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UNSOUNDNESS OF MIND

CONSIDERED IN RELATION TO THE

QUESTION OF RESPONSIBILITY

FOR

CRIMINAL ACTS.

BY

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"Fiat justitia; ruat cœlum."

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Dav. Nicolson

RESPONSIBILITY

IN

CRIMINAL LUNACY.

PREFACE.

Most authors, I imagine, regard the introduction of the firstfruits of their pen to public notice with feelings akin to timidity: they are apt to view with too much self-complacency the literary edifice, as it grows up into fair proportions beneath their daily superintendence; they dread the shock of hostile criticism, which may dash down and crumble into dust their fondest and most cherished anticipations, and the fear they experience is exalted in proportion as the sense of the worth of their performance is developed in themselves. The author of this Essay wishes for no other merit than that of presenting a correct picture of a condition of things which claims to be remedied on its own intrinsic evidences of injustice and importance, and which must be patent to all who will take the trouble to examine for themselves dispassionately into the details of the matter. He therefore hopes that criticism will in his case have regard rather to the points of interest discussed, than to the manifold imperfections of the writer.

TO

ALFRED SWAYNE TAYLOR, ESQ.,

M.D., F.R.S.,

PROFESSOR OF MEDICAL JURISPRUDENCE AT GUY'S HOSPITAL,

ETC. ETC.

My dear Sir,

It was under your able direction and counsel that I first commenced the study of Medical Jurisprudence. May I then venture to dedicate this little Work to you, as a token of the esteem I entertain for yourself, and as a testimony to the high respect I have for the eminent professional talents you possess?

Believe me to be,

My dear Sir,

Very sincerely yours,

Samuel Knaggs.

Huddersfield, Yorkshire.

UNSOUNDNESS OF MIND

CONSIDERED

IN RELATION TO RESPONSIBILITY FOR CRIMINAL ACTS.

CHAPTER I.

INTRODUCTION.

We remember to have read of the celebrated magician, wishful to discover the successor to a great and mighty empire, whose reigning monarch was far advanced in years, tracing in sand the letters of the alphabet, into each of which he placed a few barley grains, and muttering some mysterious incantation, turned loose a cock, who picked out the seed from four places, θ, ε, ο, δ; the despot, as the story tells, on being informed of the circumstance, and the result of the experiment, caused many individuals to be put to death, for no other reason than that their names began with these letters. Fortunately for us, however, we live in a different era; and thanks in part to our age of progress and civilization, and to our country with its free constitution and glorious laws, it is improbable we shall ever be called upon to sustain so gross and

wanton a violation of our privileges and rights as men. Nevertheless, excellent howsoever upon the whole, our laws may be, still they are but human institutions, and as such, liable to imperfection: theoretically, we know we ought not to expect perfection in such, practically that we cannot attain it; and hence it is found, that ever and anon, cases of individual hardship come before us, arising out of the penalty due to the infringement of these regulations under peculiar circumstances or contingencies which it is difficult, if not impossible, to provide against; and if we examine the subject attentively, we see such a labyrinth to wade through, such a mass of conflicting interests to consider, that the mind bewildered, shrinks in despair from the attempt to rectify, and solaces itself by the reflection, that if much good results from any instrumentality, some evil is almost sure to accrue. Acts, really as indefensible and unjust as those of this blood-stained Grecian autocrat, are occasionally in this manner, under the garb of necessity, "the tyrant's plea," perpetrated with the sanction and under the time-honoured name of law. Now, though, as I have before said, it cannot be expected that any system should be devised free from exception to meet all emergencies, I shall presume it conceded that, a necessity for amendment in any regulation being shown, and the possibility and practicability of a means of improvement demonstrated, reason and humanity alike demand

that our legislators should avail themselves thereof. The relation that should be maintained by an outraged institution, towards the class of criminals of unsound mind, constitutes at the present moment, to the eye of the philosophic observer, that which the annals of jurisprudence show it to have been from time immemorial, a great stumbling block: the *quæstio vexata* of the past, the present, and it may be the future; one, which it is wrong to leave, yet difficult to touch, so intricate and tortuous are its several bearings. The subject appeals with force and power to the sympathies as well as the minds of all; protection to life and property *alone*, is a principle in which every one is deeply interested, no matter what the rank or station he occupies in society; the blessings and the sweets of life and its belongings are as highly esteemed by the peasant in his lowly cot, perhaps even more so, than by the monarch on his throne. To ensure this protection to life and property, so far as can be effected by legislation, it becomes requisite to admit another principle, viz., that any offences against either the one or the other shall be visited with punishment. But it so happens that occasionally these offences are the result of a diseased and distempered mind, a condition to which every human being is more or less exposed; and the folly and injustice of treating criminal sanity and insanity upon the same footing being too apparent, the law very properly recognises irresponsibility in consequence of mental

imperfection as a legitimate and lawful defence. With a provision so correct and just, it may well be matter of regret that abuse should creep in; but the self-evident benefit of the plea of irresponsibility naturally led to the too frequent and unjustifiable adoption of the same, whilst the wide scope of the subject offered great facilities for the evasion of justice, and thus it became necessary to define, as precisely as could be accomplished, the degree of madness or unsoundness which should shield from the retributive consequences of the act.

Definitions, accurate and correct in all their parts, are of extreme value, but when imperfect are apt to generate error. "*Animal bipes et implume*," a two-footed animal without feathers, was Plato's celebrated definition of man, the fallacy of which was exposed by Diogenes throwing a plucked fowl into the schools, and exclaiming, "behold Plato's man." This serves to illustrate an occurrence by no means rare in the history of definitions, viz., one inadequate to the thing defined. The belief that much of the obscurity investing this subject, giving origin to such multiform discrepancy of opinion, is attributable to the attempt to enclose within the limit of an incomplete definition all the relations of a vast and comprehensive condition, has led me to this digression.

This plan of fixing the premise upon which action is founded, is the natural suggestion to the mind of the individual trained up to the examina-

tion of the technicalities of legal evidence, expert in detecting fallacy, prompt in perceiving truth; nor does insanity, to one unacquainted with the peculiarities of mental organization, seem to oppose insuperable or even serious objections to such a mode of procedure. Nothing on the surface appears more easy than to decide whether a person be sane or mad; and the inference is natural that a condition admitting such ready detection ought to allow of satisfactory definition. Whereas the physician who has devoted a lifetime to the long and laborious study of this particular branch of his profession, confesses his inability to define insanity, and believes we might with equal propriety attempt to define red, yellow, blue, or any other abstract essence. The habitudes of thought of the two professions will, on consideration, possibly furnish a key to the source of this disagreement. Vice, in its many hydra-headed forms, aided by its twin sister Folly, has rendered the legal profession a necessary shield to suffering humanity, to screen virtue and innocence from their attacks. The lawyer is accustomed, in the exercise of his calling, to combat these evils through the medium of the fixed and unswerving laws of his country; he thinks on certainties, and deals with certainties; and, having nothing to make him undecided in his opinions, he is in action what we should expect to find him—positive and practical. The medical practitioner, on the other hand, is surrounded by un-

certainty; it is for him to investigate and control the ravages of principles which can be neither seen nor traced, otherwise than by the observation of the effect produced upon that complex piece of machinery the human body; to study a mechanism which he can understand, in unison with a principle of life which baffles comprehension; from the knowledge he has acquired, he endeavours to reason up to that which he does not possess; he finds obscurity in the origin and causes of diseases, as also in their progress and decline, and in the application of remedies much of dubious ground. The mind thus habituated to the contemplation of subjects of such practical import, though speculative tendency, demanding investigation as they do in an enlarged and philosophical spirit, acquires facility in seeking out and grappling with all the material difficulties investing the topic, which habit, although doubtless in accordance with the true genius of philosophic investigation, still unquestionably must be admitted to have a tendency to divert the mind from the practical consideration, which is really that which should be most attended to. When clouds of doubt are then, as we have seen, necessarily so constantly passing and repassing before the vision of the physician, can it be matter of surprise or wonder, that if he properly appreciate his position, hesitancy and caution stamp the man? And it is no doubt owing to the widely different training to which these two sepa-

rate classes of mind are subjected, as well as to the diversity in the opportunities for observation possessed by each, that we find that want of cordial sympathy and agreement between the opinions of these two parties, viewing this self-same subject from different aspects. The objects of both are alike—viz., to uphold the law, to punish the criminal, to rescue the lunatic; and hence, how very desirable to combine in action, if possible, forces whose aim is identical, but whose operation at the present is, alas, oftentimes antagonistic. Now, this essay proposes for its object, not to exhibit insanity in the most comprehensive view, but, what appears to the author to be the most correct view of the relation that should be maintained by the legislative power towards those of unsound mind that have committed criminal acts, and he hopes to be enabled to prove that a correct and truthful estimate of every disputed point is not incompatible with an efficient practical conclusion, and in reality a *more* efficient one, than that depending on a contracted view of the matter.

The interrogatory which first presents itself, and upon the answer to which a large amount of the difficulty clothing the inquiry hinges, is, what is unsoundness of mind? The moralist, who looks to perfection of thought and action as the true standard of soundness of mind, knowing the depravity of the human heart, that it is by nature, in the best and brightest specimens of mankind,

prone to evil, and deeming this tendency to sin incompatible with mental sanity, arrives at the conclusion that one being alone can be said to be of sound mind, and that he is God. Were unsoundness, however, tested in such measure to except from the consequences of crime, villany would stalk rampant throughout the length and breadth of the land, unchecked by those restrictions and awards which society has been compelled in self-defence to apply under the name of punishment. The law very properly draws a distinction between moral depravity and mental infirmity, and between the sequences of both. It conceives that individuals are placed here in a probationary situation, endowed with wills, appetites, and passions, over which they possess a guiding and ruling power; that according to the manner in which they employ, or neglect the use of, this power, so do they render themselves amenable to the laws of God; that these agencies are also apt to engender offences against the laws of man, and provided that this influence be capable of regulating and controlling these, so should the being be held responsible to those laws; but that if from disease or other cause, the command over this power be lost or impaired, it is sufficient to absolve from the penalty which would otherwise attach to the transgressor.

The following is the legal test, given explicitly by the whole of the judges in conference, in answer

to queries put by the House of Lords, in 1843, to distinguish between sound and unsound mind, in reference to criminal irresponsibility:

"The jury ought in all cases to be told that every man should be considered of sane mind, until the contrary were clearly proved in evidence. That before a plea of insanity should be allowed, undoubted evidence ought to be adduced that the accused was of unsound mind, and that at the time he committed the act, he was not conscious of right or wrong. Every person was supposed to know what the law was, and therefore nothing could justify a wrong act, except it was clearly proved that the party did not know right from wrong. If that was not satisfactorily proved, the accused was liable to punishment. If the delusion under which a person laboured were only partial, the party accused was equally liable with a person of sane mind."

"From this it would appear that the law, in order to render a man responsible for a crime, looks for a consciousness of right and wrong, and a knowledge of the consequences of the act." There are not a few individuals whose sense of right and wrong is always dull and incomplete; these are moral idiots: the affections in some human beings are as imperfect or as wanting as any of the faculties of the intellect are in others; such an excuse for crimes cannot, it is evident, be recognised without danger; yet it sometimes exists, and, in strict

justice, ought to be admitted. Hereafter it will devolve upon us to show that forms of unsoundness may and do exist, which, nevertheless, it is not only expedient, but correct in reason, to hold as responsible; but, granting this, we yet object to the legal test, because there are manifestly many cases to which it will not apply—cases which most undeniably should be exempt from punishment, but which, tried by this test, could not avoid it. A man, for example, who has led a steady and consistent life, one tenderly attached to his wife and family, respected and esteemed by his neighbours and friends, without any conceivable motive, possibly without manifesting even any premonitory symptoms indicative of mental derangement, and it may be without any traceable hereditary tendency thereto being discoverable, rises in the night, murders his wife and children, and probably attempts his own life. Should the unfortunate succeed in committing self-destruction, but little difficulty then is found in arriving at the verdict of "temporary insanity;" but if he survive to take his trial, the plea of insanity must fall to the ground, and the madman will be left for execution, unless sufficient interest be excited to procure a reprieve of the sentence. What evidence, let me ask, would there be in such a case to prove that this individual was not conscious of right and wrong at the time he committed the act? Positively none, excepting the negative testimony afforded

by the previous unblemished reputation, excellency of disposition, and absence of all motive; but who, knowing the circumstances, would for a single moment entertain a question of the insanity of such an individual? Now, the above is no imaginary sketch, but is drawn from what has passed under the author's personal observation, wherein the learned judge remarked, in reference to the expressed medical opinion in favour of the prisoner's unsoundness of mind, founded upon the consideration of the details of the case, and their knowledge of moral insanity, that "to allow the plea on such terms would be in the highest degree dangerous and unsafe." The prisoner was therefore condemned, but a well-directed intercession procured a remission of the sentence; ere long the latent evil developed itself in unmistakeable madness, and the poor fellow died insane, within the twelve months after his conviction. Taylor relates the following case, tried on the Midland Circuit, July, 1837: "A man named Greensmith was charged with the murder of his four children; he was a person of industrious habits, and an affectionate father, but having fallen into distressed circumstances, he destroyed his children by strangling them, in order, as he said, that they might not be turned out into the streets. The idea only came to him on the night of his perpetrating the crime. After he had strangled two of his children in bed, he went down stairs, where he

remained some time, but thinking he might as well suffer for all as for two, he returned to the bedroom and destroyed the two whom he had left alive. He shook hands with them before he strangled them. He left the house and went to a neighbour's, but said nothing of the murder until he was apprehended, the next day, and taken before the coroner, when he made a full confession. Not one of the witnesses had ever observed the slightest indication of insanity about him. He made no defence; but several humane medical practitioners came forward to depose that he was insane. The surgeon of the gaol said that the man was feverish, complained of headache, and had been subject to disturbed sleep and sudden starts since the death of his wife, a short time before. He spoke of the crime he had committed without the slightest excitement, and the witness said he had heard enough of the evidence to satisfy him that the prisoner could not have committed such a crime as this, and be in a sane state of mind. Dr. Blake, physician to the Nottingham Lunatic Asylum, said he was satisfied that the prisoner laboured under a delusion of mind; the prisoner's grandmother and sister had been under his care, the latter for entertaining a similar delusion, namely, that of destroying herself and her children. The judge declined receiving the evidence; and under his direction the prisoner was found guilty, and sentence of death was passed upon him. By the

active interference of Dr. Blake, and others, he was respited, on the ground of insanity."

Moreover, a full consciousness of the illegality or wrongfulness of the act may exist in a man's mind, and yet he may be fairly acquitted on the ground of insanity; thus, the "incendiary Martin admitted that he knew he was doing wrong, according to the law of man, when he set fire to York cathedral; he was conscious that the act was illegal, but said he had the command of God to do it." And lastly, and not unfrequently, do we find existing in the lunatic criminal, not only a consciousness of right and wrong, but even a knowledge of the consequences of the act, and, strange to say, perhaps this latter perception constitutes the only motive for the commission of the deed; thus, in the case "of Hadfield, who was tried for shooting at George the Third, and acquitted on the ground of insanity, he knew that in firing at the king he was doing what was contrary to law, and that the punishment of death was attached to the crime of assassination; but the motive for the crime was, that he might be put to death by others; he would not take away his own life"! Many insane people act from motives sufficiently apparent, and plan crimes with abundant premeditation, contrivance, and cunning; they exercise their powers often without intending any crime, but in the furtherance of some vague or insane object. Dr. Conolly tells of a gentleman, an officer in the Engineers, who,

confined in a private asylum near London, had for some time meditated escape; one day, when some workmen were in the house, he affected a particular interest in the construction of the lock of the door, and persuaded one of them to take it off for his inspection. He took it to pieces and put it together again, and volunteered to fix it again to the door, which he did in a very workmanlike manner; but he had first abstracted from the lock the portion of hard metal, of which the use is to prevent the key from being turned too far backward. Soon afterward, he escaped from the asylum in the night, and much wonder was excited, when it was found that he had managed to saw in two one of the iron bars by which the window of his room had been, it was supposed, securely guarded; no one, not even the policeman, could conjecture how this had been done. The patient was soon retaken, and in his pocket was found the piece of metal which had been so useful to him, and which he explained that he had employed in sawing the bar through. Here were premeditation, contrivance, an object or motive, and all the quiet precaution of a reflecting man; yet the patient was so decidedly insane, that when he had effected his escape, his first step was to proceed to Apsley-house, where he announced himself as the Marquis of Wellesley! Now the instances which have been brought forward to illustrate these positions are by no means exceptional ones, they are types of many which are continually urging

themselves upon the attention of the jurist; therefore, to repeat, we object to the law test for two reasons, 1st, That many cases occur which should be accounted free from punishment, in which it is impossible to prove that there did not exist a consciousness of right and wrong at the period of the perpetration of the crime; and 2ndly, That there are many cases in which the lunatic possesses a consciousness of right and wrong, and also a knowledge of the consequences of the act, though he ought not to be held responsible for his actions. But it may be urged, why not produce instances in which the working of this legal test has failed or done injustice? And here, unhappily, there is no scarcity of material to select from. The instance of M'Naughten will be fresh in the remembrance of many; here was "a man lurking for many days together in a particular locality, having about him a loaded weapon, watching a particular individual who frequents the locality; a man who does not face the individual and shoot him, but who coolly waits until he has an opportunity of discharging the weapon unobserved by his victim or others; the circumstances appear to show such a perfect adaptation of means to ends, and such a power of controlling his actions, that one is quite at a loss to understand why a plea of irresponsibility should be admitted, except upon the fallacious ground that no motive could be discovered for the act—a ground, however, which was not allowed to pre-

vail in the cases of perpetrators of other atrocious crimes.

Compare the case of M'Naughten with that of Reg. *v.* Lawrence; here the prisoner had been arrested by a constable for a petty theft; he was taken to a police station, where the inspector, who was an utter stranger to him, was at the time engaged in talking to some friends, his back being turned to the prisoner; the man suddenly seized a poker and struck the inspector a violent blow on the skull, from which he speedily died. The prisoner admitted that he struck the blow, that he had no motive for the act, and that he would have struck any one else who had been standing there at the time. He also said, he hoped the deceased would die, he was glad he had done it, and he wished to be hanged. The evidence at the trial showed there was no quarrel between the parties, but that the prisoner appeared to be actuated by some sudden impulse, for which they could not assign the slightest reason. The man was left to a chance defence—there was no eloquent advocate to make a brilliant speech in his favour; there were no medical witnesses profoundly versed in the subject of insanity to contend for the existence of an "homicidal climax," or of impulsive homicidal monomania; but there was simply a formal plea of insanity, resting upon the fact of the deceased being a stranger to him, and of there being consequently no motive for the murder: the jury negatived the

plea, and the prisoner was convicted and executed. The only difference between this case and that of M'Naughten was, that there was in Lawrence less evidence of deliberation, with stronger evidence of sudden impulse, and there was not sufficient interest about the deceased, the prisoner, or his crime, to attract any great public attention. In the case of Reg. *v.* Hon. Ross Touchett: the prisoner, a young man, entered a shooting gallery in Holborn, took up a pistol and deliberately fired at the proprietor of the gallery while his back was turned; thereby inflicting a wound, which ultimately led to his death after the long period of eleven months. The prisoner was tried for shooting with intent to murder: the defence was insanity, founded on the absence of motive for the act, and the presumption of hereditary taint. After having fired the pistol, he said he did it on purpose, for he wished to be hanged: there was no evidence of intellectual aberration, his landlady said he was a very regular and quiet sort of person, and that he had complained of a sensation of boiling at the top of his head. Dr. Monro considered that at the time of the act the prisoner was labouring under mental derangement. He admitted to him that he had no knowledge of Mr. Smith (the person whom he shot), but that he wished to be hanged, and had been brooding over suicide for several years; he referred to the case of Lawrence who had killed the man at Brighton, and said he wished to do something

of the kind in order to be hanged. He was acquitted on the ground of insanity!

What distinction can possibly be made by physician or jurist between these last two cases; or how is it possible to lay down rules for the future guidance of medical witnesses, under such capricious decisions? The acquittal of Touchett may have been perfectly right, but then the execution of Lawrence was a public wrong. Many such counterparts might be instanced; but there is, I think, sufficient to prove that there is both uncertainty and injustice in the operation of our criminal law; either some individuals are most improperly acquitted, on the ground of insanity, or others are most unjustly executed.

Opposing, then, the legal test, on the score of its inefficiency, inadequacy, and uncertain application, the next consideration should evidently be, if possible, to provide a better. Let us array before us, to the best of our ability, all the difficulties of the subject, and endeavour honestly to give to each its due weight and importance; this course, if allowed by our capacity to be followed out to its legitimate termination, must lead to what is indisputably the most to be coveted, the naked truth of the matter.

> "None sends his arrow to the mark in view,
> Whose hand is feeble, or his aim untrue;
> For though ere yet the shaft is on the wing,
> Or when it first forsakes the elastic string,
> It err but little from the intended line,
> It falls at last far wide of the design."

CHAPTER II.

ON MIND, SOUND AND UNSOUND.

In the words of an elegant writer, "The mind is that part of our being which thinks and wills, remembers and reasons; we know nothing of it except from these functions. By means of the corporeal senses, it holds intercourse with the things of the external world, and receives impressions from them. But of this connexion also we know nothing but the facts; when we attempt to speculate upon its nature and cause, we wander at once from the path of philosophical inquiry, into conjectures which are as far out of the proper sphere, as they are beyond the reach of the human faculties." Without, therefore, attempting to enter upon the questionable ground of the materiality or immateriality of the mind, a digression which would be out of place in a treatise of this nature, we shall assume a position that will not be disputed,—viz., that the brain is an organ of complex arrangement, adapted for the transmission of the fiats of this power which we call mind. We notice that certain portions of its struc-

ture appear to be set apart for the regulation of the special senses, for it is found that lesions either from injury or disease affecting such parts are attended by partial impairment, or total loss of the sense itself; the morbid condition of the brain substance, modifying or preventing the transmission of that impulse which is needed to put in action the wondrous mechanism for communication with the objects of the external world.

Something of the same nature is observable with respect to the operations of the mind, though from the infant state of our phrenological knowledge we are as yet unable to associate the effect with its cause. This is, perhaps, trenching upon dangerous ground; and I am therefore wishful to be understood that, in employing the term phrenological, it is not with reference to the so-called system of mapping out the surface of the head into compartments, and giving local habitation to the qualities of the mind and such like, which seems crude and unscientific, and injurious to the best interests of science as calculated to divert the consideration of the truth-seeker from a subject which he finds so overwhelmed with absurdity. But few reflecting observers of mind will hesitate to admit the existence of a solid principle beneath this tinsel superstructure; comparative anatomy bears silent testimony to the varied degrees of intelligence of the animal, as relative to the amount and intricacy of the convolutions of the brain; though even on this

head, some facts yet require explanation, which are possibly only apparent objections to the conclusion. If we ponder upon the evidence presented by the cocoa-nut shaped skull of the idiot, the receding forehead and capacious occiput of the unintellectual and ferocious savage, and the well-developed cranium of the intelligent Caucasian, the inference would appear to be, that inquiries pursued in a correct inductive spirit (and not with a mind predisposed to receive as facts principles only partially proven, or prepared to accommodate facts to theory, instead of theory to facts), may yet succeed in placing a sound phrenology on a level with the great scientific truths of the day. To return to our subject, we notice then the faulty operation of the mind, sometimes as the companion of a diseased state of the brain; oftentimes we are unable to trace any connexion; so that, as in other organs of the body, we recognise in the brain those derangements of function, attended by sensible structural alteration under the term organic change; and where we find derangement of function not associated with any appreciable change of structure, this we call functional. The external manifestation, however, is in either case the same; and the only import of the distinction is, with reference to the curability or incurability of the malady. This, then, at present, is the real amount of our knowledge of the channel through which mind passes, meagre and unsatisfactory though it be,

and we pass on to view the operations of the mind, results we can see and appreciate, of an agency we can neither see nor comprehend. We express these primary powers by the following denominations,—viz., sensation, association, memory, imagination, judgment, and will. In the healthy mind, we see that impressions are received through the medium of the senses, and registered as ideas; that, by the process of association, we are so enabled to arrange two or more facts or conceptions, that at an after-period the remembrance of the one recalls the others, in their due order and relation. In memory we trace a provision for the retention of facts or events; imagination "bodies forth the form of things unknown;" by it we can wave the enchanter's wand, as it were, over our ideas, and with Circean power, transform them into pictures, mythic and unreal. The mental exercise by which "we compare facts with each other and mental impressions with external things," constitutes the sedate, steadying power we call judgment, which should decide our mode of action; whilst the will determines the act itself. The well-regulated mind (*par excellence*) shows the perfect working of these powers, each in due dependance upon the other, but all submissive to the sway of reason; a combination of forces, by this means, attuned to the production of harmonious action.

Slight reflection will convince of the great range that must of necessity be allowed for even

healthy mind: in one individual, for example, we find the power of association very defective; perhaps it is natural to him, or it may be dependant upon the effect produced by trifling, irregular, or desultory pursuits; in another, we discover the treacherous memory; a third party is tormented with an exalted imagination; he sees not things as they really are, but is either to be found revelling in the enjoyment of the beatitudes of bliss, or else drinking to the dregs the cup of anguish and despair. The powers of reasoning, again, vary very greatly even amongst those who have enjoyed equal opportunities of mental cultivation, and still more so when this condition does not obtain.

> "I see men's judgments are
> A parcel of their fortunes: and things outward
> Do draw the inward quality after them."

Compare the agricultural peasant's rude and elementary mode of argument with that of the polished courtier and scholar; though it by no means follows that the latter, with all his talents, will arrive at the more logical conclusion. Acute reasoning powers are exposed to much danger from sophistries which the peasant, in his simple innocency, is protected from.

> "He lost in errors his vain heart prefers;
> She safe in the simplicity of hers."

Then, again, it is by no means rare to watch, even amongst those accounted excellent in the

world's estimation, the knowledge of that which is right associated with the doing of that which is wrong; they accord their testimony to the truths of inspiration, and believe in the uncertainty of life, but yet live and act careless and thoughtless of their want of preparation for eternity; or, a step lower in the scale, we see the criminal, be he pickpocket, swindler, or burglar; the man reasons correctly, knows he is committing a crime, and that if discovered he will be punished by the laws of his country; but hoping to escape detection, and not fearing the moral law, he determines on his wrong and slippery course. This is moral depravity; and though to the eye of the moralist it does present traces of real unsoundness, still the psychologist cannot but recognise the state (deformity though it be) as coming within the scope of soundness of mind. Having then, it is hoped, succeeded in pointing out that there exist degrees of soundness of mind, analogy leads us to expect what indeed is found to be the case,—viz., that unsoundness is manifested in the same manner from the extremes of eccentricity on the one hand, to those of absolute dementia, or total loss of reasoning power on the other. The plan proposed by Esquirol of classifying under certain forms the degrees of insanity, has been, for the sake of convenience, generally adopted by authorities on insanity: it is purely artificial, and for the purposes of this essay, three divisions will answer,—viz., mania, monomania, and dementia.

In mania we observe general derangement of the understanding, attended by more or less of mental excitement; the whole character seems to be altered, the individual becomes unusually irritable and unreasonable, impatient of control, suspicious of everything and everybody; his disordered sensations, together with his mental ability to analyze and correct these false perceptions, induce delusions, in which he believes as firmly as he does in the truth of his own existence. His vivid imagination transforms the ambitious man, in idea, into some monarch, or other great personage; those with whom he comes in contact are his subjects, or subordinates; and no matter how badly the circumstances by which he is surrounded may contrast with the pretensions, still they are powerless to convince him of his error. The following sketch by Pinel graphically points out some of the marked features of mania:—"I was frequently followed at the Bicêtre by a general, who said that he had just been fighting an important battle, and had left fifty thousand men dead on the field. At my side was a monarch, who talked of nothing but his subjects and his provinces; in another place was the prophet Mahomet in person, denouncing vengeance in the name of the Almighty: a little further was the Sovereign of the universe, who could, with a breath, annihilate the earth; many of them seemed to be occupied with the multiplicity of objects which were present to their imaginations; they gesticu-

lated, declaimed, and vociferated incessantly, without appearing to see or hear anything that passed; others, under illusive influence, saw objects in forms and colours which they did not really possess; under the influence of an illusion of this kind was a man who mistook for a legion of devils every assembly of people that he saw: another maniac tore his clothes to tatters, and scattered the straw upon which he lay, under the apprehension that they were heaps of twisted serpents." But in the individual of desponding temperament, the malady is prone to assume the type of melancholia; indeed, after the paroxysm of furious mania has passed over, it is by no means uncommon for the one to take the place of the other; here the whole attention is engrossed by the contemplation of some real or imaginary trouble, and it seems next to impossible to direct the mind away from the contemplation of the grievance.

> "Grief shall leave them no repose
> At morning's dawn, at evening's close;
> Despair shall round their souls be twined,
> And drink the vigour of their mind,
> As round the oak rank ivy cleaves,
> Steals its sap and blasts its leaves."

This constant tendency to look on the dark side of the picture, from the mental inability to shift the scene, naturally induces the attempt at self-destruction, to rid themselves of a life of such fearful and hopeless misery; and thus it is that we find the tendency to suicide so strongly developed

in this unfortunate subclass of insane. Amongst these, we occasionally meet beings who, with a desire for death, unite a consciousness of the criminality of suicide; to effect their purpose, these will sometimes commit murder, in order that they may perish by the hands of justice. Again, in the course of bodily disease, we find delirium coming on, which we may consider as a temporary form of mania: and also in association with childbirth, under the term puerperal mania, is recognised a state, excepting a few attendant peculiarities, very analogous.

Monomania is a form of unsoundness which it is of the greatest importance to understand aright; there is partial delusion, and on every point connected with this, the mental alienation is complete; but in other matters, the evidence of intellectual disturbance is comparatively slight: "there is no doubt that all the mental faculties are more or less affected, but the affection is more strikingly manifested in some than in others." What is called "moral insanity" may be admitted into this class; it is principally indicated by derangement of the feelings, passions, and emotions; it will in some instances manifest itself quite suddenly, in some violent impulsive act, the suggestion of the moment, motiveless, revolting, or cruel, without any premonitory warning; but, as is more common, in the gradual change of character stealing over the individual, evinced by the cruelty of

disposition, fitfulness of temper, causeless suspicion, jealousy or hate of others, often his best friends, which is observed to mark the progress of the malady. The following case, narrated by Prichard, appears to establish the relationship between moral insanity and monomania; at least, it shows the tendency of the former to degenerate into, and ultimately assume the character of the latter. "A gentleman remarkable for the warmth of his affections and the amiable simplicity of his character, possessed of great intellectual capacity, strong powers of reasoning, and a lively imagination, married a lady of high mental endowments, and who was long well known in the world. He was devotedly attached to her, but entertained the greatest jealousy lest the world should suppose, that in consequence of her talents, she exercised an undue influence over his judgment, or dictated his compositions. He accordingly set out with the determination of never consulting her, or yielding to her influence, and was always careful when engaged in writing, that she should be ignorant of the subject which occupied his thoughts: his wife has been often heard to lament that want of sympathy and union, which is so desirable in married life. This peculiarity, however, in the husband, so much increased, that in after years, the most trifling proposition on her part was canvassed and discussed by every kind of argument.

In the mean time he acquired strange peculiarities

of habits; his love of order, or placing things in what he considered order and regularity, was remarkable; he was continually putting chairs &c. in their places; and if articles of ladies' work or books were left on a table, he would take an opportunity, unobserved, of putting them in order, generally spreading the work smooth, and placing the other articles in rows. He would steal into rooms belonging to other persons for the purpose of arranging the various articles. So much time did he consume in trifles, placing and replacing, and running from one room to another, that he was rarely dressed by dinner-time, and often apologized for dining in his dressing-gown, when it was well known that he had done nothing the whole morning but dress; and he would often take a walk on a winter's evening with a lantern, because he had not been able to get ready earlier in the day. He would run up and down the garden a certain number of times, rinsing his mouth with water, and spitting alternately on one side and then on the other in regular succession. He employed a good deal of time in rolling up little pieces of writing-paper, which he used for cleaning his nose. In short, his peculiarities were innumerable; but he concealed them as much as possible from the observation of his wife, whom he knew to be vexed at his habits, and to whom he always behaved with the most respectful and affectionate attention, although she could not influence him in the slightest

degree. He would occasionally, however, break through these habits, as on Sundays; though he rose early for the purpose, he was always ready to perform service at a chapel a mile and a half distant from his house. It was a mystery to his intimate friends when and how he prepared these services. It did not at all surprise those who were best acquainted with his peculiarities to hear that in a short time he became notoriously insane. He fancied his wife's affections were alienated from him, continually affirming that it was quite impossible she could have any regard for a person who had rendered himself so contemptible. He committed several acts of violence, argued vehemently in favour of suicide, and was shortly afterwards found drowned in a canal near his house. Now, in monomania we discover strong propensities to the commission of special crime, such as suicide, homicide, incendiarism, or theft, seemingly uncontrollable, though attended with but little apparent evidence of intellectual aberration; the varied forms of eccentricity are allied to this group; the distinguishing characteristic difference between the two being, that the eccentric person knows that his actions are absurd, whilst the monomaniac cannot be convinced that his are so; with the former, the habit is a permanency, with the latter it is of recent growth. The monomaniac is capable of arguing with surprising dexterity upon his delusions; he often displays great ingenuity of reason,

but acting under the influence of excited feelings, he is prone to errors both of judgment and conduct. We observe the disease well exemplified in the instance of Baron Swedenborg, who was capable of performing the duties of his office as minister to the King of Sweden, though he was so mad as to pull off his hat and make obeisance to Moses or Elijah in a crowded street, and fancied that the twelve apostles sat by him in twelve chairs in his apartment.

Dementia is the almost hopeless form of unsoundness, attended by total loss of reasoning power. We observe in it the rapid flow of ideas through the mind, a want of power of association and control, loss of memory, comprehension, and judgment.

Idiocy and imbecility express mental conditions of kindred character; the former is from infancy, and is more susceptible of improvement by judicious educational training; by the latter we understand a state of dementia, the result of age. In this last group of mental unsoundness the individual is, from his inability to put ideas together, of course unable to perform anything requiring forethought or reflection.

In this manner then we have divided mental unsoundness into three grand primary classes: in the first of which the jurist recognises the existence of delusion,

> "coinage of the brain,
> This bodiless creation, ecstasy
> Is very cunning in,"

unremoved by reflection or appeal to the senses, a certain amount of reasoning power, a morbid activity of the intellectual processes presenting ideas in rapid succession, and a defective, unhealthy discriminating power, unable to distinguish the correct and true from the counterfeit and false: in the second, he remarks the partial delusion affecting the judgment, and in the morbid perversion of the feelings and affections, the indication of the existence of unhinged mind; whilst in the third, he sees the worst of the malady, the break up of all the energies of the mind. The few classes or divisions ventured on above, are made simply with the view of enabling us to approximate the individual case of insanity, to that form which appears best to represent it. But the practical physician is aware that the varieties of unsound mind cannot be faithfully portrayed or correctly understood by such an arrangement; he knows that however he may draw the line, each individual case is a separate and distinct one for itself, possessing peculiarities distinguishing it from others, causing it to stand from without the scope of the definition, and to assimilate more or less with the characteristics of another variety; in short, that the subject of mental unsoundness to be rightfully appreciated, must be regarded as a great whole, and the especial instance, more as the question of degree, than of difference. From these remarks it will also be seen, that the disorders which deprive men of their reason and

self-governing power, and render it a matter of necessity that they should be separated from society, are many and various, though the power affected is in all cases the same; and that it is a mistake to suppose that they can be described in a single definition, or with accuracy included under one name.

CHAPTER III.

PUNISHMENT IN REFERENCE TO CRIME AND LUNACY.

TRACING the history of nations from the earliest epochs, we find in all countries and amongst every people, be they civilized or barbarous, institutions for conferring rewards upon the virtuous, and for inflicting punishment on those who have committed crimes. Man, the creature living in a state of nature, owes obedience to none but his Maker's laws; but his constitution and his habits being eminently social, lead him to band with his fellows, and as the price of this mutual intercourse, he cedes a portion of his natural liberty for so valuable a purchase. Locke well observes, "Where there is no law there is no freedom;" and so it is that the law which restrains a man from doing mischief to his fellows, though it diminishes the natural, increases the civil liberty of mankind. For the rude and early stages of society, where the temptations to the perpetration of crime are strong, and the facilities for detecting the criminal few, a harsh

and repressive lynch-law system may constitute the only effective safeguard to person and property. We may learn, however, from the experience of the ancients, that the equitable distribution of justice bears a close relationship to the durability of the institutions; wanton injustice, or severity rarely failing to rectify itself, or revenge, as the tyranny committing it became insupportable or open to attack; for example, contrast the sanguinary but ephemeral laws of Draco, who made death the punishment of most offences, from the stealing of a cabbage to the commission of murder, with the just, equitable, and enduring laws of Solon; the former quickly passing away, the latter, though exposed to many modifications and alterations as circumstances showed necessity, leaving traces of its grand fundamental principles up to the latest epochs. On the broad basis of justice and equity to all, alone can the hearty co-operation of all parties be for permanency commanded; and the majesty of the law in reality depends, upon the universal assent that is accorded to the principles which regulate the proceedings of society. If then we desire to see our institutions flourish, it behoves us to provide for the due apportionment of justice; to let the punishment meted out be proportioned to the nature and enormity of the crime. Reflecting upon the subject of crime, the outrage against the laws of God will be conceded on the outset, for which the being owes atonement to an offended Maker; but viewing it as

an infraction of the laws of fallible fellow-men we do not conceive ourselves justified in demanding expiation for the past, but deem it incumbent upon us to provide security against the repetition of the offence, by such means as shall be found effective. Believing then that the tenour of human justice should be preventive rather than punishing, we object to the system of retributive penalties, "an eye for an eye, and a tooth for a tooth," and submit that the end to be held in view in awarding punishment should be of a threefold character:—

1st. To promote the moral improvement of the offender.

2ndly. To deter him from committing mischief in future—or else to render him powerless to do so.

3rdly. To set an example for others to take warning by his fate.

It has been wisely and truly said, that "it is easier to extirpate than amend mankind;" and thus it is that notwithstanding all the checks and obstacles to its progress, furnished by the wisest and most approved system of legislation, crime still continues stalking with giant strides throughout the length and breadth of the land. That needless severity in punishment defeats its own ends, however, is, we think, proved by the following tables, which give the number of the commitments for trial, and the numbers sentenced in England and Wales during the three last quintennial periods.

COMMITMENTS FOR TRIAL.

Character of Offence.	1835-39.	1840-44.	1845-49.
Murder	315	347	365
Attempts to murder, Cutting and wounding	739	1,157	1,173
Manslaughter . . .	1,024	1,053	980
Other offences against person and property	110,486	139,832	133,490
Total commitments .	112,864	142,389	136,408

COMPARISON OF PUNISHMENTS.

Character of the Sentence.	1835-39.	1840-44.	1845-49.
Death	1,627	368	282
Transported for life . .	2,623	990	353
Transportation . . .	15,794	18,605	14,311
Imprisonment . . .	58,188	79,972	84,202
Whipped and discharged	2,859	2,983	1,871
Total number sentenced	81,091	102,928	101,019

So that between the first and last of the above periods, the increase of the convictions was 24.5 per cent., while the decrease in the number sentenced to death, was from one in fifty to one in three hundred and fifty-eight; attributable, of course, to the repeal of capital punishment. Of the number sentenced to transportation for life, the proportion in the first period is one in thirty; in the last, one in two hundred and eighty-six. Now, from these facts we are entitled to draw the inference, that, as our laws become more equitable and mild, so do they become more certain in their application. From our original constitution and that of

the world we inhabit, we are naturally trusted with ourselves, our own conduct, and our own interest; and from the same constitution of nature, especially joined with that course of things which is owing to men, we have temptations to be unfaithful to this trust, to forfeit this interest, to neglect it, and to run ourselves into misery and ruin. Assuming, then, a necessity for our being exposed to temptation, we must look to our knowledge of the depravity of the human heart for the true explanation of the reasons which prevent our opposing it effectually; by this means we arrive at the first grand cause of crime, and are prepared to admit that such ingenerate spring of wickedness requires the counteracting influence of a more perfect machinery, than the resources of our limited experience and knowledge can place at our disposal, entirely to do away with offences. But there are two distinct classes of criminals;—1st, those who act under the influence of sound mind; 2ndly, those who act under the influence of unsound mind. It will be clear to the comprehension of every one, that means which may be efficient to ensure the moral improvement and prevent from future mischief the sane criminal, and which may, when applied to him, act as a beacon to induce other sane persons to shun the rock upon which he has split, must prove useless and—worse than useless—absolutely cruel, when adopted towards those whose feeble or unsteady intellect prevents their

tracing and perceiving things in their real relation towards each other. And hence the remarks which have been made, with reference to the end or aim of punishment, are manifestly only applicable to the first of these classes; for what example or warning to others can the melancholy and pitiable spectacle of the punishment of a madman be? On the contrary, would it not be very properly viewed as a proceeding in the highest degree barbarous and inhuman, and calculated to reflect disgrace upon the law which sanctioned so irrational and purposeless a measure. But obviously, supposing the mentally unsound to have committed crime, it assuredly should not follow that the unsoundness should absolve from every responsibility attaching to his social existence: it is plainly incorrect that such an one should be permitted to follow out such courses as his disordered volition shall direct, without imposing that restraint upon the actions which will ensure both himself and others against injury. Thus, in our treatment either of civil or criminal lunacy, we propose to carry into effect two objects:

1st. To prevent the individual (whilst in this unsound condition of mind) being placed in a position to injure either himself or his fellows.

2ndly. To endeavour, by careful medical and moral superintendence, to restore the mind to its primitive healthy tone and vigour.

So that, in the principles upon which we found our action, no distinction is made between the civil

and the criminal lunatic; they are viewed alike as irresponsible beings, so far as amenability to punishment is concerned; unfortunates having a claim upon our sympathies, and demanding our interference, to protect them against their own sudden and dangerous impulses. Now, if we assure ourselves of the correctness of this view, we shall not be entitled to make any difference between the two cases, excepting on the ground that a higher amount of evidence should be required of the sanity of the individual, proportionate to the degree in which his state of unsoundness has been fraught with mischief to society. When the civil lunatic recovers his senses, and a sufficiently fair test of time has been allowed to establish the fact, he is discharged from his place of detention as cured. From the valuable statistics of Thurnham we collect, that the average period of time passed under surveillance, as the mean of a large number of the recoveries, is somewhat under two years; and it must not be forgotten, that in insanity there is always great tendency to relapse; the difficulty of arriving at the exact statistical truth, in this respect, is very great, as the only way of calculating is by observing the proportion borne by the readmissions into the hospitals to the readmissions or recoveries. Mr. Farr has shown that the readmissions into the English county lunatic asylums, during five years, were at the rate of 30 per cent.; so that we shall probably not over-estimate, if we

calculate with Thurnham, the proportion of the relapses as 50 per cent. to the recoveries; in other words, that one in every two of the cases dismissed as recovered, will be subject to a return of the malady. This fact, of necessity, induces a very important reflection. This predisposition to the return of the unsoundness is not held of sufficient force to justify the retention of the civil lunatic, provided that, in the judgment of his medical overlookers, satisfactory evidence of present sanity has been shown; the amount of this evidence required being in great measure dependant upon the comparatively harmless or dangerous manifestations of the previously deranged condition. Two classes of crimes are apparent;—1st, those against property; 2nd, those against person: the latter class, of course, affecting as it does the welfare of society in its most vital point, demands the most watchful supervision; and hence we should be more solicitous for a longer probationary period being required to establish the sanity of the lunatic criminal of the latter than of the former class.

With such provisions we could wish that all criminal lunatics be freed from restraint upon their actions so soon as they shall be deemed, by a tribunal competent to decide, upon sufficient time and testimony, in such a state of sanity as to allow them to be considered free agents and responsible for their actions. An exception to this rule seems, however, to be imperatively called for in the in-

stance of capital crime: in the black category of criminal acts, murder stands out from amongst them all in unapproachable and gloomy grandeur, the height and climax of human baseness and atrocity; as such, it has awarded to it by the law the highest penalty in its power to inflict—death—to signify to the world the horror and detestation it entertains for this terrible sin by the extremity of the sentence, and through it to hold forth an awful example to all spectators. In the case of the sane murderer, it is deemed expedient to depart in a measure from the strict observance of those rules which have been laid down for our guidance in the punishment of crime; the moral improvement of the offender is lost sight of in our anxiety to impress a salutary lesson of dread upon the minds of our fellow-creatures; and hence, by analogy, we may draw precedent for the exception we raise in the case of the lunatic murderer. Supposing such an one to have destroyed life, we may not reasonably carry out the sentence appertaining to the deed, neither should we allow him again to be in a position to inflict so fearful a mischief. Two important reasons present themselves in support of this position:

First. One out of every two favourable cases of insanity is liable to relapse, and we can readily understand that when to this predisposition is added the harrowing and distracting reflections that must necessarily attend upon the thinking moments of

one who has been the means of launching a fellow-being into eternity, the chances in favour of relapse will be increased, so that society must be in perpetual dread of the return of a malady which has already been attended with such direful consequences. On the ground then of this tendency to relapse, public anxiety and the prospective loss of possibly valuable life, we should first object to the murderer ever being freed from supervision.

Secondly. The effect of seeing at large and in the enjoyment of unrestricted liberty, after a certain period of duresse, an individual who had rendered himself notorious by the commission of a crime of startling magnitude, one which by its very greatness of iniquity would exercise a species of fascinating influence upon the imaginations of that, alas, too numerous class, always on the look-out for the marvellous and the wonderful, numbering amongst its votaries many an unquiet and restless spirit, thirsting as it were for fame, no matter howsoever obtained, ready to fall into any track which promises to gratify this morbid desire for distinction or notoriety; the effect, I repeat, would be to remove from society an important safeguard, a check which is capable of operating with many in various degrees of moral depravity, if not even of unsound mind: let it be distinctly understood that the penalty of murder, whether committed by the hand of the sane or lunatic assassin, be death or confinement for life; and legislation does all in its power to

shield society against the perpetration of the act; but to make a loophole, by allowing the escape of the criminal, after a few years' confinement, would greatly favour the increase of this stupendous crime.

Under these circumstances, and in emergencies of such moment, we are surely justified in requiring that those who have committed capital crime, under the influence of insanity, shall remain for life under responsible superintendence: beyond this, every care should be taken to render the remaining portion of their career as unembittered as possible; bearing in mind that they are not really criminals, but unfortunates; that they are expiating, not their fault, but their misfortune;—not for their own sake, but for that of society.

CHAPTER IV.

UNSOUND MIND AS A RESPONSIBLE CONDITION.

It may now be well to take cognisance of some conditions of mental unsoundness, in which the individual yet possesses such a measure of correcting and controlling power over his actions as to make us regard him in the light of a responsible and accountable being. The large class of eccentrics is that which first comes into notice, amongst which we observe individuals possessing high intelligence and sound judgment; and the knowledge of this fact has operated in causing many authorities to reject the idea of eccentricity being any evidence of mental unsoundness; we quote the following graphic sketch from the pen of an eminent writer as illustrative of this opinion:—"Lord Monboddo, insisting that the human family were originally adorned with tails, showed himself an eccentric theorist: had he asserted that they actually retained them, he would have had an insane delusion instead of a philosophic crotchet. Eccentricities no more constitute insanity than idiosyncrasies constitute disease; for

example, there was an old man well known in London during the last century, who was of an ungainly appearance, and subject to occasional attacks of hereditary melancholy: so inconsistent was he in his habits, that sometimes he practised great abstemiousness, and at other times devoured huge meals with brutish slovenliness and voracity; sometimes he would persist in drinking nothing stronger than water, but occasionally he drank wine by tumblers-full; his income was far from large, and not of a certain amount, yet he kept a set of old men and women about his house, whose bickerings and disagreements now and then drove him out of doors; he was in general very loquacious, but had been known to sit in company and drink a dozen cups of tea without speaking a syllable; when not engaged discoursing, it was his custom to keep muttering to himself; in walking he performed strange gesticulations with his limbs, and would not go in at a door unless he could effect his entry in a certain preconceived number of steps, and so as to introduce himself on a particular foot, turning back and recommencing, until he succeeded as he desired: there was a row of posts near his house, which he would not pass without touching singly, and if he found he had omitted one in the series, he retraced his steps to remedy the neglect: he hoarded up orange-skins for some mysterious purpose which he would never divulge; he suffered remorse of conscience for having taken milk with

his coffee on Good Friday; he believed in ghosts, and went ghost-hunting in Cock-lane; and he maintained that he had heard his mother calling upon him by name from the other world. Yet Dr. Johnson was so far from insane, that his judgment commanded respect and admiration everywhere, and by the common consent of eminent contemporaries he was the most vigorous thinker and the greatest sage of his time." Now, although we agree to a certain extent with the opinion that eccentricity is not insanity, at least in the general acceptation of the term, still, notwithstanding this, we may with propriety view it as an indication of mental unsoundness. Observation assures us that it is no uncommon thing to find weakness existing in the neighbourhood of great strength of mind.

"Great wit to madness is allied."

Men of genius full of thought and feeling, tasking to the utmost their power of nervous endurance, in the endeavour to gain the mastery over those obstacles which so plentifully impede their progress, are exactly those who are most subject to insanity; the direct operation of intense motives, such as stimulate master minds, leads to disorder of the brain, and this disorder of the brain reacts to maintain a perverted bias, or injurious habits of application; Cowper, Byron, Swift, are good examples. So that we should rather regard these eccentricities as the result of mental overtension, a frequent accompaniment to the susceptibilities of genius, and as

such unquestionably belonging to the domain of unsound mind: and this appears to be the view taken by Johnson himself of his state; for he speaks of himself as "inheriting a vile melancholy from his father, which made him all his life mad—at least not sober." But though weakness of understanding deserves protection, too nice an investigation of eccentricity (deformity though it be) might lead to injustice and oppression; thus, for instance, wills have occasionally been disputed in consequence of such like singularities on the part of the testator. An individual dying, bequeaths a large property to his housekeeper, and directs that "his executors should cause some part of his bowels to be converted into fiddle-strings; that others should be sublimed into smelling salts, and that the remainder of his body should be vitrified into lenses for optical purposes;" and he adds, "the world may think this to be done in a spirit of singularity or whim, but I have a mortal aversion to funeral pomp, and I wish my body to be converted to purposes useful to mankind:" in this case the will was contested, but it appeared in evidence that the person had through life conducted his affairs with great shrewdness and ability, and had always been treated by those with whom he had had to deal, as possessing indisputable capacity; it was therefore ruled by the judge, that eccentricity only was proved, and that the will was valid. In civil acts we thus notice that the class of eccentrics is

as the most experienced and enlightened psychologist; but unfortunately we see the chain in every variety of shape and condition, here a link twisted and another lost, so that we find ourselves compelled to seek some other and more certain means of testing each and every case that may present. Esquirol has pointed out with much clearness three conditions observable in this homicidal monomania; in the first, the propensity to kill is connected with absurd motives or actual delusion; the individual would be at once pronounced insane by everybody: —cases of this description are not uncommon, and create no difficulty whatever; the accused are rarely allowed even to plead to the charge. In the second, the desire to kill is connected with no known motive; it is difficult to suppose that the individual had any real or imaginary motive for the deed; he appears to be led on by a blind impulse, which he resists and ultimately overcomes. In the third, the impulse to kill is sudden, instantaneous, unreflecting, and uncontrollable: the act of homicide is perpetrated without interest, without motive, and often on individuals who are most fondly loved by the perpetrator.

Now, in these conditions, especially the second, we may notice the association of the erroneous impulse with a certain power of control. The following cases are examples:—A patient of Dr. Daniel's "laboured under disorder of the liver, but no sign of intellectual aberration; he was found by

him one morning to be in a state of great excitement, and confessed that while talking with his wife and family his eye caught the poker, a desire to shed blood came upon him, which he felt he could not control. He shut his eyes and tried to think on something else, but it was of no use; at last he could bear it no longer, and with a voice of thunder he ordered them out of the room—had they opposed him he felt he must have murdered them all." A patient of Dr. Conolly's frequently lay awake in the night, looking at her husband, and thinking how easily she might kill him with her broom-handle, but she awoke him, that his talking to her might drive such thoughts out of her head. And there are many instances of individuals who have surrendered themselves up to asylums, praying to be protected against their own impulses, which are perhaps tempting them to throw themselves out of windows, cut their own throats, or maim or injure others; far from betraying any wish to obey the impulse, they often express great terror and dread lest they should be unable to resist it. It is probable that the acts of the insane in general proceed from some motive or other, though it is by no means easy for a sane mind to trace the connexion between the two. "A patient was continually in the habit of licking the plaster from the walls of his cell; in some places they had been quite licked bare by this disgusting practice; it was only accidentally discovered that the act was connected

with a delusion under which he laboured, that he was licking and tasting the most delicious fruits! Another patient was in the habit of running up and down the ward, beating his own shadow with his stick; it turned out that he fancied this shadow to be an army of rats in constant pursuit of him. In a third case, the person laboured under a delusion with regard to windmills; he would go any distance to see a windmill, and would sit watching one for days together; his friends removed him to a place where there were no mills, in the hope that this strange propensity would wear away; he enticed a child into a wood, and in attempting to murder it, cut and mangled its limbs with a knife in a horrible manner. How would any sane person have connected this delusion respecting windmills with attempting murder? Yet it appeared that he had committed this terrible crime, in the hope that he should be removed as a punishment to some place where there would be a mill." We mention these cases because it was usual to lay much stress upon connecting the act with the delusion, and we think they tend to show the injustice of resting the irresponsibility of the accused upon an accidental discovery of this nature.

The fundamental question in estimating responsibility would seem to be, whether the being at the time of his committing the crime possessed sufficient power of control to govern his actions? And here again, the consideration of

degree is introduced; the power of control is not enough; there must be a sufficient amount of it, or the reverse, to establish the responsibility or irresponsibility of the party. It will thus appear, that any attempt by fixed rules, either legal or medical, to distinguish between those mental conditions which should be accountable and those which should not, must either fail in its application, or be productive of evil. To borrow a simile: let us examine a map of an inland country, and we shall see rivers without source or mouth, and roads that seem to lead to nothing. A person who knows anything of geography, understands at once, on looking at such a map, that the sources and mouths of the rivers, and the towns which the roads lead to, are somewhere beyond the boundaries of the district, though he may not know where they lie. But one who was ill informed might be inclined presumptuously to find fault with the map, which showed him only a part of the rivers and roads. And it is the same with anything else of which we see only a part, unless we recollect that it is but a part, and make allowance accordingly for our imperfect view of it.

When we say, therefore, that the irresponsibility or otherwise of each case must be determined by the circumstances which attend it, we decide upon that which comes within our district of observation; were the sphere of human vision less limited than it is, obstacles to the employment of fixed rules might vanish, but at present, from the very nature of the

case, our wisest of men are prepared to admit them insuperable. "If from circumstances, then, it can be inferred that the criminal possessed this sufficient power of control, he should be made responsible and rendered liable to punishment; if, however, he was led to the perpetration of the act by an uncontrollable impulse, whether accompanied by deliberation or not, then he is entitled to an acquittal as an irresponsible agent;" for, as Dr. Pagan well observes, the very loss of the control over his actions which insanity infers, is that which renders the acts which are committed during its continuance undeserving of punishment. We think, then, that this should be the test for irresponsibility—not whether the individual be conscious of right and wrong—not whether he have a knowledge of the consequences of his act—but whether he can properly control his actions!—a test to be applied not only in homicidal cases, but whenever or wherever the plea of irresponsibility is raised on the ground of insanity. At the same time we are by no means blind to the difficulty there must be occasionally in deciding in the individual case, whether the impulse was or was not irresistible, and admit to the fullest extent the nicety of discrimination that is required at the hands of those who have to record the verdict; in like manner as the shadings of manslaughter may be seen to blend almost insensibly in the darker and more revolting features of murder, and *vice versâ*, even so do the modifications

in the power of control pass in almost imperceptible gradation, from the class of responsible to that of irresponsible action. Urge this difficulty, then, as an objection, and we would bid you indicate whether the same will not equally apply to every other test that has yet been proposed; whilst it has this advantage over them all, viz.—that it is correct in principle, which is more than can be said of that which depends on the "consciousness of right and wrong," or the "knowledge of the resulting consequences." For though it is evident that there are some who can distinguish right from wrong, and also some who are aware of the consequences of their acts, who, nevertheless, still ought not to be held responsible for them; yet, on the other hand, there are none who possess "sufficient power of control" to govern their actions, that ought not to be deemed accountable beings: this power of control presupposes a condition of sanity so decided, as alone, in the absence of the clear evidence supplied by delusion, which is found in cases of intellectual insanity, or combined with it when present, to appear to be the best means of discerning between the mental unsoundness which should be held amenable to, and that which should be exempt from, punishment. But how are we to estimate this controlling power, and the amount of it that the individual possesses? Let me ask, how do we estimate or decide upon the amount of malice or revengeful feeling that is required to establish the distinction,

in the case of the criminal homicide, between murder on the one side or manslaughter on the other? There is great analogy between the two cases: in the latter instance, our juries are constantly deciding to which class the individual case shall belong, not upon the dictum of any fixed infallible rule, but from a careful and deliberate weighing and scrutiny of the particular circumstances and considerations which come before them in connexion with the case. Upon this selfsame principle must we rely in our attempt to estimate the power of control; giving to each feature its due prominence, to each extenuating circumstance its appropriate weight, and to facts their correct relation to truth.

CHAPTER VI.

RECAPITULATION—PRACTICAL SUGGESTIONS—CONCLUSION.

A CONCISE recapitulation of the arguments of this essay appears likely, though at the risk of being thought tedious, to be the best precursor to such practical suggestions as have been forced upon the attention of the writer, by their consideration. At the starting-point, law was viewed as an institution originating in necessity for the preservation of the safety and comfort of the human family; that, like all other fabrics of earthly growth, it neither is nor can be expected to be free from imperfection or flaw; that, in some instances, its faulty regulations press injuriously and unjustly upon certain classes of society, and that when a means of adjusting these more equitably is demonstrated, it becomes our bounden duty to avail ourselves thereof. A subject of importance, intricacy, and doubt, is that which embraces the relation which should be maintained by the legislature towards those of unsound mind committing crime. The legislature rightly

recognises the irresponsibility of insanity, but yet is in ignorance of that which constitutes this condition; and therefore, as a necessary sequence, the plea of irresponsibility is often entertained without legitimate foundation, and rejected where it should be admitted. The injustice and baneful tendency of this mode of procedure were pointed out, and the error was considered in great measure to depend upon the attempts that were made to bring the condition of insanity within the scope of strict definition. A cursory glance at the habitudes of thought of the two professions was taken, with the object of affording a clue to the source of the diversity of opinion which exists between the medical and legal jurists on this point. Mental unsoundness as it would present itself to the eye of the moralist, then came first before us; but here the range was too wide and unrestricted to admit of any practical application. Next in order the legal test came under examination, and was shown to be too contracted in its scope, and one which could not be honestly acted upon, without inflicting great injustice and oppression. Conceiving the especial difficulty to hinge upon the proper appreciation of what is meant by unsoundness of mind, the next step was to portray mind—mind in its relation to the mechanism of the brain: it was shown that there was often a connexion between the derangements of the one and the disorders of the other, as also, that it was not in our power, in

many instances, to demonstrate the dependence of the one upon the other; that, in consequence of our really imperfect knowledge of the nervous system, we are compelled to judge of mind by its manifestations, which were grouped as primary powers, and their rationale of action explained. It was remarked that these primary powers were often very defective, and yet that their possessor could not be considered as otherwise than sane, proving in this way that much latitude must be permitted even in judging of sound mind. Degrees in sanity once recognised, analogy favours what experience demands—viz., the consideration of unsoundness in degrees. Three grand forms of insanity were then examined—mania, monomania, and dementia, and their subvarieties adverted to, and they were shown to be useful with reference to the classification of the lunatic; their essential features were therefore commented on, but care was taken to point out, that in the individual case of unsoundness there is always a something exceptional, which cannot be met by definite rules; that insanity, in fine, must be regarded as a unity, and the special instance or example as the question of degree.

Crime was then considered as having a twofold bearing: in the first place against the laws of God, and in the second against those of man; that for offence against the former, man is amenable to his Maker and not to his country, and that his fellows

are alone entitled to take cognizance of such crimes as shall affect the social well doing of their race; that the tenour of human justice should be preventive rather than punishing, is borne out alike by reason and the experience of the most approved legislation; that notwithstanding the operation of excellent and judicious adjudication, crime continues, is greatly owing to the innate wickedness which we term human depravity; that there are two classes of criminals, the sane and the insane, and it is self-evident that a mode of punishment adapted to meet the case of the former would be misapplied in that of the latter. The aim of punishment in the instance of the sane criminal should be example to others, reformation to the individual himself, and the prevention of future mischief; whereas in that of the lunatic criminal, the object should be to prevent mischief, and to restore the mind to its healthy state. As a matter of principle, no difference ought to be made in the cases of lunatics, civil or criminal, excepting that we are justified in requiring a higher degree of evidence of sanity, in proportion as the manifestations of the disorder have been fraught with mischief to society; when, however, capital crime has been committed, the custody for life of the perpetrator was regarded as a necessary exception to the rule—necessary on the score of expediency.

The varied forms of mental unsoundness which

yet we are entitled to hold as conditions of responsibility, were then passed in review, considered, it is true, in themselves, and without reference to other evidence of intellectual disturbance. The reasons inducing us to view these as responsible were diverse in the separate instances; thus, in the cases of eccentricity and hypochondriasis, the possession of the "sufficient power of control" over his actions by the individual, was acknowledged: in those of intoxication or somnambulism this condition might or might not obtain; the crime is proved, but we have no means of ascertaining the actual state of mind of the person at the time of his committing the act, and the danger of admitting irresponsibility on such terms, especially in the former case, where crime has already been prefaced by crime, induced us to think that these states must be held accountable: on other grounds, again, we advocated responsibility in the instance of the petty theft, or other minor crime against property, though really an offshoot of mental unsoundness, because it was thought that the plea would be a dangerous one readily to admit, and in such a case; that a mild punishment would tend to prevent a repetition of the offence; and lastly, that the plea was unwise, for, if admitted, it ought to necessitate a more serious restraint upon the actions of the party than would actually appertain to the punishment of the offence. The responsibility during the "lucid interval" was acknowledged, on condition

that the given definition of the term was accepted, and in concluding this portion of the subject, the fact was dwelt upon, that civil ought not to be looked upon as proof of criminal irresponsibility. In the last chapter it was noticed that the test for irresponsibility was most required in homicidal cases, and therefore those which had been proposed were examined *seriatim*, both in their affirmation and negation: separately it was shown they were faulty and inconclusive, but that, if taken in the aggregate, they would afford strong presumptive evidence of the indubitable insanity of the party. Tracing the plan forwards, the three conditions of insanity, with reference to the homicidal state, pointed out by Esquirol, attracted attention; and in these was discovered the association of impulse with a certain amount of power of control: it was noticed that the acts of the insane often depend upon motives, though it is not always easy to discover these, and hence that it is wrong to attach importance, as was formerly done, to the inability to connect the act with the delusion. The best test of the irresponsibility of the criminal on the plea of insanity is, whether he be capable of controlling his actions, not alone in homicidal cases, but wherever the plea is raised: that in all instances (especially in those in which preconception and premeditation have evidently been so considerably displayed as to cause the witness embarrassment in deriving the conclusion from the power to control)

he should be permitted to frame his opinion from the delusion and other attending circumstances. Doubtless there is great difficulty in deciding in certain cases; but the same difficulty has applied equally and with greater force to every test yet proposed. Each case must be taken by itself, and every circumstance connected with it fairly weighed before applying this, which is, to all seeming, on principle, the proper test for irresponsibility.

Having, as it is hoped, established the propriety and desirability of the proposed test, it now remains to consider impediments in the way of its practical application. The degrees of guilt in the sane criminal are estimated by the system of jury, the judge directing or ruling; the judge is one accustomed to the daily investigation and consideration of those subtleties and niceties with which every feature and grade of vice is surrounded, and therefore peculiarly fitted to interpose, when required, his opinion, knowledge, and judgment; juries, it is true, possess the power of recording verdicts opposed even to the direction of the judge, but it is one seldom had recourse to. Now this is as it should be; the criminal hears every argument that can be adduced against him, or in his favour, brought forward by the counsel for the prosecution or defence; and the jury decide upon the evidence made clear to common sense by the keen and penetrating intellect of one accus-

tomed to winnow the grain from the chaff, and to sift truth to the bottom, free from those sophistries which the partial advocate, favoured by contingent circumstances, may heap around the case. But though a public and jury may and do very properly bow to the expressed opinion of one whose life and talents have been spent in the observation of crime, and in the application of correctives thereto, on a matter in which, from experience and knowledge of facts, he is so well qualified to decide, yet when these conditions are wanting, they need other help to steer them in the right. Take the case of the lunatic criminal, and let me ask—Ought the system of judge and jury to decide the question of the irresponsibility of the accused? Why admit irresponsibility at all? Because of mental disease! Now, I ask again, and with respect, what does either the judge or jury understand about mental disease?—I mean, from actual observation and experience! Is it a part of their necessary and essential training, to devote lengthened periods of time, in our large asylums, to the observation of the peculiarities of the mental phenomena, appearing in this unhappy class of disease? We know that it is not so; and that, consequently, they must be in complete ignorance in all those cases in which more than what is called common sense is required to arrive at the proper conclusion, and where experience and knowledge of facts alone should entitle to decide.

To a certain extent this is admitted, for in all cases when the question of insanity is raised, the opinion of the medical man is required as to the state of the patient's mind; but there is a vast difference between the attention paid to the opinion expressed by the judge in the instance of the sane criminal, as to the actual amount of guilt that is manifest in the particular case, and to that expressed by the physician, no matter howsoever eminent he may be in this branch of science, with reference to the actual mental condition of the accused party. Whenever the manifestations of the insanity are palpably evident, there is, of course, little fear of any doubt arising, and the physician's opinion has effect given to it; but how many instances might we not cite, in which opinions of physicians of the highest standing have not only not been acted upon, but even have been scoffed at as theories and crotchets, and themselves satirized as good-natured, benevolent enthusiasts, wishing to rescue atrocious criminals from just and merited punishment. Now, the point really hinges upon the actual state of a fellow-creature's mind! And who so well able to judge of this, as he whose whole life is spent in the study and treatment of disorders of the mind? When the judge intimates that there is such a measure of guilt as to constitute in the one case manslaughter, in the other murder, the juries find accordingly, though it is only matter of opinion,

held to possess not only a capacity for controlling the actions, like any other sane persons, but in the eye of the law, and by the common consent of society, even to retain a sane disposing power: and coinciding perfectly as we do in this decision, the natural inference to be drawn is, that eccentricity *alone* is no sufficient plea for irresponsibility from the consequences attaching to the commission of crime.

It next devolves upon us to consider the case of the "voluntarius dæmon," the drunkard! Intoxication is to all intents and purposes a state of temporary madness; and since many criminal acts are committed under its influence, the question as to the principles which should actuate us with reference to these, is one of the highest importance. By the Grecian law, the sentence for him who committed crime when drunk was double punishment, one for the crime itself, and the other for the ebriety which tempted him to commit it. The Romans made great allowances for this vice: but the law of England is framed on principles of compassion to misfortune, though not to guilt; it will not suffer a man to privilege one crime by another, and it holds that he who of his own accord and free will is determined to plunge himself into this frenzied condition, must be answerable for whatsoever harm or hurt he doeth in such state of guilt. It is highly probable, that in many instances the drunkard is not conscious of the mischief he is inflicting, or of the retribution which awaits his action; and it is

reasonable to think that in the great day wherein the secrets of all hearts shall be open, no one shall be made to answer for what he knows nothing of, but shall receive his doom, his conscience accusing or excusing him. Human judicatures, however, have no such means of deciding between real and counterfeit ignorance; the fact of the crime is proved against the being, but want of consciousness cannot be proved for him: to allow a plea of irresponsibility, so easily assumed (and one so difficult either to prove or disprove as unconsciousness from intoxication) to avail, would be hazardous in the extreme, and we might rely upon three-fourths of the crime of the country going unpunished. Unless, then, the powers of the mind have been so prostrated by habitual drunkenness, that a permanent condition of unsound mind is produced, the law does not permit intoxication to stand as an excuse for criminal misbehaviour, though civil acts of the individual would be vitiated if committed at the time when no rational consent could be given. Exceptional cases will of necessity occur, demanding sympathy and forbearance: the Grecian sages, we know, allowed three cups of wine, one for health, another for cheerfulness, and a third for sleep. Now it has happened, that to those unaccustomed to strong liquors a smaller quantity than this has sufficed to madden and inflame: the error here, if error there be, scarcely amounts to more than imprudence; and crime committed under such circumstances has

claims to merciful consideration; and it is to meet such like contingencies that we invest the judge with discretionary power to fill up, as may seem to him best, those gaps which must necessarily exist in all legislation for the masses. The evidence of intoxication may, however, be of importance, when the *intention* of the person committing the crime is being considered; whether he were actuated by malicious motives or not; but the grand principle of regarding the voluntary drunkard as a being responsible for the enormities he may commit during his temporary derangement, is one in which necessity compels our acquiescence; necessity depending on our ways and means of knowledge.

There is some similarity between the conditions of the brain in drunkenness and in dreaming or somnambulism; but there is this important difference—that the individual may, if he so will beforehand, avoid falling into the former state, but cannot do so in the latter: with that it becomes a matter of guilt, with this, of accident or misfortune. Many well-authenticated instances of adventures during this state are on record. Hoffman tells of a man who dreamed he was going to set out on a journey, rose to put on his clothes, his shoes and spurs; and then striding across the sill of an open window, began to kick his heels and to exert his voice, as if to excite his horse to speed. When awakened, he became exceedingly terrified at the danger he had incurred. Prichard mentions

another instance of a sleep-walker who threw himself into a well, under the impression that he was returning to bed; and again, of a man who rose in his sleep, saddled a horse, and actually proceeded on a journey; but this was what he was accustomed to do regularly every week, in order to attend market: here habit supplied the place of attention to external impressions.

Criminal acts committed during such semi-conscious moments are fortunately rare, but yet they do occur. An instance of this kind took place in this country within the last few years, and is recorded by Taylor, of a pedlar, who was in the habit of walking about the country, armed with a sword-stick: he was awakened one evening, while lying asleep on the high road, by a man who was accidentally passing, seizing and shaking him by the shoulders: the pedlar awoke, drew his sword, and stabbed the man, who soon afterwards died. He was tried for manslaughter; his irresponsibility was strongly urged by his counsel, on the ground that he could not have been conscious of an act perpetrated in a half-waking state; this was strengthened by the opinion of the medical witness. The prisoner, however, was found guilty! Under such circumstances, it was not unlikely that an idea had arisen in the prisoner's mind that he had been attacked by robbers, and therefore had stabbed the man in self-defence. To visit such a case with punishment is clearly neither apparent

to reason nor justice, supposing things to be as stated; but the difficulty seems to depend upon the impossibility of arriving at a knowledge of the true mental condition at the time of the commission of the deed, together with a feeling of the danger that would accrue to society from a recognition, on the part of the law, of the irresponsibility of such states of the mind. Taking, therefore, into consideration the extreme rarity of the case, as relating to crime, the doubts and difficulties which must environ it, and the probabilities of prospective evil which suggest themselves, we say of the dreamer and the somnambulist, as before of the drunkard,—that by law they should be held responsible for their actions, though necessity, in like manner as in his case, compels to the conclusion: expediency, in other words, urging us to leave occasional and unmistakable instances to the discretionary decision of the presiding administrator of justice, as threatening less ill than hasty legislation.

Passing onward, a mental condition of great moment, the result of corporeal disease, attracts our attention; a form of malady to which the studious and learned are peculiarly exposed, which

——————— "round us throws
A deathlike silence and a dread repose.
Her gloomy presence saddens all the scene,
Shades every flower, and darkens all the green,
Deepens the murmur of the falling floods,
And breathes a browner horror o'er the woods."

Hypochondriasis has much in common with melancholia, the subvariety of mania before alluded to; the illusions in the one case, however, have reference to physical subjects; in the other to moral ones. Hypochondriacs rarely have the courage to attempt suicide, though they often contemplate it; whereas in melancholia, this is greatly to be dreaded. The inference to be drawn as to the state of an individual's mind, from this harping upon or consummating self-destruction, seems to call for passing notice. The prevalent system of returning a verdict of "Temporary Insanity," in contrast to the "Felo de se" required by law in such cases, and often on no other evidence than that afforded by the deed itself, would seem to intimate that the current of public opinion is favourable to the view, that the act of suicide is alone sufficient proof of unsound mind. We do not, however, coincide in this view: in some countries we know that suicide has met with great indulgence, and even been esteemed honourable; and in the heathen world, the example has been set by many of the most illustrious men of their age, as Cato, Brutus, Otho, &c., destroying themselves to avoid disgrace or irremediable misfortune. So much, in reality, depends upon the degree in which the individual appreciates the end and aim of his existence! The pious, right-thinking Christian, who in his sober moments would look upon such an act as a

——— "dreadful attempt,
Just reeking from self-slaughter, in a rage,
To rush into the presence of his Judge,
As if he challenged him to do his worst,
And mattered not his wrath!"

—the fact of such an one's committing suicide would, I repeat, in itself be strong *primâ facie* evidence of insanity; whereas, on the other hand, if committed by him who contemplates no future state, or who thinks, like the Epicureans and Stoics of old, that all things lay under irresistible necessity, and who is, moreover, surrounded by much that is calculated to render life wearisome and painful to him, what surprise or wonder should we feel that he has recourse to such a means to rid himself at once from all care and anxiety? Here the action is in every respect the rational result of an illogical opinion; and, constituted as we are, we recognise the impossibility of combining uniformity of sentiment with our state of free agency. Many opinions will be drawn from the same premises; some will be right, others wrong, according as education and our habitudes of thought assist the judgment; but erroneous opinion is not evidence of mental, whatever it may be of moral, unsoundness. Our law, therefore, considers self-murder as a twofold crime, embodying offence against our Maker and our king, and as such, attaches the penalty of "felo de se" to the perpetration of the felony, if the party so acting be of years of discretion, and in his senses at the time.

Verily, if the carrying out of this sentence is conceived by the legislature as likely to operate in restraining others from these fatal courses, it should be matter of regret that individual sympathies do so obstruct and impede the equitable distribution of justice, by admitting the excuse without adequate ground, as may be constantly witnessed in the verdicts of our coroners' juries. We are inclined to agree with the observation of a lawyer of great celebrity, "that it would be a wise law if the present distinction and consequences of insanity and sanity in the case of suicide were abolished, and it were enacted that the coroner, in every instance, when his jury had found that the person deceased had been the author of his own death, should be directed to deliver up the dead body for anatomical purposes." That such an alteration would exercise a very salutary influence upon the minds of a certain class of suicides, there is little doubt—that injustice would be inflicted is also clear—but the good would greatly preponderate over the evil.

Returning to the hypochondriac, we find him full of whims and conceits; one, like the baker of Ferrara, thinks himself a lump of butter, and dare not sit in the sun or go near the fire, for fear of being melted; another, a sufferer from indigestion, imagines the gurglings of wind in his intestines to be the croaking of frogs in his belly; a third is attacked by ghosts and hobgoblins; and a

fourth suspects his friends of poisoning him. There is, however, disordered sensation at the root of all these hallucinations, originating with functional or organic corporeal derangement; and hence they will sometimes admit of cure, by convincing the mind of the mistake it makes in storing up these erring perceptions as realities. It has been intimated that hypochondriacs occasionally destroy themselves, and that suicide is not in itself proof of insanity, but we see in them such a power of controlling their actions, that we cannot but regard them as responsible beings; that hypochondriasis may induce mental conditions in which there is less power of control is admitted, but then there is more than simple hypochondriasis to deal with.

Unsoundness of mind sometimes shows itself in an almost incontrollable tendency to the commission of petty crimes. A lady of property, for instance, visiting her tradespeople, will take the opportunity of pilfering anything which attracts her notice; the article may be of trifling value, often is, and the means at her disposal may be ample to provide her with the gratification of any wish she may have. It is possible that, associated with this propensity, in the same person there is benevolence and generosity of disposition and conduct, showing, that whatever may be the motive, it is very far removed from that which prompts the ordinary thief to purloin the property of others, or from that which prompts the miser to the hoarding up of wealth.

The offence is one against property, often trivial in detail, and manifestly unreasonable and absurd; but to raise the plea of insanity in such cases would, as a rule, be inadmissible, if not unadvisable; inadmissible, because, as is well remarked, the following facts can generally be established by the evidence:—"1st, A perfect consciousness of the act; 2ndly, That the article, though of trifling value, has still been of some use to the person; 3rdly, That there have been art and precaution in endeavouring to conceal the theft; and 4thly, A denial of the act when detected, or some evasive excuse. When circumstances of this kind are proved, either the parties should be made responsible, or theft should be openly tolerated." Also, it would be unadvisable to raise the plea, because if admitted it ought to necessitate a more serious control over the actions of the individual than would appertain to the crime itself; for if the disgrace attendant on visiting the act with its apportioned award be felt to be greatly oppressive, there would in reason appear to be no alternative between this and placing the individual under the restraint required by law, till such times as the mental unsoundness, with its accompanying tendency to the commission of crime, shall have disappeared. In these cases there is often discoverable very excellent reasoning power, and it seems by no means improbable that the effect of judicious punishment would be to prevent the repetition of

the act, by awakening the wholesome influence of fear; and, therefore, as a general rule on the principle of expediency, it would seem best to recognise the responsibility of such class of offenders.

We next arrive at the question of the responsibility during the lucid interval. "If a lunatic has lucid intervals of understanding, he shall answer for what he does in those intervals, as if he had no deficiency"—so saith the law! And here *in limine* I would object to the term, lucid interval, as calculated to give rise to erroneous ideas of the real condition of the person's mind, from the very different states it is employed to designate. It appears to have arisen from the ancient but exploded notions of insanity, being dependent upon lunar influences, and has been loosely applied alike to partial and temporary as well as to permanent periods of improvement. Now, we know, that in insanity it is common to talk coherently and act rationally, and then to subside at intervals more or less prolonged into the worst forms of madness; if to such an interval we attach the term "lucid interval," as has frequently been done, we are surely not justified in esteeming this merely transition state a responsible one! There is some analogy between the condition of the brain under such circumstances, and that of the lungs after a recent attack of pneumonia; the febrile symptoms have subsided, but the organ remains in an excitable state, highly susceptible to any disturbing influence,

and far from fitted for healthy action. The best definition of the lucid interval is that given by Haslam, and as the term will doubtless remain in spite of our protest against it, we propose to make it the test. It is "A complete recovery of the patient's intellects, ascertained by repeated examinations of his conversation, and by constant observation of his conduct, for a time sufficient to enable the superintendent to form a correct judgment." Taking this, then, to represent the lucid interval, we recognise by it a positive and actual return to the capacities and responsibilities of sanity, and therefore maintain that any one acting criminally in such interval ought to be regarded as accountable for his misdeeds. And this is in reality the view which, if not maintained, is at least acted upon in the majority of cases by our juries of the present day, for we find that they rarely convict, when it is proved that the accused was insane within a short period of the time of his perpetrating the crime, however rationally to all appearance it may have been carried out.

Finally, there is a reasonable distinction deservedly drawn between civil and criminal lunacy; a person's intellect may be so far impaired that he is unable to conduct the common affairs of life, to manage his property, or judge of the claims which his respective relations have upon him, and notwithstanding this, he may yet possess sufficient power of control over his actions to be held respon-

sible for his criminal acts; in such instance the administration of the country deprives the individual of his civil rights by interdiction, appointing trustees to overlook his affairs, and preventing his exercising any conduct or control over them; but the fact of such interference is not alone sufficient to excuse criminal misbehaviour, so that a man may be civilly incompetent and yet criminally responsible.

The legitimate deduction from the contents of this chapter would seem to be, that the existence of mental unsoundness is not enough to establish irresponsibility; that some forms of mental unsoundness are held accountable on principles of true justice and equity, whilst others are on those of expediency alone; that expediency is a necessity originating in the adaptation of the machinery of human institutions to our ways and means of knowledge of human weakness and depravity.

CHAPTER V.

UNSOUND MIND AS AN IRRESPONSIBLE CONDITION.

We wish now to consider unsound mind in reference to the question of irresponsibility. The great practical difficulty in recognising this plea has hitherto generally arisen in the instances of homicide; and it is therefore more especially to the medical tests which have been proposed, for the purpose of establishing a sufficient amount of unsoundness to ensure impunity in such cases, that I shall allude. The principles involved would apply in the consideration of the irresponsibility of the individual for any criminal act; but as the tests are each of them more or less fallacious, it seems preferable to exhibit them in their special, rather than in their general, application. The following is the summary of those which have been advanced by various authorities on the subject.

1st. That the act of homicide has generally been preceded by other striking peculiarities of conduct in the individual; often by a total change of character.

2nd. That the person has in many instances previously or subsequently attempted suicide, has expressed a wish to die, or to be executed as a criminal.

3rd. That the act is without motive, or in opposition to all human motives.

4th. Observation of the subsequent conduct of the individual; he seeks no escape, delivers himself up to justice, and acknowledges the crime laid to his charge.

5th. The sane murderer has generally accomplices in vice or crime; the homicidal monomaniac has not.

Now, if we analyze these proposed tests, the uncertainty of their application is apparent. Admit the conditions of each test to exist, and what is really proved? The striking peculiarities of conduct and change of character are significant of other states than those of madness. The attempt to commit suicide is, as has been shown, no direct evidence of deranged mind; want of motive is a forcible consideration; but how are we to be assured that there is real absence of motive? Are we to conclude that because the motive is not apparent, that therefore it does not exist? Can we find no examples of criminals who have delivered themselves up to justice, confessed their crime, and sought no escape, without looking into the records of insanity? Or can we not point to villains of the blackest dye, to bear witness to the fact, that the

absence of the accomplice is no proof of the insanity of the criminal? Consider, on the other hand, the evidence afforded by the negation of these tests! Is it not an ascertained fact, and one admitted by all scientific investigators of mental disease, that an insane impulse may present itself to the mind and be acted upon at a time, when, from the operation of predisposing but concealed causes, it is not able to maintain its rightful supremacy, by regulating and controlling the actions of the individual, though at the same time no previous evidence of intellectual aberration had been displayed, either in conduct or character? How many madmen are there who have never either contemplated death or suicide! Do we not observe in many of the insane the marked connexion between the act and motive? Will not the insane occasionally seek to escape, to shun the consequences of their crime, and even when accused deny their guilt? Were it required, illustrations corroborative of these positions might have been produced; but we think even the unprofessional reader will be prepared to yield his assent to the conclusion we arrive at, viz., that the above-mentioned tests, individually, are fallacious and not to be relied on; but that, taken as a whole, they would constitute a chain of considerable strength, in which, if the links be all complete, there is cogent presumptive evidence in favour of the sanity or insanity of the party. With such rules to decide the point, the juryman could arrive at as correct a conclusion,

but expressed by one best qualified to judge; when the physician, on the other hand, intimates that there is a sufficient amount of unsoundness to constitute a title to irresponsibility, no such necessary sequence obtains; the opinion is often set completely at nought, possibly even treated with contempt. We should scarcely submit our watch, whose faulty movements require attention, to the tender mercies of any of our educated acquaintance, though we may entertain a high opinion not only of their general attainments and sound judgment, but even of their knowledge of general mechanical principles. Should we not rather request the opinion of the man whose vocation it is to rectify the erring movements of such machinery, who is really practically conversant with all the details of this special branch of mechanism?

Who would be the best qualified to judge of the constitution of a given chemical composition? The man who knows nothing whatever of chemical laws or manipulations, or the profound and sagacious chemist? Or, in estimating the nature, extent, and probable result of a disease, upon whose opinion should we be most disposed to place reliance? Upon that of one ignorant alike of the action and existence of ordinary physical laws and agencies, who has never given any attention to, nor had opportunity of seeing disease, or upon that of the experienced and highly educated physician, who, upon ample opportunities for investigation, has brought

to bear all the energy and discriminating force of a strong and well cultivated mind? The considerate and thoughtful observer would rely upon the opinion of a single chemist, in preference to that of hundreds of individuals not equally qualified to judge; the light-minded and trifling may, and it is true, do patronize the reigning forms of fashionable quackeries of the day, which administer to their moments of enthusiasm, caprice, or ennui; but the judgment of the sound physician is that which is most desired and sought for in the hour of real peril, and at all times by the reflecting and judicious, and would be trusted to rather than that of any number of well-meaning but professionally ignorant persons. Supposing such a measure of doubt investing the subject as to render it desirable to have even this opinion confirmed, the chemist would apply to another of his own calling, upon whose judgment and knowledge he could rely; the physician, in like manner, would submit his case to the judgment of another professional, and resort to other than the opinion of those acquainted with the merits and demerits of the subject, would be ridiculed, and deservedly so, as in the highest degree preposterous and absurd: and yet it is not one whit more ridiculous than is the plan at present in operation, of leaving the irresponsibility from mental disease, to be determined by those who know nothing whatever of the nature of mental disease! It may be urged that it is impossible, or

not always possible, to attain unanimity of opinion, even amongst professional men of sound knowledge and accurate habits of thinking; every one is more or less exposed to the effects of bias, which shapes our views and moulds our opinions, often in spite of the very best intentions to the contrary; this, however, the medical profession is not exposed to in greater proportion than other members of the human family, and we cannot therefore think this a good objection to raise against the matter being decided by a professional tribunal. To guard against the effect of bias as much as possible, the first thing would seem to be, to prevent anything like an appearance or probability of partizanship in the position of those who are entrusted with the decision of the question; for we all know how apt the mind is to pounce and dwell upon the favourable arguments which can be arrayed upon the side on which it is engaged, till from continued attention they are invested with undue importance, whilst strong and cogent reasons on the other side, repelled possibly in the first instance from a sense of their real force, are retained in the background, or lost sight of, perhaps involuntarily, when they ought to have stood prominently forward. The consideration of all that has been advanced, inclines us to believe that the question of irresponsibility would be most satisfactorily decided, not by trusting to a single opinion, even though that of one of eminence in his profession, but by depending

on the verdict of a jury of medical practitioners, selected from amongst those who have had experience in the observation or treatment of the insane; that this verdict shall be made to depend, not upon the fact that the prisoner is of unsound mind, but upon the condition of a sufficient degree of unsoundness, in their judgment being present to constitute a title to irresponsibility. Such a jury should consist of three or more, with a foreman, also medical, to collect and report the verdict; then, supposing in the course of an ordinary trial that the plea of insanity was raised, the decision on this point would rest with this empannelled medical jury, and in the event of their rejecting the plea upon hearing the evidence, the common jury would proceed as usual to their verdict; but if the panel was of opinion that the evidence of unsoundness was sufficient to constitute irresponsibility, the decision should be held to be final, and a verdict of "not guilty" on the ground of insanity, recorded by the judge.

It is assumed as conceded that by such a plan the truth would be most likely to be attained; the great difficulty to be overcome would appear to be the necessary expense which is involved thereby to the public. In this great commercial country, money is highly valued, and in some respects apparently more than even life itself. We must own to belong to the number of those who conceive that greater certainty in detecting and punishing guilt, and in rescuing madmen from pains and penalties

which ought not to belong to them, is fraught with interest of far greater import to the public weal, than the preservation of a few thousand pounds to its treasury. A staff of this nature, however, if properly organised and conducted on principles of true economy, would not be so very costly; and the collateral advantages accruing to society, by its capacity for action in other matters, might with propriety be made an additional argument in its favour. The present centralizing system of lunacy commission, for example, adopted for the purpose of protecting the persons and property of lunatics, without immediate friends, or labouring under temporary aberration of intellect, is so costly, cumbrous, and slow, that it defeats its own ends, and lunatics are self-pauperised, or plundered by knaves, without any check or hindrance whatever; such a staff might be made available in these cases. As regards organization, it should be composed of the fittest and best men to be had, selected from amongst the members of the medical profession, on account of their high position and attainments, especially with reference to insanity: it would appear desirable to localize the action of each staff, and with this object the kingdom should be mapped out into a certain number of districts, and a complete working staff appointed to each district; that these appointments should be permanent, excepting they be forfeited by dereliction of duty, from physical incapacity, or otherwise; that to each staff

one or more deputies should be attached to secure against possible emergencies; that a fixed salary (independent of necessary travelling expenses) should pertain to each appointment—liberal, or it will fail to ensure the services of the *élite* of the profession; though as the demand for them would be only occasional, the tenure of this office need not interfere with their holding other professional engagements. The principle of salary in this case seems preferable to that of paying for the work done, because there can then be no conceivable object, such, for instance, as that of false economy, to prevent the complete adoption of the plan. A system with some such machinery as we have thus roughly sketched would be calculated to confer great benefit upon the public; it would add to their security, by increasing the certainty of the punishment of crime, and it would contribute to their satisfaction, by assuring them that they are employing the best means in their power for distinguishing those unfortunate beings whom madness has tempted to commit crime from the really guilty; thus enabling them to rescue those from punishment who ought not to receive it, and to place them in the best position that can be permitted for ultimate recovery.

Having by the best authority determined that the criminal is lunatic, the next point of practical importance relates to his subsequent disposal. In lunatic asylums a system of classification is required

to be adopted; this consists in distributing the patients according to the manifestations of the mental disorder, associating those whose intercourse is likely to prove beneficial, and separating others who mutually irritate and annoy; keeping the noisy and restless away from the quiet, the fatuous and dirty to themselves, and the dangerous apart, surrounded by plenty of experienced attendants. Now, ought the criminal lunatic to be allowed to mingle with the others, subject only to such classification? One third of the whole number of criminal lunatics in England are confined for atrocious offences, and such should not be allowed to mix with other lunatics, for reasons apart from the fact of the crime. An asylum ought to bear as little as possible of the appearance of a prison; but these individuals must be retained for life. With the necessity for this retention must be associated the means for ensuring it, or the irksomeness of the perpetual confinement would prompt them to effect escape. Again, the despair and hopelessness of their condition tend to make them careless and mischievous, and likely, by their bad example, to excite consequences destructive to the well-being of the otherwise hopeful community. The other two thirds of the criminal lunatics are cases of theft, minor assaults, and other misdemeanors, and comparatively but little objection could be made to associating these with the other patients. The principal objection to their being mixed at all, depends

upon the difficulty, if not impossibility, of preventing the lunatics finding out that their companion is a criminal lunatic: the feelings of the patients, their relatives, and friends, being outraged by having the criminal forced on their society; and, secondly, upon there not being proper wards to prevent escape. On these grounds, then, we advocate the principle of separating the criminal lunatics from the others, in asylums set especially apart for this class. But if the judgment of our medical jury has been correct, there is not real moral guilt attaching to this class of criminal lunatics, and it is important to bear this in mind with reference to their treatment. We would send them to a special asylum as a matter of convenience and necessity, but would discourage in every possible way the idea that there is disgrace attaching to the inmates of the one asylum, which does not belong to the other. The classification of such lunatics would of course demand great attention. Where crime has been committed, no distinction ought to be made in the case of rich or poor, in one respect, viz., that all classes should be placed under State Supervision; but we think the differences of the grades should be recognised, and accommodation provided according to the station of the individual, if means be forthcoming to liquidate the extra expenses; in short, that everything within reasonable bounds should be had recourse to, to render their existence as tolerable and happy as possible. As regards the

discharge of those lunatic criminals who have not committed atrocious crimes, it ought to be borne in mind, that if they are sane enough to be discharged, they ought to be sane enough to be made responsible for any fresh crime; the responsibility of discharging such is therefore great, and it is worthy consideration, whether the power of liberating in these cases could be intrusted to better hands than those of this medical staff themselves. Those who have committed capital crimes ought, as we have before shown, to be permanently confined.

Mental disease, as it now stands, has in every country two sides which require to be distinguished; on the one hand, we find the insane collected in asylums and proper establishments, under the care of the most able medical men; on the other hand, they are found dispersed over wide countries, almost devoid of medical aid, and neglected, until they grow troublesome to society. In this way, the disease is left to propagate at leisure, without any effort being made to circumscribe its ravages. We are of opinion, that if the disease, *without* asylums, was observed with the same zeal, diligence, and perseverance, as it is within, we should soon be able, if not wholly to prevent the disease, at least, in great degree, to circumscribe its ravages; and we likewise believe that "a sound moral and religious education would not only prevent an immense amount of crime, but also a great

proportion of that insanity, whose prevalence stigmatizes an uneducated civilization. Like Kavanagh's schoolmaster, we may fairly speculate on what Lady Macbeth might have been, if her energies had been properly directed."

Within a comparatively recent period, a marked change has taken place in our knowledge and treatment of lunacy; but still there is much, independent of this neglect in the earlier stages of the disease, very much that cries aloud for redress. Mark the words of one of our most enlightened physicians of the present day, who has ever been foremost in the van of improvement, and to whom society owes a deep debt of gratitude, for the prominent part he took in bringing about the abolition of the fearful system of restraint, in spite of difficulties, and in the face of dangers which might well have appalled the stoutest heart (I allude to Dr. Conolly):—"Asylums were until very lately," says he, "like gaols, in one of which, a man who had been long imprisoned for an act committed in a state of insanity, used to say to me when I visited him, 'Sir, I have not seen a flower or green leaf these seven years!' a painful observation to the ears of those who can pass from such gloomy precincts to fields and pleasant footpaths, never more to be trodden by the miserable. Within equally melancholy boundaries, might be seen in most asylums, but a few years ago, every form of gloom and eccentricity which the absence of all external

objects of interest could foster; and the patients walked up and down some chosen path beneath the hopeless walls, until the very ground was worn into hollows; or, debarred from the full exercise of the muscles of locomotion required by their excited brain and nerves, expended all their energies in exertions of voice, distressing to all within hearing. Even at present, such arrangements may *yet* be witnessed, and the consequent concentration of morbid excitement of a crowd of insane persons, which ought rather to be allowed relief, by action and expansion in liberal space." The manner in which a nation cares for those who suffer from mental alienation, ought to be some measure of its progress in civilization; in some barbarous or semi-civilized parts, madmen are made a source of amusement to the unfeeling populace; thus we read, that at the "Hospital of St. Andrew in Lima, they are exhibited to the ignorant multitude like so many wild beasts in their cages." The establishment of lunatic asylums is a feature of modern society even in this country. The barbarities which were committed under the exploded coercive system, are now, we would fain hope, never to be repeated; but the recent exposures at Bethlem, in the very centre of the metropolis, show at least the importance of placing all institutions of this kind, whether public or private, under such public supervision as shall effectually prevent the oppression of this helpless class of human beings. The expressive sentences before quoted

from Dr. Conolly, prove that the public mind yet requires to be directed to the faulty arrangements of some of these *prisons* for the insane. Medical men can do no more than interpose their counsel and advice; they have long pointed out the importance of surrounding these unfortunate creatures with objects on which the eye can rest with interest and pleasure; that their senses are as capable or susceptible of gratification from external objects, as those of their more fortunately circumstanced fellow-beings; that it is of inestimable value, so far as recovery is concerned, to awaken and perpetuate in their minds pleasurable and happy emotions, and that brick-walls and unrelieved gravel-walks are not objects the best calculated to excite or keep up either the one or the other.

Asylums are filled with the wrecks of human intellect, and of the dignity and happiness of man. Those whom rank, and wealth, and grace, and loveliness, and almost every gift of fortune, had apparently formed for happiness and delight, here seek at best a sad shelter from the storms and agitations that have made shipwreck of their noblest endowment. Many whose gallant acts have exalted their names, whose genius has illumined the age in which they lived, whose writings have cheered and improved mankind, are found in these abodes. Let those who boast of "man, so noble in reason, so infinite in faculties, in form and movement so express and admirable," visit him in these receptacles of his desolation. What is it that gives to

nature and to life the charm which converts everything it touches into gold? Is it not imagination? Nature draws the outline and arranges the groups, but it is the imagination which gives a richness of polish to their surfaces, and tints them with those colours which administer in so delightful a manner to our perception: nature, always conceiving and producing, furnishes the *instruments*, but it is the imagination which touches the chords and produces the melody. Nature showers down objects for our selection, and reason combines them, but it is the imagination which is, as it has been truly styled, "the synonym of inspiration." Hence the importance of admitting nature in all its pleasing phases to administer to the happiness of the insane. Who shall tell the amount of delight, and consequent benefit, that is conveyed to the mind of the poor lunatic by hearing the gladsome carol of the lark, or the warbling of other of the feathered songsters of our isle; the rapture which throbs in his breast from the contemplation of delightful scenery, which, from its grandeur, magnificence, or beauty, is so well adapted to soothe and enchant the soul?

"Oh, how canst thou renounce the boundless store
Of charms which Nature to her votary yields?
The warbling woodland, the resounding shore,
The pomp of groves, and garniture of fields,
All that the genial ray of morning gilds,
And all that echoes to the song of even,
All that the mountain's sheltering bosom shields,
And all the dread magnificence of heaven?"

The advantage of bringing the beauties and harmonies of creation to shed their benign influence upon the gloomy and cheerless condition of these unfortunate creatures, has been dwelt upon with all the eloquence and pathos that language could express, and with all the energy and ardour that deep seated conviction alone could prompt. Nevertheless, so far is the public mind from fully appreciating the importance of this, that we find existing and allowed, even at the present time, the "*defective arrangements*" before alluded to. Truth, however, remains the same, and in the end will vindicate and assert its rights; and a future generation will do justice to the views of those whose opportunities and education have enabled them to regard insanity in its true colours, apart from the ignorance and prejudices of the age.

Knowing the amount of public ignorance respecting insanity, it is not matter of surprise to the reflecting observer to find the state of the law bearing upon it to be defective in detail, uncertain in application, and harsh in operation. The attention of the community, it is true, has of late years been directed more forcibly to the subject; cases of startling interest and thrilling narrative have, for a time, aroused it from its apparent lethargy; on one side has been seen ranged the opinions of men eminent in the profession, unanimous in the belief of the prisoner's insanity; the evidence has constrained the sympathy of the spectator in the jus-

tice of these opinions; but, alas! on the other side have been arrayed the dogmas of an inexorable and unjust law, conceived in real ignorance of insanity, and carried out in the same spirit, rendering alike these sympathies, wishes, and opinions powerless to rescue from the unavoidably adverse decision. We know it is often required that the "vis a tergo" of public opinion should be exerted to procure reform; and this is so, because frequently, although justly required, sufficient importance has not been assumed to bring the matter before the notice of the legislature; but a wise legislature, like a good parent, looks around to assist and succour its helpless children, who, it knows, are unable to protect themselves, and waits not for the clamorous outcry of public indignation to redress grievances which it acknowledges, when it knows how to rectify them. The unhappy lunatic is unable to thrust forward and unbare his wrongs before the public gaze; he cannot put a "tongue in every wound" to enlist the sympathies of his friends, nor make his every word a dagger to strike to the hearts of his oppressors; it is only the occasional case which speaks volumes, that makes the looker-on put it home to himself, to shudder and confess that some means is indeed wanted of establishing a better distinction between the effects of vice and disease. But the legislature is not unaware of the need of reform, thanks to the labours, exertions, and representations of the physicians to our lunatic asylums,

commissioners of the insane, and other philanthropic individuals, who have felt the anomalies or witnessed the unjust operation of the present system; though it may be unprepared with any efficient remedy. The intention has been, throughout this essay, to bring into view freely and dispassionately all the material difficulties of the subject; the few suggestions that have been thrown out, more as leading features than matters of detail, are sanctioned by some consideration and thought on the subject, as the legitimate deductions from the various positions that have been assumed. The essay is committed to the judgment of others with a measure of fear and hope; with fear, lest the abilities which have been brought to the undertaking shall have been inadequate to do justice to the importance of the subject; and with hope, that through its humble instrumentality such interest may be kindled, as shall lead to the introduction of measures to ensure to crime its more certain punishment, to the helpless madman more certain protection, and the preservation of the honour and peace of those families who have the great misfortune to enrol amongst their members that human being infinitely to be pitied—the criminal lunatic.

THE END.

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