catholics seems to have been a real difficulty to him, for he mentioned it on other occasions and never seemed quite to understand why religion of itself did not make the perfect man.

After the introductory remark about the time of the interview, Tarzan immediately proceeded to retail every feature and object in the room ending with, "And there are 36 panes of glass." On being asked, "Which window, top or bottom?" he seemed bewildered and only later noticed a lower window which was curtained over. He said, "I couldn't understand you speaking of bottom window. Now I see there is a dent in that curtain. But there couldn't be a dent in a wall. Therefore, there must be a window." When asked, "What else could curtains be over?" he made no answer.

Reading was the next subject discussed. "I read all I can, but if I find a book that's short stories I won't read it—I want 'em long. On a Sunday I finish a whole Edgar Wallace."

Q. "How do you know when it's short stories?"

A. "I look at the list of chapters at the beginning. If I see it's chapters with different names I know it's a rotten book. See, (he then relentlessly read the names of about 40 chapters of the book he had with him), 'Flash Fred' comes often in these chapters so I know it's all one story after all. Then also I read one chapter at the beginning, one in the middle and one in the end; if the same man comes in the lot I see it's one story and read it all through . . . I used to take a $\frac{1}{2}d$ off every boy in the dormitory and buy a book, and then tell them a story every night. I'd stop at places to make them all shout 'Carry on, Tarzan.' I might use no more than one chapter—it's hard work making your brain absorb (*ipsissima verba!*) all what's in one chapter and bring it out again."

From reading it was an easy transition to the subject of crime in general and burglary in particular. He said that he liked working with tools:

Q. "You like locksmith work, don't you?"

A. "It's interesting, if you don't get into trouble. I've never picked a lock, though I expect I could." (This, of course, was an obvious lie.)

Q. "Why do you want to make keys?"

A. "Well, if you have a key you can get practically everywhere."

Q. "But why do you want to get everywhere?"

A. "To get things I want. I don't go into a room unless I want anything inside it."

Q. "What do you want most in life?"

A. "Tons of money, cars, chauffeurs, servants, 'fags.' You see it's like this, you've got to work

and you don't always want to work—you want a good time. I read a lot.”

Q. “Would you like to be a burglar?”

A. “Not as a profession.”

Q. “But, haven't you ever thought of starting a home of your own?”

A. “Yes, all you have to do is to get a house and a wife: but I'd rather be the head of a firm.”

The remaining subject of interest was unexpectedly about girls and religion. “I wrote three letters yesterday, and one to a girl in X.”

Q. “How many other young ladies do you write to?”

A. “Well, there's been A, B, C, etc. (about sixteen) but I don't write to them.”

He then described the sort of girl he liked, and mumbled something about “nothing wrong.”

Q. “You wouldn't want to do wrong things, would you?”

A. “It all depends.”

Q. “But you'd *think* it was wrong if you did it?”

A. “There's no argument. If the Pope said it was wrong, it is wrong. The Pope's descended from St. Peter—so they say: and St. Peter was made head by the Lord—so they say.”

Q. “Why do you keep saying ‘so they say’?”

A. “It seems to me silly—the priest says when he lifts the bread up ‘This is my body,’ but there he is standing in front of the altar same as before. (A simple explanation was then given to him that it was Christ's Body.) Oh—Christ's . . . but

anyway, you *see* a lump of bread with the cross on it and nothing else."

Q. "But you don't *see* electricity do you?"

A. "I do, and feel it." (He then gave a lengthy account of how you made electricity.)

Q. "You don't *see* electricity itself: you see a wire and you see its effects, but you don't see the electricity itself. So Christ could be there without your seeing Him."

A. "Well, perhaps *He* could do it . . . but I often puzzle myself, thinking how they take the bread and bow down (he acted it vigorously) and come out and you would expect them to be ever so good, but they are as bad as ever. It makes me wonder whether there really is a God."

Q. "You believe in God, do you?"

A. "There must be a God. I often pray to God when I want things. One thing especially—it came half-way and then stopped—(suddenly) it wasn't a girl."

CHAPTER VI

MORAL DEFECT

§ 1. Illustration

THE notion and the legal definition of moral imbecility which has just been discussed has been superseded by the framing of the Mental Deficiency Act, 1927, which defines and legislates for the Moral Defective. Before considering the theoretical aspects of this new terminology it may perhaps be useful to give an actual example and to describe in detail the case of an individual who is considered to be a moral defective under this Act.

George, Age 14½

Family history and home conditions. As far as is known his family history shows no abnormalities and the home is excellent. The father is a professional man, the mother intelligent and vivacious, though it is reported that she had an acute emotional crisis before the birth of this boy. There are two older children, both normal and very successful in their chosen careers.

Physical history and condition. The mother had an emotional crisis during pregnancy : difficult forceps delivery, but an X-ray of the child's head showed nothing abnormal. There is some facial asymmetry and the head is tilted slightly to the right suggesting a latent vertical squint. There is also a marked facial twitching of the habit spasm type

and a general restlessness and fidgetiness of manner. Otherwise he has a good physical development and excellent general health. Height, 4 ft. 11½ ins. ; Weight, 5 st. 13¾ lbs. Pubescence slightly retarded. In appearance he has a highly intelligent, sensitive face, with good eyes registering quick changes of emotion. His bodily movements are restless and energetic. Very untidy and dirty in dress and has filthy personal habits. He is left-handed but has been taught with great difficulty to use his right hand for writing, etc. His father is emphatic that there is no history of encephalitis lethargica, but says that "his general restlessness since early years suggests to me something more like *petit mal*, though there have never been any fits." A recent thorough examination showed nothing abnormal neurologically except a slight difference in the tendon reflexes on each side of the body.

Intellectual attainments. Aged 14½, mental age 16.7 years, mental ratio 117. Auditory and visual memory excellent: quick and impulsive in his answers to tests, but soon gets tired and gives in easily. Can converse interestingly on a wide range of subjects when he is interested in them: can read easily and is a fluent speaker. Handwriting not so good, but quite legible, and he writes interesting and humorous letters. When tested with the Healy Puzzle Picture he made six mistakes, the most suggestive being the insertion of a cat instead of a ball into the picture of boys kicking something.

Character and temperament. Active, impulsive and unstable. An extrovert interested in things, and

in persons only as things that serve his purpose. Finely strung nervous system, keen perceptions, quick reactions, but his activities are suggested and governed by externals.

The above is a summary of the most important details which may shed some light on the general picture now to be given of his life. George is a handsome, attractive boy, with frank, open countenance and engaging powers of conversation. He has always been highly strung and restless, and his impulsive actions have landed him in numerous scrapes. His restless activities have cost him several broken bones, and once he was rescued from drowning in a pond. He remembers seeing, at the age of 4, wagons at a gravel pit and thinking how nice it would be to push a wagon over. At 6 he took articles from his governess's dressing-table and hid them. Then came his attendance at a succession of schools in his home town, but none of them could restrain his restless activity. In each case it was the same story—a period of spasmodic attendance during which he readily absorbed knowledge of all forms, then a period of consistent and determined truancy, and all the time a growing habit of petty pilfering. Finally, he was sent to a private school where there were some twenty boys and girls aged 6 to 14, some of whom he says "were a bit silly." Here he was unhappy, unpopular and quite out of his element. So at the end of two years he was transferred to a special school where he could be employed in out-

door work, subjected to strict discipline and routine, and according to the medical recommendation "have systematic psychotherapy, on the supposition that the boy's anti-social conduct is predominantly a neurotic reaction."

So George arrived at the Institution labelled as a "Moral Defective," and for the next eighteen months did his best to live up to that designation. When he presented himself for intelligence testing he was very dirty and untidy, his hands and nails were filthy, his shoes covered with mud. He admitted that he had not washed that morning and remarked casually that he did not care what he looked like. He appeared to be fond of animals and claimed that he was, but when he thought he was unobserved he pinched and teased them, and threw stones at them outside. Testing soon revealed that he had a good general intelligence two years in advance of his chronological age, but he was impulsive and careless and made no effort to concentrate on certain subjects. He said he hated all school work, especially arithmetic, and when told that he had the intelligence and ability to do well in life, he remarked that he was not interested.

The story of the ensuing eighteen months may be summarized as a period of great physical development (he gained 2 stones in weight and $3\frac{1}{2}$ inches in height) and a constant conflict with authority. He made no effort to settle in to the life, made friends with neither masters nor boys, and caused endless trouble by his escapades and

mischievous pranks. Within a month he absconded from his class, made his way to some allotments where he broke into the worksheds and in one case threw a bushel of special seeds valued at £5 on the land. A week later he was discovered on the railway line after he had stolen a bottle of milk from the doorstep of a near-by cottage. A few days later he interfered with and damaged the apparatus of the local drainage system, and later savagely attacked another boy. In the next month it was found that he had micturated over the altar in the chapel, and was discovered crouching under the altar obviously preparing to defecate there. Then followed a comparatively quiet period of five months, but in the next two months he absconded three times and on each occasion got far afield with the help of a stolen bicycle. Four months later he repeated this escapade, fell into the hands of the police but was sent back to the School by a kindly magistrate. On two other occasions he again absconded to relatives but was in both cases returned by them to the School. Then it was finally decided that the School could no longer retain him : he could not benefit from its training and he was interfering with the training of others. An unsuccessful attempt was made to get him into the merchant service and when that failed he went to live with his relatives where for the past nine months he has settled down and given practically no trouble.

§ 2. Legal Definition

Now this case is an illustration of the class of Moral Defectives who are defined in the Mental Deficiency Act, 1927, as : " Persons in whose case there exists mental defectiveness coupled with strongly vicious or criminal propensities, and who require care, supervision and control for the protection of others." It is further enacted that, " For the purposes of this section, mental defectiveness means a condition of arrested or incomplete development of mind existing before the age of eighteen years, whether arising from inherent causes or induced by disease or injury." ¹

Thus the following changes have been introduced by this legislation : first, the word defective has been substituted for the term imbecile which, as we have seen, was based on unsound philosophical premises and was misleading in its objectionable connotations. It has been suggested by some that the word imbecile was omitted because of its usual meaning of a defect of understanding, but I think that there is more evidence that the change is due also to a more fundamental cause, namely, a reaction from the materialistic philosophy which underlay the former definition. This reaction has since proceeded a stage further, and there is strong support nowadays for the complete abolition of even this term " moral defect " and its replacement by such terms as temperamental defect, character defect or simply defective delinquency.

¹ Mental Deficiency Act, 1927. 17 and 18 Geo. V, c. 30, s.l., Section I, (1) (d), and (2).

Secondly, the phrase about the defect having existed "from an early age" has disappeared, although in practice the age at which any defect appears must be considered in any diagnosis.¹ This change was undoubtedly introduced so as to legislate for cases of temperamental and character changes caused by diseases such as encephalitis which, if they occur before the age of 18, are now provided for by section I (2) of the Act. But, again I think that the change is also due in part to a rejection of the former assumption that the defect was innate and most probably hereditary. There can, I think, be no doubt that the earlier phrase "from birth or an early age" was intended to describe an inborn condition, and even now Dr. Tredgold still speaks of a "real innate defect of moral sense," but the majority of modern authorities have discarded that idea, and the deletion of that phrase from the present Act is, I believe, the result of this changed opinion.

Thirdly, it is no longer necessary to prove that the mental defect is permanent, and this omission is again confirmation of the changed opinion. If the defect is innate, then it is permanent and incurable; but, "by the omission of the word permanent in the Act emphasis has been thrown on the possibility of the amelioration of the con-

¹ Herd, *The Diagnosis of Mental Deficiency*, p. 205. "For a diagnosis of Moral Deficiency we venture to put forward the following points as the most important: (1) Some evidence of abnormality of behaviour from an early age, say 3 or 4."

dition.”¹ Finally, the ineffectiveness of punishment as a deterrent is abandoned as a criterion of moral defect, and for it is substituted the more rational and humane test of the need of care, supervision and control. It seems a pity, however, that the need of care, etc., is expressly stated to be for the “protection of others,” because this seems to exclude the possibility of the care, supervision and control of the sufferers themselves for their own good and treatment.² Of course, if moral deficiency, as Dr. Tredgold claims, is permanent and incurable there is no need to legislate for remedial measures. If the moral defective is totally deficient in wisdom and moral sense he is, of course, incurable and punishment can have no effect on him, for he is, *ex hypothesi*, unable to foresee and calculate the consequences of his actions.³ But the remainder of this chapter will show that there are weighty arguments against the acceptance of this view. The modern notion of the temperamentally

¹ Young, H. T. P., “Moral Deficiency and the Persistent Offender,” (*Mental Welfare*, Vol. 12, n. 3, July 15th, 1931, p. 60).

² That this is the legal interpretation of the clause is shown by the fact that when application was made for the transfer of Tarzan to another institution on the ground that he was a moral defective of the most dangerous type, the Board asked whether he was dangerous or violent to others apart from his sexual proclivities. On receiving the answer “No,” they replied that he did not appear to be a mental defective of dangerous or violent propensities within the meaning of the Act.

³ “Moral Deficiency, being due to a defect which cannot be supplied, is incurable.” Tredgold, *Mental Deficiency*, p. 346.

unstable or defective delinquent, with its practical remedy of the Child Guidance Clinic, and its methods for treating the unstable offender, takes into account the value of a humane and rational punishment as an educative measure.¹

These, therefore, are the more important modifications which the criticism of the old Act has produced. It will be apparent at once that this criticism has not succeeded in removing the perplexing phrase about mental defect which was discussed in the last chapter. The Act still says that moral defect is mental defect plus strong criminal or vicious propensities, and by "mental" defect is meant intellectual defect. Thus the definition can still mean that the moral defective is an intellectually feeble-minded person who happens in addition, perhaps because of his feeble-mindedness, to be a moral offender. But this is clearly not the purpose of the Act. The definition is intended to describe a person who is different from the ordinary feeble-minded person in that he is not deficient in "knowledge" in the ordinary sense of the word, but who is abnormal in his moral judgements and actions. All writers on this subject notice and regret the anomaly,—“ It has often been pointed out that it is the vicious and criminal propensities which in this class constitute the defect, or at least are the evidence of it, but no

¹ Burt, *The Young Delinquent*, chapters 10 and 11, gives some valuable hints on the use of punishment which are worthy of a place in any collection of "Hints to Young Masters."

amount of word juggling can possibly get over the fact that the definition of the Act does not say so, but implies most emphatically that there must be mental defect independently of those propensities.”¹ Dr. Tredgold, too, is in agreement on this point, when after proposing and defending his own notion of moral defect, he adds: “It is necessary to emphasize the point, however, that such a person is *mentally* defective. He is, in fact, feeble-minded according to the definition: and if magistrates were somewhat more enlightened than many of them are at present, moral defectives could be certified as feeble-minded and the term ‘moral deficiency’ discarded.”² I agree absolutely with this opinion which seems to me to express accurately the point that I shall try to establish later, namely that the legal term “moral deficiency” is inaccurate and misleading, and that the so-called moral defective is essentially nothing more than an offender against the moral law because of his feeble-mindedness. But I do not think that Dr. Tredgold would agree with that opinion: indeed in making the above statement he is, as we shall see, inconsistent with himself.

§ 3. A Theory of Moral Defect

I propose, therefore, to examine his theory of moral defect in detail: partly because he is the best-known and most-quoted authority on the subject of mental deficiency, but also in order to try to establish an accurate and acceptable notion

¹ Herd, *op. cit.* pp. 197-8. ² Tredgold, *op. cit.* p. 340.

of this abnormality. In the following account the references are to chapter 17 of the 1929 edition of Dr. Tredgold's book where he devotes sixty pages to this subject.¹

He begins by a discussion of the psychological basis of misconduct. The mainspring, the prime mover in human activity is instinct and emotion, and in order that this activity may be conformed to the standards of the community, the force of instinct and emotion must be controlled and regulated. This controlling factor is "Wisdom," i.e. the general quality of ability to foresee, reason, control and resolve, "those functions of mind which collectively make up the quality which we have called 'adaptiveness'" (pp. 323-5).² The process by which this conduct regulation has been produced is then traced in the history of the human race and in the case of an average normal child (pp. 325-30). The description of this process given by Dr. Tredgold is one variety of the different theories of the psychological evolution of morals as proposed, for example, by Mill, Spencer and M. Lévy-Bruhl, which explain our present moral

¹ Reference should also be made to two other contributions of his on this subject. "Moral Imbecility," *Practitioner*, no. 99, 1917, p. 51. "Moral Defectives," *Studies in Mental Inefficiency*, Vol. I.

² This quality of "wisdom" was first suggested by Mercier, *Practitioner*, 1917, p. 303, where he describes it as "that intellectual quality that guides and governs the higher and more comprehensive phases of conduct, that regulates the main business of life in adaptation to circumstances, that teaches us how to act, so that in the long run and on balance our lives will be successful."

beliefs as subjective conditions of mind evolved from the accumulated experiences of the ages. Thus, "wisdom" first enabled man to control the universal promptings of his innate instincts, though at this stage he would not have any feeling about the rightness or wrongness of his actions. That would come in time from experience, and the repeated sanctions of the community would develop an emotion or sentiment that conduct according to the law was not only wise but right, and conduct against the law not only unwise but wrong: "in other words there would be developed a feeling or emotion of rightness and wrongness" (p. 325). Gradually this sentiment would be enlarged and developed with the final result that "ideals of conduct, and feelings related to such ideals, would gradually be developed, which would not only act as a further restraint upon primitive instincts, but would come to possess an actual impelling force of their own—in other words, the individual would have developed a 'moral sense'" (p. 325).

Such is the way in which the power of regulating conduct has been evolved in the human race, and the same process is gone through by each normal child as it passes through the various stages of acquiring this power (p. 329). Thus, in infancy it has neither wisdom nor moral sense but acts entirely by instinct. After a few years it has gained some intellectual perception that some actions are approved and rewarded, some disapproved and punished; and in this way acquires a verbal morality—a parrot-like *knowledge that certain acts are*

*right and others wrong.*¹ Soon afterwards it develops simple sentiments of right and wrong,² which feeling “does not arise from any innate conscience—that is, from any inborn still small voice which is an infallible moral guide—but is elicited by the permissions and prohibitions of his environment. Thus the sentiment of right crystallizes round those things which he is permitted to do, that of wrong round those which are forbidden” (p. 330).

After this outline of the psychology of conduct, Dr. Tredgold goes on to describe the psychological basis of misconduct. The factors involved may be reduced to four.

1. *Abnormal impulses*, i.e. instincts which are abnormal either as regards the object to which they are directed as, for example, in sexual perversions, or regarding the strength and frequency of their direction towards their normal object. To the latter class belong all categories of obsessions, uncontrollable desires, etc. (p. 331).

2. *Faulty upbringing* which has not trained the

¹ This is the only reference to the part played by the intellect in the formation of moral judgements that I have been able to find. And even this limited moral judgement is said to be “a cold intellectual concept” (*ibid.* p. 328). It is not, therefore, a judgement of the practical intellect. Moreover, the evolutionary description of the formation of this concept begs the precise question as to how any mere association of feelings of pleasure or pain develops into a moral judgement—a *knowledge* that certain acts are right.

² A sentiment is usually defined as “an organized system of emotional dispositions centred about the idea of some object.”

child to control and socialize his innate primitive instincts (p. 332).

3. *Disorder of Inhibitory Functions*, i.e. a disorder of the higher controlling factors of the mind which may be due to disease, injury, neurosis, etc. This disorder, if pronounced, constitutes moral insanity.¹

4. *Intrinsic Defect of Inhibitory Functions*: "Lastly, there are certain individuals in whom the mental faculties concerned in restraining instinctive behaviour would appear to be not disordered, or even retarded, but actually absent. Such persons may have been brought up in excellent houses and under the most refined influence, they have been subject to all that could be desired in the way of example, precept, admonition and judicious punishment. But in spite of all they remain utterly selfish, lacking in affection, regardless of the rights and feelings of those about them, and entirely wanting in any sense of social obligation or moral principle. We are compelled to conclude that for some reason or other the very germ of social and moral sense is absent" (p. 335).²

¹ Here again is the distinction between dementia and amentia—between disorder and defect—this time applied to the moral faculties. Dr. Tredgold quotes from Clouston's *Clinical Lectures on Mental Diseases* (1904): "There is no doubt, however, that cases occur in which the disorder is chiefly, if not entirely, incident upon the inhibitory functions, producing moral and social obliquity, and to these this term (moral insanity) may rightly be applied."

² This fourfold classification is, no doubt, useful for explanatory purposes, but in reality it is artificial because factors 1, 2 and 4 are not wholly separable and distinct components of misconduct.

Moral defect, therefore, may be defined as the absence of those mental faculties which restrain and control instinctive behaviour. Now the legal definition of moral defect is, as has been seen, "mental defectiveness coupled with strongly vicious or criminal propensities," and by mental defectiveness is meant intellectual defect in the ordinary sense of the word. But Dr. Tredgold harmonizes the definitions by saying that in his concept of mental defect the restraining faculties which are absent are wisdom and moral sense.¹ These are defects of the mind and their absence constitutes mental defect within the meaning of the Act. "The psychological concept of moral deficiency, therefore, is that of an individual who differs from the ordinary type of defectives in that he is neither illiterate, deficient in his range of general knowledge, nor lacking in ordinary understanding ; but is defective in adaptiveness or wisdom and in moral sense, and at the same time possessed of strongly marked anti-social instinctive impulses. It is necessary to emphasize the point, however, that such a person is *mentally* defective. He is, in fact, feeble-minded according to the definition."²

¹ Tredgold, *op. cit.* p. 339. "In my opinion, the mental defect which is characteristic of this class is a twofold one—namely, a defect of that complex quality which we have designated adaptiveness or wisdom, plus a defect of moral sense."

² Tredgold, *op. cit.* p. 340. The same view is also authoritatively expressed by him in an article "Mental Defectiveness as defined in the Mental Deficiency Act, 1927" in *Mental Welfare*, Vol. 9, no. 2, p. 41 : "Moral defectives are charac-

Now what are these two qualities "wisdom" and "moral sense" the lack of which constitutes moral defect? Wisdom, according to Dr. Tredgold, is "that which is known by the vulgar as 'nous,' 'gumption,' or 'common sense': which the late Dr. C. Mercier termed 'wisdom'; and which psychologists nowadays designate 'general intelligence.'" ¹ This general intelligence is usually described as a central unitary factor of mind which co-ordinates the various specific qualities and abilities. But in his book, and more fully, in the later article in *Mental Welfare*, Dr. Tredgold prefers to divide the intellectual functions into three groups—the abstract, the mechanical and the social intelligence. The first is that group of intellectual processes concerned in the acquirement of knowledge and the operations of thought—this is "general intelligence." The second group is concerned with mechanical or mental operations, for example music, mechanics or arithmetical calculation. The third is "that group concerned in co-ordination and general control of conduct and

terized by three conditions:—a defect of wisdom similar to that which marks all high-grade aments: a defect of moral and social sentiments: the presence of strongly pronounced instinctive tendencies of the purely self-seeking order."

¹ Tredgold, *op. cit.* p. 129. This theory is based on Mercier's definition of wisdom as, "that intellectual quality that guides and governs the higher and more comprehensive phases of conduct, that regulates the main business of life in adaptation to circumstances, that teaches us how to act, so that in the long run and on balance our lives will be successful." Mercier, "Moral Imbecility," (*Practitioner*, 1917, p. 303).

adaptation to present and future needs.”¹ This last is the quality of “Wisdom” or social adaptiveness, and it is the quality which is impaired in all high-grade defectives.²

§ 4. “Moral Sense”

The other quality which the defective lacks, namely moral sense, is nowhere strictly defined, and an accurate notion of it must be compiled from references to it in different parts of the book. Thus in an earlier chapter “sense” is expressly identified with “sentiment” which is defined as, “an organized system of emotional dispositions centred about the idea of some object” (p. 125). Moral Sense, therefore, should mean an organized system of emotional dispositions centred about the idea of a moral object; and it is frequently used with that meaning, as, for example, when it is said that “moral sense connotes feelings of honour, chivalry and the highest altruistic ideals” (p. 126). Indeed, on a later page there is an explicit distinction between the intellectual functions by which the individual forms judgements about his actions, and the emotional functions by which he has an actual

¹ Tredgold, *op. cit.* p. 192 sq., and *Mental Welfare, loc. cit.* p. 41.

² Tredgold, *op. cit.* p. 131. “The grouping of the factors of imagination, prevision, prudence, planning and self-criticism when superadded to the basic factors, constitutes a capacity for social adaptiveness. It would follow from this that the psychological basis of legal mental deficiency consists of the imperfect development of the factors especially concerned in this last group—namely, social adaptiveness.”

feeling or sentiment about the rightness or wrongness of acts, and it is this affective tone underlying or accompanying moral judgements which is "Moral Sense."¹

This explicit statement must, I think, be accepted as the meaning intended by Dr. Tredgold, but there are not wanting indications that this moral sense is also considered vaguely as the faculty which *perceives* the moral character of actions. It is at least misleading to use the terminology of the old moral sense school of philosophy with its separate faculties for the perception of intellectual, religious, or moral values, and this Dr. Tredgold does when he describes the *aesthetic* sense as an appreciation of beauty and harmony : the *religious* sense as a feeling of the relationship between God and man : the *social* sense as feelings of right and wrong, duty to one's neighbour, and the *moral* sense, which is a higher development of the social sense as feelings of honour, chivalry, etc. (p. 125).

Moreover, in spite of the distinction which Dr. Tredgold has drawn between the intellectual faculty which makes moral judgements and the affective tone accompanying such judgements, it is apparent when his explanation as a whole is examined critically that the activity of this in-

¹ "Secondly, there are those functions of feeling and emotion which enable the individual to experience, not merely a cold intellectual concept, but an actual feeling, or sentiment, as to the rightness or wrongness of acts, a sense of social obligation, of chivalry, honour, humanitarianism, altruism, and of the highest moral ideals—in other words, social and moral sense." Tredgold, *op. cit.* p. 328.

tellectual faculty is not "conscience" in the traditional sense of a judgement of the practical intellect on concrete matters of moral conduct. In his view the part played by the intellect is limited to the formation of "a cold intellectual concept" of moral ideas produced both in the race and in the individual by an evolutionary process from the prohibitions and permissions of the environment. The fact is that if Dr. Tredgold were to state explicitly his philosophy it would be found to be some form of evolutionary theory of morals and utilitarianism in which the morality of actions is not determined by the nature of the actions themselves but is decided by practical experience of what is useful and socially efficient. This assumption partly explains his insistence on the incapacity for social adaptiveness which he makes the essential feature of the moral defective ; it explains also, the vagueness of his explanation of "moral sense" which makes it in all probability a synonym of "conscience."¹

¹ This interpretation is confirmed by a passage in the 1937 edition of Dr. Tredgold's book which I have just been able to consult after writing the above. His account of moral deficiency remains substantially unchanged except that there is less emphasis on "wisdom." But the assumptions of his evolutionary theory of morals are more clearly stated, and on p. 323 he expressly identifies moral sense with conscience : "In short, to his simple ethical perception there had now been added a social, ethical and moral feeling ; a sentiment in regard to conduct, a 'moral sense' or 'conscience.'" Conscience, therefore, is an emotion or *feeling* that certain actions are regarded as right or wrong according to the experiences of the race and the social milieu in which the individual lives.

X § 5. Objections

There are, therefore, reasonable grounds for thinking that when Dr. Tredgold asserts that the moral defective is lacking in moral sense he means that he has no conscience, and thus in spite of a long and detailed explanation, his view is substantially that of the "Moral Sense" School of Philosophy, and his moral defective is nothing more than the former moral imbecile, though the crudity of this conception is disguised and hidden in a wealth of detail about the evolutionary process of conduct regulation and by the introduction of the vague quality of "Wisdom." Thus the theory is open to all the objections which can be raised against its philosophical assumptions which have been dealt with under the heading of moral imbecility. There is no need to discuss them further here, except to re-state the contention which has been abundantly verified by experience, that once the criteria of the moral faculty and its judgements are stated in terms of social utility, or emotions, or feelings, or instincts, the way is opened to a disastrous moral subjectivism.] Finally, as regards the development of the moral faculty in the individual, it may readily be admitted as Dr. Tredgold explains, that tradition, precept and example, and the recognition of the consequences of pain and pleasure play a large part in the formation of the early moral perceptions of a child. All that is claimed is that this is not a satisfactory explanation by itself of the formation of moral judgements. The child begins

X

with tradition but by the end of the first decade, perhaps even earlier, it forms intellectual judgments which are based on the intrinsic evidence of the propositions or formed by easy inferences from them. These propositions may be few in number and limited in scope—they may even be erroneous in their details owing to faulty education, etc.—but the broad moral principles of respect for life and property, truth and honour, are recognized by all.

Within recent years there has been much research in this subject and a good deal of experimental evidence has been collected to support this assertion.¹ The general method of this research is to present to a large number of subjects a set of statements about some good or bad quality which must be arranged in a scale of rightness or wrongness. Thus a recent very large inquiry set several series of five short stories concerning some moral quality revealed by the action of some persons whose names were to be ranged according to the value of their respective deeds. The inquiry extended over three years and covered many countries and races with the result that the author concludes: "The total study of the answers of about 6,000 persons proved that in any country, in black or white, brown or yellow, the same human feelings exist and develop in the child with regard to honesty, helpfulness, respect for human life, admiration for kindness and devotedness. Everywhere we find *thinking* people (*italics mine*). Local customs or special situations,

¹ For many details of these moral tests cf. Burt, *op. cit.* pp. 405 sqq., and Cattell, *A Guide to Mental Testing*, ch. 5.

however, may modify some external aspects, and moral sense may be increased by example and education.”¹ All those questioned perceived that unlawful killing, for example, was wrong ; but it is interesting to note that mental defectives with an I.Q. of under 65 were unable to discriminate between degrees in the heinousness of the crime—they all answered that Tom was the worst of all, although in technical terms Tom’s crime was manslaughter under great provocation while there were in the same series other cases of callous calculated murder.

The conclusion, therefore, must be that there is no theoretical justification and no evidence in practice for the category of moral defective, if by this is meant a person of sound intellect who has no conscience.

§ 6. “Wisdom ” and “Moral Sense ”

It has, however, been indicated above that there are explicit statements in which Dr. Tredgold uses the word “moral sense” to mean a feeling or sentiment about moral notions—an emotional tone superadded to the intellectual perception of the rightness and wrongness of actions. Therefore, it

¹ “Moral Judgement : An experimental Psychological Research,” by Dr. L. Beun, Ecloo, Belgium, 1935.

It may be regretted that the author has used in the last sentence the ambiguous word “moral sense.” It is, however, clear from the context that it does not mean a moral faculty distinct from the intellect, but is a colloquial expression denoting the capacity for forming moral judgements just as it is said that a person has an artistic or mathematical sense.

now remains to judge the value of this explanation of the moral defective which describes him as one essentially lacking in “Wisdom” and a feeling or sentiment about moral ideas and actions: for this, it is claimed, is the psychological concept of moral deficiency.¹

It may be acknowledged at the outset that this is a clear and accurate description of the few cases which have been classified as moral defectives—they do seem to manifest a lack of some factor or factors which would co-ordinate the various activities of their lives and do show a lack of emotional tone. But, however good a description and suggestive as a diagnosis this may be, it is not an accurate analysis of the concept of moral defect, for when pushed to its logical conclusion it appears in reality to be nothing more than the description of a defective delinquent—one who is amoral because of his mental defect. Proof of this is found in the description and definition of “Wisdom” given by Dr. Tredgold himself. It is “the group of intellectual processes concerned in co-ordination and general control of conduct and adaptation to present and future needs”; “the moral defective is characterized by a defect of wisdom similar to that which marks all high-grade aments.”² Therefore there is no need to go any

eg Albert
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¹ Tredgold, *op. cit.* p. 340 (cf. p. 151 *supra*).

² Tredgold, *op. cit.* p. 340 (cf. p. 152 *supra*). In the 1937 edition of the work it is stated emphatically, “in all the cases I have seen there has been some defect of the higher controlling and co-ordinating intellectual processes of mind.” If this is not *mental* defect, it may well be asked what is?

further in the analysis : if the so-called "moral defective" has a basic defect similar to all high-grade aments he *is* a high-grade ament—he is a mental defective in the legal and psychological meaning of the word, but a mental defective who is also a delinquent.

There is also a certain confusion and a possible fallacy latent in this combination of the lack of "Wisdom" and moral sentiment in the diagnosis of moral defect. The defect of "Wisdom" is "to be inferred from persistence in social misdeeds,"¹ and yet the abnormal conduct is, as we have seen, to be explained substantially by a defect of "Wisdom." Therefore, it would appear that ultimately the moral defective is so because he is lacking in wisdom, and he is lacking in wisdom because he is a moral defective ! This analysis is not very helpful in the search for the real basis of moral deficiency. Finally, this explanation of moral defective may be tested in a concrete case—the case of George whose history has been outlined at the beginning of this chapter. George has been certified as a "Moral Defective" on account of his persistent anti-social misconduct and it is evident that he does not exhibit the ordinary emotional reactions and sentiments of honour, gratitude, self-respect, etc. Now what is the psychological basis of this abnormality ? Possible explanations which suggest themselves are : mental defect in the ordinary sense of the word, a definite psychoneurosis, a crisis of adolescent instability.

¹ Tredgold, *op. cit.* p. 362.

The first two may be eliminated because of the evidence of his history—he is not mentally defective according to all intelligence tests and there is no evidence of a recognizable neurosis. His case might be partially explained by an adolescent crisis, but that may be passed over for the moment in order to test whether Dr. Tredgold's theory gives a satisfactory explanation. On this view, George's abnormal conduct is to be explained by his lack of wisdom and moral sentiments, and his lack of wisdom is to be inferred from his abnormal misconduct. But, this lack of “Wisdom” when inferred is either an intellectual defect or it is not. If it is intellectual (as it would appear to be from the definition) then George is a high-grade ament and there is no further difficulty, and there is no advantage to be gained in giving him the misleading label of moral defect. If it is not an intellectual defect there is no need to introduce the vague quality of “wisdom” and, most important of all, it should be explained exactly what precisely this non-intellectual defect is which produces this abnormal behaviour and why it produces it. Assuming that George's defect is not intellectual, the crucial test of any theory is its ability to explain what volitional, emotional or conative factors combine to produce the lack of ordinary moral sentiments.

Dr. Tredgold's theory does not answer these questions: it merely asserts the defect of moral sentiments and so must be rejected as an adequate scientific explanation. The fact is that Dr. Tred-

gold's "moral defect" is in its last analysis a defect of intellect *as applied to social co-ordination*. But this ability for social co-ordination is not really distinct from intellect as employed in the more abstract operations on which, for example, mental tests are based.

In the concluding chapter of this thesis a tentative suggestion will be made as to what may be the real explanation, and this present discussion of the general subject of moral defect may be fittingly concluded by the quotation of Dr. Penrose's opinion that, "The legal class of moral defective is purely of administrative value. . . . In practice the category is used for detaining those persons who have intelligence quotients within normal limits, i.e. 70 to 100, but who persistently offend against the law. Many psychologists and psychiatrists, at the present time, do not agree with the implications of the category of moral deficiency."¹

¹ Penrose, L. S., *Mental Defect*, p. 11.

CHAPTER VII

CONCLUSION

§ 1. Heredity and Mental Defect

THE major part of this study has been devoted to an examination of heredity as a factor which may influence responsibility. The principles of moral responsibility are clear, but their application depends upon facts which can only be established by scientific research. Therefore, an attempt has been made in these pages to utilize this research and to establish what exactly is the influence of heredity in the causation of mental defect.

§ 2. Moral Defect

Secondly, the consideration of mental defect has led to an inquiry into the subject of moral defect, for mental and moral defect are considered as one medico-legal entity in the English legislation on mental deficiency. This inquiry has of necessity consisted mainly in a critical examination of various technical terms and theories in order to establish what is the precise concept of moral deficiency—does it mean the immoral defective or the moral defective? The answer to this question can be obtained only by a detailed historical review of the processes, both legal and psychological, which have led to the formation and definition of this notion.

A. The development of the *Legal* definition of Moral Defect may be thus summarized :

1. Mercier. (*Criminal Responsibility*, p. 201)

“Moral Insanity is a perversion of feeling and conduct, leading to vicious or criminal acts, in those who have previously lived upright and reputable lives. Moral Imbecility is an original defect of character displayed from an early age, and consists in inability to be deterred by punishment, however severe, certain and prompt, from wrongful acts.”

2. Royal College of Physicians. 1907

“A moral imbecile is a person who displays from an early age, and in spite of careful upbringing, strong vicious or criminal propensities on which punishment has had little or no deterrent effect.”

3. Royal Commission on the Care and Control of the Feeble-minded. 1908

“A moral imbecile is a person who displays from an early age some mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.”

4. Mental Deficiency Act. 1913. Sec. I (d)

“Moral Imbeciles : that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.”

5. Mental Deficiency Act. 1927. Sec. I (i) (d)

“Moral Defectives, that is to say, persons in whose case there exists mental defectiveness coupled with strongly vicious or criminal propensities and who require care, supervision and control for the protection of others.”

These legal enactments, therefore, show a pro-

gression away from the notion of the moral imbecile who is innately defective in morals. They give no support to the view that a person can be sound in intellect and yet have no conscience, and the legal definition of the moral defective is simply that of the immoral defective or defective delinquent—that is, the mental defective who happens also, perhaps because of his mental defect, to be an offender against moral laws. Thus the legal definition of moral defect seems to be nothing more than an administrative measure to facilitate the certification of those delinquents whom authorities might hesitate to certify as mental defectives because of their scholastic ineducability. Therefore the moral theologian need have no difficulty in accepting this definition, for on the ordinary principles of responsibility these “moral defectives” have merely attenuated moral responsibility or no moral responsibility at all according to the extent of their mental defect.

B. The development of the *Psychological* notion of Moral Defect.

Similarly, the psychological concept has progressed from the crude theories of Lombroso's congenital criminal and the earlier English explanations of the moral imbecile innately lacking in conscience and moral powers. Nowadays, as a result of the insistence upon the psychological importance of instinct and emotion, it may safely be said that there is no modern authority to support the view that there is a moral sense in the strict sense of the

word which may be absent in an otherwise intelligent person. In one widely received theory of moral defect which has been examined in detail in this thesis, the word "moral sense" is prominent and there are clear indications that it is implicitly based on the assumptions of the earlier and now discredited philosophy: but it has been shown that when the author is compelled to give an explicit account of his theory he is forced by the current psychology and legal definition to explain the moral defective in terms which substantially describe the defective delinquent. Thus again the moral theologian has no difficulty in accepting the category of "moral defectives" when it is explained in this way, but exception may be taken to the use of the term "moral" defective in as much as it is misleading and may suggest the lack of conscience in an otherwise intellectually normal person. If the psychological basis of moral deficiency is really a defect in emotion, feeling, sentiment, then a more accurate way to describe him would be to say that he is a "temperamental defective."

§ 3. The Psychological Basis of Moral Deficiency

Most of the work of this thesis has been critical and so, of necessity, mainly negative. But the above suggestion of the substitution of the term temperamental defective raises the positive question as to what precisely is the psychological basis of this defect. The category of moral defectives includes many types of defect and many varieties

in the degree of defect. The abnormal behaviour of some cases may be satisfactorily explained by their mental defect (e.g. Tarzan, pp. 115-16) : others are cases of adolescent instability and abnormal behaviour during an adolescent crisis (e.g. Robert, pp. 116-19) : and there are some whose conduct is possibly the result of a definite psychoneurosis, (e.g. Albert, pp. 120-7). But after allowing for these explanations and accepting the evidence of many trained observers it is undoubtedly true that there are a few cases who are neither mental defectives in the ordinary sense of the word nor neurotics, yet who from a comparatively early age display a persistent all-round misbehaviour which cannot be corrected either by kindness or severe discipline (e.g. George, pp. 137-41). This is the real problem of conduct disorder and it is for this that a true psychological explanation is sought. I am aware, of course, that many medical psychologists of certain schools would seek an explanation of these cases in the unconscious life of the individual, but I have not deemed it necessary or desirable to discuss this problem specifically in the light of the modern developments in psychology associated with the names of Freud, Adler, Jung and others. In the first place, the fact that the exponents of these theories necessarily adopt a deterministic attitude towards the question of moral responsibility takes their doctrine outside the scope of this work. Secondly, psychotherapists of these schools who hold that the "unconscious" is essentially amoral and governed by the egotistical

pleasure-pain principle, would not in general lend any support to the notion of "moral defect" which has been discussed and criticized in these pages. Finally, Freudianism and its derivatives do not appear to make any contribution, that would otherwise be lacking, to a solution of the problem under review. A satisfactory explanation, and one that is consistent with the traditional notions of moral responsibility, can be found in the theory of a temperamental defective.

§ 4. The Temperamental Defective

Dr. Burt suggests that the real basis of this condition is a general emotional instability which may in some severe cases be a real innate defect. He postulates the existence of a central emotional factor underlying the instincts and emotions just as it is now generally admitted that there is a central factor, called "general intelligence" underlying the intellectual faculties. This central emotional factor he calls by analogy "general emotionality," and it is an abnormality in this factor either of defect or excess which accounts for instability of conduct and produces the temperamental defective or unstable person. Therefore, he proposes to abolish the term "moral defective" and substitute the notion of the temperamental defective whom he defines as: "Persons, who without being intellectually defective, exhibit from birth or an early age a permanent emotional instability, so pronounced that they require care, supervision and control for their own protection or

for the protection of others.”¹ It must be noticed that this emotional instability must extend to all or at least the majority of the instincts and emotions, and must be an inborn and therefore permanent condition. Cases of less severe instability are to be called “temperamentally unstable.” Detailed evidence is produced in support of this contention and as a result of a thorough investigation of 200 delinquents and a comparative group of 400 non-delinquents, Dr. Burt reports that about 9% of delinquents could be classified as temperamentally defective, and 34% as temperamentally unstable and concludes that, “among all the innate psychological characteristics of the delinquent, a marked emotionality is one of the most frequent, as it is one of the most influential.”²

§ 5. Appreciation of this Theory

This explanation is attractive in its lucid simplicity and has the advantage of eliminating the objectionable and misleading phrase “moral defect,” while at the same time making a real effort to analyse the ultimate psychological factor in this defect. Therefore even if the theory is not accepted as a final and adequate explanation it must be admitted that it is a step in the right direction and is substantially correct in insisting that the emotional life of the individual plays a

¹ Burt, *The Young Delinquent*, p. 313.

cf. also “Delinquency and Mental Defect,” *Brit. Journ. Psychol.*, 1923, pp. 168 sqq.

² Burt, *The Young Delinquent*, p. 514.

decisive part in the causation of this phenomenon of persistent conduct disorder. It may, however, be suggested that there is need of a further exploration on philosophical lines of the notion of this central factor of "general emotionality." Dr. Burt postulates the existence of this factor in the affective sphere analogous to the well-known Spearman factor of "general intelligence" in the cognitive sphere. But before this hypothesis can be of use, the nature of this factor must be clarified and in particular it must be decided whether it is a simple or a complex state. There are only these two alternatives :

(a) Either, emotionality is a separate and distinct department of psychic life, marked off as clearly from cognition and conation as these are from each other.

(b) Or, is it more correct to suppose that the essential and ultimate constituents of psychic life as such are cognition and conation, and that emotion is a complex state containing elements both of cognition and conation accompanied by certain characteristic changes of an organic nature ?

There is no evidence for the former view and it finds no general support : indeed both psychological experiment and philosophical considerations lead to a preference for the latter explanation. According to this view, the emotional state is specifically differentiated from any other non-emotional psychic state by its characteristic organic or somatic accompaniments. Therefore, the degree in which the factor of "general emotionality" is

*eg. Suppose
you dis agree
w me - emotion
if any.*

present in any individual would depend on his liability to experience these characteristic organic changes in association with certain cognitional-appetitive activities. The fundamental question then is: what precise element in this complex state produces variations in this "general emotionality," or, of what nature are the individual differences which make some people more or less than normally liable to an organic repercussion so intense that it disposes them to psychic instability and consequent delinquency? Clearly the question of endocrine balance is of importance here, since many of the organic changes associated with emotion (such as changes in respiration and pulse rate, muscle and visceral tonus, etc.) are at least partly due to endocrine activity.¹ But, however important, endocrine activity is not the whole explanation, and recent work in experimental psychology has drawn attention to certain temperament-factors which, in the opinion of many, result from organic rather than specifically psychic individual differences. The most important of these factors is "p" or perseveration, and this hypothesis is used in the following tentative suggestion of the ultimate organic basis of temperamental defect. It must be emphasized, however, that this is only a very tentative suggestion. It is not

¹ cf. Devine, H., *Recent Advances in Psychiatry*. Perhaps the best presentation of the most representative views on all aspects of emotional activity is to be found in the Papers read at the Wittenberg Symposium, 1927, and published under the title of "Feelings and Emotions," 1928, Oxford University Press.

claimed that the perseverative factor and its treatment along the lines of Lindworsky's *Resonance Analogy*¹ will provide a complete explanation of the temperamental defect which, it is suggested, is responsible for "moral defect." It is, indeed, highly improbable that so complex a problem has so simple a solution. Most probably there are numerous complicated factors at work in the production of these abnormal states: but the following hypothesis suggests one—perhaps a very important one—of the basic somatic conditions affecting temperament.

§ 6. A Suggestive Hypothesis—Perseveration

Scarcely any two psychologists will agree as to how this factor "Perseveration" is to be defined. It might, however, for the present purposes, be described with sufficient accuracy as "the inertia which psychic energy has to overcome before action can result and the tendency of this psychic activity to persist when the resistance has been overcome"; or, "the factor which causes a tendency to resist psychic change either from activity to quiescence or from quiescence to activity or from one kind of activity to another."²

Now this factor is said to show little or no correlation with "general intelligence" (*g*); accord-

¹ Lindworsky, *Theoretical Psychology*, pp. 73 sqq. cf. p. 175 *infra*.

² "*p* factor = a unitarily functioning factor varying in degree from one individual to another, showing itself as a tendency for mental processes to have a certain lag or inertia, and accordingly to *perseverate*." (Warren, *Dictionary of Psychology*, p. 190.)

ing to Professor Spearman, "From a theoretical standpoint, the difficult problem is raised as to how this second universal factor stands in relation to *g*. The two, as we have seen, vary independently of each other. Provisionally—it is here suggested—they may be taken to deal really with different aspects of the same thing, the mental energy ; as *g* measures its quantity, so the perseveration may express its inertia." ¹

On the other hand, however, it has always been recognized that the perseverative factor is closely related to character and even to certain psychopathic conditions. Thus, for example, it was commonly held that the strong perseverator was stable in his emotions and steadfast in purpose ; that melancholia was especially associated with strong perseveration and mania with weak perseveration. Very little proof, however, was offered of this assertion ; "with the exception of the Dutch school represented by Heymans and Wiersma, little or no experimental work has been done either to prove or disprove what was, after all, mere assumption." ² But within recent years this deficiency has been remedied by the systematic experimental work of Lankes, Webb, Pinard, Cattell and others who have shown conclusively that the perseverative factor is indeed a notable constituent of character. ³

¹ Spearman, *The Abilities of Man*, p. 306.

² Pinard, *British Journal of Psychology*, October, 1932, p. 114.

³ Pinard, *op. cit.* July, 1932, pp. 5-19 : October, 1932, pp. 114-26.

Cattell, *A Guide to Mental Testing*, cf. pp. 178-9 *infra*.

The first, and most striking, result of this work was to expose the fallacy that stability of character depended on the *strength* of the perseverative factor. Pinard reported that, "About 75 per cent. of the most 'difficult' and 'unreliable' subjects proved to be extreme perseverators or extreme non-perseverators. About 75 per cent. of the most 'self-controlled' and 'persevering' subjects showed only a moderate degree of perseveration."¹ This conclusion was confirmed by a thorough investigation made by Cattell: "It appears that both very high and very low perseverators are prone to be unreliable and difficult; the best characters, on the other hand, are medium perseverators."²

If this conclusion is accepted the further question may be raised as to what causes these perseverative differences. That this "p" factor is largely due to organic causes is suggested by general considerations, and by the fact that it is said to correlate with individual differences in the rate of dark adaptation.³ Confirmation and development of this hypothesis has been made by Fr. J. Leycester King who has shown that this factor of persevera-

¹ Pinard, *op. cit.* p. 19. ² Cattell, *op. cit.* p. 207.

³ Thus, Wiersma exposed his subjects for two minutes to the light of an electric lamp. They were then placed in a dark room and the time was measured which elapsed before each was again able to perceive a light of minimum intensity (individual threshold stimulus). It was found that high perseverants needed a longer time than low perseverants. Manic individuals took 33 secs., normals, 102 secs., melancholics, 233 secs. This is the basis of the well-known "Flicker-test" for perseveration. cf. Lankes (S.J.), "Perseveration" in *Brit. Journ. Psychol.*, 1915, Vol. VII, part 4.

tion correlates with individual differences in the ability to form larger complex mental wholes composed of less complex cognitive elements (Complex-span).¹ In an attempt to account for these data he suggests that the psycho-physical energy changes underlying the phenomena both of perseveration and complex formation are of a periodic or vibratory nature. On this view, the question of the sharing and diffusion of energy by processes analogous to that of **Resonance** in the purely physical order assumes great importance, and this hypothesis of mental resonance makes possible the elaboration of an attractive and penetrating theory as to the nature of mental association and allied phenomena.

Now, where resonant interchanges of energy are concerned, both the nature and the structure of the medium in which the resonant elements are embedded, and through which transmission takes place, are of great importance.² Fr. King,

¹ cf. King, J. L. (S.J.), "Komplexbreite und Perseveration," *Archiv. für die gesamte Psychologie*, 1934, pp. 423-70. Also an abstract of the same thesis in "Sectional Transactions of the British Association for the Advancement of Science," 1934, pp. 97-8.

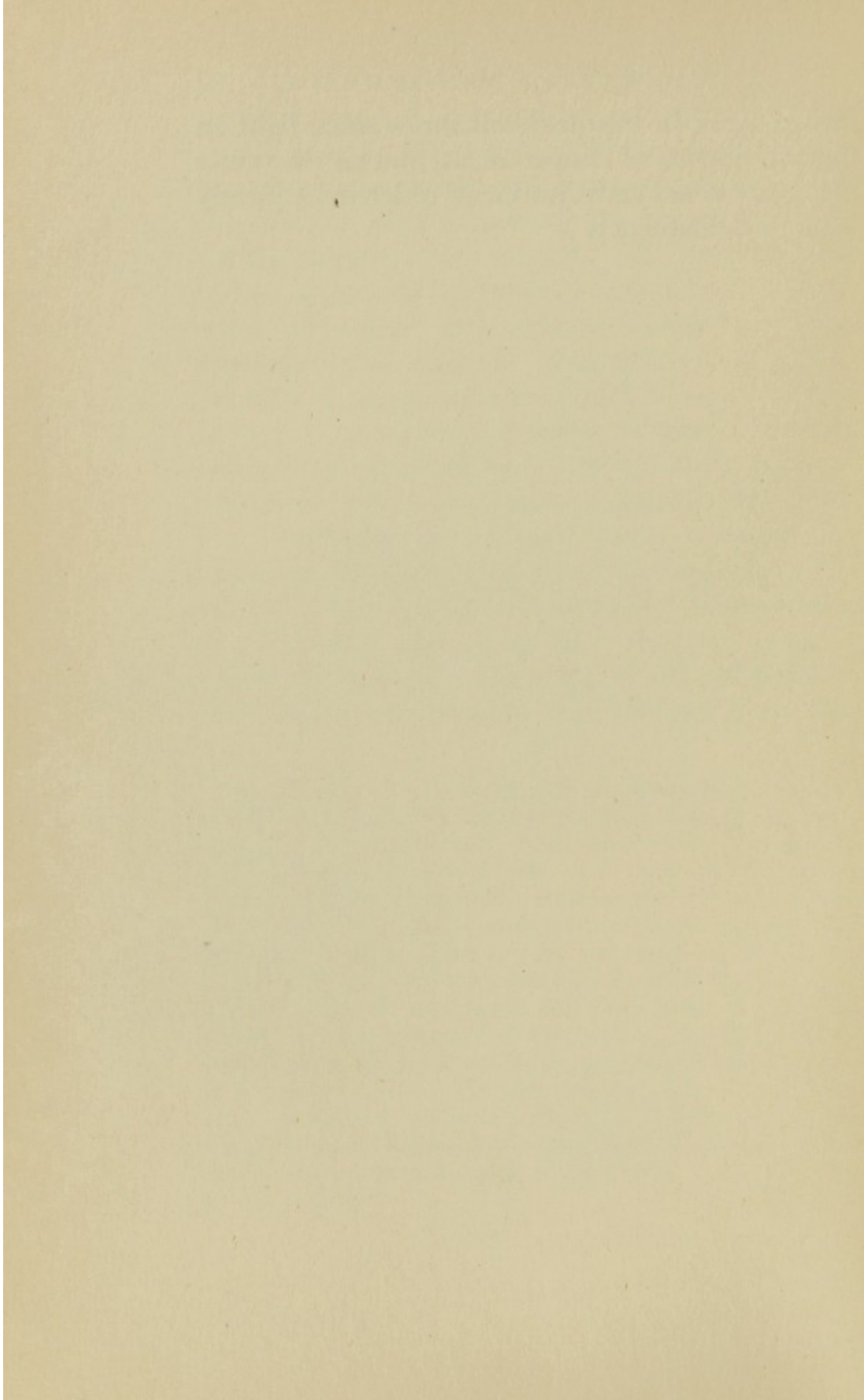
² The example may be given of a block of rigid material with two closed hollow spaces within it, and within each of these hollows a perfectly elastic ball is bouncing to and fro. Since the medium is perfectly rigid, neither of the two oscillating systems will influence the other or the medium. But if the rigid medium is replaced by an elastic one, then the bouncing balls will set the containing medium in a state of oscillation and the mode of oscillation of each ball will be modified, directly by the medium, and indirectly by the other ball.

therefore, suggests that high perseveration may be associated with abnormally high resistivity or inelasticity of the psycho-physical medium, in which the ultimate units subserving the presentments of mental imagery are located. His experimental results support this hypothesis, and recent work on nerve physiology has drawn attention to the importance of resonant phenomena.¹ It may, therefore, be suggested that the problem of "moral defect" is in reality a problem of temperamental defect to be explained by a defect in the perseverative factor, which in turn is at least partially due to a fundamentally organic cause, namely the inelasticity of the psycho-physical medium of psychic activity. The writings of Lindworsky, Fox, Piéron, Ritchie, King and others show that the psychological world is now beginning to interest itself in this question of resonance, and we may hope that

*ie whole composition
especially central
nervous system - that
part obviously closely
connected to psychic
activity*

¹ e.g. Professor E. D. Adrian in his Presidential Address to the Physiology Section of the British Association at Leicester, 1933, said: "The activity which the neurones show is in some respects remarkably simple. It is essentially rhythmic: a series of rapid alternations between the resting and the active state, due probably to rapid breakdown and repair of the surface. This at least is a fair description of the way in which the nerve fibres carry out their function of conducting messages, and we can detect the same kind of pulsating activity in the nerve cells of the brain. . . . The electric oscillations in the cortex and in the grey matter are often due to a large number of units pulsating in unison. Sometimes there are several competing rhythms, and sometimes the collective action breaks down altogether, to reappear from time to time when some part of the system is stimulated to greater activity."

further work in this field will throw more light on the constituents of temperament, and on the causes of the emotional maladjustments which so frequently lead to delinquency.



APPENDIX TO CHAPTER VII

CHARACTERISTICS OF LOW AND
HIGH PERSEVERATORS

Reproduced by courtesy of Dr. R. B. Cattell and his
Publishers from *A Guide to Mental Testing*, p. 209.
The University of London Press, 1936.

CHARACTERISTICS OF LOW PERSEVERATORS

1. Prone to action in dissatisfaction. Masterful ; active.
2. Insistently assertive. High tension, hence nagging, restless, fussy.
3. Enterprising, self-reliant. Sometimes naïvely individualistic. Tend to be natural leaders.
4. Not affected by emotional scenes. Inconsiderate, tough.
5. Irritable, selfish, silent, and anxious.
6. Tends to be interested in mechanical, scientific and mathematical matters.
7. Decisive and impetuous. Ability to grasp situations whole. Good taste and definite style in voice, dress, music, etc.
8. Dreams very little.
9. Liable to short periods of acute restlessness and crisis of intense emotional dissatisfaction.
10. More interested in scientific, business and practical matters.
11. Makes good use of relatively low I.Q. (In social status responsibility of occupation, etc.)
12. In general character is defective because of "immaturity" *naïveté* and lack of adequate inhibition.

CHARACTERISTICS OF HIGH PERSEVERATORS

1. Resigned, but often seeking expression in tortuous ways—hence sometimes deceitful, cruel, spiteful, unpredictable.

2. Quiet, slow, more emotional and “deep” in general.

3. More sceptical and pessimistic. Conservative in habits.

4. Sensitive.

5. Rebellious in outlook, serious, shy and solitary.

6. Tends to be interested in history, languages, and humanities.

7. Absent-minded. Impressed by one thing at a time. Drifting to decisions. Dreamy. Sentimental. Careless of detail. Slovenly in dress.

8. Greater tendency to dreaming (in sleep).

9. Liable to long periods of depression or gentle melancholy.

10. More interested in religious, historical, and language subjects. Neurotic symptoms of a general nature more prevalent.

11. Fails to make good use of intelligence in any ordinary sense.

12. In general character is defective because of excessive deep inhibition with general discouragement and lack of integrated driving power.

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GLOSSARY OF SOME TECHNICAL TERMS

Amentia

Arrested development of mind either congenital or caused by injury or disease before development is complete.

Blastophthoria

The impairment of the germ-plasm by toxic influences.

Carrier

An individual who has a recessive genetic character in a latent form.

Dementia

Disorder of a developed mind which has been functioning normally.

Dominant

A genetic character of one of the parents which appears in *all* the offspring.

Endogenous

A term used to express a factor which modifies the reproductive cells before conception: i.e. hereditary as distinct from environmental factors.

Environment

Any factor which acts from without on an organism.

Exogenous

A term used to express a factor which affects the organism at any time after conception: i.e. environmental as distinct from hereditary causes.

Familial Concentration

The occurrence among several members of a family of a defect, disorder, or abnormality of a similar general type.

Gene

An element in the chromosome which, it is supposed, is responsible for the production of Mendelian characters.

Heredity

The organic relationship between successive generations by which some character present in the parent cells is transmitted by means of genes to the offspring.

Insanity

A medico-legal term to express disorders of mind and conduct.

Intelligence Quotient

The ratio of an individual's intelligence, as measured by standard tests, to the average intelligence for his age. Usually the ratio given is mental age divided by chronological age.

Mendelism

The theory of heredity according to which the constitution of the offspring is determined by a number of factors (called unit-characters) contributed by the parents and transmitted through the germ-plasm by genes.

Mental Age

The measurement in years of intellectual development as ascertained by standardized mental tests. (See Intelligence Quotient or Mental Ratio.)

Mental Defect

A condition of arrested or incomplete development of mind existing before the age of eighteen years, whether arising from inherent causes or induced by disease or injury. (See Amentia.)

Moral Imbecility

1. A supposed innate defect of the power to distinguish between right and wrong.
2. Formerly, legally defined as : " Permanent mental defect coupled with strong vicious or criminal propen-

sities on which punishment has little or no deterrent effect."

Moral Insanity

A term used to describe an impairment of moral values in an otherwise intellectually sound individual.

Moral Sense

A supposed faculty, distinct from intellect, for the perception of moral truths and values.

Neuropathic Taint

The transmission to succeeding generations of germ-plasm which has been weakened by toxic influences, e.g. alcohol, syphilis, etc.

Oligophrenia

The Continental term for "Mental Defect"—but it is wider than the English term since it includes *all* sub-normalities.

Perseveration

The inertia which psychic energy has to overcome before action can result and the tendency of this psychic activity to persist when the resistance has been overcome.

Primary Amentia

Arrested mental development due to hereditary influences. (See Endogenous.)

Psychoneurosis

A mental disorder with nervous manifestations but no evidence of organic disease of the brain.

Psychosis

A serious disorder of mind characterized by a change in the personality.

Recessive

A genetic character of one of the parents which does not appear in the first generation of offspring, but which is carried in a latent form.

Secondary Amentia

Arrested mental development due to environmental factors. (See Exogenous.)

Sentiment

An organized system of emotional dispositions centred about the idea of some object.

Temperamental Defectives

"Persons, who without being intellectually defective, exhibit from an early age a permanent emotional instability." (Dr. Burt.)

Wisdom

"The group of intellectual processes concerned in co-ordination and general control of conduct and adaptation to present and future needs." (Dr. Tredgold.)

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