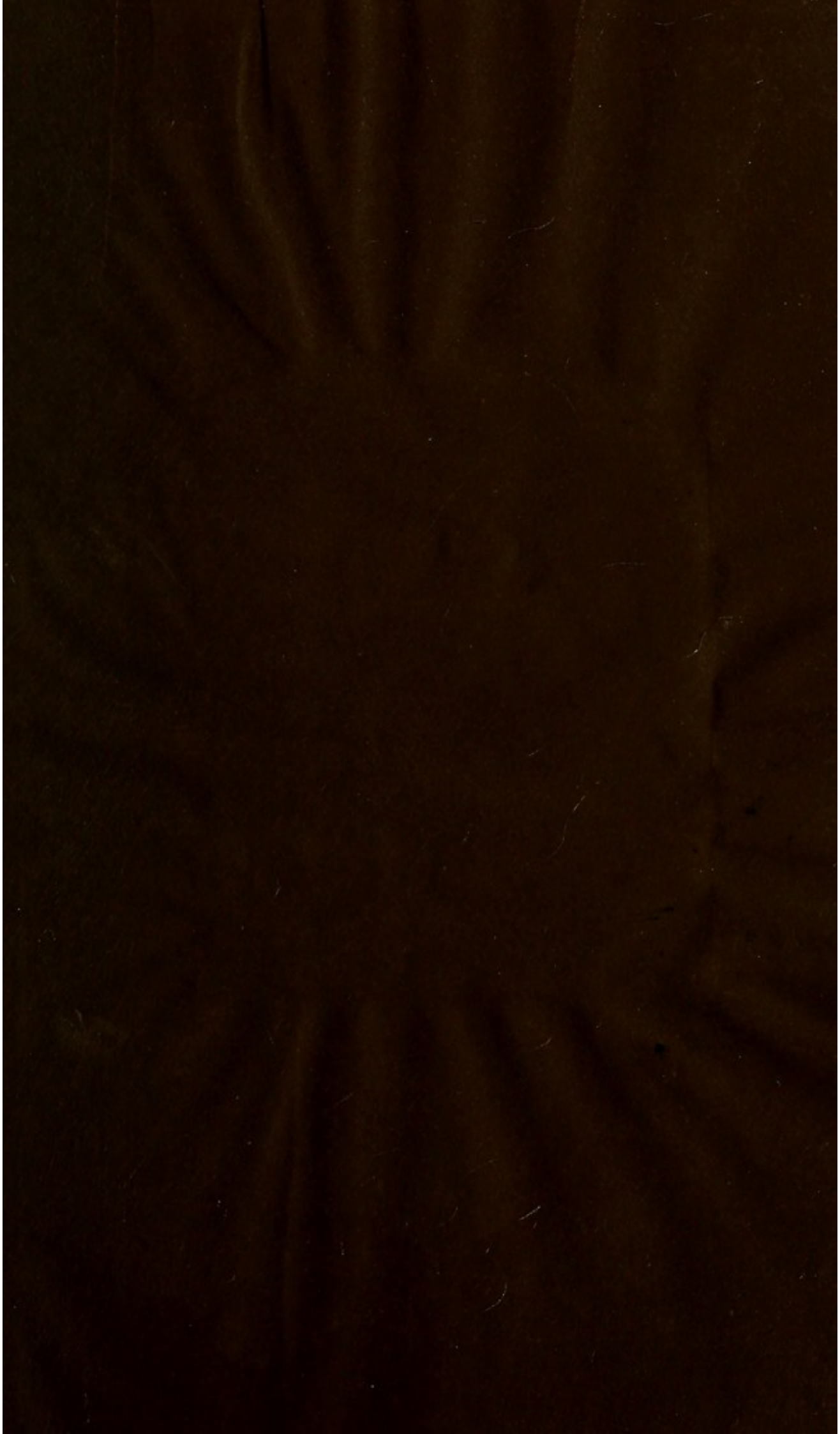
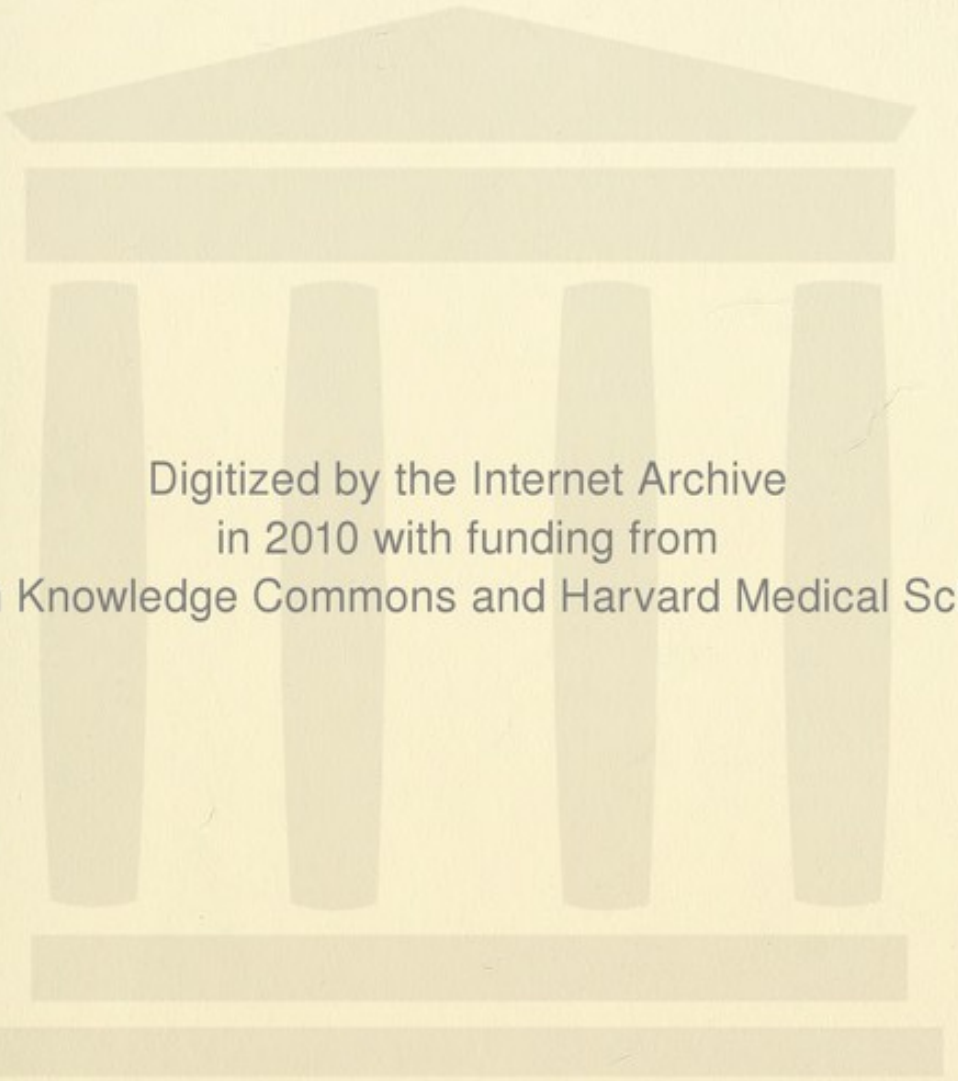
The question of insanity and its medico-legal relations considered upon general principles / By Charles E. Johnson, M.D.





THE QUESTION

OF

INSANITY

AND ITS

MEDICO-LEGAL RELATIONS

CONSIDERED UPON

GENERAL PRINCIPLES.

BY

CHARLES E. JOHNSON, M. D.

* * * * * * *Omni*
Membrorum damno major dementia.

In lege dementiæ, si non omni exemplo,
Qui hæret in litera hæret in cortice.

RALEIGH, N. C.
PRINTED FOR THE AUTHOR BY T. M. HUGHES,
MDCCCLXIX.

TO THE MEMBERS OF THE MEDICAL SOCIETY OF THE STATE OF NORTH CAROLINA.

I ask to be allowed to inscribe these pages to you, not because I believe them worthy of such high and distinguished consideration, but simply as a slight testimonial of respect for the talents and patriotism which induced you, "a gallant few," to step forward in the work of medical reform in North Carolina; of esteem for those steadfast virtues, courage and industry, which have caused you to press forward amid the greatest of discouragements, and almost of defeat in fact, "to perform the tasks of hope in the midst of despair;" and of acknowledgment for numerous instances of disinterested friendship, and for honors conferred, that were wholly unsolicited on my part.

"The labors of the faithful seldom go unrequited; and the work of the wise endureth as a monument."

Such are your labors; may your work be a monument of wisdom imperishable as the pyramids.

CHAS. E. JOHNSON, M. D.

Raleigh, Dec. 23d, 1868.

PREFACE.

This essay was written more than eighteen months ago, immediately after the trial of the Johnston Will Case, in Chowan county Superior Court, extra term, for February, 1867, which lasted nearly four weeks, his honor, Judge Merrimon, presiding, with marked ability, patience and impartiality. The manuscript was then laid aside, partly for revision, but mainly because it was not convenient for us to publish it at that time.

We are too well aware of the infirmities and short comings that are to be traced throughout these pages, not to feel the utmost diffidence in submitting them to public opinion. Our only apology for so doing, will be found on the concluding page of the work. But being only able to devote to science the short and irregular intervals of study that can be snatched from the more active duties of a laborious profession, and being, therefore, unable to give this essay the developments which are necessary to do full

justice to the subject, we ought perhaps to have been deterred from bringing it out at all.

A very cursory glance at it, however, will be sufficient to satisfy the reader, that it has been put together, not so much with the intention of thoroughly elucidating scientifically or systematically, the different subjects here touched upon and enunciated, as for the purpose of calling out the medical mind of North Carolina upon a subject of the momentous importance of mental medicine. This must be our apology for making public what perhaps we ought to have been more careful to conceal, our weakness; but with no Ulysses in the field to bend his own bow, some weaker arm from the camp, we thought, should essay the enterprise.

And here we take the liberty of expressing the hope, that we may obtain a fair hearing from those for whose consideration mainly this essay has been written. Give us a careful perusal, unbiased by previously formed opinions and established views, in favor of which all are liable to be prejudiced, and we shall be satisfied whatever your decision may be.

The characteristic features of the essay consist, first—in the predominance given to the moral fac-

ulties and powers, as distinguished from the intellectual faculties and powers in man's mental constitution, by claiming for them that they are the only proper sources of man's responsible nature, and therefore especially, in the importance assigned them, in determining the question of responsibility in cases of insanity; and second—in the separate prerogative characters of an intellectual power or sense, and of a moral power or sense—the moral sense in fact—which we have assigned to the will, accordingly as we find it directing and controlling or modifying the actions of the intellectual or moral faculties of the mind.

According to this view of the subject, that faculty or mental power, which is ordinarily termed conscience, together with the action of the will, so far as the latter's action is necessary to the former in all mental processes, becomes the morally sensing power of knowing the good and evil, or right and wrong which attaches to every action, and the faculty or power of choosing between them, that is, of practising the good and avoiding the evil. Hence the moral rule of action chiefly consists in the preference of a higher for a lower motive of conduct; and this election will

entirely depend upon the relative worth or value in the moral scale, which we have been accustomed to assign to the different classes of motives.

But it will of course be asked, how are the relative values of these motives to be determined? We answer, simply by the universal moral sense of mankind, which will be found to be more and more accordant in this respect, the more fully the general mind, and especially the moral portion of it, is expanded and enlightened; or, in other words, the more faithfully the Divine Will is interpreted aright by a proper study and due appreciation of God's works, as well as by a faithful observance of His revealed words.

This tendency towards universal agreement upon this important first principle, namely, the power of knowing the good and evil, or right and wrong which attaches to every action and the faculty or power of choosing between them, induces us to believe, that it is on our affective faculties or feelings, as furnishing the motives of conduct, and not on our intellectual faculties or reasoning powers, that the fundamental axioms of moral science must be based. For it seems to us, that the reasoning process, to begin with, must be ba-

sed upon motives, and therefore, that these motives cannot be furnished by the reasoning powers themselves, and therefore also, that they must be furnished by the moral faculties or the appetites and passions. And if we are correct in this view, it must be admitted as a general principle, that the ethical judgments of men should be guided, not by any fixed and determinate standard of right and wrong as affixed to actions particularly, but as applied to the particular motives which have led to the actions in question. Yet it is quite evident, that in the administration of laws no less than in the construction of them, the actions, rather than the motives, constitute the foundation of criminal responsibility at least, if not of the responsibility for the violation of all laws.

This may be right as regards the construction of laws, and might be equally so in regard to the administration of them, were reason alone, as a distinct autocratic power, and the absolute source of a knowledge of right and wrong, the main-spring, and the only one, of human conduct. Then, perhaps, it might be said to be proper always to infer the presence of a wicked motive, whenever there existed a knowledge of right

and wrong connected with a criminal action.

But we have endeavored to show, that the motives for human action are of a higher character than the law here presumes, and that enlightened governments should adapt their systems of judicature to the requirements of justice as founded in moral law, obligation, and liberty of action or freedom of will; and that laws should be interpreted according to the progress of science and the genius of civilization. And we have endeavored to show further, that in this way the history of the legal doctrines, upon the subject of the jurisprudence of insanity, would afford a striking instance of that living principle animating our laws, by which, in their gradual development, they conform themselves to the progress of knowledge and the wants and necessities of each successive age.

Instead of this, however, it appears to us, that most judges prefer, *stare super vias antiquas*, to act rather upon the precedents set by others, in like cases, and the older the rule the more it is venerated, than upon the conclusions and judgments of their own minds, as they might be formed from the facts of the case, properly illustrated by

the increasing and brightening lights of the science of mental medicine and the genius of civilization.

How far we have succeeded in this undertaking the reader will decide for himself. On our part, we fully recognize and frankly admit, that from the necessity of the case, great caution must be observed in admitting medical axioms to modify a long and well established rule of law. But on the other hand, we feel equally confident, that it would be exceedingly unwise, to say the least of it, for the courts to ignore a psycho-pathological fact simply because it conflicted with their rule of law, and was recognized and advanced by the medical profession.

Indeed, it seems to us best, that the members of the two professions of law and medicine should, in this connection, consider themselves as co-workers for the establishment of truth and justice, and not as having antagonistic aims and purposes, which too often seems to be the case in important trials involving life, liberty and property.

The conclusion, therefore, naturally resulting from the whole is, that as our laws affecting insanity have many excellencies and advantages

which we have just reason to value them for, so they have also their defects and blemishes. Such a blind veneration for them, as will not allow this, does not only suppose in them a perfection which all human contrivances are incapable of, but actually becomes the greatest obstruction to all attempts for amendment. That some things in them need to be amended, no experienced lawyer can deny; and that they should be so amended, every honest one heartily desires.

Raleigh, Dec. 23d, 1868.

CHAPTER I.

MIND AND MATTER—THEIR CORRELATIVE ACTIONS—INSANITY—ITS PSYCHO-CEREBRAL RELATIONS.

We fully comprehend our difficulties in discussing the subject of insanity, and its medico-legal relations. We understand and appreciate the fact, that we mainly have to deal with phenomena, the intimate essence or immaterial nature of which, we absolutely know nothing. We are aware, that there is no ascertained method, whatever the purely abstract psychologist or pathologist may say, by which we can pass behind the curtain, or lift aside, much less remove entirely, the veil that divides the *material*, from what we are accustomed to regard as the *immaterial*, *mind* from *matter*.

> "We are spirits clad in veils;
> Man by man was never seen.
> All our deep communion fails
> To remove the shadowy screen."

Mind and *matter*, in every discussion into which they enter, whether directly or only incidentally, are words of deep import. that require to be thoroughly understood and correctly defined if practicable. But has this ever been done? or is it practicable, either thoroughly to understand or

correctly to define them, separately and apart from each other? *Mind* and *matter* are terms as captivating for the popular reader with an inquiring mind, ever asking to be taught the mysteries of his being, as for the profoundest philosopher with the greatest intellect that has ever appeared among men. And yet, after ages of thought and a world of labor have been devotedly expended in ever-exciting researches for the truths of the abstract natures of mind and matter, how very imperfect and extremely limited is our knowledge of them in this respect.

In this discussion, therefore, which will involve the consideration of both mind and matter, and especially the relation of their affections to each other, we shall not be guilty of the folly of attempting to separate the one from the other, mind from matter. But, in our judgment, these substances, or entities rather, are entirely distinct, and the influence of the one appears to be superior to that of the other. This conclusion, however, is not more real, nor more important perhaps, than the fact, that the superior or psychical existence, to all appearance, whether considered in a state of health or disease, is inseparably dependent upon the inferior, or material existence or organism, for all its manifestations of influence or power. In fact, without this psycho-physical

status, whatever it is, there would be for us no evidence of psychological life ; and this important circumstance, if not admitted to be conclusive proof, certainly may be regarded as a powerful argument, in favor of the supposition, that physical causes are, at least, equally concerned with moral ones, in the production of mental diseases.

Indeed, there are certain practical aspects of mental medicine, in which the evidences of cerebral disease assume an extent and character peculiar to themselves, and which are, therefore, not only entitled to special consideration, but actually to be regarded as *precedent existences* and *prerogative facts.* And it must also be confessed, that hitherto all our practical, if not our scientific, knowledge of insanity, has been derived mainly through the study of it from the side of physics, and, even here, chiefly in its analogies with bodily diseases.

It may be regarded, therefore, as a settled thing, that the hope, long entertained, of pure metaphysics alone adding anything to our positive and practical knowledge of this subject, is at an end. And yet, in our investigation of it, we cannot entirely neglect, as some have recommended, the psychical for the physical side of the question.

Insanity, in fact, being essentially a question of a mixed character, involving the consideration of

both mind and matter and of the relation of their affections to each other, renders it absolutely necessary that we should conduct our inquiries regarding it, in respect of both of these points of view, and particularly of the relation of their affections to each other, or their correlative actions.

Hence it may be said to have become a necessity of human thought, that all mental phenomena should be regarded as having a two-fold aspect, the one psychical, and the other physical; and that all manifestations of mind, in their morbid as well as their healthy evolutions and growth, must be studied objectively. In this way, we may really make, and indeed, have already made, some advances in our practical and scientific knowledge of insanity. Yet it must be admitted, that with all our boasted information on this subject, our actual progress in the knowledge of it, has certainly been not much farther than to fully recognize our ignorance in respect of the proximate causation of mental diseases.

But this view of the present condition of this question, should not lead us to examine an iota less carefully, the many different psychical and physical phenomena, which a judicious study of the subject will be constantly presenting for our consideration; for it is not practicable for us to investigate this question rightly; unless we study

it as one involving the manifestations and properties, both in health and sickness, of mind and matter.

Mental philosophers have arranged themselves into two great and antagonistic parties upon this question. On the one side, are those who exclude the physiology of man from their researches, or allude to it incidentally only, and base their systems on pure metaphysics. On the other, are those who have looked more deeply into man's organization, and, with more or less success, have made use of physiology to investigate and illustrate his psychical nature. To this class the majority of medical writers belong. They believe that Bacon's general principle, embodied in the opening sentence of the "Novum Organum," must ever be the only true guide in moral philosophy, and as such, will ever link physiology with metaphysics. "Man, the servant and interpreter of nature, can only understand and act in proportion as he observes and contemplates the order of nature; more he can neither know nor do."

But whether this limitation will ever give to the individual facts of our subject a character sufficiently fixed and determinate, to render them fully susceptible of being scientifically compared with each other, and properly collogated, so as to convert them into legitimate elements, or constituents, of

a settled, well defined law of science, is another question.

It would appear then, that the mind and body are inextricably united in this life, and that it is, in this inquiry at least, of no practical use to consider them separately and apart from each other. But if it were possible for us to do so, we should find that the human body is no mean thing, but the most glorious body known; and that, if the mind is the superior of the two existencies, experience abundantly shows it can gain nothing, but must absolutely lose much, by maltreatment and debasement of the body.

However, against any such injustice as that, there is in our time at least, a strong re-action, which threatens to carry us in an opposite direction far beyond that happy medium where truth, it is said, can always be found. Like the swinging of a pendulum it may go to as high a point on this side as on the other. To overdo everything that we undertake, whether of mental work or amusement, or of physical work and exercise or amusement, is a prominent vice of our national character. We must learn to act upon a safer principle, and to travel along the middle ways, in all these respects, if we hope to escape the penalties of over haste and imprudence. ***Inter utrumque tene, nec inscite.***

We know, for example, that our mind is a part of us, and that knowledge and virtue are worth having; that mental culture is a charmingly glorious thing, and the improvement of our intellectual and moral faculties essentially necessary for our present good and future welfare. But we also know that, in our efforts to attain these desirable objects, it will not do to neglect our physical needs and personal health, lest we disturb and break up that correlation of forces which establishes the practical utilities and healthy relationships of mind and body.

Here common sense, which is suspected by many of the shrewdly wise of the present day, to be, after all, the saving grace of modern men, steps in and teaches us a lesson of practical importance. For, whilst it is an admitted physiological or scientific fact, that unless the natural wants and desires of the body are gratified within reason and moderation, it will be impossible to carry the natural actions of the material organism to their highest healthy or physiological state and condition, so is it equally true, that this latter state or condition will be necessary, in order that we may have the highest practicable manifestation of the minds tone, and health, and strength.

Any exceptional instances of seemingly most active and vigorous minds associated with evi-

dently enfeebled, or diseased, or injured cerebral and nervous organizations, only prove the truth of the general rule, namely, that the strong, well-balanced and healthy mind is dependent for its manifestations upon the physical integrity and material health of the brain and nervous system. Therefore, while we acknowledge that it is a possible thing, though an unfortunate one, to have very vigorous minds without healthy bodies, it certainly cannot be regarded as being, to say the least of it, any better to have most vigorous bodies without healthy minds. In a word, we must not unreasonably calculate upon mental perfection without muscles, lungs, and stomachs; nor, on the other hand, commit the grievous blunder of supposing we can be mentally perfect with nothing excepting stomachs, lungs, and muscles.

So that, however beneficial athletic exercises, and all open-air sports, and other amusements productive of muscular development, fuller organs, more blood, and stronger nerves, may be within reason, we must be careful to avoid in our efforts to acquire these physical blessings, that carelessness and indifference to vulgarity and beastliness, and to vice and actual crime, which instinctively gather about the arenas where the exhibitions of physical strength and trials of manly vigour are made.

The loss of intellectual ambition and moral culture are not compensated by animal strength and physical activity. Nor is demoralization ever unaccompanied by its corresponding measure of vice and crime; while the descendants of those who practice the one and are guilty of the other, through the influence of the inexorable laws of hereditary transmission, are surely visited with physical deformities, or moral depravities, or both.

Some one has judiciously remarked, Ruskin perhaps, "It is only by labor that thought can be made healthy, and only by thought that labor can be made happy; and the two cannot be separated with impunity." Now, if this be true, and we do not think there can be any doubt about it, then so far as God's wise purposes in relation to man, and man's best uses as we understand them, are concerned, he must have both a healthy mind and a vigorous body, and mind and body must be harmoniously united and connected with their correlative or conservative forces healthfully and properly dependent upon each other.

But what this connection, this dependence between mind and matter, actually is, in the present limited state of our knowledge on this subject, we are not prepared to show, although it is, unquestionably, a proper subject of study for us. Hence at some future day, it may *possibly* be within the

mental reach of the medical psychologist, aided by discoveries in the physical and other collateral sciences, to unravel and fully explain the mysterious and hitherto inexplicable connection between mind and matter. But as yet, we do not know what mind is, nor, perhaps, exactly what is matter. And this ignorance of the abstract natures of the one and the other, will account no doubt, in a great measure, for our difficulty in comprehending and appreciating their correlative states and conditions; while, it is quite possible, that it may always offer an insuperable barrier to our perfect comprehension of this question.

Greisinger, of Berlin, in a treatise on mental diseases, pathology and therapeutics, says: "Lotze has very well described the relations existing between thought and the bodily organs;" and quotes him thus, to prove it.

"The ulterior development of the organism acts on the mind less by exciting clear and distinct ideas, than by bringing about certain dispositions of mind and character, certain peculiarity of thought, which, without our consciousness, direct our actions and the general conduct of our lives. The impressions arising in the organism, each of which singly is feeble and undefined, and which only acquire importance and influence by their simultaneous action, exert their power on the

mind, and this power though scarcely felt in the consciousness of the individual, may nevertheless be the efficient cause which confines the mind in a set circle of fixed ideas." And, continues Greisinger, "these dispositions of mind may even, when aided by favorable circumstances, give rise to actual delusions."

Now this may be, and no doubt is, very clear and satisfactory to the mind of the learned and accomplished Greisinger. But we must confess our inability to see it in so strong and clear a light; or, at least, to view it through mental lenses with such powers of magnifying proportions. But that is doubtless our misfortune.

That there may be in the intellectual and moral existences of man, a condition of life and activity, dependent upon physical irritations and impressions originating in the depth of that material organism, the brain, of which we are not conscious, though we may recognize its results, certainly cannot be disproved in the present state of our knowledge upon this subject. And that there may be maintained a constant activity in the regions of the cerébral organism, that is much more important and characteristic of the intellectual and moral life of the individual, than the comparatively small number of ideas and feelings which we are able to recognize, actually indicate, may be

equally as true, for what we know. But, however probable this assumption may seem to be, there are no fixed facts, or positive evidence of any kind that we know of, to prove these things. It cannot be manifestly concluded, therefore, that these physical movements, whatever they are, that are going on in these regions of the material organism, do tend powerfully to determine the actual disposition of our minds, to direct our taste, and to frame and guide our sympathies and dislikes; or if they do, that we understand and can properly appreciate them.

Although admitted to constitute an important feature in the underlying foundations of the abstract theories, particularly of the materialists of the German school of pshycopathists, these views are, nevertheless, if not purely conjectural, at the best but inferential conclusions. Thus, whilst bowing reverently before those researches of the chemist and microscopist, which have within the last thirty years, unveiled so many of the hidden mysteries of biology, as almost to have demonstrated conclusively, that nearly all the living forces, both of animals and vegetables, are either simply chemical or mechanical, or more properly speaking, perhaps, chemico-mechanical, still, we have not as yet *quite obtained* our assent to the proposition, that the mind is merely a function of the

body, as are the functions of digestion, respiration, and secretion; or even that of innervation.

It is true, that the special formative and conservative powers normally belonging to the germinal matter of every tissue, together with the functional powers belonging to the integral masses, are proper elements in the case, and that no just conclusions, as to physiological or pathological results, can be reached when their variations are ignored. Neither can the constitutional tendency to such local variations of development or function, be more safely lost sight of in considering this question. Still, we cannot but think, that the mind is something superior and superadded to the material organism, whilst, at the same time, it is inextricably dependent upon it for its manifestations. Nor can we forget, that the essential laws which regulate the processes of thought and feeling are precisely those about which our knowledge is the least satisfactory, notwithstanding our consciousness of their dependence in some way on the cerebral organism.

The truth is, human reason, as yet, has no power sufficiently subtle and acute, even when aided by the inexorable lenses of the microscopist, followed by the logic of facts and legitimate inductions of the chemist and physiologist, to have extorted from the structure of the brain the whole

of the secrets of its vital capacities; no wand of so potent magic, as to have opened to view all the mysteries wrapped up in its complex and delicate organization. Nor could it have detected, even in the ultimate recesses of this organism, if it could have penetrated thither, the latent power of the will, the yet unawakened capacities of sensation and perception, or the slumbering but stupendous energies of thought and feeling. There are impassible barriers to our investigations into the secrets of nature, whatever may be their character or direction; and here, as elsewhere, we are surrounded on all sides by a ring of darkness which no power of ours can ever penetrate or dispel. And hence, to our mind, in an earnest faithful investigation of these mental phenomena, this conjectural or inferential conclusion seems to constitute too loose and hasty a system of generalization. It is attempting to define the complex before the simple is faithfully learned, a practice which will lead the mind, loaded with hypotheses, into endless vagaries and absurdities in its speculations upon the subject of practical psychology.

It is perhaps true, as stated by Greisinger, for Guislain, and Trelat, and others have related similar cases, that, "A sudden and radical change in our ideas is sometimes, though rarely, accompanied with sensations felt in the head, the patient

having the feeling as of something opening or shutting within the Cranium, or as if he had experienced a slight shock, or as if darkness was gathering round him, or dispersing." And it is equally true, that we are very often conscious of less striking perceptions of impressions or sensations within the head, that accompany intense mental effort, or vividness of thought. Yet all this does not positively prove that any physical change actually takes place in the cerebral organism at such times; nor does it prove, if there did any such change take place, what that change was, or what was its affinity to thought, or its relationship to perception. It only proves, what perhaps is always noticeable, that we have a consciousness that perception is something that takes place within the head, and that there is a wide difference in the vividness of the consciousness of perceptions, just as there are different degrees and shades of strength and clearness of impressions or sensations; and that there exists between these two important processes, perception and sensation, striking analogies, which are referable to the cerebral organism; and further, that these phenomena are so many corroborating evidences of the fact, that the mind is dependent upon the brain for its manifestations of power. But it does not prove what the abstract nature of either mind or matter is, nor what are their cor-

relative actions in the great problem of psychical and organic life; nor do we yet know what they are.

There are two things in this connection, of which every thinking man may be said to be certain, and only two: first, of his own existence, and therewith of a power to feel, perceive and will; secondly, that he never had this consciousness apart from, and independent of, the body. In other words, that there is to his own personal knowledge no mental act of his own, without the aid of the corporeal organism. Thus, too, although our consciousness assures us of our own existence, and of the existence of something that feels, perceives, and wills, apart from, yet through, the material organism, we can only *infer* the existence of other entities like our own. We see, for example, that the results of something in action in the men around us are the same as those we observe to belong to ourselves. We conclude, therefore, and very properly too, that they depend on a similar cause, which we call mind. Extending our observations into creation in general, we see phenomena that further assure us of the existence of what we call mind, so far as competent forces in action to definite ends, foresight, adaptation, &c. are capable of producing such assurance. Seeing the attributes of mind thus displayed in creation,

we infer the existence of creative mind, and call this creative mind Divine and Infinite. By analogy we clothe it with consciousness, and the other faculties of our finite minds, only through *faith in the unknown*, we give them an infinite greatness and perfectness.

But so *wonderful* is the mystery of even created existence, of matter for instance, and so *profound* the mystery of mind, that we actually know but little of either. We know a series of correlative objects revealed in sense or self-consciousness, which make the bases of certain inductive inferences, and it is through the relative facts which we thus know, that we are enabled to get at those which we want to know ; in a word, that the unknown can be eliminated. But we also know, that what is thus relatively known, explodes in contradictions, when we assume an absolute perfection in the relative knowledge. So that our knowledge, even in its necessary or essential elements, bears upon it the marks of imperfection ; and, if dogmatically assumed to be positive, will be found to be contradictory. And so too, will we find, when we analyze our knowledge into *all* its elements, that we believe and must continue to believe seeming contradictions. But in another view, these contradictory necessities of our knowledge may be and are made to nourish *faith*, while

they thus limit *reason*, and, in this way, the finitude of human knowledge may become the source of man's greatest happiness.*

"When we wish to have a rude knowledge of a piece of metal," says a distinguished French philosopher, "we put it in a crucible, but have we any crucible wherein to put the mind? Is it spirit says one? but what is spirit? Assuredly no one knows. This is a word so void of meaning, that to tell what spirit is, you are obliged to say what it is not. The mind is matter says another; but what is matter? We actually know nothing of it but a few appearances and properties; and not

---

*In the profoundest part of our mental experience, we have beliefs as irresistible as proof from demonstration, that Faith in an unknown is wrought into the fibres and tissues, the very frame work. as it were, of all human knowledge. But, it cannot be denied, that when we try to realize collectively, under a law of relative knowledge, the beliefs to which we have referred, we find the nascent knowledge becoming contradictory in the experiment. Sceptics, like Hume, have inferred from this result, that our knowledge is an illusion; instead of drawing, with Pascal, the wiser lesson, that it is only imperfect, and that the apparent contradictions result from the illegitimate assumption, that it is essentially complete.

Hume's metaphysical speculations are commonly called a system of universal scepticism. This we believe to be a mistake, and to be one of the main reasons why the replies to them have so often proved not be answers. They are rather an emphatic and unqualified exposure of the apparent contradictions which illustrate the finitude of human knowledge, with almost no ref-

one of these properties or appearances bears the slightest affinity to thought."

But it does not matter, that we are thus ignorant of the abstract properties of either mind or matter, for in truth, the words mind and matter, abstractedly regarded, have long ceased, among the higher order of philosophical thinkers, to be the stalking-horses of logical disputation. The whole controversy is now removed, far above the region of those very indefinite terms, so considered, into the higher region of *subject* and *object*. And it is clear to us, that mind, at least, to be known aright, must be studied in a sphere widely

---

erence to the faith which these very contradictions may be made to nourish. The intellectual giant took this bold and daring way of illustrating what *human reason* is worth when it would be *as God* The lesson, however, which *this spectacle* teaches will mainly depend upon the *spectator*.

With Pascal it is so different. He is emininently the *philosopher*, as contrasted with the dogmatist on the one hand and the sceptic on the other. He *sublimely* shadows forth our human intelligence, with its contradictions, *faithfully* resting in its incompleteness upon the *unknown*, and as poised between absolute knowledge and absolute ignorance. Hume failed, because, while boldly exposing the imperfectness, incompleteness of human knowledge, he did not recognize that faith which this imperfectness, this incompleteness, may be made to nourish. Pascal succeeded, because he recognized each, and harmonized them into a system of philosophy adapted to human knowledge and human limitations; for we cannot, to escape the charge of impiety, accept any theory of *Being* which fails to rec-

emancipated from such an abstraction as the microcosmical contemplation of itself. It must be studied through its phenomena of relationship with an infinite creation; for all the phenomena of creation constitute a glorious revelation of God's will, and wisdom, and power, and pleasure, for man's welfare and happiness. "There is neither speech nor language, but their voices are heard among them," speaking plainly and intelligibly to the humble and attentive listener, impressing him with a sense of his own transcendent importance and dignity, as a being like, and akin to, the Divine mind. Thus, while we must not limit our

---

oncile the counter-necessities of *Reason* that are involved in *Faith.*

These remarks have been somewhat extended, both in the text and in this note, because nothing has impressed our mind more unpleasantly, than the want of a distinct recognition of the Creator's power and agency by some medical writers, on occasions when it would not only be natural for them to refer to the Deity, bnt eveu when the idea was evidently in their minds, and could not be suppressed without an effort. The medical man is often called on to bring his gift and deposit it on the altar of the living God; but like the Athenian, he too often places it on the altar of an *unknown God!* A cloudy image entitled "nature," is raised in his mind, to which high attributes of power, wisdom, and goodness are ascribed. The tendency of this habit, if allowed to gain an undue influence over us, is, to seduce us from that greater truth which is the sole legitimate object of scientific pursuit, and to create the vague impression that nature is really the only Deity.

inquiries within the narrow circle of human phenomena, but, on the contrary, extend them to the whole order of nature teeming with the phenomena of unerring wisdom, and unlimited power, it is nevertheless quite evident that, with our finite capacities, we can only properly judge of both mind and matter by their powers or manifestations and properties and appearances. Our actual knowledge of either is, therefore, merely relative; and this may be, for what we at present know, the proper confines, in this direction, of man's intelligence.

There are certainly limits to human knowledge

This is, unquestionably, a species of infidelity, in that it worships, after a fashion, nature and her laws, rather than natures God; and it results from the impious lust of man's pride, seeking in the fullness of its intellectual strength, to unveil the infinite. But we must not here forget, that in this real indifference, nay more, opposition perhaps, from some of the most earnest and sincere votaries of science, to the old and new scripture systems of revealed religion, that these very seekers after pure knowledge are, notwithstanding such an exhibition of the spirit of infidelity, approximating, though unmindfully, the truth as it is in God's Kingdom. For it cannot be denied, that in our profoundest search after truth, we often miss the good which is immediately before us, while our inquiries and researches may have been so directed as to insure the ultimate attainment of great good and important ends. Nor can we understand how to suggest, as a proposition justly conceivable by the well trained mind, a system of natural laws with perfect adaptation to wise ends and beneficent purposes, without calling for the interposition of

in all directions. And he who pursues any given subject to its postulates, will find that all things begin to pass out into unfathomable mystery and the profoundest darkness, at points more or less remote from the proper centres of his greatest illumination. It is not for a finite human being to understand the mysteries of the Infinite, or to solve all the problems of Omniscience. God himself has so ordained it, by leaving unbridged the chasms of limitless extent, that mark out and define the lines of separation, between man's finite intelligence, and knowledge Infinite. But to what extent, within these as yet unascertained,

---

the *causative will*, and *creative act* of God, any more than we can conceive of the sudden appearance of a mass of matter with all its properties and forces, as coming from no where and formed without design. Nor can they do it, who pretend best to understand the whole sphere of physical and moral science.

Hence it follows, whatever conclusion these earnest and thorough investigators of natural science may arrive at respecting the doctrine of ultimate causation as a question of moral science, that just so surely as they are making real advances in exact science and true knowledge, so are they, despite their desperately pretentious spirits, as certainly, though unconsciously, approaching that point where pure science must ultimately meet and harmonize with genuine faith. So that there must, even out of this great evil of unbelief on the part of some truly great and scientific men, eventually come, and in part through these very men pulling in the line of their greatest strength, the greater good of reconciliation between the natural and the supernatural, or faith and science. For, as surely as all things do work together

though finite, limits, we may carry our knowledge, is by no means determined, for the science of facts is never perfect, because the facts themselves are inexhaustible.

There is no void in the creation; no vacant unoccupied spot or place. And we are every day amazed at the revelations of science that prove this fact. Almost every year the telescope reveals to us the existence of other worlds, that have been hitherto unknown; while without the aid of microscopic or multiplying glasses of extra ordinary powers, we should be wholly ignorant of the existence of whole nations of strange beings that live upon surfaces with which our unaided vision seems to be perfectly familiar. Yet these animalculæ have quick locomotion, voracious appetites, and what more than anything else, shows they are of the earth, earthy, they quarrel, and fight too, among themselves, like all the world. According to their purposes in creation as nice a finish appertains to each and all, however humble, lowly, or small, as in the highest types of moral and intellectual man. No slighted workmanship

---

to show God's greatness and goodness, so shall man's highest intellectual attainments, even when associated with the impious lust of his pride, be made to serve God, by teaching those great scientific truths, in respect to nature and natures laws, which, in the end, tend only to magnify God's glory and to justify His ways to man.

can be detected within or without the myriads upon myriads of living forms that gush into being everywhere, in water, air, and the profoundest, darkest nitches of creation.

Thus, in which of all her departments can it be said, that science has in fact, more than just begun her task. Who, even with the record of past explorations before him, and aided by the recent and more important discoveries of his own time, does not feel that it foreshadows a future career practicably interminable. What a grain of sand is to the sea-shore, or an atom of a single star is to the universe-girdling constellation of the "Milky Way," such our present intellectual acquisitions are to even that knowledge which is possible to finite capacities, when fully trained and developed by the uncounted ages. But even that will fall immeasurably short of Infinite wisdom.

Our knowledge is like light, which may be reflected and refracted a thousand times and as many different ways, and which costs us no little effort to explore its zigzag paths, and still more of unremitted labor and investigation to ascertain and determine its diversified properties and powers. Yet, when all this is done, if it be practicable for us to do it, it still remains to trace it back to the great fountain from which it is only a straggling beam, and in the intolerable splendor of which *it is lost*

and *we are blinded.* Thus the senses, even when aided by all the means and appliances of science and art, reveal to us only a part, and as yet probably only a small part, of the properties, phenomena and relations, of the substances and agencies, which go to make up the material universe. Behind and beyond all these appreciable properties, phenomena, and relations, we feel that there must be others, with which these are connected, and upon which more or less remotely they depend. Our knowledge, therefore, even of the objects of physical science is partial and imperfect; never final and complete.

Whewell, in his Bridgewater Treatise, speaking of Newton and his discovery of the principle of universal gravitation, says: "Lagrange, a modern mathematician of transcendent genius, was in the habit of saying, in his aspirations after future fame, that Newton was fortunate in having had the system of the world for his problem, since its theory could be discovered once only. But Newton himself appears to have had no such persuasion that the problem he had solved was unique and final; he laboured to reduce gravity to some higher law, and the forces of other physical operations to an analogy with those of gravity, and declared that all these were but steps in our advance towards a first cause. Be-

tween us and this first cause—the source of the universe and its laws—we cannot doubt that there intervene many successive steps of possible discovery and generalization, not less wide and striking than the discovery of universal gravitation; but it is still more certain that no extent or success of physical investigation can carry us to any point which is not an immeasurable distance from an adequate knowledge of Him."

So that, the boasted doctrine of *final causes*, after all, consists simply in the fact, which may be always observed when our means of observation are sufficient for this purpose, that throughout the universe, means are invariably and perfectly adapted to ends; and it is nothing more. But even in these, our inferences, or deductions as we call them, are very limited in extent, and wretchedly incomplete in character. Science, in its profoundest and most successful researches, has never yet explained, and never will, the whole phenomena of the universe by the agency of physical causes, in such a sense as to dispense with the personal agency and governing existence of God. And we have not the shadow of a doubt, that it will be so to the end. And the last crowning induction of a perfect universal science, will be just what Newton has stated in the closing scholium of his immortal Principia, that the great first cause of all

the phenomena of the universe must be, and can be no other than an intelligent, self-existent, and infinite God. Nothing happens by chance, for that is the parent of confusion, and not of order, and least of all, of such perfect order as the universe everywhere displays.

Now then, it cannot be denied, that each material form, so far as it can be said to be a part of the world, could we rightly read it, is, as it were, a book, containing in itself, the world's history,

> "For revealing nature, holy teacher,
> Tells, through each perfect thing, her lofty lore."

And, as we have already learned from the pages of these books, so much of the past history of the world as it was proper for us to know, so shall we, with advancing time and the proper use of our opportunities, be able to extract from their hitherto unexplored recesses, whatever of knowledge will be necessary and useful for us, in the world's future history. In our progress, it will often happen, that that which we regard as incontrovertible fact to day, may not prove to be a scientific truth in the greater mental brightness of to-morrow; and that many of our present deductions, may not only require to be changed, but actually to be abandoned for older and seemingly exploded views, when contemplated under the intenser and more concentrated rays of future investigation.

In this way, much that had previously escaped us will be brought to light, while that which we had but imperfectly understood or wrongly estimated before, will be more fully illumined and rightly interpreted now. And thus will it appear, that the more extended our researches become, and the more closely all natural phenomena are investigated, the more we will find, that positive knowledge is a thing of slow growth, and that an essential or ultimate cause is, to us at least, unattainable. All those physical agencies and natural laws which scientific men, in their lustful pride and strength of intellect, bow down to in adoration as final causes, are only so many expressions of God's will and pleasure, or exhibitions of His omnipotence, and wisdom, and goodness, and are not of themselves self-existent, final causes. But we have no fears for the truth, as she only comes to the faithful and diligent who seek her; and much that we may hope even in this way to discover, will often be erected upon at least the partial ruins of what was, and is, then, and now, confidently believed to be true.

Many of our notions and views, which now appear to us new, have arisen no doubt, though perhaps in a very indirect and almost unconscious manner, from successive modifications of traditional opinions. Each word we utter, each

thought we think, has in it no doubt the vestiges, is in itself, the fainter or more vivid impression, of antecedent words and thoughts. So that, however different our philosophy may now appear to be from that of our predecessors, it is, after all, but *our mite* added to *their stores*, which have been transmitted to us drop by drop through the filter of antecedent, as ours will be through that of subsequent, ages. The relic is to the past as is the germ to the future. *There is no new thing under the sun; but there are many things true not dreamed of in our philosophy, and many things which we now believe to be true, that will prove to be otherwise, when the truth is ascertained.*

The world though, in matters of science is ever steadily advancing. It cannot be otherwise where science is cultivated and mental Gallileos are free to pursue it. For what, after all, is true science but a manifestation of the Creator in his works? And what are these works but so many revealed truths given us for study of God's goodness and greatness, and which no one can study aright without becoming wiser and better, without feeling his nature rising into higher phases of existence, and his affections throbbing with gratitude to the parent of the universe, the giver of every good and perfect gift, for the cease-

less wonders of his benificence here displayed.

The prohibition therefore, "hitherto shalt thou come and no father" seems a very hard one to the superficial thinker, when applied to the operations of the human mind, especially as the mind is constantly urged forward by a perfectly natural, though insatiable desire to acquire knowledge. And what is more, and perhaps, better for us, since the mind is perpetually stimulated to this work by considerations, seemingly of the greatest practical importance to man's present welfare and future happiness, with which nature out of all of her departments is ever supplying it.

The vast firmament with its planetary system, earth, and air, and sea, with all their swarming millions of organisms, are full of problems for our solution. The ponderable and imponderable elements, mind and matter, *subjectively* and *objectively*, urge us to become their interpreters, and to give to their utterances appreciation and purpose, and to their powers useful and wise direction To us then, as the heirs of time or the possessors of past and present knowledge, higher incentives to personal industry and mental effort, are now offered, than have been offered at any former period of the world's history. Hence mind and body will be excited, and worked to their highest capacity. While therefore, the desire

for useful knowledge will be found to burn with a zeal hitherto unwitnessed, the higher development and increased susceptibilities of the moral faculties and powers will be discovered to have been correspondingly and even farther advanced, than the intellectual faculties and powers.

This must be so; God wills it, and man must press forward, and not ingloriously turn back, from either laborious physical exertion or the diligent and even toilsome mental investigation of the phenomena of nature. For if we understand any thing of this subject, the kingdom on earth of God the Creator and Sovereign of the universe will only come, when man the creature and subject, but present possessor of the earth, shall be able to read aright God's works and appreciate them as so many evidencies of his power, and will, and pleasure, in reference especially to man's present welfare, and happiness, and peace, and God's glory; just as man now may read and understand from God's revealed word His pleasure, and will, and power, in reference especially to man's future welfare, and happiness, and peace, and God's glory.

Thus, there must be finally a reconciliation in man's mind between the words and the works of God, as there is, in point of fact, no real discord between them. Whatever there is that now has that appearance is owing to the imperfectness

and incompleteness of man's knowledge; for the natural and the supernatural, science and faith must have a complete and perfect unity of relation, because they rest, the one upon the words, and the other upon the works of God, the one omniscient and omnipotent and alone unerring Being.

The conflict however, which is going on between them at this time in the human mind, is no new thing. It is literally as old as the fall of man, and results from his being at enmity with God. Yet it is not wrought on diverging lines, nor even on parallels, but on lines that are constantly converging to a final moral triumph. Hence the strife will become closer and hotter, and its effects be more obvious as time advances and the systems of science, from the habit of thinking in the terms of causes, are more stringently set. And thus will it proceed, until the truth, as it is, and always has been, in God's kingdom, that nature and the supernatural are not antagonistic but joint factors of His will, and pleasure and power, shall be established. This must be so; for any passing discrepancy between religion and science is only apparent, and proceeds from one or the other being misunderstood. Either it is not pure religion, but the bigoted views of some narrow religionist on the one hand,

or else on the other, it is not true science, but the partial and presumptuous oppositions of science so called.

It is obvious, then, that physical labor and mental effort are actually necessary for man's present welfare and future happiness, and that neither the one or the other is attainable without them, and that, so far as we are capable of judging, it is the will and pleasure of the Creator, that man should thus exert himself for the attainment of these ends.

Hence it follows, that the dangers from the competitorships and the life-struggles, which the progress and civilization of the age impose on all those who enter upon the active duties and relations of life, with a full knowledge of its obligations, and a lively hope of reaping its rewards, present and future, result not from the active and diligent employment of either mind or body, so much as from over-working the one or the other, or both; and it is this that will account for the greater frequency of insanity in our day.

Some relaxation is necessary to people of every degree; the head that thinks and the hand that labors must have some little time, and most of this must be given to sleep, to recruit their diminished powers. Sufficient sleep, and that in the night time, is essentially necessary to enable us with our highly organized and finely, delicately at-

tuned nervous system to fit ourselves for the daily responsibilities of life. In other words, to bear the wear and tear of earnest and persistent mental or physical labor, we must have sufficient relaxation and sleep to restore the prostrate energies of the nervous centres and the exhausted powers of the muscular system. Long and protracted loss of sleep results in madness.

It behoves us then always to remember, that the earnest conflict, however natural and proper to which all this leads, may provoke the very *force* which is to overthrow us, and that we must therefore content ourselves with only not attempting too much, by over-tasking our physical strength on the one hand, or by impiously seeking with our finite powers on the other, to fathom the inscrutable laws of God.

But where to draw the line, where to say thus far we may go and no farther, in any particular class of analogies or relations which nature presents to us—how far we may follow the progressive indications of thought, and where to resist its allurements—is a question of degree which must depend upon the conciousness and the judgment of each individual or of each class of thinkers. Yet, it is consoling to know that humanly speaking, the impossibility of annihilating mind, or of creating or annihilating matter, has long been ad-

mitted, and that thought is seldom expended in vain in the study of any of what are called the natural sciences, or in investigating the question of the different relations of mind and matter.

Mill, in his work on Political Economy, says: "No limit can be set to the importance, even in a purely productive or material point of view, to mere thought." When regarded in its moral relations then, how much more grand, and limitless it becomes! Then let us not complain at the seemingly narrow limits prescribed to human capacity. Without doubt, man owes his security, and even his existence in the material world, to this very law, "hitherto shalt thou come and no farther." And in the immaterial, in all probability, it is to its operations, that he owes his dignity, his virtue, and his happiness. If it were otherwise, he would be ever presenting the sad spectacle of

> "A fiery soul, which, working out its way,
> Fretted the puny body to decay,
> By o'er-informing the tenement of clay."

Or, of a mind, which, in attempting to satiate its inordinate desire for light and knowledge, had thoroughly exhausted itself, or hopelessly deranged the healthy balance and harmonious relations of the mental faculties.

While clothed then with "these muddy vestures of decay," and certainly in the present limited

state of our knowledge upon these subjects, it will be best for us in a becoming spirit of humility, frankly and fully to acknowledge our ignorance of the abstract natures of mind and matter, and at present, and for the most part, of their correlative or conservative actions, as exibited in the great problem of organic and psychical life.

But, in order better to understand this subject in a psycho-pathological point of view, it will be absolutely necessary for us, as we actually know nothing of the phenomena of either mind or matter, excepting as we learn them each from the other, to study with proper diligence the appreciable powers or manifestations of the one, and the sensible properties and appearances of the other.

Both sides of the question, however, present serious difficulties. The important facts upon either subject are far from being clearly or conclusively settled; and it is, perhaps, in the present state of psychological, physiological or pathological science, impossible that they should be. But we may rest assured that here, as elsewhere, all that it is proper for us to know will be learned by us in the course of time. Every passing month furnishes its contribution to this work, in some new discovery that is made, or some old truth that is strengthened and illustrated, or some error or delusion that is connected or dispelled.

Thousands of microscopes with their multiplying glasses are prying into the deepest and darkest recesses of organization, and innumerable laboratories are busy with the chemistry of life, while myriads of patient scalpels are plying their carefully laborious and inexorable dissections, so that physiology and pathology, and, as dependent upon these, psychology, like all other branches of human knowledge, are carried slowly but steadily forward in their interminable career.

Every one, therefore, has a right to view these facts, such as they are, through any medium he thinks fit to employ. But some theory must exist in the mind of every one, who reflects upon the subject and industriously attempts to collate the many phenomena which have recently, and more particularly during the present century, been brought to view in respect of the correlative actions especially of mind and matter.

In such an investigation, it is of great assistance to be entirely convinced that no psychical or physical phenomenon can stand alone, that each is inevitably connected with the other, and it may be, for what we know of mind or matter, that each is as inevitably productive, by its own peculiar actions, of consequential changes or affection in the other.

Then, amid the difficulties of tracing in healt

or disease, the origin and source of thought and of the emotions, and of determining the abstract natures of mind and matter, and of ascertaining the mode in which they reciprocally act upon each other, the method of investigation indicated by us, is the only one by which the student of insanity will be able to recognize, when reason and moral sense have been partially paralized or perverted, or have been more generally affected, and God's grace no longer influences the heart. It is thus that he will learn when, if not how, the fine and delicate machinery of the mind is deranged; thus, that he will realize when "the sweet bells are jangled and out of tune," or the light extinguished, and the glory of our being under a cloud that eternity may lift, but not time.

Hence, it follows, that in mental derangement, it is not from the definition of the disorder to be found in books, the student will learn what insanity really is. So far, in fact, as books can help him, it is only in their faithful descriptions of the symptoms of the disease that he will apprehend anything of its true characteristics. But most of all, will he be able to form a correct diagnosis of insanity from his actual observation of the insane, and the diligent study of their pathological conditions, just as the practical and skilful physician learns best how to distinguish every variety and

grade of fever or other disease, by clinical observation and experience.

How melancholy to behold insanity casting its saddening, blighting, withering, crushing, death-like shadow over the minds of perhaps the best, kindest, most gifted, noblest of human natures. How, with almost choking anguish, we prayerfully exclaim, save us gracious heaven! save us, from that intellectual and moral degradation, wherein the physiognomy receives the fixed impress of insanity, and involuntarily expresses that psychological state where

> "— the inglorious likeness of a beast
> Fixes instead, unmoulding reason's mintage,
> Charactered in the face."

Or, with poor old Lear, in piteousness implore,

> "Oh, let me not be mad, not mad sweet heaven!
> Keep me in temper, I would not be mad!"

The saddest sight we have ever seen, is misery mitigated by nothing but its own oblivious antidote, "Razing the smitten trouble of the brain." Poor helpless creatures!—the moping idiot, the gay madman, the furious maniac, sullen and moping, laughing, and singing, grinning, howling, and tearing at every thing; oh! this overthrow of reason, "of all the fearful ills that flesh is heir to," is surely the most painful to look upon.

* * * * * * *Omni*

Membrorum damno major dementia.

Who can tell, " says a learned divine, Dr. South, "all the windings, turnings, depths, hollowness, and dark corners of the mind of man? He who enters upon this scrutiny enters into a labarynth or wilderness, where he has no guide but chance or industry to direct his inquiries, or to put an end to his search. It is a wilderness in which a man may wander more than forty years, and through which few have passed to the promised land."

We feel therefore, in treating this subject, that we are, in a great measure, left to the uncertain guidance of that deceptive experience and fallible judgement, which are too often the most natural fruits of one man's reading, observations and reflections. But the importance of the subject invites pursuit, and we are persuaded that in such an exalted inquiry, any earnest, persistent search after truth will not be unattended by some good, notwithstanding there may be no fixed or certain test, infallible standard, well defined rules, or principles of exact science like those found in mathematics, to aid the inquirer. In fact, the use of such inquiries may be, after all, very considerable, for who can tell at the moment of casting his *mite* into the balances, how much it will weigh—what progress may thereby be made toward the discovery of truth.

Trusting then, to the great importance of the subject of insanity, and indulging the hope that in such a pursuit, whether we take or lose the game, the chase will be of some service, we will proceed more in detail with this discussion.

CHAPTER II.

DIVISION OF INSANITY—ABOUT MONOMANIA PARTICULARLY—DELUSIONS, &C.

For the purpose of division, and with the view of greater convenience of elucidation, and because we are convinced that such a division of the subject, will be found to be quite in accordance with what we believe to be the most natural, simple, and at the same time comprehensive, theory of the human mind, we shall insist:

First, and directly—That there are two classes of insane persons, the intellectually and morally insane; that a person may be generally or partially insane, intellectually or morally; and that each class or degree is, within the proper sphere of its acknowledged actions or morbid phenomena, equally irresponsible.

Second—That in case the infirmity is established to exist, the tendency of it to direct or fetter the operations of the mind, should be in general, regarded as presumptive evidence, without requiring a direct and positive proof of its actual operation; and that in such cases, irrational or unnatural conduct, conduct wholly different from

the previous life and character of the patient, should be regarded not merely as an act of folly, or prejudice, or passion, but as an act of real insanity.

Third, and indirectly—That it is extremely difficult for professional men, or experts, to ascertain and determine the existence, of partial or unrecognized insanity, where it is the purpose of the insane person to conceal it; and that it is, under such circumstances, as a general thing, next to impossible for the inexperienced and casual observer or acquaintance to discover it.

Fourth—That it very generally happens in subtle and obscure cases of insanity, that no actual mental alienation is discovered to exist by friends or acquaintances, until some unprecedented act of cruelty or injustice to family and kindred, or some outrageous act of outward violence or apparent crime awakens their fears and suspicions, and pointedly directs attention to this view of the subject; and that, even then, the judges of the courts do not recognize them as cases of insanity, because such insane persons are generally possessed of a knowledge of right and wrong, and are ordinarily capable of judging of the illegality of their acts, which are, in the opinion of the judges, the proper tests of responsibility, in suspected and doubtful cases of insanity.

Now, no one pretends to question the existence of general or partial intellectual insanity. In the popular apprehension of this disease, it is usually manifested under two different forms, that of general mania, which is characterized by general incoherence and noise, or raving and violence; and that of monomania, which is characterized by Delusions more or less circumscribed, and generally accompanied with tranquility and reason outside of the sphere of false ideas or feelings. Thus, it is considered to be general, when it involves most or all of the operations of the understanding; and to be partial, when confined to a particular idea or train of ideas, and is then called monomania, although we believe there may be, and is, as characteristic a form of monomania in moral, as in intellectual insanity, but that it is not so readily recognized.

That only one, or a few, but not all, of the reasoning powers, may become subject to morbid actions and displays, while the others are seemingly untouched by disease, constituting partial intellectual mania; or that there should be a more extended or very general involvement of the whole of them, constituting general intellectual mania, is the common every day observation of life. Excepting therefore, to say a few words in relation to monomania in connection with delu-

sions, and as being of a moral as well as of an intellectual character, it will not be necessary for us to dwell longer on this branch of the subject, as the question may be considered as settled, by the concurrent opinions of physicians and jurists, and the common consent of mankind.

If we were to consider monomania, or a diseased manifestation of isolated ideas or train of ideas or feelings, as essentially a disorder of the reasoning faculties, we should be following no doubt the greater number of accredited writers upon this subject. But as already stated, we entertain somewhat different views, and believe that any example of partial insanity, whether occurring among the intellectual or moral faculties, may become, properly speaking, a case of monomania. And there is an obvious propriety in this opinion, if the views are correct which we entertain in relation to man's mental constitution.

Indeed, we are well convinced that the progress of our knowledge in regard to insanity, will in time enable us to see, that nearly, if not quite, all the cases generally set down as monomania, really consist, in the first instance at least, of disorder of one or more of the *moral faculties* involving our feelings and conduct, and that what is called *intellectual delusion*, which frequently becomes the prominent and more striking symptom, and, in

the estimation of the courts, the characteristic one, of such affections, is the consquence of this. We believe, that to this conclusion, those who have had the best opportunities of observation, are gradually tending; and that it must ultimately have an important influence, both on our therapeutic measures, as, indeed, it has already had and on our views of the ordinary and normal operations of the mind and its extraordinary and abnormal relations. But while we thus admit, that that which was at first only considered to be moral insanity, may, and often does, pass into general mental disease, this fact by no means proves, as some have supposed, that any intellectual delusions that may characterize the latter existed in the former from the beginning in a latent state. It would be as reasonable to insist upon the present though concealed existence, in the beginning of some particular kind of fever, of every symptom that may possibly belong to such a malady in the several stages of its progess from inception to termination.

Esquirol, in speaking of that form of monomania which specially involves the moral faculties of the mind, says: "The signs of reasoning monomania consists in the change and perversion of the habits, dispositions, and affections * * * * * * * * * * * The understanding is

not essentially disturbed, since it assists in the acts of the insane person, and the patient is always ready to justify his sentiments and conduct."

"It is necessary to admit," observes Marc, "since facts demand it, that there are two sorts of monomania, one of which is *instinctive*, the other *reasoning*. The first bears the monomaniac on by the effort of his will, primarily diseased to instinctive and automatic acts, which are not preceded by reasoning; the other determines acts, which are the consequence of a certain association of ideas."

And Dagonet says of the monomaniac, that, "The moral sense, and above all the sentiments of affection are deeply perverted. If such patients have not conceived a profound antipathy to persons who were formerly most dear to them, they at least manifest the most supreme indifference towards them. They do not hesitate for a moment to sacrifice friends, relatives or acquaintances, to the ideas which preocupy them."

* * * * * * * * "The moral sense is almost always vitiated to an extreme degree; the feelings of affection amount to nothing ; there is not only a complete indifference towards persons he formerly loved, but frequently a profound aversion is shown for them."

Falret, in the course of his description, before

the psycho-physiological society of Paris, of what he calls "maniacal exaltation" to distinguish it from those cases of moral insanity, ranked by Esquirol and many of his followers, under the head of reasoning monomania, says: "These patients, in fact, when examined superficially, do not appear to be insane. Their language seems connected and reasonable. They surprise us by the profusion and activity of their ideas, by their resources of thought and imagination; but we are equally struck by the violence of their feelings and impulses, as well as by the disorder and strangeness of their actions."

And again, after giving a most faithful delineation of this form of mental disease, which Pinel, Fodéré, Esquirol, Marc, Prichard, and a host of others would call insanity without delirium, or moral insanity, he declares: "It is necessary to have lived with one of these patients to form an idea of the diabolical stories they are capable of inventing, and of the trouble and domestic warfare they can create. To sum up, their feelings and instincts are entirely transformed by disease. From being gentle and kindly, they become violent, passionate, vicious, jealous and vindictive, and are often given to falsehood, theft, and cynicism of words and actions. They acquire, in short, faults and vices which were not in their

original nature, and which render life in common with them impossible.

Such is, in brief, a picture of maniacal exaltation. Fixed delusions are sometimes associated with it, but it is generally found to exist alone. This mental condition forms one of the most common varieties of what has been called moral or reasoning insanity. Several cases of it are present in every asylum for the insane, but it is much more common outside of asylums. Of all the varieties comprised under the generic name of moral insanity, it is the one best known and described."

Here, then, we have an unequivocal maniacal condition, with which "*Fixed delusions are sometimes associated*," giving to it, when such is the case, according to all writers on insanity, a strictly monomaniacal character; and yet while "*their feelings and instincts are entirely transformed by disease*," "*their language seems connected and reasonable.*" Is not this moral insanity? and is it not partial moral insanity with delusions, where delusions exist? and should not the subject of it, with or without delusion, be irresponsible in law?

Pinel, in his work on "Cerebral pathology," says: "When I resumed at the Bicetre, my researches on this disease, (insanity,) I was not a little surprised to see many patients who never

manifested any lesion of the intellect, but were governed by an instinctive furor, as if the affective faculties alone had suffered lesion." And in enunciating this great truth, Pinel, although he failed to see the entire bearing and full extent of its application, succeeded in laying down a great general principle, which is being more and more thoroughly recognized and comprehensively applied, as our field of knowledge is widened and extended by observation and experience. Thus, it is now well known, that we may have insane disorders of the affective faculties unaccompanied by lesion of intellect, and yet not governed by instinctive furor; and, on the other hand, that we may have them of a monomaniacal character and accompanied by delusions.

There has always been, however, some confusion in the minds of the different authors upon the subject of monomania. Some even doubt its existence; and among modern writers, before Esquirol, that form of insanity which he denominated monomania was treated of under the name and character of Melancholia. But that great man and his immediate followers divided partial insanities or monomanias into those of a pleasureable kind, and those of a gloomy character, and denominated the latter Lypemania or Melancholia proper, and to the former gave the name of Amen. omania.

This division, founded evidently upon the well known difference between *ideas* and *feelings*, as the foundation of conduct, was designed to obviate any difficulty that might arise in considering partial insanity with or without delirium, that is, with or without injury to the reasoning powers. But it failed to accomplish that object, and the distinguished alienist was compelled to institute another division, *Lypemanie Raisonnante*, to meet the exigencies of the case. In this division, it was intended only to embrace that class of cases afflicted with insanity without delirium, that is, without serious injury to the reasoning powers. But here again there was difficulty; for the term of designation did not sufficiently characterize the differences occurring between the cases involving most or all, or those involving only one or a few, of the operations of the affective or moral faculties.

With us it is somewhat different. We believe there may be partial moral insanity, affecting *feeling* and conduct, as well as partial intellectual insanity affecting *reason* and conduct; and that this division of the subject is the proper one. We believe there may be, under proper circumstances, delusion in moral insanity, from a disordered and diseased state of a portion of the moral faculties, as so many mental powers or forces

furnishing the motives for wrong conduct; or, as regards the operations of these faculties, from a weakened or dethroned state of the will, as their supervisory and directing and modifying power, just as it is acknowledged, that there may be delusion in partial and intellectual insanity, under like circumstances.

The difficulty, it will be seen, consists simply in not recognizing feeling and sentiment, as well as reason and judgment, as sufficient grounds of action to become the source of conduct. But if a particular set of affective faculties should become disordered and perverted by disease, and in their manifestations be rendered entirely different from what they were previously, and the patient's conduct should correspond with such morbid changes in feeling and sentiment, we cannot but think, the latter would become as much the source and support of the former, as is claimed to be the case in that form of delusional insanity, acknowledged to be dependent upon a diseased state of some one or more, but not most, of the reasoning powers.

Now the progress to such a state is perfectly simple. The morbid or insane feeling gains resistless strength, whether from the want of self-control and the habit of yielding to its promptings, or from the progress of the physical change to which it was due in the first instance, is immate-

rial; the will can no longer keep this opposing feeling under control, and yields itself up unresistingly to the domination of the tyrant; and thereupon, the conduct correspondingly exhibits its influence.

Dr. Carpenter, regarding the subject merely in the light of a philosophical physiologist, is conducted quite to the same conclusion, and declares, that "there may be no primary disorder of the intellectual faculties, and the insanity may essentially consist in a tendency to disordered emotional excitement, which affects the course of thought, and consequently of action, without disordering the reasoning processes in any other way than by supplying wrong materials to them."

In these cases it is obvious that it is not the reasoning powers themselves which are insane, for there is "no disorder of ideas or lesion of judgment," but that it is the feelings and sentiments which are disordered and perverted, "entirely transformed by disease," in fact, and cannot be controlled by the will. Now, taking this view of the subject, whenever the feelings and sentiments become so disordered and deranged by disease as to be capable of supplying "wrong materials" to the reasoning powers to act upon, and the conduct of the individual corresponds with the nature and character of these "wrong materials," then it fol-

lows, as a matter of course, that these morbidly disordered and deranged feelings and sentiments as certainly become the ground of action and source and support of wrong conduct, as if reason itself were deranged. And in proof of the practical importance of this deduction, it may be here stated as a fact, that we will as surely have the essential features of insanity present and obvious in the one case as in the other.

It may thus be seen, how the intrusion of disease among the mental faculties and powers, disturbing, disordering, deranging in fact, the normal relations of the moral faculties, in such manner and to such an extent, as for the conduct of the patient to become fully characterized by the existing disorder and derangement of these faculties, as certainly produces mental alienation, as if the intellectual faculties had been themselves affected. Moreover, whenever these disordered and deranged relations of the moral faculties and powers are ascertained and determined to be circumscribed in their morbid actions, and well defined in their character, they become, *ex vi termini et nature rei*, delusional instances of partial moral insanity.

To us there seems to be no escape from this conclusion; nor, indeed, any good reason why one should be attempted. It affords us a proper

solution of a difficult question, besides being preferable to that deduction of M. Belloc's, which states that, "These acts of a depraved judgment are not of themselves delirium, but they are its sign, indicating its existence as surely as the most incoherent or foolish language."

As to what properly constitutes delusion, there has been as much difficulty and resulting confusion, from too hastily adopting definitions of it, as from the same cause in relation to insanity itself. One says it is the belief of facts which no sane person would believe. But many sane persons believe in wonderfully strange things, that the mass of mankind do not believe in at all.

Lord Brougham says it is a belief in such things as exist only in the imagination; and another adopts his lordship's definition with the word *diseased* prefixed to the word imagination. But all this only changes the difficulty without removing it in the least; for what the facts and existences of the sound or unsound imagination proper, actually are, perhaps only the abstract metaphysicians, or half mad poets and real madman can tell.

A fourth declares, and it may be with more of truth than the others, that it is a belief in something impossible in the nature of things or the circumstances of the case. While we believe, that in every instance of disordered mind, which is the

result of disease, and the cause of unnatural or irrational conduct, or conduct differing from the previous life of the individual and otherwise inexplicable, the patient is necessarily insane,—insane within the proper sphere of his morbid mental phenomena, certainly—and therefore that, where these are of a circumscribed and fixed character, he is insane with a delusion. It is impossible for him to have a false belief or false feeling—we care not which, for either may influence, modify or direct the other—as the result of disease and the cause of wrong conduct, because uncontrollable by his will, without his being of unsound mind—crazy, in fact. Real delusion, therefore, exists where a man from disease is possessed by a fixed, false idea or feeling upon which he acts as if it were true.

But at the same time, it must not be forgotten, that many notions which we regard as extremely whimsical and wholly unfounded, or *wonderfully strange* to say the least of them, are held and believed by persons not at all insane And also, that it is not every unfounded and causeless suspicion, or ill-founded emotion of the mind that constitutes a practical or proper element of insanity. For so long as the mind has power, by dwelling on its experience, and by comparison or analogy, to prove to itself the fallacy of these suggestions or

feelings, so long they may pass and repass without disordering the conduct, and just so long they may be regarded as not, properly speaking, practical elements of insanity.

After discussing the question of hallucinations consistent with reason, Brierre De Boismont says: "From an examination of the preceding psychological facts, and the observations which accompany them, we may conclude, without fear of being deceived, that there are hallucinations consistent with reason, whether regarded as deceptions, or accepted as realities; but in this case, actions do not depart from the common track; hallucination is an exceptional fact that has no grievous influence on the conduct." In other words, as a change in the habits of thought or feeling of a morbid nature, resulting from actual disease, with a corresponding change in the conduct of the individual, are the essential characteristics of every case of insanity, there would seem to be a self-evident impropriety in the absence of a change of conduct corresponding with these hallucinations or illusions, in applying the term monomania to such cases. They are merely instances of eccentricities of natural character, striking examples of which may be found in Nicolai of Berlin, Bostock of London, and in Drs. Ben. Jonson and Samuel Johnson.

Delusions, therefore, are not "insane delusions" unless they are the result of disease and the foundation of false ideas or false feelings, and of conduct corresponding with such ideas or feelings, and otherwise unaccountable.

Judge Denio, of the court of Appeals in New York, in the celebrated Hopper Will case, following Sir John Nichol, says: "If a person persistently believes supposed facts which have no real existence except in his perverted imagination, and against all evidence and probability, and conducts himself, however logically, upon the assumption of their existence, he is, so far as they are concerned, under a morbid delusion; and delusion in that sense is insanity. Such a person is essentially mad or insane on those subjects, though on other subjects he may reason, act and speak like a sensible person."

It therefore follows, such being the general character and principle of delusions, that the delusive ideas or feelings will vary much with different persons according to the circumstances under which they have lived, and the exciting causes of their morbid condition, and, *a fortiori*, that each particular case will be specially denoted and characterized by the principal and most striking psychological feature belonging to it, whether found among the intellectual or moral faculties of the

mind. But whether the predominant disorder be found among the one or the other class of these faculties, we cannot but think it may very properly be denominated partial moral or intellectual insanity or monomania, accordingly as it is characterized by mental features that are wholly or mainly dependent upon either class of faculties.

Before concluding, however, our special notice of the subject of delusions we would remark, that experience teaches, as stated in his treatise on mental disease, pathology and therapeutics by Greisinger, one of the greatest names among German psycopathists, that "mental disease does not necessitate the existence of delusion;" and that, "Profound modifications in the sphere of the character and feelings, morbid mental tendencies, general or partial diminution of the intellectual forces may exist in various diseased conditions of mind, either acute or chronic, without the presence of actual delusions. A portion of these cases are included in the category of moral insanity."

Most practical observers and writers upon insanity, concur with Greisinger in the views he has here expressed; and, in our judgment, they constitute important facts which should not be overlooked in this discussion. For whether we regard them in their psycho-pathological aspects only, or in their medico-legal relations, or whether, as

would be most proper, we regard them in both these respects, they have a practical bearing upon the question under consideration.

Thus Prichard, in remarking upon Melancholia as a form of moral insanity, says: "A considerable proportion among the most striking instances of moral insanity are those in which *a tendency to gloom and sorrow is the predominent feature.* When this habitude of mind is natural to the individual, and comparatively slight, it does not constitute madness. But there is a degree of this affection which certainly constitutes disease of the mind, and that disease exists without any illusion impressed upon the understanding."

"I meet every day," observes Guislain, "with melancholiacs who do not exhibit any disorder in their ideas or lesion of the judgment. Melancholia is exclusively an exaggeration of the affective sentiments; it is in all the force of its signification, a *gemuthskrankheit* in the sense in which the word is employed by German psychologists. * * * * * * * * * * "It is not a condition which sensibly weakens the conceptive faculties."

While Tuke says: "And yet if it be admitted (and every writer of authority does admit) that a profound melancholy, for which the patient is irresponsible, is not inconsistent with the normal operations of the intellect, we are called upon to

admit no *new* doctrine in mental pathology, when asked to believe that a like condition of the intelligence may co-exist with homicidal propensity, in however small a proportion of cases this may actualy occur."

And Hoffbauer declares: "It is clear that mania may exist uncomplicated with mental delusion. It is, in fact, only a kind of moral exaltation (*tollheit*), a state in which the reason has lost its empire over the passions, and the actions by which they are manifested, to such a degree, that the individual can neither repress the former nor abstain from the latter. It does not follow that he may not be in possession of his senses, and even his usual intelligence, since, in order to resist the impulses of passion, it is not sufficient that the reason should impart its counsels; he must have the power to obey them."

In simple melancholia then, whose existence appears almost to form an element in the organization society of and to claim recognition as a consequence of modern civilization, we may have that diseased condition of the mind which amounts to insanity, notwithstanding there may be "no disorder of ideas or lesion of judgment;" and that, in its profounder moods, the patient may be led on by indefinable feelings, or impulses beyond his control, which drive him to commit suicide and even hom-

icide; while Hoffbauer, entirely confirming Greisinger's statement, says: "It is clear that mania may exist uncomplicated with mental delusion," namely, accompanying "a state in which the reason has lost its empire over the passions."

But it is high time for us formally to announce our opinion in relation to the constitution of the human mind, in order that our views, even as already given, may be clearly understood.

CHAPTER III.

OF THE MORAL AND INTELLECTUAL FACULTIES—THEIR SEPARATE EXISTENCE AND INDEPENDENT ACTION—OF THE WILL—THE PASSIONS AND APPETITES—MORAL FACULTIES THE SOURCE OF MAN'S RESPONSIBLE NATURE—MORAL INSANITY—LAW OF HEREDITARY TRANSMISSION, &C.

There are but few, we presume, in the present advanced state of our knowledge of man's mental constitution, who will question the doctrine, seemingly so well founded, that the human mind consists of intellectual and moral faculties, which under the guidance and direction of the will, most generally act together, constituting the unity of action or solidarity of the mind. Nor will it be denied, we suppose, that it is, apart from being a recognized fact by the metaphysicians and physiologists, a matter of common observation, that within certain limits, these intellectual and moral faculties act independently of each other.

Indeed, the possession by man of moral faculties and a moral sense, together with the fact of their independence within certain limits of the intellectual faculties, constitutes the characteristic

difference or distinction between him and brutes. Man is capable of entertaining and being influenced by feelings of fond desire or longing hope for a future and better state of existence, just as much as he is by cherished wishes for his present welfare and state of being. And he is also capable in this life of working up to and appreciating this future life, as something of a supernal character and infinitely good. Brutes are neither capable of entertaining nor of being influenced by these feelings or hopes, and consequently their lives are not characterized by conduct in any manner corresponding with them. Hence this power over man must be the distinguishing feature of humanity. Upon what foundation does this distinction rest? It cannot be merely reason that distinguishes man from the brute, as some have supposed, for it has been incontestibly proved that brutes reason, and reason too, as man reasons, only in a much lower sphere. That, then, is simply a difference in degree without being a characteristic distinction in point of fact. It must, therefore, be something else than reason. It must be something not common to man and brutes; but something wholly different in the one from anything to be found in the other, and therefore strictly characteristic in its nature.

What is it? We have seen that it is not the

reasoning powers, because, although they are immeasurably more fully developed in man than in brutes, they are nevertheless common to both. And as to the appetites and the passions, they ought not, correctly speaking, to be considered in this connection, as essential elements of man's mind. For it is not only true that they are alike common to man and brutes, but it is also true that they are incalculably more fully developed in brutes than in him, which clearly proves them to be characteristics of man's animal nature and not of his humanity. Hence they should here be regarded as more properly the objects of man's intellectual restraint and moral discipline, than as so many essentially integral parts, or more properly, characteristic elements of his mental constitution.

We do not, for example, cultivate the appetites and passions, and endeavor to amplify and heighten their natural life, for the purpose of developing the highest and most glorious type of manhood, as we do the moral and intellectual faculties, for this purpose. But, on the contrary, we strive to discipline and thoroughly to restrain them, in order to save man from an exaggerated state of his animal nature. For we know very well, that there is no progress nor law of progress, whether of individual character or of general society or

of states, where our appetites and passions are not operated, moulded and guided by our moral and intellectual powers.

Left to themselves, the appetites and passions can do nothing better, if we may so express it, than to run the weakness and distemper of our natures down to that savage state, which is but little different from the mere animal life of brutes.

> "To bow to ne'er a god except himself,
> Passion and desire his only deities;
> To take his food and drink when to be had,
> And sate his lusts, without regard to law,
> Save only instinct's ever blinding force,
> Is his brutish nature's animal life."

Then, as it is neither in the reasoning powers nor in the appetites and passions that this distinction is to be found, it must rest on man's morally sensing powers. And the first of these in importance, is that power of voluntary devotion to an Almighty Existence and Goodness, which man believes to be independent of and over and above himself, and which he also believes to be capable of rewarding and punishing him for his good and evil conduct in this life, by a life of happiness or misery in a future state. The second is, directly, that other and cognate power of voluntary devotion to the present and future welfare of family and kindred, in preference to the present and future welfare and happiness of all others in this

world; and, indirectly, a care and consideration for the interest and welfare of mankind in general.

These are privileges belonging exclusively to man, and result from the possession by him of moral faculties and powers, which are not to be found in brutes; and which are, therefore, the only true and proper characteristics of his humanity. And these moral faculties and powers constitute man a moral being, owing strict responsibility to a moral law, which insists on the distinction between good and evil, and that the one shall be followed and the other avoided; and they are, therefore, the only true and proper sources of his responsible nature.

God is the author of this law, and has imposed it on man; while man, whom it governs without enslaving, by means of his moral faculties and powers, which the Creator for that purpose has bestowed upon him alone of all created earthly beings, fully recognizes its validity and binding force. It is thus that man is subjected to a moral law, which he himself has not made, which he knows not how to change, which he is forced to acknowledge, while he is free not to obey it; but from which, nevertheless, in the full enjoyment of that great moral power, *his freedom of will or liberty of action*, he cannot escape without trouble to his soul and peril to his destiny.

Hence it follows, that God, the moral Sovereign, and man, the free subject, are both contained in the fact of the moral law—God the almighty sovereign and moral law-giver, through His omniscience and Divine sense of perfect justice, and man the unenslaved subject, through his possession of moral faculties and his freedom of will or liberty of action. And it is by reason, and in virtue of these facts, that man is capable of social life and social progress, and of a corresponding state of intellectual improvement, and that he is also eminently capable of fitting himself here, by a highly cultivated christian consiousness and corresponding christian conduct, for an infinitely happier and more glorious hereafter.

Thus, we have no fault to find with this life, its limitations or its sorrows, provided the stream of existence goes on. But if it stops with death, then we are greatly puzzled. Make this life the finality, the total measure of man's existence, and we are at a loss to see why he alone of all created earthly beings, should have been so munificently endowed with great moral faculties and powers, that inevitably lead him upward and onward, by a native inspiration that can not be false. For if false, then "man was made a lie," and this life is simply a tremendous accident, paralleled only by another equally monstrous, death. Can

this be true? Can it be, that man, the morally hungry and thirsty creature, pausing at every stage and on every hand-turn along lifes changing road, and trying all the forms of earthly good, but seeking in vain that better food and purer stream of refreshment that he really wants and absolutely needs, shall die at last, taking with him nothing even of earthly good, a bankrupt for eternity? No, indeed! But we cannot account for what man is here, until we accept the doctrine of what he is to be hereafter. We cannot harmonize the fact of an apparent scheme of *moral providence* in the history of man's present life, without connecting it with a future one of happiness or misery.

And here, the moral faculties and powers, with the *accepted* aid of revelation, are necessary to bridge the chasm that separates and divides the one from the other, time from eternity. The purely intellectual faculties and powers, rejecting revelation, labor at this problem in vain, and finally becoming startled by their own suggestions and conclusions and perplexed by their weaknesses, stagger exhausted under its weight and fall headlong into the fathomless abyss. The moral faculties and powers take man safely over this difficulty, by faithfully commending to human feeling communion with God in a spirit of adoration. The intellectual fac-

ulties and powers precipitate him into hopeless ruin, by trusting to their unaided strength and powers of ratiocination.

Yet, notwithstanding we are conscious that man is in this manner indebted to his moral faculties and powers for his safety and future welfare in passing from time into eternity, we likewise know, that *right reason*, tempered and tutored by association with these faculties and powers, can not make herself an exile from the alter to which piety resorts for prayer. Hence it is, that the thoroughly cultivated and enlightened christian is the noblest specimen in this life, and therefore must be, the most glorified type in the next, of manhood. Death in closing this life, does so, only to open to a higher and larger life, in which man, with his virtues expanded into the full dimensions of a completed and perfect condition, is introduced to a direct and glorified fellowship with God. But we must not look for the foundation of this excellence, the ground work of this beautified superstructure, this glorified state, to man's intellectual faculties and powers. It is not through them that he perceives the good and evil of an action, but through his moral faculties and powers, which are the true characteristics of his humanity, and therefore are, the proper and only sources of his responsible and immortal nature.

Now if it be true, that the human mind is thus constituted, why should there not be different faculties and powers of man's moral, as unquestionably there are of his intellectual being, which are capable, in health or in sickness, of acting separately, as well as in combination with one another and with the intellectual faculties? And why cannot we therefore have a class of cases, where the morbid disturbance of the moral or affective faculties or powers of the mind is obvious, to a limited or more extended degree, as the case may be, but where the morbid disturbance of the intellect proper is scarcely if at all observable? In other words, if we admit, and we think we are bound so to do, according to our present knowledge upon this subject, the theory of the separate existence, and therefore more than probable separate action, in health and in disease, of the several faculties of the mind—the reasoniag faculties and those of the sentiments and feelings—is it more difficult to conceive and understand a moral than an intellectual insanity? We think not. For the term moral insanity is simply meant to designate a species of insanity, in which the obvious primary affection is confined to the moral faculties, and in which the same faculties may continue to be those, much the most prominently, if not exclusively

affected. Accordingly, in that condition of the brain and mind which we call insanity, are not the morbidly disordered states of the moral faculties, to all appearence and agreeably to our experience, most generally the first evidences that we have of the manifestations of mental disease? And is not moral obliquity or degradation frequently one of the most prominent symptons of genuine insanity, and sometimes, the only symptom discoverable, while the intellect proper, to all appearances, is untouched by disease? Certainly.

Now, it cannot be said in these cases, involving as they unquestionably do, unnatural and irrational actions, that the feelings are simply changed and altered, with corresponding change and alteration of conduct, such as may very properly be observed to take place in the ordinary occurrances and every day scenes of life. Nor can we here conclude, that we are merely dealing with a form of moral depravity springing from the ordinary sources of vice. Either would be a violent presumption or an illogical conclusion; because these changes and alterations are wholly different from anything heretofore noticeable in the ordinary, well established, and therefore healthy, characters of the individuals, besides being at variance with the generally received opinions of mankind. On

the contrary, it must be admitted, that the feelings are disordered and deranged by disease, and that they, together with the conduct, which is characterized by unnatural and irrational actions corresponding with this morbidly deranged state of the feelings, constitute, to all intents and purposes, genuine cases of mental aberration, notwithstanding the undisordered state of the intellectual faculties.

The essential fact here is, that the relation between the intellectual and moral faculties, which constitutes the normal condition of the healthy mind, has been deranged by the presence of disease, and that the effects of the disease are manifested by the morbid and disordered actions of the moral faculties and not by the actions of the intellectual faculties. Now the consequences of this disturbance are not only to break up the solidarity or unity of the mind's action, but actually to destroy that moral freedom which we contend is absolutely necessary to enable us to choose between good and evil, that is, to follow the one and avoid the other. To assert, therefore, that we cannot have derangement of the moral faculties, unaccompanied by intellectual lesion, which destroys responsibility or freedom of will, is simply to ignore one of the obvious facts of psycho-cerebral pathology.

Then, if observation and experience and science prove, that a morally diseased condition of the mind may co-exist with an apparently sound condition of the purely intellectual faculties, why should the proposition of the existence of moral insanity be regarded as the mere apology for crime? Moral insanity does not always take a criminal direction. It frequently manifests itself in fact in diverse other directions; and, as we believe, in as many different ways, as there are differing moral characters among men.

Tuke, in discussing this question, says: "It appears to be very generally supposed that, by this term, (moral insanity,) only those disorders are to be understood in which the animal propensities are under the influence of morbid action, without any aberration of the intellectual faculties. This is not only wrong in theory, but it occasions much practical mischief If moral insanity be only spoken of and recognized when vicious acts are threatened or committed, it is natural that the doctrine of moral insanity should be brought into disrepute, or altogether disregarded; and that a very erroneous idea should be attached to its area and limits."

But to return. Without the aid of phrenology, but with that of physiology, we know that the brain is the material organ of thought and feel-

ing, and we believe that there are intimate relations existing between the intellectual and moral faculties of the mind and particular portions of the brain, although we are not capable of mapping them out. Again, pathology teaches us, that every lesion of the brain does not necessarily involve the whole of its substance, and that, whenever the lesion is partial and local, the cerebral functions are found to be disordered only to an extent corresponding with the local lesion. Just so it is with the brain and mind; the former, as being the material organ upon which the latter is dependent for its manifestations; the latter, as being in a certain sense one of the cerebral functions or brain powers. If the pathological state and condition of the brain be partial and local, the manifestation of mental disease will be partial and local too.

And again, still viewing the subject in its physiological and pathological aspects, is there any known reason why that portion of the material organism, upon which the mind is dependent for an exhibition of its properties and powers, may not become morbidly disordered in such manner as only to derange the manifestations of the moral faculties, as well as to be so diseased as only to derange the manifestations of the intellectual faculties? Certainly not. And yet the latter is ad-

mitted, while the former is denied. Thus there can be no other answer to this question, unless it be asserted, that the human mind does not consist of moral as well as intellectual faculties. But this, we have assumed, will not be done in the present state of mental science, maugre the opinions of Brougham, Falret and others, that the mind is simply a unit, notwithstanding its exhibition of different faculties and powers. Such a belief, if pushed to its legitimate consequences, necessitates the conclusion, that even in the most partial of mental derangements, the whole mind is unsound and not at all to be trusted—a conclusion that we are not quite prepared to admit.

Then wherefore wait, when there are palpable evidences of disordered and diseased feelings, as manifested by disordered and deranged actions, that are abundantly attested by observation and experience and by the facts and conclusions of science, until the intellectual faculties become unmistakably involved, before we admit irresponsibility in law? Falret gets over this difficulty by supposing the existence of intellectual derangement, notwithstanding there is no perceptible lesion of the understanding. But this strikes us as being too much like that old theory of causation, which, supposing electricity to be the cause of magnetism, assumed the existence of electrical

currents to account for the presence of magnetism, where magnets were found without the presence of electricity. Or, like that other theory of causation, which assumes the existence of miasmata to account for the prevalence of the so-called miasmatic diseases, in places where those conditions are not present which are claimed to be indispensible for the production of miasmata. *Non apparentibus non existentibus eadem est ratio*, is as applicable here as in the ordinary courts of justice.

The able writer of the bibliographical notice of Greisinger's treatise on mental diseases, pathology and therapeutics, in the journal of insanity for October, 1866, understood to be the learned and practical alienist, the editor himself, who is an avowed disbeliever in the doctrine of moral insanity, nevertheless uses on behalf of the distinguished author, and apparently with approval, the following language :

"Experience proves, that in a great majority of cases, insanity commences, not with language void of sense, or with extravagant conduct, but with a change in the feelings and temper, and with *emotional states* resulting from this change." And again; "observation and experience have proved that in a large proportion of cases, insanity commences with deep seated disorder of the

affective faculties, under the form of depressing, painful emotions."

Now we are not left without a witness as to what is meant by change of feelings and temper, emotional states and deep-seated disorder of the affective faculties, for the writer again states:

"An examination of the facts, says the author, will demonstrate two distinct classes of psychical phenomena, which represent the two most distinct forms of insanity. In one, insanity consists in the morbid production of emotions and *emotional* states which take possession of the mind and become fixed and permanent, under the influence of which the entire mental fabric undergoes modifications corresponding with the dominant emotional state."

Now is not such a patient insane? The oppression and anxiety, *emotional states* and deep-seated disorder of the affective faculties, are altogether unaccountable by reference to anything in the previous habits and natural character of the patient, which, in his case, as in all others, are the proper standards of mental health. And if insane, is he not afflicted with what is, we think, very properly called moral insanity? And does not the *dominant emotional state*, which, from its fixed and permanent character, modifies the entire mental fabric, to all intents and purposes

denote and characterize this case, as an instance of partial moral insanity with delusion?

In a recent discussion on moral insanity, in the Medico-psychological Society of Paris, Brierre De Boismont said: "Moral insanity is not a new and distinct species of mental disease; it has long been observed in connection with all known types of alienation. It is a manifestation, exaggerated by disease, of a germ that exists in the sane man, but is held latent by his will. It is most commonly seen connected with maniacal exaltation, melancholia, and the intellectual and impulsive monomanias. It may present the delirious conceptions, hallucinations, and illusions proper to alienation, but its distinctive character is what has been called delirium of the actions, or insanity of the conduct. It has a stamp of peculiar malevolence, forming the despair of families and the torment of asylums." * * * * * * * * * * * * * * "Moral insanity is distinguished by its antecedents, its symptoms, and its consequences. Among the first we may find maniacal or other types of insanity, abnormal traits, eccentricities or nervous disorders. Whether or not it is accompanied by delirious conceptions or false sensations, it is always accompanied by disorders proper to mental alienation in general. It is not an insanity of recent invention, though but recent-

ly the subject of very exact investigation. Its essential character is insanity confined to the conduct."

Then where is the ground *a priori* for asserting that that form of insanity cannot exist, where there is derangement of the affective fuculties unaccompanied by intellectual lesion? And then, again, why cannot we have partial and general moral insanity, as well as, and apart from, partial and general intellectual insanity?

Falret, an able French writer on insanity, in discussing the pathological or clinical aspect of moral insanity, asks this question: "Does reasoning or moral insanity as to day, in France and elsewhere, admitted in mental pathology, really exist as a distinct form of mental disease, or is it only an artificial or provisional name for incongruous facts, belonging to different categories?" This question he answers by giving it as his opinion, that a great variety of facts have been confounded together under this phrase, and thereupon proceeds to analyze them mainly under the three following heads: 1. *Maniacal exaltation.* 2. *A prodromic state of mental disease which precedes general paralysis.* 3. *Hysterical insanity.*

1. Maniacal exaltation is noted, he says, by "disorder appearing in the actions, but without marked lesion of the understanding, and without

incoherence of language. These patients, in fact, when examined superficially, do not appear to be insane. Their language seems connected and reasonable." But, he goes on to say, "they acquire faults and vices which were not in their original natures, and which render life in common with them impossible."

2. The prodromic period preceding general paralysis, he says; "has already been carefully studied by several writers, in particular by Brierre De Boismont, and it merits, in the highest degree, the attention of observers, both from a nosological and a medico-legal point of view." He then describes carefully and most graphically a case of mental disease, which Pinel, Esquirol, Marc, Dagonet and others would pronounce a well marked example of derangement of mind without lesion of the understanding, of moral insanity in fact, in which the feelings and conduct have been greatly changed and sadly perverted by disease, without any appreciable lesion of the understanding, but on the contrary, with rather an exaltation of its powers.

3. Hysterical insanity, as a division of this subject, he regards as "a real gain to mental pathology, and particularly to the subject of moral insanity; for true *hysterical* insanity forms one of the most common varieties of this disorder,"

that is, of moral insanity. The writer at once proves this assertion, by giving a powerful and masterly delineation of hysterical insanity, in which we clearly recognize one of the varieties of that form of mental disease, which we believe to be properly called moral insanity.

Now all this, in our judgment, only changes the names of things, without altering their characters, and without removing the difficulty, if there be one; because it does not disturb even, much less displace, their characteristic features.

————Facies non omnibus una,
Nec diversa tamen————

It is only putting new and perhaps stronger apparel upon an old and familiar subject, which changes somewhat, it is true, the outward appearance of the body, but not its abnormal relations. So that if it were a corpse before, it is none the less a corpse now, only a little more closely and strongly secured in its characteristic and distinctive grave clothes.

Seriously then, and after all, this is nothing more nor less than moral insanity; for it is characterized by disruption or violent disturbance or perversion of the feelings and conduct, without much, if any, lesion of the understanding; while it is admitted that, with either of these divisions or classifications of Falret, "fixed delusions are

sometimes associated." Then we again ask, why cannot we have partial and general moral insanity, as well as, and apart from, general and partial intellectual insanity? And in those instances where "fixed delusions" are associated with them, why should they not be regarded as cases of partial moral insanity with delusions?

We can see no reasonable objections to these conclusions, and therefore infer, that they are properly admissable both in point of fact and argument. Moreover, we feel quite assured that this view of the subject is fully sustained by that theory of the human mind, which we have regarded as the simplest, most comprehensive and practical of all others. That theory maintains that the human mind is constituted of many different faculties, intellectual and moral, or reasoning and affective faculties, and a supervisory will, whose principal or chief influence and power, as exercised over the whole or integral portions of either the intellectual or moral departments of the mind, may, from a variety of causes, be materially lessened, or altered, or destroyed. Like the balance wheel of machinery, it may sometimes accelerate, sometimes change the motion it has received; and sometimes on the contrary, like too heavy a weight, it may hinder or completely prevent the motion.

Now if it be asked what is the will? We an-

swer, a psychical power that directs, prevents or modifies the intellectual and moral acts which are submitted to it, and likewise such physical acts as have psychological relations. In its presidency over the reasoning powers or faculties, it is an overruling, mastering, intellectual power or sense, that directs, prevents, or modifies their actions. In preventing, directing or modifying the actions of the affective powers or faculties, it becomes an overruling, mastering moral power or *sense.* In fact, the *moral sense*, which is in part, characteristic of man's psychological nature, because man alone of all created earthly beings has been endowed with moral faculties to be supervised and directed by the will, in order, as we have already shown, fully to render him an accountable being.

But the will being constantly required, in the every day scenes and occurrences of life, to preside over the resulting actions of a combination of the intellectual and moral faculties, must, of necessity, be exhibited as a general thing of a mixed character. Accordingly, such is the point of view in which we are commonly called to consider it, and hence our difficulty in properly comprehending and appreciating its separate prerogative characters of an intellectual power or sense, and of a moral power or sense. And it is this degree of unity or solidarity of the mind's action

which has induced some to believe that the mind, after all, is but a unit, notwithstanding its obvious display of different qualities and powers. But in considering the subject of man's mental constitution analytically, we are forced to recognize the separate prerogative characters of the will, accordingly as we find it directing and controlling or modifying the actions of the intellectual or moral faculties or powers. Or, on the other hand, accordingly as we may find any of these faculties or powers running a riotous and ungovernable course from an enfeebled, prostrated or enslaved condition of the will.

This theory further maintains, that all these different faculties are not only capable of acting separately or in combination with one another, but that they are actually endowed with varying powers in different persons, and in the same person at different times; that they are susceptible of improvement or degeneracy by proper or improper education and habit, in whole or in part; and that they are under the influence of different degrees of excitement or depression, from a variety of causes operating within and without the body. Thus every observer realizes that the human mind has the power of strengthening certain faculties, by frequently bringing them into use, and of weakening the force of others, by compelling them in-

to inaction; just as it can alter the configuration of the body, strengthening some parts and weakening others, accordingly as it brings the muscles of the former into frequent and powerful action, and keeps those of the other in repose. And this is the state in which man's power over himself, in health and in sickness, in controlling or preventing wicked or insane thoughts and conduct, is most strongly exhibited.

A very clever writer, Barlow, Secretary of the Royal Institution, in discussing the question of man's power over himself to prevent or control insanity, observes, "should my position, that the difference between sanity and insanity, consists in the degree of self-control exercised, appear paradoxical to any one, let him note for a short time the thoughts that pass through his mind, and the feelings that agitate him; and he will find that, were they all expressed and indulged, they would be as wild, and perhaps as frightful in their consequences, as those of any madman. But the man of strong will represses them, and seeks fresh impressions from without, if he finds that aid needful; while the man of weak will yields to them, and then he is insane."

The experience of the best observers goes very far towards confirming this view of the subject. Excluding, for example, those cases which may be

said to depend upon physical causes, though a large number of thse are unquestionably produced by vicious habits, it is apparent that a considerable number of the cases met with in society and in every asylum may be traced to a want of that rigid discipline of the mind, which is one of the most difficult, and yet one of the most important of the moral lessons, which man has to acquire on this side of the grave. Domestic griefs, reverses of fortune, jealousy, hatred, injured self-love, political disappointment, religious enthusiasm, what are these the potential moral causes of insanity, but so many trials which come to all of us, and which, if not moderated and controlled by firmness, by humility, and above all, by the pervading conviction of the uncertain tenure of all earthly happiness, will overturn the throne of that supremely great something that puts us in obligation, or makes us capable of it. And in this connection how important are these remarks of Dr. Conolly: "Seeing that any feeling in excess—the love of pleasure, or of ease, or of money, or of expense, or of applause; or that of self-denial, or anger, or jealousy, or hope too sanguine, or sorrow too much indulged—may become independent of the restraint of the comparing powers, and thus impair or disorder the understanding, we cannot but remark, the importance of cherish-

ing that governing and protecting action of the mind by careful cultivation and exercise." Hence it follows, that a knowledge of the evils arising from this want of self control is indispensable both for a right understanding and proper treatment of insanity. For although, so far as treatment is concerned, it is indeed a difficult task to awaken those better feelings which have long slumbered, or, which is worse still, have never been acquired, the wonderful success which has attended the non-restraint system, and its adjuncts, mental and bodily occupation, is sufficient proof that intelligence and zeal, combined with benevolence and patience, will, in the end, triumphing over all obstacles, be rewarded with the happiest results.

Such is the theory of the constitution of man's mind, which we believe to be the simplest, most practical and comprehensive of all others. It does not, in our judgment, materially interfere with any just ideas of the unity of the mind's actions. But it certainly furnishes us with the somewhat appreciable materials of an almost infinite variety of character—the key to endless diversity of thought and opinion, and the probable means of explaining what is most obscure in the motives and conduct of mankind, whether sane or insane. On no other supposition or rational hypothesis can we account for the existence of partial genius, partial

idiotcy, and partial mania; or satisfactorily explain those curious and singular phenomena, which we so often observe to follow wounds inflicted on different parts of the head. Nor can we otherwise account for the relative difference of the intellectual and moral powers in the same person.

Dr. Tuke says: "The intelletual power, and the perception of moral truths, do not necessarily exist in the same degree in the same person; that they do not always develope themselves *pari passu*, are propositions which, as the result of common observation, obtain general acceptance. But that there should be anything like congenital defect of the moral sense (*Anomia* of Dr. Rush), in conjunction with intellectual powers not strikingly deficient or even of superior quality, is a proposition not so generally recognized nor so easily established. It is obviously one which must be carefully considered in the description of mental diseases."

As regards the last proposition stated by Dr. Tuke we would remark, that it has occurred to us to be acquainted with striking examples of the truth of it, in members of the same family. One child was handsomely endowed intellectually, but seemed to possess very moderate moral powers. He received intellectual culture readily and with

facility; while his moral education, under the most judicious system of cultivation, was effected slowly, and with difficulty and very moderate results. On the other hand, another child of the same parents was blessed with more than ordinary moral endowments, but was rather poorly off in regard to his intellectual powers. In this case, *mutatis mutandis*, the same fruits from cultivation were obtained, which were had in the first example, for the utmost pains had been taken with each to remedy his deficiency.

Here then, we have a common origin, and the benefits or disadvantages of a common association and other circumstances incident to life in the same family, and yet a striking difference is observed in the relative powers or manifestations of the intellectual and moral faculties in two members of the family. How can this be accounted for, excepting in the manner we have indicated? And if true in health, is there any known cause why it may not be brought about by disease?

Dr. Rush gives an example of a patient who was greatly more considerate, kind and benevolent in a fever, than she was when well. We have known one man, who was perfectly reliable to all appearance, and esteemed to be strictly honest, when sober; but who was admitted to be

otherwise when drunk. And we have known another one, who was the most miserable of liars when drunk, but apparently perfectly truthful when sober.

Now in all this we see nothing that is wholly inexplicable, but rather something instead, that is curiously consistent with our theory of the constitution of the human mind. We have seen patients in fever, from an undue excitement of some one or more of the faculties of the mind, become hilarious or musical, poetical or oratorical, or generous and forgiving. And again, we have seen others in fever, who became stupid or morose, harsh or vindictive, or bitter and unforgiving. And so have we frequently observed the peculiarly debasing effects, upon some one or more of the moral faculties of the mind, by the too free and long continued use of intoxicating drinks, while it seemed to arouse, perhaps from our natural tendency to evil, into a more than correspondingly active life, the mere animal instincts and passions of our nature.

Again, there is much to be considered in connection with these questions that derives support from the well known operation of the law of hereditary transmission. By their silent, insidious and inevitable agency, but not unobserved results, ancestral instincts and peculiarities of character, in-

tellectually and morally, as well as the forms and features of grandsires almost or quite forgotten, are reproduced in the persons of their descendants of the second and third, and even of the fourth, generations. It is a common thing, in fact generally expected, for children to inherit from their immediate parents their personal perfections or imperfections. And it is equally a matter of observation that, apart from the influences of association and education, they also inherit their vicious and depraved, or healthy and well-balanced mental constitutions. Althongh it must here be admitted, that parents do not so generally, and for an obvious reason, transmit wonderfully strong and well-balanced minds to their children, as they do their opposites.

It is known too to be the effect of the operation of these laws of hereditary transmission, that the children of drunkards, libertines, or criminals grown old in vice, are not simply predisposed to repeat the vicious and criminal habits and conduct of their parents, but are likewise very apt to be marked in their physical constitution by such impairments and degeneracies as scrofula, rickets, deafness, blindness, or personal deformity with idiotcy. In fact, by any extreme habit and conduct of life, whether of sensuality, criminality, or even their extreme opposite, as-

ceticism, man alike offends against nature's imperative laws, and for such violation of them, she never fails to brand him or his offspring with unmistakable evidences and marks, in some way or other, of her high displeasure. And, in proportion as these self-generated baneful influences are permitted to assail our moral natures, just in that same proportion, if not to a greater degree, from the naturally evil and downward tendency of man from self-gratification, will they degrade our humanity, lower our self-respect, debase our aspirations, obscure our conceptions of duty, and entail upon our offspring mentally and corporeally vitiated and depraved constitutions.

The poisonous fruits of vicious habits and evil conduct are thus not only observable in the persons and characters of the criminally guilty individuals themselves, but so inexorable are the laws of hereditary transmission, that they are noticeable in their descendants for generations afterwards. And no wonder! For if the ways of wickedness are beset by corrupting habits and misleading passions, that are as indelibly stamped into the offender's natures, as was the brand on Cain's brow, how can we, under the well known operation of the laws of hereditary transmission, expect the descendants of those who have trodden these forbidden paths, to escape

the consequences of their ancestor's transgressions? Like other hereditary diseases, they may leap over a generation or so, only to break out more fatally in the next; so that if the first and second generations, from the contravening effects of a train of fortuitous circumstances, should happen to escape the penalty, the third and fourth will have to pay it in full. Virtue means safety, peace and happiness; vice means danger, strife and loss.

Two very important psycho-physiological facts here force themselves upon our consideration. The one is, that every human life is so interwoven with the grand problem of man's physical and moral existence, and with the constantly increasing fabric of social order and morality, representing responsibility here and accountability hereafter, as to be unable to emancipate itself at pleasure, from the consequences of its own conduct. The other is, that any approach to the full measure of man's perfect mental health and happiness, or the complete and perfect standard of "the human form divine," is so indissolubly associated with a uniform observance, and sedulous and harmonious cultivation of nature's laws, that, as a general thing, it is never found outside of their circle.

The conclusion, therefore, is unavoidable, that the true intent and purpose of our creation can

best be answered only by controlling and subduing our appetites and passions, or, which is the same thing, our *animal instincts*, in conformity to the teachings of that higher sense or moral law of our natures, which constitutes us responsible and accountable beings in this life and in the life to come. Our intellectual powers merely, be they ever so vigorous and brilliant naturally, or ever so much improved by cultivation, may, and oftentimes do, mislead us. But our moral powers, especially if they be quickened and strengthened by proper cultivation, rarely or never do. It is only from neglect of them, or the pernicious consequences of vicious habits and evil conduct, or from the perverting or blighting effects of disease, that we are ever misled by them. And even then, it is oftener owing to the exaggerated, heightened life of our unrestrained *animal instincts*, than to any controlling influence or directing agency of our perverted or enfeebled moral powers.

To ignore these distinctions and differences then, in discussing the subject of insanity on general principles, would be to condemn the legislation of Heaven, the teachings of science, and the daily observations of our life. Yet we are aware, that the question of the involvement of the moral faculties, separate and apart from the intellectual faculties, in mental disorders of a maniacal char-

acter, is an exceeding nice and delicate one. We fully recognize the difficulty of separating and confining within prescribed limits and bounds, the healthful or morbid actions or phenomena of either class of faculties. Indeed, we admit, that it is impossible to point out where the one class ends and the other begins. Although acknowledged to be integral parts of one harmonious whole, nature has drawn no well-defined dividing lines between them, so far as we are capable of judging, and therefore, any of our lines of division would necessarily override one another at many points.

The difficulty of drawing lines of division, between facts not merely coterminous but continuous, is so great, nay impossible, that even the lost and way-worn traveler, anxiously watching the last remaining evidences of the light of day, and dreading the consequences of the darkness of the fast approaching night, can very well tell when daylight is gone and the darkness of night is upon him, but he cannot, for the life of him, tell where day ends and night begins. He can recognize the distinctive and characteristic features of each, but he cannot draw a separating line between them, so gradually and imperceptibly do they glide into, and blend the one with the other.

But this difficulty of drawing a dividing line be-

tween the two classes of phenomena, whose powers and properties are recognized and fully or only in part appreciated, certainly does not prove that there is no difference between them. It only shows that nature in the line of her works is not given to marked differences and abrupt distinctions; but that she is harmonious and smooth and continuous in the course of all her operations. Wherever we observe in them what to us seem to be marked and striking differences and abrupt distinctions, it is owing to our ignorance of the series of intermediate facts and existences, a knowledge of which would make the whole one continuous chain of unbroken links. And this is true of every series of facts in the descending as well as in the ascending scale of the physical and metaphysical sciences, for the very existence of these facts is but a part of the law of continuity which pervades generally every part of creation.

In physics, for example, if a sunbeam be allowed to enter a darkened room, it falls on the floor, and forms a disc of bright white light. This is radiated to the eye which conveys the impression to the brain, and the phenomenon of vision is established, and we *see* the *light*. Should the hand be placed in the track of the sunbeam, the sensation of warmth is communicated, and we feel that there is *heat* as well as light in a solar ray.

Now if a piece of paper covered with chloride of silver, which is purely white, be placed so that the sunbeam falls upon it, a darkened track will be immediately produced over the space the sunbeam has passed, liberating the chlorine and leaving the metalic silver, which clearly proves that the sunbeam possesses *chemical power*.

Again these properties of light, heat, and chemical principle, as so many distinct powers belonging to the solar ray, may be proven in the following manner:

A piece of black mica will allow no *light* to pass through it, but offers no obstruction to the transmission of solar *heat*.

A piece of glass, stained apple green, with oxide of copper is perfectly transparent to *light*, but offers obstruction to, or is impermeable to *heat*.

Glass which has been stained yellow with oxide or chloride of silver, allows a flood of *light* to pass through it, but permits no permeation of the *chemical principle*.

And on the contrary, if we use glass colored deeply blue, with oxide of cobalt, though but very little *light* can pass through it, experiment proves that it offers no obstruction to the *chemical principle or power*.

This fact of yellow glass interfering with and intercepting the chemical principle of the sun-

beam, has lately been taken advantage of in photography. The photographer no longer shuts himself and a prepared plate in a dark dungeon; for now the old dark chamber, *camera obscura*, is beautifully illumined by the sun's rays passing through yellow glass, which effectually excludes the chemical principle, which alone the photographer dreads in this part of his process.

And again, if we place a glass prism in the path of the sunbeam, the rays are bent out of their regular course, or refracted, as it is called in the language of science, and by this means decomposed into a beautiful flame-like chromatic image. This is the solar spectrum, and if it be received upon a screen or other suitable surface, it will be found to consist of several colored bands indefinably running into each other. The crimson, red and orange will be found passing into yellow from the least refracted end, while from the most refracted one, we have lavender, violet, indigo, blue and green, also passing into yellow, as they advance to the true centre of the spectral image. Now these different rays of the sunbeam are known to vary considerably in their illuminating and chemical powers, as well as in their degrees of heat, electricity and refrangibility.

Let us take another, and a more familiar example, to illustrate our purpose, in a somewhat

different but equally apposite point of view. This we will find in the colors blue and red. Of these colors it may well be said, we know blue and red perfectly well; but they may be blended together in such an infinite variety, in forming a purple color, as for it to be wholly impossible for us to say, where the red and where the blue prevails. But this does not deprive us of the power of acquiring a distinct and perfect knowledge of each color separately, or of forming a very proper conception of both colors in combination with each other, as in forming a purple color, or, indeed, as to whether the one or the other color predominates in forming a deeper or lighter shade of purple.

But recurring to light as an example, and viewing it simply as an initiating force, we can easily show that it is capable of exciting into action, or rather of evolving from matter, mediately or immediately, the other modes of force. Thus it is immediately capable of producing or evolving chemical action, and, having control of this, we at once acquire the means of producing or evolving the others.

Take a prepared daguerreotype plate enclosed in a box filled with water, having a glass front, with a shutter over it. Between this glass and the plate place a gridiron of silver wire, and connect the plate with one end of a galvanometer

coil, and the gridiron of wire with one extremity of a Braquet's helix—an elegant instrument, formed by a coil of two metals, the unequal expansion of which indicates slight changes in temperature. Then connect the other extremities of the galvanometer and helix by a wire, and bring the needles to zero. Now as soon as a beam of either daylight or the oxyhydrogen light, by raising the shutter, is permitted to impinge upon the prepared plate, the needles are deflected. Thus light being the initiating force, we get *chemical action* on the plate, *electricity* circulating through the wires, *magnetism* in the coil, *heat* in the helix, and *motion* in the needles.

In fact, in reviewing the series of relations between the various forces here spokon of, it would appear that with some substances, when one mode of force is produced all the others are simultaneously developed. With other substances, probably with all matter, some of the other forces are developed whenever one is excited, and, for what we know, all may be so produced or evolved, were the matter experimented on in a suitable condition for their development, or our means of detecting them sufficiently delicate.

For example, if sulphuret of antimony is electrified, at the instant of electrization it becomes *magnetic*, while it also becomes heated to a

greater or less degree according to the intensity of the electric or initiating force, and being heated expansion of course takes place, and consequently *motion* is produced. Now if the intensity of the electric or initiating force be carried to a certain point, the sulphuret of antimony becomes luminous, and *light* is produced, and being carried still farther, decomposition ensues, and therefore *chemical action* is produced.*

Here, then, we have striking and illustrative examples to show that nature does not always draw distinct and well-defined dividing lines, so far as we are capable of judging, between classes

*It is proper, however, for us to state here, that like Lord Brougham, Falret and others, in respect of the mind's being a unit, notwithstanding its manifestations of different faculties and powers, the evolution from matter of one force or mode of force by another, has induced many to regard all the different natura agencies as reducible to unity, and as resulting from one force which is the efficient cause of all the others. But if, as we have stated it, the true expression of the fact is, that each mode of force is capable, when actively employed, under given circumstances, of exciting into action, or evolving from matter, the others, then any view which regards either of them as abstractedly the efficient cause of all the rest, is erroneous.

We cannot in fact predicate of any physical agency that it is abstractedly the cause of another; and if, for the sake of convenience, the language of secondary causation be allowable, it should be only with reference to the special phenomena referred to, as it can never be generalized. For if we regard causation as invariable sequence, we can find no case in which a given antecedent

of phenomena constituting integral parts of a whole; and, as she everywhere abounds in such instances, these illustrations might be multiplied without number. But it is equally obvious, that it is entirely within the scope and power of man's intelligence, fully to recognize, and to some extent at least, appreciate the characteristic appearances and properties and powers of each class, and thus to establish their differences. Just so is it with regard to the faculties and powers of the human mind, whether considered in a state of health or disease, as a whole or in its parts. But the mind being as it were immaterial in its nature,

---

is the only antecedent of a given sequent. For example, no floodgate, as such, and properly so acting, can be raised without the water flowing out, and if water could flow from no other cause, than the withdrawal of a floodgate, we might say abstractedly this was the cause of water flowing. Yet we cannot say so; because we know that gravitation will cause water to flow. And if, again, adopting the view which looks to causation as an active force, we could say that water could be caused to flow only by gravitation, we might say abstractedly that gravitation was the cause of water flowing. But this we cannot say either; because we know very well that atmospheric pressure will cause water to flow into an exhausted receiver, and that gravitation may, under certain circumstances, arrest, instead of causing the flow of water.

In this manner it may be readily proved, by any number of examples, that the subject of abstract secondary causation will be found to involve similar difficulties, and sometimes absurdities, whenever pushed to its legitimate consequences.

Electricity and magnetism afford us a very instructive exam-

and only connected with, and dependent on, matter for its manifestations, of course we are not able to recognize and appreciate its various attributes and properties, excepting as its different powers, and the effects of its diversified operations, may be thus exhibited.

Hence it follows, and it is the position which we seek in part to establish in this essay, that the different faculties of the mind and the relations of the affections of mind and matter, which constitute the main objects of the study of psycho-physiology and of psycho-pathology, like the different physical agencies and their various relations with

---

ple of the consequences that may legitimately follow the belief in secondary causation. Subsequent to the discovery by Oersted of electro-magnetism, and prior to that by Faraday of magneto-electricity, electricity aud magnetism were believed by the highest authorities to stand in the relatian of cause and effect—electricity as the cause, and magnetism as the effect. And when, as sometimes happened, magnets existed without any apparent electrical currents to cause magnetism, hypothetical currents of electricity were supposed for the purpose of carrying out this view of causation. But after the discovery by Faraday of magneto-electricity, magnetism might be said with equal truth to be the cause of electricity, and electrical currents be referred to hypothetical magnetic lines. Now upon the plainest principles of logic, if electricity cause magnetism, and magnetism cause electricity, why then electricity causes electricity, and, *vice versa*, magnetism causes magnetism, which becomes, so to speak, a *reductio ad absurdum* of the doctrine.

To take another example, which may render this position more

matter, which constitute the main objects of purely physical or experimental philosophy, are all different but correlative, and have a reciprocal dependence as so many conservative parts of harmonious wholes.

And in this connection it may be said, and it is not altogether an inapt illustration, that the brain and nervous system do for the mind what stained glass and the prism and other material substances do in the way of developing and separating and illustrating the different powers and properties and appearances of the sunbeam and other physical agencies. If there should be any defects in the visual organs, or in those of sensation, or impurities in the chemical materials employed, or flaws or other imperfections in the glasses and

---

intelligible. By heating bars of bismuth and antimony in contact, a current of electricity is produced, and if their extremities be united by a fine wire, the wire is heated. Now here the electricity in the metals is said to be caused by heat, and the heat in the wire to be caused by electricity, and in a concrete sense this is true. But can we thence say abstractedly that heat is the cause of electricity, or that electricity is the cause of heat? Certainly not; for if either be true, both must be true, or, in other words, as in the other example, a thing causes itself, which is an absurdity.

That view of this subject, therefore, which makes either of these forces or physical agencies abstractedly the efficient cause of all the others, has, we believe, arisen from a confusion between the abstract or generalized meaning of the term cause, and its concrete or special sense—the word itself being indiscriminately used in both these senses.

prisms and other instruments used in these expe-periments, or even if there should be, from any cause no matter what, dimness of the solar ray, or imperfectness in the compound substances experimented on, there will certainly be corresponding faults of incompleteness and imperfectness in the results of the experiments. So too, and on the other hand, if there should be congenital defects of mind, or disordered states of it from disease, no matter from what cause or how brought about, or congenital defects or pathological states of some one or more parts of the brain and nervous system, there will be corresponding defects and imperfections in the intellectual and moral manifestations.

According to this view of the subject, which we believe to be the proper one, the intellectual and moral faculties are dependent for only such evidences of their properties and powers on the the brain and nervous system, as these portions of the material organism are capable of manifesting. But it is quite as true, that a healthy and vigorous physical organization can no more successfully manage to exhibit an active and vigorous state of the intellectual and moral faculties, where there are congenital defects, or other imperfections from any cause, no matter what, in one or the other of these component parts of the mind,

than that the physical organism is capable of a vigorous, active and powerful exhibition of these different faculties, when they are sound and healthy, and it is diseased, feeble and exhausted.

But it is alleged that a derangement of the moral faculties, or a perversion of the moral sense, apart from, and independent of, the reasoning powers, amounting to irresponsibility in law, is a new and dangerous doctrine, destitute of foundation, and not to be admitted. The very same thing was said of the earth's revolutions, and Galileo lay buried in a dungeon, while his judges were canonizing madmen and monsters in crime.

The Brahmin, it is said, crushed with a stone the microscope, that first exhibited to his vision animalculae among the vegetables that constituted a part of his daily food. And so are there many men still to be found everywhere, who instead of aiding in the general endeavor to define more clearly, and to extend more widely, the benefits of knowledge and civilization, are disposed to crush any truth not hatched by their own conceit, or confined within the narrow limits of their own ignorance. The bad principles of our nature are not bounded by caste or climate, and the spirit of the Brahmin lives in christendom, although it is not so readily recognized, because not shown exactly in the same way.

Thus, in jurisprudence, as well as in the practical sciences and matters of general civilization, whoever has a new idea to propose will find no disposition to listen to it on the part of those who are satisfied with the old ideas, or taken up with their own notions. The present, or fashionable mode of regarding new ideas or facts, and the one indeed, which is at all times, most favorably received by the public, is that which refers them to recognized views and previously formed opinions. This stamps them at once into the mould in which the mind has been already shaped, thus showing why it is, that men in general do not understand or appreciate the difficulty of finding truth, and also why, to the world at large, while it seems such an easy thing to find truth, it is quite inexcusable not to do it. And no wonder! For by finding truth they mean only learning by rote the maxims current around them.

Succeeding generations, whose minds are thus formed to an established view, are much less likely to abandon it, than those would have been, who originally embraced and promulgated it, for with the latter it would not be necessary, first of all, to root out falsehood before truth could be planted. With those following in a beaten track, however, it is quite different. Having adopted their view of any matter, upon with them unques-

tionable authority, subsequently to yield up their faith would involve a remodeling of ideas as well as opinions under peculiarly strong prejuces and seeming disadvantages. The world understands its own routine well enough. What it does not understand so well, and is never quite prepared to undertake, is the changing of that routine—the leaving of the furrow !

This is a task we are assured that the public in general will never undertake. Observation and reflection have taught us, that the vast majority of men seldom think or act for themselves; but take, for the most part, a bias from some individual master; or, having had indelibly stamped upon their minds, the general tone and impress of the prevailing educational tendencies of their preparatory course of duties, follow them up through life. Thus, the examination of evidence against previously formed opinions, in a scientific and critical spirit, is, to most persons repulsive. It is difficult to break loose from the unseen spell that binds them, and to undertake the support of reasoned truth against long established views, by painstaking and conscientious criticism.

Those who voluntarily undertake to do this will always be few, and, in their failures, need not expect to meet with sympathy or even pity. The hazards and difficulties of the undertaking are

known to themselves alone, while former friends and companions, to whom, under ordinary circumstances, they might have looked for either pity or sympathy, have been left far behind. To these laggard minds "a sea rolls between the past and the future," and they are standing on the shores of the past, with their arms folded and without inclination to pass over. The force of old and long-cherished opinions with them is stronger than the force of recent facts; logic fails of conviction, and even long after they have given up *thinking* anything, they go on *feeling* as if they thought it.

This kind of unconscious sympathy with the ideas that once ruled supremely over us is not altogether unnatural, and resembles, in some degree, the almost instinctive affection with which, wherever or whatever we may be, we are disposed to regard the name of our old school or college. It is our *alma mater*, which we have dearly loved as the place of our youthful struggles and earliest manly aspirations; and the feeling not being an irrational one, like the memory of old friendships, fondly clings to us through all the varying scenes of life.

It is in this way that error is perpetuated, and time is made to exalt the authority of those from whom cherished ideas and opinions have been

received, while it seems to be entirely forgotten, that time can never give to the illustrious dead, such means of analyzing and correcting erroneous views as subsequent discoveries and experience confer and render necessary. This is forcibly illustrated by the history of the Ptolemaic system, which we may almost literally explain by the expression of Shakspeare: "He that is giddy thinks the world turns round." We now see the error of this system, because we all have an immediate opportunity of refuting it. But this identical error was received as a truth for centuries, because, when first promulgated, the means of refuting it were not at hand, and when the means of its refutation became attainable, mankind had been so thoroughly educated to the supposed truth, that they absolutely rejected the proof of its fallacy.

Now we insist, that the proper inquiry for us in conducting this investigation, is, not whether the doctrine of moral insanity is a new and dangerous one, but whether it is true, and of practical importance in the conservation of human life, liberty and property; and also one that has been erroneously rejected on account of long established and previously formed opinions. That it is beset with difficulties, and even may be surrounded by dangers, we admit; for it is a possible

thing that, in the hands of the ignorant or wilfully designing, it might be productive of mischief. But is not this true of many other things, particularly all those of greatest importance, and which require learning, experience and skill, in order that they may be well understood and appreciated, and that they may be duly and properly administered or executed? Then ought considerations of such a nature to deter the members of the medical and legal professions from earnestly entering upon so philosophical an inquiry—one to which, besides a practical knowledge of human nature, must be added an acquaintance with the higher departments of intellectual and moral philosophy, and of physiology and cerebral pathology? We think not. For however difficult and perplexing it may be to attain truth, we should not for such reasons, be turned from its pursuit.

CHAPTER IV.

DIFFICULTY OF DETERMINING WHAT IS INSANITY—UNSOUNDNESS OF MIND—DIAGNOSIS OF INSANITY—DIFFICULTY OF RECOGNIZING INSANITY IN OBSCURE AND SUBTLE FORMS OF THE DISEASE—MORE ABOUT THE MORAL POWER OF JUDGING BETWEEN GOOD AND EVIL.

The sciences of law and medicine can here meet upon the common basis of mental philosophy, which, as we have before stated, necessarily involves a knowledge of cerebral physiology and pathology. It is incumbent therefore upon the members of both professions, who would perform their duties and offices well, for the one not to be without some knowledge of law, and for the other to know something of medicine. Then, there would be less wrangling and disagreement between them, because each would be better able to understand and appreciate the other.

But just so long as the courts require that the proofs of insanity shall depend upon psychological abstractions, or mental states simply, without reference to any physical or pathological conditions, there will ever remain wide differences be-

tween the two professions, because they view these mental states from different stand points. In the same manner would this difference always continue between them were insanity viewed and studied upon the medical side of the question only, and considered as a physical disease exclusively. The jurist is apt to regard insanity as a psychological question *pure and simple*, while the physician may too rigidly insist that, to have the *mens sana* it must be manifested *corpore sano*. The truth is, the question being essentially a mixed one, and involving by far the most difficult problems for solution in the sciences of psychology, physiology and pathology, it must be attentively regarded and diligently studied in each of these points of view; and even then, it is a most perplexing and saddening one.

Thus, in analyzing the sad states of morbid ideas, and the distressing forms of disordered emotions and painfully excited passions, are we not obliged to confess, that there is but little connected with them, which is not extremely embarrassing as well as saddening? How imperceptible and shadowy, and how imperfectly understood are the transitions from a condition of health, of body or mind, but particularly of the mind, to one of disease! Who can accurately define the characteristics of health or disease, and lay down the dividing line between them?

In physical disorders, the French, for want of a more exact and comprehensive term, denominate this transition state, or that general condition of undefined physical suffering and distress so often preceding well developed violent attacks of bodily disease, *malaise*—ill at ease. We can see no reason why they might not with equal, if not greater, propriety have so characterized or denominated the corresponding state or condition in mental disorders. Here we find feelings of mental oppression, distress, anxiety and other deep seated emotional states, which seem to have no well-defined origin or source, and which are, apparently, unaccompanied by any real motive or fixed purpose. But these states or conditions may, nevertheless, merely by their continued duration, induce the profoundest melancholy, or even give rise to the most painful delusions and hallucinations. In all such cases, the patient's conduct will be characterized by morbid depressions of gloom and sorrow, mental anxiety and distress; or by ecstasy, or fright, or hate, or fanaticism.

This change in the condition of the mind in its departure from an acknowledged state of health to one of admitted disease, is called by the alienists the *period of incubation.* This term of designation, *period of incubation*, understanding the phrase in the ordinary sense of hatching, is excep-

tionable; and, to our mind at least, conveys rather a false idea. There is here unquestionably already a recognized change in the mental phenomena, which is announced by feelings of oppression, distress, anxiety and deep seated emotional states, that are as clearly expressive of an unhealthy as they are of an acknowledged unsettled state of mind. It is true that there happens to be in most instances no well defined or manifest origin or source for all this mental disturbance, and that there is as yet apparently no real motive or fixed purpose in the patient's mind, no outspoken and recognized hallucination or delusion. But still the deep seated emotional states and conditions that characterize its course, it must be admitted, are certainly *outside* of the circle of the mind's healthy actions, if not as clearly inside of that of its morbid actions. And for this reason we contend, that the period of incubation of insanity being once fairly set in, the immanent presence of the disease itself, in a mild or severe form, is a necessary sequence, although it may not be directly recognized by the obvious existence of hallucination or delusion. So clearly is this the case that, if a person known to be suffering in this manner, should commit homicide or other criminal acts, or even make a foolish and unnatural will or bargain in the absence of all ra-

tional motives for such conduct, he ought, in our judgment, at once to be adjudged to be legally irresponsible, and without testamentary capacity. And were it not for the apparently fixed and settled purpose of most jurists and medical experts, irrespective of the logic of facts, not to recognize any morbid mental state or condition as one of actual insanity, unless when the intellectual faculties are unmistakably involved, such, we candidly believe, would be the general judgment upon this subject.

Such conduct, under such circumstances, should be regarded as the natural fruit or culmination, of the deep seated emotional states and conditions, which had previously characterized the mind in its departure from an acknowledged state of health, towards one of admitted disease. And so it would be regarded, if it were not for popular belief on the one hand, and the rulings of the courts on the other, that insanity shall be characterized by incoherence, noise, raving and violence, or by delusions more or less circumscribed and well-defined.

And yet we have heard the learned and accomplished German psychopathist, Greisinger, declare that, "mental disease does not necessitate the existence of delusion;" and that "profound modifications in the sphere of the character and feelings,

morbid mental tendencies, general or partial diminution of the intellectual forces may exist in various diseased conditions of mind either acute or chronic, without the presence of actual delusions." While Haslam asserts that, "of methodical madness, of systematic perversion of intellect, the multitude can form no adequate conception, and cannot be persuaded that insanity exists without turbulent expression, extravagant gesture, or fantastic decoration."

But the learned and experienced physician and psychologist ought to be able to discover and to appreciate the departure from conditions of health of body or mind, whenever there is any positive deviation from either. Thus the psychopathist, from his learning and experience, should be able to determine when the boundary line between reason and insanity has been palpably traversed, although he is not competent to draw a dividing line between them, nor to frame a definition that can be referred to as an unerring psychological test in all doubtful cases of mental disorder.

The truth is, that in a large majority of these cases, it is not only most difficult, but very generally impossible to trace to their origin and true source the first inroads and dawnings of morbid and insane perceptions; or to demonstrate at what precise period certain normal states of ec-

centricity of thought and oddity of conduct, have passed into what is considered to be actual insanity. And yet, those who only fix their attention upon the salient points of a case, or rather, on the naked propositions which they contain, and disregard all these evidences of departure from established mental health and the previous well marked life and character of the patient, would most likely commit grievous mistakes.

"It is the prolonged departure without any adequate external cause," says Dr. Combe, "from the state of feeling and modes of thinking usual to the individual when in health that is the true feature of disordered mind." Each case, therefore, under such circumstances, and in the absence of a certain, reliable test, must be examined by, and in relation to, itself, and not in reference to any preconceived definition or *a priori* hypothesis of insanity. The proper standard of mental health, in every suspected case, it will thus be seen, can only be learned from a careful comparison of the present condition of the mind with the habitual and natural character of the patient. To overlook this very important fact, in estimating the proper value of the symptoms of diseased mind, when forming our opinions in subtle and suspected cases of insanity, will be perpetually to incur the risk of error, if not actually to establish

error itself in the place of conducting a fair and reasonable inquiry after truth.

The vain attempt to frame a definition of insanity, that would suit every case, will account, in a great measure, for the difference of opinion and unhappy conflict of testimony sometimes exhibited in courts of law, by medical men supposed to be familiar with the phenomena of disordered and diseased minds. While, on the other hand, it is equally as certain, that the establishing of the *psychical test*, a knowledge of *right and wrong*, as the rule of law or principle of action, by which the judges attempt to adjudicate all classes and degrees of insanity, not characterized by noise, incoherence and violence, or by outspoken, well-defined and circumscribed delusions, will fully explain their extremely uncertain, inconclusive, and unsatisfactory manner of *dispensing justice* in the premises.

In this manner the judge at once encounters the same perplexities that have already embarrassed the physician, namely, the knowledge of *right and wrong* as exhibited both by the sane and the insane, under all the infinite varieties of character and capability which cause men to differ so profoundly in degrees of intelligence and virtue, from the least to the most perfect example. Thus, sane people understand the matter of *right*

and wrong differently, and arrive at various conclusions as to what it actually is, upon almost every subject. The judges understand it differently from the people, and there certainly is a knowledge of *right and wrong* with some who are partially but not wholly insane, and who are without defined and established delusions. Many persons in fact affected with insanity, are able to direct their minds with reason and propriety, to the performance of their social and other ordinary duties, so long as these do not involve directly any of the subjects of their disorder, or indirectly fall within the sphere of their insane relations, or produce unusual excitement or disturbance of their feelings.

Georget, alluding to cases of partial insanity, to use his own words, "without injury to the judgment—without intellectual derangement," says: "If one converse with such patients on subjects not connected with the morbid portion of their mental state, in general, no difference between them and other persons will be perceived. Not only do they make use of ordinary knowledge, but they are able to acquire new facts and new reasonings. Moreover, they pursue so correct a notion of good and of evil, of justice and injustice, and of social observances, that whenever they forget their moral sufferings and their *illusions*,

they conduct themselves in society as well as other people.

Nevertheless, these subjects of insanity, in appearance so rational in all the relations of life, have ordinarily committed a number of extravagances which have necessitated their confinement in an asylum, and the most skillful physician cannot predict in what manner they will act—that they will not enter into engagements most prejudicial to their interests, or perpetrate the most reprehensible acts."

And Baillarger, one of the leading men in mental medicine in France, speaking of partial insanity, says: "Often this perversion exists without being suspected, and does not involve any disorder. Without the confession of the patient, one would know nothing of his struggles against an idea which has finally mastered him. Suicide is thus in many cases the first manifestation of an interior combat which nothing had previously revealed." And again; "Monomania, in its simplest form, is more frequent than is generally believed, from this one consideration, that this variety of insanity often persists for many years without producing *irrational* acts, the patients being able commonly to remain in society, where they escape the observation of physicians."

How, then, can a knowledge of *right and wrong*

be made the criterion, *the test*, of responsibility in insanity, with the hope of determining truth, and of dispensing justice in difficult, obscure and subtle conditions of suspected mental disease? And if that other legal term *unsoundness of mind*, be assumed as a preferable test, the difficulty is not removed. The definition of *unsoundness of mind*, as given by the courts, has varied at different times, and under the rulings of different judges, so that it cannot, at the present day, be stated with anything like scientific precision.

Lord Hardwich held that *unsoundness of mind* imported not weakness of understanding, but a total deprivation of sense. While Lord Eldon, who, we believe, was the first to give the term *unsoundness of mind* a distinct place among the legal varieties of mental disease, says: "Of late, the question has not been whether the party is insane, but the court has thought itself authorized to issue the commission *de lunatico inquirendo*, provided it has made out that the party is unable to act with any proper and provident management, liable to be robbed by any one; under *imbecility of mind*, not strictly insanity, but as to the mischief, calling for as much protection as actual insanity."

This opinion of Lord Eldon, according to Mr. Shelford, who has written a very elaborate and

quite a valuable treatise on the law of lunatics, means "*That the party is in some such state of mind as is contradistinguished from idiotcy and from lunancy*, and yet such as makes him a proper subject of a commission. All the cases decide that mere imbecility will not do, and that incapacity to manage affairs will not do, unless such imbecility and such incapacity amount to evidence that the *party is of unsound mind, and the jury find him to be so.*" Indeed this writer says, "It is to be lamented that the original meaning of the term 'unsound mind' should have been departed from, and that so much uncertainty and latitude should have been given to it, as are implied by the words of Lord Eldon."

And Mr. Stock, a very late and clever English law writer on the subject of insanity, fully concurs with Shelford as to the difficulty produced by the introduction of this term, and endeavors to obviate it in a measure, by entitling his treatise "*On the law of non compotes mentis.*" This seems to us to be taking a step backwards, instead of removing the difficulty. For Blackstone says: "But under the general name of *non compos mentis*, which Sir Edward Coke says is the most legal name, are comprised not only lunatics but persons under phrensies, or who lose their intellects by disease; those that *grow* deaf, dumb,

and blind, not being *born* so; or such in short, as are judged by the courts of chancery incapable of conducting their own affairs," All of which, estimated by the present rulings of the courts, is indeterminate and uncertain enough, surely!

As to what may perhaps be regarded as the proper legal acceptation of this term, *unsoundness of mind*, Mr. Amos, a distinguished English barrister, and late professor of medical jurisprudence in London University, says: "This state of unsoundness of mind, in the legal sense of the present day, is perhaps not very easy to define; for it is neither lunacy, idiotcy, imbecility, or incompetency to manage a person's own affairs. And yet we have seen that an inquisition finding a person unfit to manage his own affairs, and therefore not sound of mind, has been found bad. The term *unsoundness of mind*, therefore, in the legal sense, seems to involve the idea of a morbid condition of intellect or loss of reason, coupled with an incompetency of the person to manage his own affairs."

We here see something of the difficulty which the judges encounter, by endeavoring to determine all the questions of diseased mind, according to settled definitions or precise psychological rules. It seems to be little else than explanations of the rules themselves, in order to try and render them

comprehensive enough to embrace all the different shades and degrees of mental disease, which, it will be found, are as infinite as the different varieties of characters we meet with.

This often causes the decisions of the courts to appear at least wonderful, if not sometimes absurd. Such was the case in a recent decision of Lord Lyndhurst, who quashed the finding of a commission as bad, because the commissioners stated that, partly from old age, and partly from paralysis, and from loss of memory and consequent *unsoundness of mind*, the subject of the commission was incapable of taking care of himself and managing his affairs, instead of stating that, he was of *unsound mind*, and therefore incapable of taking care of himself and managing his affairs.

In his lordship's opinion, as rendered on this occasion, there seems to be three states of mental alienation that will justify the issuing of a writ *de lunatico inquirendo*, namely, idiotcy, lunacy, and *unsoundness of mind.* But what this *unsoundness of mind* is, as differing from both lunacy and idiotcy, even according to his lordship's own showing, it is not such an easy matter, if a possible one, to determine.

At the time that this opinion of Lord Chancellor Lyndhurst was published, Dr. Haslam address-

ed a public letter to him for the purpose of showing that, according to his lordship's ruling, it was impossible to form a clear conception of the legal term *unsoundness of mind* as contradistinguished from lunacy on the one hand, and idiotcy on the other; and we cannot but think that Dr. Haslam was right.

"Whatever," says the chancellor, in his opinion, as delivered, "may be the degree of weakness or imbecility of the party to manage his own affairs, if the finding of the jury is only that he was of an extreme imbecility of mind, that he has an imbecility to manage his own affairs, if they will not proceed to infer from *that*, in their finding upon oath, that he is of *unsound mind*, they have not established, by the result of their inquiry, a case in which the chancellor can make a grant constituting a committee, either of the person or of the estate. All the cases decide that mere imbecility will not do, unless that imbecility and that incapacity to manage his affairs amount to evidence that he is of *unsound mind*, and he must be found to be so."

Now, after the maturest deliberation, that we have been able to bestow upon this question, as thus presented, we frankly confess, that we cannot see the difference between what his lordship *apparently* means by *unsoundness of mind* and

a certain degree of idiotcy, or imbecility, amounting to quite an incapacity to manage one's affairs. We, therefore, without hesitation, adopt as our own, the conclusion of a very able writer in the Edinburg medical and surgical journal, who, in discussing this opinion of the chancellor, observes: "On carefully considering these expressions, we imagine this *unsoundness of mind*, to be nothing else, in strict language, than *imbecility, amounting to quite an inability to manage one's affairs*, a state which is precisely a minor degree of idiotcy and need not be distinguished from it, except as a variety."

It would appear, therefore, that the terms unsoundness of mind and imbecility or idiotcy, like insanity and lunacy, are employed under different acceptations and meanings by different judges, and that, in the further language of Mr. Amos, "Unsoundness of mind is a legal term, the definition of which has varied, and cannot, even at the present day, be stated with anything like scientific precision."

In this dilemma, what is to be done? We surely need some criterion, if it be practicable to establish one, to enable the physician and jurist to solve the delicate and subtle question of the diagnosis of insanity. No doubt it may be found among the facts and combination of signs of the

disease itself, which is made up of physical and psychical symptons. But what are they? Can any one tell? That is the difficulty. But it is not an insuperable one, we hope, for the question falls within the proper limits of our researches, and therefore, with time and the diligent use of our opportunities, we may reasonably expect to overcome it.

The truth is, the psychopathist, whether physician or jurist, must seek his criteria for the diagnosis of insanity not alone in either psychology, or physiology, but likewise in pathology, among those morbid physical complications with which the malady is so generally associated, and upon which, it may be more intimately dependent than any of us, especially jurists, have hitherto recognized. In short, that insanity is only a symptom of disease, and that symptoms of disease can only be profitably studied in connection with those morbid conditions of the material organism in which, perhaps, they originate, or, at least, upon which they are mainly dependent for their disordered manifestations.

It follows from hence, especially as the brain is that portion of the material organism upon which the mind is acknowledged to be dependent for its manifestations, that, as a general thing, a healthy condition of mind depends upon the phys-

ical integrity of the brain. The real problem, therefore, for our solution is, to determine not merely the character of the mental aberration, which may be said to belong to psychology or metaphysics pure and simple, but, as far as possible, to ascertain the nature and extent of the cerebral disorder with which it is associated, and upon which it is dependent for its morbid manifestations, and this belongs unquestionably to pathology, and pathology is a branch of physics.

In a medico-legal point of view, "The actual question," says Dr. Ray, "in such cases is, how far the various elements of responsibility have been affected by disease. To answer it correctly there is implied, not only some knowledge of the constitution of the mind in its normal condition, but also a thorough and accurate knowledge of its manifestations when under the influence of disease. The former might be expected, in some degree, at least, in most men of liberal culture, but the latter must necessarily be confined to persons who have made insanity their special study."

This shows the great importance, actual necessity in fact, of studying mental medicine both in its pathological and psychological aspects. Any other method of studying this subject will be found to involve insuperable difficulties, until, at

length, the mind will become quite convinced that in this direction at least, abstract secondary causation does not exist, and that a search after essential causes is vain and foolish. Amid the confusion of thought thence resulting, the most immature theories respecting the phenomena of mental diseases frequently become those most rigidly adhered to. Hence much of our difficulty in finding the truth, when called upon to investigate doubtful and suspected cases of insanity.

How much of the bitterness, misery, and wretchedness so often witnessed in families arises from such concealed and unrecognized morbid psycho-cerebral conditions! How often do we witness ruin, beggary, disgrace, and even ignominious death result from unrecognized mental alienation! Unrecognized, because medical men have vainly attempted to frame a definition of insanity that will suit each class and varying degree of mental disease! Unrecognized, because the courts have established the criterion of a knowledge of *right and wrong* as the legal test in cases of supposed insanity, which is an iron rule, or sort of procrustean bed, that the poor lunatic in every instance *is made to fit*, but which in no two consecutive cases *fits* the lunatic!

Then it is incumbent upon the members of the medical and legal professions, as philosophers en-

gaged in the most ennobling of human inquiries, while investigating this subject, and as guardians of the public health and conservators of the lives, liberties and property of the citizens, to exert their utmost ability to ascertain and determine the proper principles of diagnosis in insanity.

This is particularly necessary in regard to the latent or concealed forms of this malady, and, so far as the courts especially are concerned, of the hitherto almost unrecognized morbid phenomena of moral insanity, in order that the laws affecting such cases may be administered with wisdom and justice. For what is law worth, be the judge ever so virtuous and otherwise well informed who administers it, if he be at the same time without learning upon the subject in respect of which he undertakes to dispense justice? Not much more than it would be, if so much, with a judge ever so learned in this and other respects, but without virtue, who, with all his capability, would nevertheless most generally administer law accordingly as it suited his convenience, his pleasure, or his interest. And yet, even in this way, the latter might oftener perhaps subserve the ends of truth and justice, than another would in his honest zeal but total ignorance of the matter under discussion.

In administering law for the purpose of establishing truth and dispensing justice, the judge

should be thoroughly learned upon the subject under consideration, as well as upon law, at the same time that he is possessed of integrity of purpose. The upright judge will have every disposition to render justice in the premises, but how is it practicable for him to do so, if he be ignorant of all scientific acquirements and practical knowledge in relation to the peculiar nature and special characteristics of the evil he is dealing with. And on the other hand, how is he thoroughly to inform himself, on the subject of insanity, for example, in its scientific and practical or medico-legal relations, unless he diligently studies it as a question involving some phenomena of the greatest practical importance that are alone embraced in the sciences of physiology and pathology? When the upright judge has done this, after properly considering the subject psychologically, which by the way he cannot do excepting with these aids, he has duly put himself in that condition of mind with respect to insanity, that will always issue of necessity in right action, so far as that can be arrived at from our present knowledge of this subject.

But in many instances, it is difficult to distinguish between those normal or healthy mental irregularities of thought and feeling, constituting simply eccentricity of character or oddity of con-

duct, and those deviations from the natural conditions of the intellectual and moral manifestations, which should bring the persons so afflicted within the legitimate domains of pathology and jurisprudence. Extreme cases may be readily distinguished, but not so the dividing line, nor the exact moment in the life of any particular individual when, instead of being merely eccentric, he becomes positively insane.

Such persons, therefore, as present those strange phases of understanding and behavior, known as vagaries of intellect and oddities of conduct, common to some who mix in every day life, and pass in society as healthy-minded people, but queer, may be regarded as situated on the very limits or confines between mental soundness and insanity. They present to the minds of the moralist and psychopathist many points for grave contemplation, and often of suspicion; because some cases of insanity are known to fluctuate for a certain time, between the last degrees of the proper descending psychological scale, and the first of the ascending pathological series. However, when not marked by any disturbance of the bodily health demanding medical attention, nor by any obvious departure from a normal condition of thought and conduct justifying legal interference, they do not properly come within the province of either the

physician or jurist. These may be said to belong to a class, in speaking of which, Lord Kames says: "A person who cannot accurately distinguish between a slight connection and one that is more intimate, is generally affected by each; and such a person will necessarily have a great flow of ideas, because they are introduced by any relation indifferently, and the slighter relations being without number, furnish ideas without end. But as to the intrinsic value and importance of these ideas, of course not much can be said."

But there are, nevertheless, certain concealed and unrecognized states of the brain and mind, in which the one is physically diseased, and the other, justly speaking, is insane.

"It is certain," says Brierre De Boismont, in his great treatise on Hallucinations, "that there are in the world a considerable number of insane persons, who, from one cause and another, have never come under medical care, and whose derangement has not even been recognized by those around them. They, however, seek occasions for quarrel, provoke a duel, do some injury, assassinate and commit suicide, in obedience to certain voices, mandates and false sensations."

Or, as Baillarger, quoted before, in speaking of partial insanities, says: "Often this perversion exists without being suspected, and does not in-

volve any disorder. Without the confession of the patient, one would know nothing of his struggles against an idea which has finally mastered him. Suicide is thus in many cases the first manifestation of an interior combat which nothing had previously revealed."

And again he says: "Monomania, in its simplest form, is more frequent than is generally believed, from this one consideration, that this variety of insanity often persists for many years without producing *irrational* acts, the patients being able commonly to remain in society, where they escape the observation of physicians."

Yet this perversion of mind, this insanity in fact, which is seemingly so simple, may suddenly culminate, as we shall presently see, in most irrational conduct, or in violence and apparent crime.

It is also well known to all acquainted with the features of this disease, that many insane persons possess the power of controlling all evidence of their malady, sometimes for long periods, especially if it be of a delusional character, while at the same time they may be entertaining feelings inconsistent with a sound mind.

In writing upon this subject. Haslam says: "They have sometimes such a high degree of control over their minds, that when they have any particular purpose to carry, they will affect

to renounce their opinions which shall have been adjudged inconsistent, and it is well known that they have dissembled their resentment until a favorable opportunity has occurred of gratifying their revenge."

A case cited by Lord Erskine, on the memorable occasion of the trial of Hadfield for shooting at the King, forcibly illustrates one of these positions. The experience of those at all familiar with the character and conduct of the insane, abundantly proves the truthfulness of the whole.

Winslow, in a very able and highly interesting work on the obscure diseases of the brain and mind, says:

"The power of concealing delusions which confessed and even dangerous lunatics have been known to possess, when under the strictest and most searching examination, has often astonished persons unaccustomed to deal with them and not fully acquainted with the subtle phenomena of insanity. The illustrious Lord Erskine observes, in one of his most able and eloquent speeches, that in all the cases which have filled Westminster Hall with the most complicated considerations, the lunatics and other insane persons who have been the subjects of them, have not only had the most perfect knowledge and recollection of all the relations they stood in to-

wards others, and the acts and circumstances of their lives, but have in general been remarkable for subtlety and acuteness. These are the cases, which frequently mock the wisdom of the wisest in judicial trials; because such persons often reason with a subtlety which puts in the shade the ordinary conceptions of mankind; their conclusions are just and frequently profound; but the premises from which they reason, when within the range of the malady, are uniformly false—not false from any defect of knowledge or judgment, because a delusive image, the inseparable companion of real insanity, is thrust upon the subjugated understanding, incapable of resistance because unconscious of attack."

And Georget says: "The delirium is sometimes so well restrained, and the intelligence is sometimes so free under almost all connections, that the patient appears to be in perfect mental health so long as he does not direct his attention to the object upon which he is deranged. The fact is certainly remarkable, for the patient, knowing that the ideas which he thinks correct are regarded by others as ridiculous, and are likely to prejudice him in the estimation of persons with whom he is thrown, preserves sufficient empire over himself to effectually restrain them."

So that the difficulty of arriving at just conclu-

sions in such cases of insanity, and in the obscure forms of the disease, must always be great. Those who are acquainted with the protean nature of insanity, it's often slow and insidious invasion, and frequent development in the passions and moral sentiments, long before the intellectual faculties show any sign of disturbance, will readily acknowledge how difficult, nay, how impossible it is in many cases to pronounce, with any degree of certainty, the actual state of a patient's mind when first examined. And if the incipient stages of the disease have frequently escaped, for months and even years, the detection of intelligent relatives, who are in daily contact with the patient, and the experience of physicians connected with insane hospitals furnishes many such instances, is it not possible, indeed, very probable, that acts are frequently committed under the influence of mental derangement, which is not fully developed until the sufferer may have been long in confinement as a punishment for his so called crime? Or, what is worse still, and horrible to think of, may have never been fully developed, because the poor sufferer had already undergone capital punishment for that which was anything but a crime!

The mask of sanity and mental health is in fact sometimes so successfully worn by the in-

sane; and all suspicion so effectually allayed and disarmed by their cunning and address, that mental disorders of a serious and dangerous character for years have been permitted stealthily to advance, without exciting the slightest apprehension of their real nature, or an idea of the presence of anything very seriously out of the way. At length, some unnatural and cruel act to family or kindred, or sad and terrible catastrophe, such as homicide or suicide, has painfully awakened attention to their existence. Then upon a close investigation of the patient's antecedents, it will be found out, that for a long period there has existed some eccentricity and absurdity of thought and irregularity and oddity of conduct; that he has been subject to moody fits, and in the habit of sitting for hours together in a state of abstraction, or apathy, and this, too, at a time when he had important domestic and other pressing duties to claim and occupy his attention.

Or, otherwise, it may be ascertained that he had formed and entertained causeless suspicions, jealousies, or hatreds of others, especially of those to whom he ought to be most tenderly attached by every moral consideration which binds one, by hooks of steel as it were, to family and kindred. Or, that he had become slovenly and indifferent as to his personal appearance, or care-

less and negligent in his business, when he had been previously neat and particular in his dress, and noted for his strict and precise business habits Or, that he had exhibited a wild, reckless, and rather cruel disposition, instead of an orderly, kind and prudent nature. Or, that he had been acting under the uncontrollable despotism of some one predominant and commanding idea, whose influence over his conduct was bringing destruction, ruin and disgrace, upon his home and family.

Thus it may be seen how a man's thoughts and feelings may have been perverted, and his natural affections alienated, engendering much concealed misery within the circle of domestic life, and his conduct have been harsh, and even brutal, to those who have the strongest claims upon his love, kindness and forbearance, and yet his real state and condition, his actual malady, insanity, be unrecognized even by family and friends, to say nothing of the law!

Dr. Wood, in his work on the practice of medicine, in his remarks relating to insanity, very aptly describes one of the forms of mental disorder here alluded to.

"Another form of moral insanity," he says, "is that of excessive irascibility. The least opposition is apt to throw the patient into ungovern-

able rage, driving him to the commission of acts, of which in his cooler moments he repents. A regard for public opinion or the fear of personal consequences will often be sufficient to control the expression of these feelings, but when no such restraint exists, they are allowed full sway, and the patient seems to take an insane delight in their indulgence. To abuse or even strike a friend, parent or other near relation, to curse and revile, to pour out torrents of reproaches and accusations without foundation, and, when there is powerlessness at the same time, to scream and roar and use all kinds of frantic gestures, in the violence of impotence, are among the acts of persons affected with this kind of insanity, but toward the world at large, their conduct may be irreproachable, and though often willing to admit themselves in the wrong to the objects of their excitement, they find plausible excuses which deceive the multitude and sometimes make themselves appear to be persecuted individuals."

Again a man may have recklessly squandered, in opposition to the very best counsel and most pathetic appeals from family and friends, a fortune, which had been accumulated after many years of active industry and anxious toil; and in fact have become vicious and brutal, a drunkard and spendthrift, tyrant, criminal, homicide and

suicide, as the result of an undoubtedly morbid state of the brain and mind, and yet be the subject of unrecognized insanity. Unrecognized, because, forsooth, the courts are indisposed to recognize moral insanity; or, indeed, insanity of any kind or degree, when the person can be adjudged to have a knowledge of *right and wrong*, as the learned judges understand the subject of *right and wrong*, unless, at the same time, it can be proved that he is the victim of fixed, well-defined delusive ideas, and that the acts in question fall within the sphere of these insane relations.

The error here, we think, consists in claiming that there is no irresponsibility in law, so long as the intellect proper is not manifestly deranged, however deeply involved in disease the moral nature may be, and however closely the conduct of the individual may correspond with the morbidly disordered relations of the diseased moral powers of the mind. And this opinion evidently results from that misapprehension of man's mental constitution, which supposes such a condition of his moral nature as that which we have here been considering, to be owing to a desperately wicked and depraved state of mind, and not to disease. But why these psychologists should so readily admit the practical results of that morbidly disordered and deranged state of the intel-

lectual faculties and powers, which is manifested by incoherency and language void of sense, and so persistently ignore the practical results of that morbidly disordered and deranged state of the moral faculties and powers, which is manifested by irrelevant, and unnatural, and unfeeling conduct, we have never been able to understand. Some admit its irresponsibility before the law, but refuse to acknowledge it as insanity; while the jurists, because they do not acknowledge it as insanity, refuse to admit its irresponsibility in law. And so between the two, the law fails to be administered in justice, and individual interests and the public welfare are sacrificed.

Belloc, who thinks we cannot properly predicate insanity of any mental disorder unaccompanied by delirium, by which he means derangement of the intellectual faculties, nevertheless asks, and thus answers, this question, in the discussion on moral insanity before the Psycho-physiological society of Paris. "But should persons who yield to a nervous impulse without delirium be regarded as responsible for their acts done under this peculiar influence? Certainly they should not, any more than the subjects of hysteria or hypochondria should be made responsible for their acts. Mental alienation is not the only neurosis that produces irresponsibility."

This type of morbid mental phenomena, or of actual mental alienation as regards the moral faculties, exists to a frightful extent in real life, and can be everywhere found, in its advanced stages and after the reasoning faculties have become palpably involved, crowding the wards of our insane asylums. Are such persons as these, who are still in society, to derive no benefit from the plea of insanity, when arraigned before our courts for disorderly, violent, and even apparently criminal conduct? To say that they possess that freedom of will, which is necessary to constitute responsibility before the law, is, in our judgment at least, simply absurd. With their conduct strictly corresponding with their sadly perverted, disordered and unnatural sentiments and feelings, and with a knowledge of the fact, that all this proceeds from the presence of mental disease, although only manifested by the moral faculties or powers, it is irrational to suppose that their wills were capable of effecting a different state of things.

The presence or absence of derangement of the intellect proper, is only one of many symptoms or traits that mark, define, and characterize mental diseases. And the alienist who ignores this important psycho-pathological fact, becomes perfectly impotent, as an expert before the courts, to save the life of him who commits a murder

under an irresistible impulse—an impulse to action, springing from mental disease, which has destroyed his freedom of will as certainly and effectually as the idea possibly could, that he was commissioned from heaven to perpetrate the deed. Yet the one will be condemned as responsible in law, and the other acquitted on the ground of insanity. For, although each possesses a knowledge of right and wrong, and is capable of judging of the illegality of his acts, the one has a delusion fixed, outspoken, and well-defined, which, since the trial of Hadfield, not before, the courts have said will do; while the other may have acted from an irresistible impulse only, and although this impulse springs from mental disease, and is as wholly uncontrollable by the will, as is the undeniably morbid action of the other, still, it amounts to nothing more than what is called moral insanity, and the courts have generally said, that moral insanity will not do. But we contend that in either case there should be no responsibility in law, because that freedom of will necessary to control action has been lost by disease in each.

Thus may be seen, how it happens that medical men are charged with too readily admitting the presence of mental disease, amounting to irresponsibility in law, whilst it is evident, by their interpretation and application of the law, that the juriscon-

sults too persistently ignore its existence, and refuse to admit irresponsibility. Truth lies between extremes, and each party, perhaps, would more readily attain that happy medium, if he were to pay some more attention than he does to the studies of the other. Accordingly we find Belloc, in the discussion and on the occasion before referred to, attempting in this spirit a solution of our difficulty. "To be delirious, however, is not necessarily," he observes, "to use words devoid of reason. Delirium may be manifested by acts as well as words. It may exist without external manifestation. When the patient does things that imply that his mind consents to the nervous errors to which he is a prey, we know indubitably that his mind wanders. These acts of a depraved judgment are not of themselves delirium, but they are its sign, indicating its existence as surely as the most incoherent or foolish language."

Here, Belloc assumes, that disordered and deranged conduct, which is the result of mental disease, although the language may be neither incoherent nor foolish, should as certainly be regarded as evidence of alienation of mind and irresponsibility in law as are incoherency and foolish language. In the one case, according to his view of the subject, the derangement of intellect is expressed, in the other, it is implied. In both

cases it is present and operative, but only obviously outspoken in one, while it must of necessity be inferred in the other to account for the morbidly disordered conduct of the patient. It would be better, we think, to admit at once the doctrine of moral insanity, with irresponsibility in law. It means that, nothing more, nothing less.

Now it would seem, that to some minds, the idea of a moral insanity involves painful notions respecting the omnipotence and exceeding mercy of the Creator; while others have entirely misconceived the medico-psychological import of the phrase; and others again, have never made use of their opportunities of becoming practically acquainted with this particular type of impaired mind. Grave exceptions, therefore, have been taken by each of these classes of persons to the term moral insanity. To the last two named, we have nothing to say. But to those of over tender consciences we would remark, that they overlook the important facts, that God cannot become the author of sin, and that it is man's will or free-agency in his every evil or mischievous action, that constitutes the sinfulness of it, and where the will is lost, there is no sin or wickedness.

To kill a man is surely a great evil, and may be a very great sin. It is not so much on account of the evil, however, be it ever so mischiev-

ous, as the sinfulness of the act, that the homicide's life is forfeited by the law; and this admitted fact should teach us a lesson of great importance in the practical application of medico-legal science. But the outward act, the mere killing of a man, is not a sin, it is only an evil. The action of the unfettered and healthy will constitutes the sin of the act, and the homicide may have lost, in this connection, the controlling influence of this mastering power, this balance-wheel of the mind's machinery, and therefore have become sinless.

Sin is nothing but the *conscious wilful delinquency* of a free creature, and there is no sin without it, any more than there is in the ravages of the storm and the flood. And being sinless, because not a free-agent, and not being a free-agent, because of the loss of the overpowering, mastering will, within the sphere of the morbid phenomena of his mental disease, he should be regarded as irresponsible, and the evil done be permitted to take its place along with the other mischiefs and suffering which seem to be necessary to bring about the ends of creation. Otherwise a direct penalty might be inflicted by law upon an irresponsible person, and by no conceivable system of casuistry can such penalty be made just. The common argument, that the few must suffer that mankind in general may be deterred

from crime, is simply absurd when applied here, because the very consideration which is relied upon to effect good in such instances, from the nature of this case, becomes totally inoperative.

Coleridge, in his "Table Talk," asks: "Why need we talk of a fiery hell? If the will which is the law of our nature, were withdrawn from our memory, fancy, understanding and reason, no other hell could equal, for a spiritual being, what we should then feel from the anarchy of our powers."

It appears, then, that as long as the will retains its natural and *healthy sovereignty* over the intellectual and moral faculties, just so long will the natural instincts, and that tendency that exists in our natures to evil and sinful thoughts and vicious actions, be kept in a healthy state of subjection, and our conduct be rational and feeling. But should this sovereign element of the mind be in part or wholly dethroned, whether from a morbidly impaired or perverted state of the will itself, or from a morbidly exaggerated and uncontrollably disordered condition of the mental faculties, is of but little importance, the effect will be the same. In either case, the evil consequences that may follow, will correspond with the one or the other class of faculties, moral or intellectual, of the mind which has been deprived of its controlling influence, and will be partial or general, as the circumstances of the case may be.

It is to just such a condition of the mind, that Dr. Carpenter alludes, in his great work on physiology, when he says: "So far as the directing influence of the will over the current of thought is suspended, the individual becomes a thinking automaton, destitute of the power to withdraw his attention from any idea or feeling by which his mind may be possessed, and is as irresistibly impelled, therefore, to act in accordance with this, as the lower animals are to act in accordance with their instincts."

The same is true we believe, so far as the diverting influence of the will over the current of sentiment and feeling is concerned. As in the preceding case, so in this. If the power of the will be suspended, the individual at once becomes destitute of the ability to withdraw his attention from any "*feeling* by which his mind may be possessed, and is as irresistibly impelled, therefore, to act in accordance with this, as the lower animals are to act in accordance with their instincts." And this would seem to be a legitimate inference from the language of Dr. Carpenter, when he says, "to withdraw his attention from any idea or *feeling*," using the word *feeling* as independent of, and differing from, the word idea, and, as being dependent for its existence upon the affective faculties, and not upon those of the intellect.

In the incipiency, however, of the difficulty and danger here so graphically described by Dr. Carpenter, and whilst such morbid ideas and feelings are merely transient impressions, it is possible in many cases, for,

"Our remedies oft in ourselves do lie,'

to conquer and dismiss from the mind, the evil suggestions of the disaffected faculties, by an indomitable, persevering, sovereign effort of the will. And we mean by this, the very frequent existence of an insane thought or feeling, in conjunction with a conviction of the morbid nature of that thought or feeling, which gives to the individual the power of acting sanely, by a vigorous, persistent and indomitable effort of the will.

But if, on the contrary, the disorderly faculties are permitted to exert their evil and vicious influences unchecked, they will in the end as certainly overpower and subjugate the will. In that case, the will is brought so completely under the dominion of these vicious and now undeniably insane suggestions, that it is unable to make any effort to interfere with or dislodge them from the mind, but, in fact, actually appears to invite and encourage the continued ascendency of them. The destruction of the power of the will is more thoroughly and permanently effected in this manner, than by those sudden outbursts of insubor-

dination and violence, though often repeated, where resistance and rebellion are scarcely more than fairly pronounced before they are suppressed, or subside from sheer exhaustion. For these violent and convulsive efforts, being without any matured or well-defined object, are too energetic to be of long duration, and soon pass away, when reason once more to all outward appearance assumes her sway.

Now, of neither of these morbid conditions of the mind, and they embrace within their limits those cases of insanity which generally come before the courts involving the question of legal responsibility, can it be positively asserted, that the patient has no knowledge of *right and wrong*, or of the illegality of his acts, excepting among those advanced and terminal cases of both classes, when they have become obviously and hopelessly incurable.

"A person, who commits a criminal act," says Mittermaier, a German jurist of very considerable distinction, "may be perfectly well acquainted with the laws and their prohibitions, and yet labor under alienation of mind. He may know that homicide is punishable with death, and yet have no freedom of will." In fact, there are two conditions, according to Mittermaier, who reasons rightly upon this question, that are required to

constitute that freedom of the will which is essential to responsibility. The one is a knowledge of good and evil or of *right and wrong*, and the other is the faculty or power of choosing between them. The absence of both or either destroys responsibility.

And Ray says: "Liberty of will and of action is absolutely essential to criminal responsibility. Culpability supposes not only a clear perception of the consequences of criminal acts, but the liberty, unembarrassed by disease, of the active powers which nature has given us, of pursuing that course which is the result of the free choice of the intellectual faculties. It is one of those wise provisions in the arrangement of things, that the power of perceiving the good and the evil is never unassociated with that of obtaining the one and avoiding the other. When, therefore, disease has brought upon an individual the very opposite condition, enlightened jurisprudence will hold out to him its protection, instead of crushing him as a sacrifice to violated justice."

CHAPTER V.

THE KNOWLEDGE OF RIGHT AND WRONG AN INSUFFICIENT TEST OF INSANITY—OPINION OF THE LAW LORDS AND JUDGES OF ENGLAND ON THE LAW OF INSANITY—OF THE IMPULSIVE CHARACTER OF SUICIDAL, HOMICIDAL AND OTHER FORMS OF INSANITY—CHARACTER OF LAW OF INSANITY PREVIOUS TO THE BEGINNING OF THE PRESENT CENTURY—OF LUCID INTERVALS—EVOLVING NEW RULES OF ACTION FROM THE OLD ONES, IN CASES OF INSANITY, &c.

The fallacy of which the courts are guilty, consists in supposing that all classes and degrees of insanity, excepting in cases where there are well-defined and circumscribed delusions, can be wisely and safely adjudicated by one criterion, one iron rule of action, the knowledge of *right and wrong*. Yet they differ widely, both in their interpretation of the law, and in their practical application of it.

In the debate which sprung up in the House of Lords, in England, on the occasion of McNaughton's trial, Lord Brougham remarked, "that sane people differ in their views of *right*

and wrong, and though he knew what the learned judges meant by *right and wrong*, he was not sure that the public at large did, especially juries." Now, we would ask, in the name of common sense and all the judges, if the public at large, and especially juries, do not know what the learned judges mean by *right and wrong*, how is the poor lunatic to understand it?

In the same debate, Lords Lyndhurst and Brougham gave it as their opinion, "that from the time of Hadfield's case to the present day, the law had been laid down by successive courts with great uniformity." Lord Campbell, on the contrary, another of England's great law lord's who participated in the debate, said, of the very same cases, that "there was a wide difference, both in meaning and in words, in their description of the law," and that, in his judgment, this difference called for an authoritative exposition of the law.

Accordingly, the House of Lord's propounded to the law judges of the realm certain queries relative to the law of England on the subject of insanity, as a defence in criminal actions, for the purpose of obtaining an exposition of the law that would settle its principles and regulate the future practice of the courts. But this very discussion, in which the five distinguished law-Lords, Lyndhurst, Brougham, Campbell, Cotthenham and

Denham, mainly participated, furnishes a most striking illustration of the inconsistency and contradiction in the opinions of the courts, as well as of their Lordships.

At the same time the responses of the law judges to the queries propounded to them by the House of Lords, seem to have failed entirely to give such weight and authority to their interpretation of the law of insanity, as to render the rulings and conduct of the courts any more certain and determined afterwards, than they had been before. Indeed, so indeterminate have they become, as to draw forth from an intelligent writer upon this subject, the remark, "that each case would seem to be tried as an individual one, without establishing or strengthening any great or leading principles. In one instance the judge stops the trial; in another the jury disregard his directions; now the testimony of physicians is taken without comment, and the verdict is given accordingly; then again, the physician is told he is encroaching on the judge and jury. In some instances the doctrine of moral insanity rules pre-eminent; in others, the English law, as it existed in the time of Sir Matthew Hale, is the rule."

Another eminent writer on medical jurisprudence, Taylor, thinks, after bestowing careful attention upon this subject, that the conduct and rulings of

the courts indicate both uncertainty and injustice in the operation of the criminal law. "Either some individuals," he says, "are most improperly acquitted on the plea of insanity, or others are most unjustly executed."

It was their lordships' wishes no doubt, in proposing the questions they did to the law judges, to obtain from the judges collectively what had seemed to escape them individually, namely, such a general but clearly and well-defined expression of the law of insanity, in regard to criminal cases, as would be capable of embracing within its comprehensive folds every possible case, and of working injustice to none. They failed to accomplish this desirable object; and the obvious inaccuracy of their answers, when measured by the standard of modern science, has deprived them of any or much practical effect, in the judicial determination of cases of mental unsoundness, either in England or this country.

There were many reasons for this failure, one of which at least did not attach mainly to the law judges. The questions themselves were badly framed and ill-expressed, and of course the answers were vague and unsatisfactory; and, perhaps, as the law is now understood and applied, under the stronger lights of advancing science, quite incorrect. In proof of this, we need only

quote the remarks of Lord Campbell, "Lives of the Lord Chancellors," in relation to one of the earlier cases, the trial for murder of Earl Ferrers before the House of Lords.

His Lordship says: "Were such a case now to come before a jury, there would probably be an acquittal, on the ground of insanity; although the noble culprit was actuated by deep malice toward the deceased, although he had contrived the opportunity of satiating his vengeance with much premeditation and art, and although the steps which he afterwards took showed that he was fully sensible of the magnitude and the consequences of his crime."

This is very strongly put, as the lawyers express it; and it may be said, that it looks much more like crime than insanity, and that the earl ought to have been found guilty and executed, as in fact he was. Yet in the opinion of Lord Campbell, "Were such a case now to come before a jury, there would probably be an acquittal, on the ground of insanity." Why so? There is here clearly a knowledge of *right and wrong*, for "he was fully sensible of the magnitude and the consequences of his crime." Then why should there "probably be an acquittal, on the ground of insanity?" Would it be because courts and juries are becoming less observant of law? No; not at all.

But, it would obviously be, because it was proved upon this trial, that the noble prisoner was occasionally insane, and from his insanity, incapable of knowing what he did, that is, of knowing what he did in the sense of having that healthy power of the will, or morally sensing power of practically choosing between good and evil. In other words, he had not the power of judging as a sane man would judge, the consequences of his actions, notwithstanding he had a knowledge of right and wrong and of the illegality of his conduct. In such a case, how can we be assured, how feel the slightest confidence in fact, that the lurking disease, immanent insanity, that was proven to have periods of declared and out-spoken existence, did not mingle with and occasion the act; and, to the benefit of this more than doubt, this seeming probability, the prisoner is justly entitled by the law, and therefore to "an acquittal on the ground of insanity."

Now, if it be admitted, that there is no fixed and invariable standard of right and wrong, even amongst persons of the highest moral and religious cultivation, who acknowledge the same fundamental principles of ethics and theology, and who recognize the same guides in their application, it must be further admitted, that the standard of right and wrong is subject to much greater

variations, not to say perversions, among those who are led by disorder of their mental faculties to form a wrong estimate of the respective values of the different motives and impulses which act upon them. And again, if the heat of passion, for a like reason, that is, the inability to rightly estimate the respective values of the different motives and impulses that influence our conduct, modifies guilt and changes to manslaughter that which would otherwise be considered murder, how much more important is it, that so grave a disorder, so profound a mental malady as actual insanity, although it only occasionally manifests its unmistakable character, and even then in a partial manner or to a limited extent, should be the ground of a more extended degree of mercy, namely, irresponsibility. For, let us again ask, what assurance can we have, that that lurking disease that occasionally shows itself to be actual insanity, did not mingle itself with and occasion the act in question.

Thus the fact, that every ethical decision is a *preference an election in fact*, of one motive as higher than another, together with the circumstance, that it is not possible that the actually diseased mind, however limited that disease may be apparently, should be as capable of making such an election, as the perfectly healthy and undisor-

dered mind, appears to us to be of fundamental importance in the consideration of this question. And this is especially true, if, as we have assumed, the motives are furnished by the moral faculties or the appetites and passions, as the bases of action for the reasoning powers, and not by the reasoning powers themselves.

But to return. Another reason for their failure was, that the judges, in their answers, were guilty of the absurdity of expecting a crazy person to act *rationally* in reference to his delusions, or in the *matters* of his insanity ; and, in default of this, of holding him legally responsible for his acts, although unquestionably the acts of a crazy man, because the law will not hold a sane man guiltless, under like circumstances. For example, a man is arraigned for homicide who is acknowledged to be a lunatic, or, at least to be afflicted with the torturing, tormenting belief that a certain person whom he has killed, had been endeavoring to circumvent him and by every possible means to ruin him in character and fortune. Before the act is committed, no one credits what he says, when he declares his belief; but laughs at *it*, or ridicules *him*. And yet, it is his fixed, settled, firm conviction. He cannot rest night nor day for this tormenting, harrowing delusion, the reality and truth of which he believes in as much as he does in his

own existence. His life is fast becoming an intolerable burden to him, and the future grows dimmer and darker before him, as the light of reason recedes, like the approaching darkness of night upon the receding light of day, until his mind is filled with the sorrow and gloom and darkness of unutterable woe. To rid himself of all this suffering, in a moment of frenzy, in an impulse to action aroused within himself and which he cannot control, this wretchedly crazy man takes the life of the person who he insanely believes to be the cause of all his sufferings and torments. But he must be hanged for it, say the judges; for, "if the crime were committed for any supposed injury as to character and fortune, he would then be liable to punishment." And why? let us ask. Because, say the judges, the law does not permit a sane man to kill another for conduct in every respect actually such, as the poor lunatic has only insanely believed really existed, and to rid himself of the torturing consequences of which, in another fit of insanity higher and profounder than the other, commits an act that would be a horrid crime, we admit, if it had been done by a sane man.

Is there any justice or common sense in such a doctrine as this? any of that 'perfection of reason,' which Hooker says the law is, that an in-

sane man should be punished for doing that which the law will not allow a sane man to do? On the contrary, can anything be more absurd, puerile and inconsistent with truth and justice? That the goverment of any nation professing to be christian, should legally sanction such immoral and mischievous principles, is indeed incredible. But such, in fact, is the legal doctrine of insanity as it exists in England, at this day, according to the answers of all the judges to the queries propounded to them by the House of Lords.

Such doctrine will not do. It cannot answer the ends of justice, because it is poor, weak-minded, short-sighted, wicked mortals taking vengeance of one another for God Almighty's visitation. It is criminal in the highest degree, because, besides being irrational, it is eminently inhuman.

Nor did the judges recognize the important fact, that the insane often appear to be motiveless in their acts, or at least to move in a sphere so far removed from or beyond the reach and influence of the ordinary motives for human conduct, as to seem to be so. In other words, they denied in their answers the common sense and truthful doctrine, that when a man from mental disease, and we do not mean by this, from vice and depravity, but perversion or loss of will, or the overwhelmingly disordered actions of the

mental faculties, cannot control his disposition to do an act, he is not properly responsible for it when committed. From the loss of the power of the will or the morally sensing power he has already become, as it were, a law unto himself, and no longer respects, in the sense of obedience, the laws of the land, or can be said to be governed by the ordinary motives and influences that generally control and direct human conduct in choosing between good and evil.

It may thus be seen how the mental disability of the insane proceeds at times not so much from the lack of a knowledge of *right and wrong*, or from a total inability to recognize the illegality of their acts, as from being constrained to commit them by irresistible influences and *impelling desires*, that with them, because of their insanity, transcend all law. Under the influence of these *apparently* motiveless impulses or impelling desires, which they do not seem even to think of resisting, and which seem to arise spontaneously in their minds, or at least, without known cause or anything like previous reflection, so far as we are capable of judging, they pass at once to acts, unless some other more powerful impulse comes suddenly, and to all appearance as unbidden as the first, to withhold them at the very moment of volition.

But on the other hand, it cannot be denied, that

apparently impulsive acts of a criminal character sometimes turn out to be the results of horridly insane feelings of intense anxiety and moral perturbation, that have been most carefully concealed and manfully resisted for a long time. In these cases the patient seeks relief from the frightful suggestions that are perpetually haunting him and urging him to commit the dreadful crime, which his very nature loathes and shrinks from for a time, by eventually yielding in the hope and expectation of being thereby released from the hellish feelings with which he has been so long tormented. Or, it may be, that the overpowering, mastering influence of his will suddenly gives way, and all further resistance or check to the com mission of the crime ceases.

In treating of this question, Greisinger says: "This impulse towards a termination, towards any solution of a condition full of torment, is so great that it is not infrequent to see the patient commit actions which to himself are in the highest degree revolting, in consequence of the belief that these acts alone may obtain for him deliverance and tranquility." It is in this way some how, that the suicide, as the only means of escape from the acuteness of misery, and the tormenting anguish of a mind tortured and driven to despair, by a concealed hallucination or unobserved delu-

sion, urging him to the commission of the deed, is induced to *madly* venture upon the dark and dread uncertainties of a future life rather than any longer to encounter and endure the horrors of this. Or it may be, for we cannot tell, that the morally sensing power of his will may have given way, after the most fearful struggle for continued supremacy, and further resistance have become impossible. Or, perhaps,

> "*He* hears a voice we cannot hear,
> Which says *He* must not stay,
> *He* sees a hand we cannot see,
> Which beckons *Him* away."

And thus he is finally lost, by yielding, almost unresistingly as it were, to these seductive and alluring influences of his disordered imagination, which we can neither realize nor fully appreciate.

The same is true of homicidal, and other forms of insanity leading to criminal and other insane acts. It is impossible for us, in such cases, to ascertain and determine either the character or strength of the motives and impelling forces that are incessantly, day and night, operating against an enfeebled and exhausted will; or, it may be, that have already actually enslaved a completely dethroned and subjugated will.

In speaking of the tenacity and vividness of these motives and impelling forces, and of the

effects of these influences on the will, Marc observes, that they "exercise such a tyranny over the will, that they subjugate it and render it their slave. "It is," he continues, "if I may be allowed the comparison, the depraved legislative power which usurps the legal independence of the executive power, and renders it it's blind slave."

How then, is it possible, in such a condition of the mind, to have that freedom of will and of action which every psychopathist insists, and every enlightened jurist ought to admit, is essential to criminal responsibility? Amid that confusion and chaos of the mind, resulting from the tumultuous and overwhelming rush of the morbidly exaggerated feelings unrestrained by the will or *moral sense*, the unaffected intellectual powers are held completely in check or abeyance, and the knowledge of good and evil or *right and wrong*, which it is admitted, the patient still posseses, is practically of no avail whatever to him. He has lost the faculty or power of choosing between good and evil, and the power of choosing between them is as necessary to constitute criminal responsibility, as is the knowledge of good and evil itself.

Such facts, together with our experience and knowledge of human nature, and especially with some undeniable proof of change of character previously in the prisoner, almost or quite force

us to the conclusion, that "*the presence of mental alienation should be admitted in him who commits a homicide without positive interest, without criminal motives, and without a reasonable passion.*"

But this is *moral* insanity, and there lies the difficulty. For, although *moral* insanity be a genuine mental alienation, the courts seldom recognize it as such, because their psychical test, a knowledge of *right and wrong* and of the illegalty of acts, in their judgment applies to the *reasoning* and not at all to the *moral* powers of the mind. The truth is, the courts have, by the general tenor of their decisions, not only incurred the risk of error by settling an exceptional definition of this kind into a rule of law, but have actually added to that the argument of prejudice; namely, that what has lasted a long time must be right, or that what has lasted a long time, right or wrong, must be intended to continue.* Ow-

*In proof of the truth of this assertion it is only necessary for us to state that, in England, the trial by wager of law was not formally abrogated until 1833; and that, as late as 1824, a case was actually tried according to this "usual and constitutional mode of trial." From an admirable work by Henry C. Lea, of Philadelphia, entitled "Superstition and Force," we learn that the writer of a curious paper in the London Jurist, for 1827, instances the wager of law as an evidence of "that jealous affection and filial reverence which have converted our code into a species of museum of antiques and legal curiosities."

ing to this, and amid the general excitement attendant upon great criminal acts, and the unavoidable struggles between science and ignorance, truth and error, that necessarily spring up in every such judicial investigation, prejudice generally carries the day, and the *morally* insane are held to be criminally responsible.

It must not be inferred from this, however, that we do not believe in governments with penal laws. We believe in government as strictly as any one, and as universally as in any thing else, and in penal sanctions and laws as the due and proper enforcements of government. There is no dignity, force or safety in government without them. For what worse or more dreadful and horrible thing can be said of any state, than that criminals are at peace in it, going "unwhipped of justice," literally fearing nothing. Then, so long as vice is triumphant and insolent, it is not, properly speaking mercy, but treason, toward justice, to relent towards it; and we feel, therefore, that truth and justice are mocked by the loss of their defences, wherever there is immunity in crime. And this feeling is something more than a sentiment, it is not æsthetical merely, but profoundly practical; for we would require penalties to be as strong and as universally present as the sins they are intended to remedy. If, therefore, there be

immutable law for the *right*, the same law, when deliberately and wilfully trampled should, we admit, be *immutable* as an *avenger*.

But this requires that the powers ordained for the comfort and blessing of society should duly and properly administer this *immutable* law for the *right*. But what is the right that any law made by man should be *immutable* as an *avenger*. That is the question. And the problem for solution here is, how lawfully and properly to conduct a case over this narrow and perilous course, which we have been endeavoring to track out, with certain evil and probable irresponsibility on the one hand, and equally certain evil and sin and responsibility on the other. And here, we cannot but think, that Sir James Simpson is right, in believing it to be such a fearful thing for man's vengeance to follow God's visitation, that mercy should step in to decide the question in favor of probable irresponsibility; for

> "The quality of mercy is not strained;
> It droppeth, as the gentle rain from heaven
> Upon the place beneath."

There is but one lawgiver; and vengeance is mine, saith the lord. I will repay.

Previously to the beginning of the present century it was a matter of universal belief that insanity is always accompanied by more or less de-

rangement in the reasoning powers, and a recognition of this fact entered into every attempted definition of the disease, and all the adjudications of the courts. This we believe was an error, which has of late years been refuted in a measure by the researches and writings of those practical observers and learned authors and alienists, Pinel, Esquirol, Georget, Dagonet, Fodere, Marc, Gall, Reil, Hoffbauer, Andrew Combe, Conolly and Prichard, Rush, Ray, and a host of others, both in Europe and this country. Some of them, however, are inclined to doubt whether the intellectual faculties ever remain so wholly untouched in moral insanity as Pinel, Hoffbauer, Prichard, Combe and Ray believe they do in many instances.

But the reality of this distinction, which, it will be observed, establishes two classes of insanity, intellectual and moral, is recognized by all of them, and they furnish us with a great number and variety of cases, in which the moral or affective faculties, either singly or collectively, were deranged, independently of any appreciable lesion or impairment of the intellect. At least, the impairment of the intellect proper in these cases, was too slight to be easily, if at all discoverable by casual acquaintances and observers, while the moral powers were obviously perverted or extinguished. Besides, these distinguished alienists

and writers not only believe, that each class and degree of insanity is, within the proper sphere of its acknowledged morbid actions or phenomena, equally irresponsible, but that there are many examples of insanity in which the patients are irresponsible, where the malady is neither characterized by noise, incoherence and violence, nor by circumscribed, fixed and well-defined delusions.

But the courts, it would seem, are not disposed to recognize fully the principles and doctrine of these practical observers and managers of the insane, and masters in Medico-psychological sci ence. Yet both principle and doctrine were fairly broached and successfully advocated, to the extent then claimed for them, as long ago as the year eighteen hundred, by Mister, afterwards Lord Eskine, counsel for the prisoner, in the trial of Hadfield for shooting at the King.

On that occasion, the learned counsel, with singular boldness and wonderful ability, attacked and completely upset the rule of law, as previously laid down by all the judges, namely, that any knowledge of *right and wrong*, *and of the fact that the act committed was against the law of the land*, *was the proper legal test of responsibility in cases where the plea of insanity had been entered*.. Thus Hadfield was acquitted, but not from the lack of a knowledge of *right and wrong*,

nor from an inability to recognize the illegality of his act, for we know very well, that he had a perfect knowledge of the nature of his act, and of its legal consequences. But he was acquitted because he was proved to be insane, insane of a delusion, that, *in its own peculiar way*, caused him to shoot at the King, notwithstanding he fully understood the nature and consequences of his conduct, and therefore, in the then legal understanding of the rule, must have had such a knowledge of *right and wrong* as would render him responsible for the act.

In the famous debate in the House of Lords upon the occasion of McNaughton's trial, and heretofore alluded to, Lords Lyndhurst and Brougham declared "that, from the time of Hadfield's case to the present day, the law had been laid down by successive courts with great uniformity." Lord Campbell, it is true, differed with them in this opinion. But the declaration of these celebrated Lord-Chancellors shows what were their views in relation to the correctness of the principles of law that prevailed at that trial, while the assertion of Lord Campbell by no means contradicts that conclusion. Moreover, the decisions of Sir John Nichol, in the ecclesiastical courts, and other eminent and learned European and American judges, both in criminal and civil

cases, have sustained these same principles, and in some instances actually gone much farther towards strengthening the views we have here advocated.

Again, Mr. Evans, a distinguished English Barrister, and the translator of Pothiers great treatise on obligations and contracts, clearly maintains, though not in its entirety, the position we are contending for, and expresses an opinion on the subject no less positive and precise than apposite.

"I cannot but think," he says, "that a mental disorder operating on partial subjects, should, with regard to those subjects, be attended with the same effects as a total deprivation of reason; and that on the other hand, such a partial disorder, operating only upon particular subjects, should not, in its legal effects, have an influence more extended than the subjects to which it applies; and that every question should be reduced to the point, whether the act under consideration proceeded from a mind fully capable in respect to that act, of exercising free, sound and discriminating judgment; but in case the infirmity is established to exist, the tendency of it to direct or fetter the operations of the mind, should be in general, regarded as presumptive evidence, with out requiring a direct and positive proof of its actual operation."

And again, Sir James Simpson, who approaches somewhat more closely to what we believe to be the true position, says: "There is so much evil in the very risk, that man's vengeance should follow God's visitation, that all cases of crime or violence, in which *previous mental disease is unequivocally proved*, should have the whole benefit of the presumption, that such a case may in a moment run into irresponsible mania, and the unhappy patient judged fit for confinement and not for punishment."

And in this connection, although while speaking upon a somewhat different subject, namely, that of testamentary capacity, it is well known that Lord Brougham has expressed the opinion that the mind is a unit, and, being a unit, if diseased at all, must be distrusted altogether; in short, that an individual insane on one point was to be adjudged insane on all.

This is his lordship's language as to his conclusions in this matter.

"It follows from hence, that no confidence can be placed in the acts, or any act, of a diseased mind, however apparently rational that act may appear to be, or may in reality be. The act in question may be exactly such as a person without mental infirmity might well do. But there is this difference between the two cases; the person

uniformly and always of sound mind could not at the moment of the act have become the prey of morbid delusions whatever subject was presented to his mind; whereas the person called partially insane—that is to say, sometimes appearing to be of sound mind, and sometimes of unsound mind—would inevitably show his subjection to the disease the instant the topic was suggested. Therefore we can with perfect confidence rely on the act done by the former, because we are sure that no lurking insanity, no particular or partial, or occasional delusion does mingle itself with the person's act, and materially affect it. But we never can rely on the act, however rational in appearance, done by the latter; because we have no security that the lurking delusion, the real unsoundness, does not mingle itself with, or occasion the act."

His lordship evidently proceeds here upon the belief, that however apparently or really rational the act of an individual may be, whose conduct is under consideration, it is only necessary, in order to annul his testamentary capacity, to prove that he is in a delusive state of mind—that he is afflicted with an insane delusion. Thus, while he here makes delusion the test of insanity, he does not require that the act itself shall actually come within the sphere of the person's acknowledged

morbid actions, or delusive ideas, in order that it may be vitiated. For, he says; "We never can rely on the act, however rational in appearance, done by the latter"—that is, done by a person of whom it has been proved, that he has a delusion—" because we have no security that the lurking delusion, the real unsoundness, does not mingle itself with, or occasion the act," however rational that act may in reality be.

Now this is going a step beyond us. Farther, in fact, than we are willing to admit is true even in civil actions. We believe it to be a more reasonable conclusion to infer, in respect of any irrational or unnatural act done by a person, who at any time has been proved to be afflicted with insanity, " that the lurking delusion, the real unsoundness, does mingle itself with, or occasion the act." Although it be claimed and proved that, at the time of the action, he was in the enjoyment of what is commonly called a lucid interval, it ought not to vary this conclusion; because, the act itself being irrational and unnatural, " we have no security that the lurking delusion, the real unsoundness, does not mingle itself with, or occasion the act." But we cannot believe that a natural act, an act done during a period of apparent calm and perfect quietness, " however apparently rational that act may appear to be, or

may in reality be," should be vitiated because the person who commits the act is proved to be possessed of delusive ideas. Yet such we understand to be his lordship's position. It strains the point, in order to make it quadrate with a previously formed and expressed opinion of his lordship in regard to the mind's being a unit.

This brings us to the consideration of the question of *lucid intervals*, which term, in its meaning and application, Haslam conceives to be in some way connected with the word *lunacy*, and the ancient theory of the origin of insanity. That theory was, that persons afflicted with mental disorders, were so affected mainly on account of lunar influences, and hence the words lunacy and lunatic; and that lunatics would have their malady greatly increased at particular periods of the moon, but would be much better during the intermediate times, which times were called lucid intervals. This idea, however, of lunar influence in the production of insanity has been long abandoned. Esquirol satisfactorily accounted for the supposed influence of the moon over patients afflicted with disordered minds in this manner. The insane, he thinks, are certainly much more excited and agitated at the full of the moon; but so they are at daybreak every morning. He con-

cludes, therefore, that it is the light which causes the increase of excitement at both these periods, and that light frightens some, pleases others, but agitates all lunatics. This we can readily understand, because we know very well that light at night, whether artificial or the light of the moon, tends to produce wakefulness, and that the shadows and the shadowy representations produced by the light of the moon, or the imperfect day of early morning, or by means of artificial lights, often vividly excite the fancy and imagination of the perfectly sane.

And Pinel, in his treatise on "Cerebral pathology," in enumerating the causes of *chronic delirium*, and alluding to the supposed influence of the moon in inducing paroxysms, says: "Daily experience at the Salpetriere and Bicetre exhibits, in a collection of upwards of three thousand patients, the absolute nullity of the alleged influence of the moon. It may however be said that, during certain nights, lunatics may be more than usually agitated in consequence of the unusual light entering their rooms, and the figures produced on the walls and windows."

But as the term *lucid interval* has greatly occupied the attention of the courts in dispensing justice in cases of insanity, and must, from the nature of the subject, continue so to do, it be-

comes necessary for us to state what should be the medico-legal understanding of the phrase. For this purpose we shall make the following quotations from Haslam, Dagonet, Combe and Ray, as fully expressing the views of alienists in relation to *lucid intervals*, and from Daguesseau, Evans and Lord Thurlow as furnishing us with equally satisfactory and conclusive opinions on the law side of the question.

Haslam, one of the older and among the best of the English writers upon insanity, in speaking of shallow-minded people, and of their being incapable of pursuing a connected chain of reasoning through all the ramifications and dependences of a protracted discussion, though perfectly capable of a few sensible remarks on trivial subjects, says:

"In the same manner insane people will often for a short time conduct themselves, both in conversation and behavior, with such propriety that they appear to have the just exercise and direction of their faculties; but let the examiner protract the discourse until the favorite subject shall have got afloat in the madman's brain, and he will be convinced of the hastiness of his decision. To those unaccustomed to insane people, a few coherent sentences or rational answers would indicate a lucid interval, because they discovered

no madness; but he who is in possession of the peculiar turn of the patient's thoughts might lead him to disclose them, or by a continuance of the conversation they would spontaneously break forth." And again: "To establish it's (the mind's) sanity, it must be assayed by different tests, and it must be detected to be as lucid on the subject of those delusions which constituted it's insanity as on topics of a trivial nature."

Dagonet, in an elementary and practical treatise on mental maladies, says:

"The lucid interval is no more health than the intermission between two attacks of ague is a cure. However much restored the reason may apparently be, the individual is placed in a special situation, which the least circumstance may easily and instantaneously transform into one of disease. Doubtless the distinction is often difficult to establish; it belongs to the physician, and, above all to the physician who has devoted himself to the study of insanity, to fix the character after an attentive examination, in certain special cases. Thus it is not rare to observe in asylums for the insane, some patients, in the moments of remission in their affections, show themselves to be calm and rational to such a degree that it would be difficult to prove that they were at all in an insane condition. And yet if they were to be left

to themselves—if they were in any way to be subjected to the excitements of life, they would immediately return to their state of intellectual derangement."

Combe, one of the first names in English medical literature, and whose works are as familiarly known in this country as in Europe, expresses this opinion:

"But, however calm and rational the patient may be during the lucid intervals, as they are called, and while enjoying the quietude of domestic society, or the limited range of a well regulated asylum, it must never be supposed that he is in the perfect possession of his senses as if he had never been ill. In ordinary circumstances, and under ordinary excitement his perceptions may be accurate, and his judgment perfectly sound; but a degree of irritability of brain remains behind which renders him unable to withstand any unusual emotion, any sudden provocation, or any unexpected and pressing emergency. Were not this the case, it is manifest that he would not be more liable to a fresh paroxysm than if he had never been attacked. And the opposite is notoriously the fact; for relapses are always to be dreaded, not only after a lucid interval, but even after perfect recovery; and it is but just, as well as proper, to keep this in mind, as it has too often

happened that the lunatic has been visited with the heaviest responsibility for acts committed during such an interval, which previous to the first attack of the disease he would have shrunk from with horror."

Dr. Ray, perhaps the most distinguished writer of this country upon the subject of the medical jurisprudence of insanity, quoting in this connection, others, and especially Combe, with approbation, remarks:

"With the views of these distinguished observers before us, what are we to think of the doctrine, that in the lucid intervals the mind is restored to its natural strength and soundness; that it is capable of as great intellectual exertions and of holding as high a rein over the passions; that it is able to resist foreign influences and to act on its own determination with its ordinary prudence and forecast; that having thrown off the disease, it has recovered its general habit, or that it has undergone a temporary cure? Sounder pathology was never written than is contained in the extract from Dr. Combe, and no physician who has been much conversant with the insane will be disposed to question its correctness."

Daguesseau, one of the most accomplished pleaders in the annals of French jurisprudence, defines a lucid interval thus:

"Two conditions discover the real idea of it. The first, is the nature of the interval, the second its duration.

Its nature—It uust not be a superficial tranquility, a shadow of repose; but, on the contrary, a profound tranquility, a real repose; it must be, not a mere ray of reason, which only makes its absence more apparent when it is gone; not a flash of lightening, which pierces through the darkness only to render it more gloomy and dismal; not a glimmering which unites the night to the day; but a perfect light, a lively and continued lustre, a full and entire day, interposed between the two separate nights of the fury which precedes and follows it: and, to use another image, it is not a deceitful and faithless stillness which follows or forebodes a storm, but a sure and steadfast tranquility for a time, a real calm, a perfect serenity; in fine, without looking for so many metaphors to represent one idea, it must be not a mere diminution, a remission of the complaint, but a kind of temporary cure, an intermission so clearly marked as in every respect to resemble the restoration of health. So much for it's *nature.*

"And as it is impossible to judge in a moment of the quality of an interval, it is requisite that there should be a sufficient length of time for giving a perfect assurance of the temporary re-es-

tablishment of reason, which it is not possible to define in general, and which depends upon the different kinds of fury; but it is certain there must be a time, and a considerable time. So much for it's duration."

And again, in endeavoring to remove the ambiguity which may result from confounding a sensible action with a lucid interval, he says:

"An action may be sensible in appearance, without the author of it being sensible in fact; but an interval cannot be perfect unless you can conclude from it, that the person in whom it appears is in a state of sanity; the action is only a rapid and momentary effect, the interval continues and supports itself; the action only marks a single fact, the interval is, a state composed of a succession of actions." * * * * * * * * *

"If it were true that a proof of some sensible action was sufficient to induce a presumption of lucid intervals, it must be concluded those who allege insanity could never gain their cause, and that those who maintained the contrary could never lose it. For a cause must be very badly off, in which they could not get some witness to speak of sensible actions. Now, if from thence alone you were to draw the inference of lucid intervals, and supposing them sufficiently proved, should conclude that the testament ought to be

presumed to have been made in one of those intervals, there could never be any doubt of success. The consequence would be absurd, the principle therefore cannot be true." * * * * * * * * * * * * * * * * "Nothing can be more distinguishable than a reasonable action and an interval. The one is an act, the other is a state; the act of reason may subsist with the habit of madness, and if it were not so, a state of folly could never be proved." (Pothier on the law of obligations, translated by Evans with approval. Vol. 11 appendix 19 pp 569. 70. 71)

Lord Thurlow, in the case of the Attorney General vs Parnther, has, with great clearness and precision, stated what should be present to constitute a *lucid interval.* He says:

"By a perfect interval, I do not mean a cooler moment, an abatement of pain or violence, or of a higher state of torture—a mind relieved from excessive pressure; but an interval in which the mind, having thrown off the disease, has recovered its general habit."

And he further remarks: "The burden of proof attaches on the party alleging such lucid intervals, who must show sanity and competence at the period when the act was done, and to which the lucid interval refers, and it is certainly of equal importance that the evidence in sup-

port of the allegation of a lucid interval, after derangement at any period has been established, should be as strong and demonstrative of such fact as when the object of the proof is to establish derangement. The evidence in such a case, applying to stated intervals, ought to go to the state and habit of the person, and not to the accidental interview of any individual, or to the degree of self-possession in any particular act."

We have been thus particular in relation to lucid intervals not merely because they occupy, and very properly too, so much of the attention of the courts in considering questions of insanity, but for other reasons also. The quotations which we have made from these eminent authors materially aid us in proving one of our positions, namely, that it is extremely difficult for professional men or experts, to ascertain and determine the existence of partial and unrecognized insanity, when it is the purpose of the insane person to conceal it; and that it is under such circumstances, as a general thing, next to impossible for the inexperienced and casual observer or acquaintance to discover it. Besides, the views and opinions here expressed of these distinguished authors conclusively show, that there must have existed a considerable amount of knowledge of *right and wrong*, and *no little ability* to recognize the ille-

gality of their acts, on the part of the insane spoken of in these quotations. Yet, we are particularly and earnestly cautioned by these experienced alienists and jurisconsults not to believe that these individuals had entirely recovered from, or been perfectly cured of, mental disease, notwithstanding they were apparently in the full enjoyment of their senses. Surely, in every such case, "however much restored the reason may apparently be, the individual is placed in a special situation, which the least circumstance may easily and instantaneously transform into one of disease." This would not be the case with one who had never been insane, or who had been entirely cured of the disease. Hence, the irrational and unnatural actions, actions without proper and sufficient motives, of such persons as have been known to be insane at times, should be regarded as insane actions.

We, therefore, cannot but think, in view of all the facts and circumstances which have been adduced and considered in relation to the subject of insanity, that Mr. Evans, the translator of Pothier's great treatise on the law of obligations and contracts, has very clearly laid down as far as he goes the true doctrine, in the matter of responsibility in cases of insanity, in the quotation from him, to be found on page 187; and that the rule

of action in the courts should be, that each class and degree of insanity is equally irresponsible within the sphere of its acknowledged morbid actions or phenomena; and that where the disease is established to have existed, its tendency to fetter the will and direct the operations of the mind must be admitted, and not required to be proven; and that in this latter case, irrational or unnatural conduct—conduct wholly different from the previous healthy life and established character of the patient, must be regarded not merely as an act of folly or prejudice, but as an act of real insanity, notwithstanding the appearance of reason in all his other actions.

Of very much the same spirit and character, in relation to responsibility for criminal acts only, are the following sensible remarks by a very judicious writer in the British and Foreign Medical Review:

"It appears to us," he says, "that the true test for irresponsibility should be, not whether the individual knew that what he was doing was criminal, but whether he had sufficient power of control to govern his actions. It might fairly be asked, how is such a test to be applied, so as to ensure protection to society and prevent injustice to those laboring under mental disease? We can only reply, that we must judge from circumstan-

ces, a practice now daily followed in the determination of the shades of guilt, by which murder passes into manslaughter. The sole difference between these two crimes rests, in a large number of instances, upon the power of self-control in the accused party."

This is true and apposite, and it would seem to be apparent, that the courts must emancipate themselves from the inelastic rules and narrow maxims by which they have been hitherto governed in matters of insanity, and expand into a larger life and higher morality. They must remember that special rules are changed or pass away with the narrow circumstances and conditions which attended their adoption. But that principles last for ever, and above all the principle of humanity, which is the foundation of all law, because it is the principle of truth. Men, nations, customs, perish; *the principle of humanity is immortal!*

When Sir Samuel Romilly suggested in the English Parliament, that people ought not to be hung for stealing the value of five shillings, the sentiment of veneration for the law as it stood, made a horrible outcry against his proposition, as if he had proclaimed a crusade against the welfare of society, instead of laying down a general principle in the interest of humanity and civiliza-

tion. "It may be rather hard," this feeling asserted, "but upon the whole it is better as it is. It has always been so, and we must take things as they are, and especially not be seeking to change our laws." So with other questions, and some of them very ridiculous, such as what Lord Macaulay facetiously called "grabbling in the entrails of a traitor." And when in the interest of humanity and general civilization, drawing and quartering for treason were abolished, this same feeling, planting itself upon the old paths, declared that the whole British Constitution was coming down.*

*Lord Campbell, in his Lives of the Chancellors, narrates an amusing incident connected with the senseless and inhuman practice of deciding the right or wrong of a question by the wager of battle, that shows with what tenacity and veneration Englishmen cling to established customs and precedents in law. In 1774, after the rebellious Bostonians had destroyed the obnoxious tea, by throwing it overboard in Boston harbor, the British ministry brought forward in Parliament a "Bill for the improved administration of justice in the Province of Massachusetts Bay," which contained originally a clause depriving New Englanders of the appeal of murder, that is of the right to the next of kin to prosecute a man already acquitted of a charge of murder, by appealing him to a new trial to be determined by the wager of battle. This denial of ancestral right awakened the bitterest opposition from the liberal party in the House of Commons. The learned and eloquent Dunning, afterwards Lord Ashburton, the leader of the opposition, rose in his place and defended this ancient custom in the very strongest terms. "I rise," said he, "to support that great

We are aware that it is not considered safe to quit the ways of settled law, and wander about in search of justice guided alone by our sense of right. To do so, wonld be something like attempting to navigate a vessel safely among hidden rocks and sandshoals by the compass alone, when there was no reliable chart at hand to indicate precisely where the sandshoals and rocks lay. It is not our purpose, therefore, to propose any such hazardous undertaking. We simply suggest the evolving of new precepts and rules of action for our guidance in matters of insanity from the old ones by the "Signs," as Mr. Justice

---

pillar of the constitution, the appeal for murder; I fear there is a wish to establish a precedent for taking it away in England as well as the colonies. It is called a remnant of barbarism and gothicism. The whole of our constitution, for what I know, is gothic. * * * I wish, sir, that gentlemen would be a little more cautious, and consider that the yoke we are framing for the despised colonists may be tied round our own necks." Even Burke, it is said, raised a warning voice against this proposed inovation; and before the ministry could pass the Bill, they had to strike out this obnoxious clause.

Again, it is well known (Lord Campbells Lives of the Chief Justices.) that as late as in 1818, this very question created great excitement throughout the British Isles, in the trial of the case of Ashford vs. Thornton. Ashford's sister had been murdered under circumstances of great atrocity, and probability pointed at Thornton as the murderer. He was arrested, and after a jury trial, acquitted. He was then appealed by Ashford, and pleaded, "Not guilty, and I am ready to defend the same by my body." After

Blackstone very curiously calls it in his development of law, in order to bring the subject fully up with our present knowledge of mental medicine, and the requirements of the spirit of humanity and general civilization.

This process, it is believed, if not employed with to › great freedom, will always be followed by good results. For it is this very principle of evolution in respect of our knowledge of truth, under the plastic touch of the spirit of humanity or genius of civilization, which constitutes in fact the chief essence, and beauty, and strength of th e common law as laid down by Blackstone and the many able and learned commentators who have since followed him on this line of work. Therein we may see how the most varied views of *right and wrong* have been finally blended and harmonized with the spirit of truth of their own times, and

---

the most elaborate argument before Lord Ellenborough, he, with the unanimous approval of his brother Justices, sustained the appellee's right to this as "the usual and constitutional mode of trial," expounding the law at great length; and nothing but the appellants withdrawing prevented the chief Justice presiding over a gladatorial exhibition. It is also known, that at least one other case, in Ireland, of this kind occurred, before this barbarous and inhuman practice as one of "the usual and constitutional modes of trial," in England, was abolished; and then, it is said to have been done, "*non sine magna jurisconsultorum perturbatione.*"— They had fallen into the besetting sin of lawyers in all ages, of regarding the law as final and unalterable. It was so in the days of their earlier history, and it is so now.

how this blending and harmonizing may, in like manner, be extended to every succeeding age and degree of civilization and enlightenment.

The law of England, for example, as laid down by all the judges in criminal trials where the plea of insanity was entered, before the trial of Hadfield for shooting at the King, claimed that the prisoner, if possessed of a knowledge of right and wrong and was sensible of the illegality of his act, should suffer the penalty of the law. This was precisely Hadfield's case. But on that occasion, the very learned and able counsel for the prisoner proved conclusively and to the satisfaction of the court and jury, that a man might have a knowledge of *right aud wrong*, and be entirely sensible of the illegality of his act, and yet be irresponsible in law by virtue of his insanity; thus showing, that in this respect at least, the previous interpretations and applications of the law of insanity were too limited and restricted. Here then was a clear departure from established rule and precedent. But it was a departure in the right direction, and was, at the same time, so evidently founded upon truth and justice, that it has become a striking example of the truth of the principle or doctrine of evolving new precepts and rules of action from the old ones by the "signs" as Blackstone calls it in his development of law.

It is true, we think, that the learned counsel failed to establish the whole truth and full bearing of this question, as we now understand it, in so far as he restricted the application of the law, in all cases where there was a knowledge of *right and wrong*, within the limits of delusive ideas. But nevertheless, this was a step in the right direction, and although a long way in advance of the law learning of that day, it has been fully recognized ever since as a correct one. Other steps in the same direction, and in advance of the position established in the Hadfield trial, have been since proposed. But they are not as far in advance of that position, as that was, at the time it was taken, in advance of the old stand point. Wherefore then, if the law of insanity was capable at that time, under the plastic touch of the hand of genius and civilization, of that much evolution and expansion, should it not be capable now of still more, with our greater advancement in general civilization and enlightenment, and especially in the science of mental medicine?

Thus, if the progress of science and civilization places within our reach more extensive and broader, more comprehensive means for benefiting mankind than our predecessors enjoyed, shall we not seize upon them, and wisely turn them to important practical uses? In other words, shall

we, in order to prevent some little evil, and for the purpose of ministering to the questionable feeling of vengence of those few worthy persons, who have suffered by the violent actions of the insane, or the still more reprehensible feelings of a multitude blinded by excitement and passion, in quire what this or that law Lord or distinguished judge lays down as unalterable and inexorable law, and implicitly follow it? Or shall we, while acknowledging how important it is for us to feel the check of a written precept, with the means of averting countless misfortunes and raising, by the right employment of our advanced knowledge and increased power, the general standard of morality and justice, and prosperity and happiness, inquire what the law, interpreted, in this enlightened age, by the genius of civilization and the spirit of humanity from which all right actions flow, commands in each particular case of insanity, and follow that?

It is too often the case, in communities where the law, as such, is over rigidly executed, that mercy is identified with laxity, and any tenderness towards criminals, even the insane, if they are only partially deranged, is considered as a sure evidence of the want of proper discipline and of public ruin. This is, at least, a mistake, if not to take a step backwards in civilization, by mistak-

ing the age behind, for the age before them. Certainly some higher theory of morality and justice, adapted to our improved condition and the general advance in civilization and science, and especially in the science of mental medicine, is imperatively demanded of the courts in matters of insanity.

It seems to us, that they ought to be ruled in such cases, not alone by a sense of the indignation of justice, dispensed by rigid law, demanding a life for a life, &c., for that teaches us to put ourselves in the place of those who are injured, but forbids us to put ourselves in the place of those who commit injuries. Nor should they be ruled by a sense of the indignation of justice tempered by sympathy merely for our natural infirmities, for that is simply to hold the balances evenly and to dispense justice as between accuser and accused, when both parties are equally sane and equally responsible for their actions before the law, excepting when their acts are committed in the heat of passion. This is forcibly illustrated by those homicides, which, instead of being held to be murders, are regarded simply as cases of manslaughter, from the infirmity of our natures and our liability to be intolerably provoked, by the misconduct of others. But in cases of insanity, however partial and incomplete the case may be,

if it *probably* be a case of insanity, the courts ought to be ruled by a sense of the indignation of justice largely mixed with the deep compassion of humanity, independent of the question of passion. This is mercy, and in this instance, mercy for a person suffering with a mental disease, which has rendered him incapable of self government, and who is therefore not a free agent, and therefore also, not a responsible being.

In the proper exercise of this sense of justice, with a deep, compassionate sympathy for sick, suffering, and disabled humanity, life must be spared and farther evil prevented, by removing the lunatic from the surroundings of social and civil life to an asylum to be treated for insanity, and there cured if practicable, by the right employment of those enlightened means, which have proved so successful in modern times, in restoring the insane to health and usefulness, and the pursuits of happiness. For it cannot be questioned, that the sympathy with man in his affections, and the devotion which in utter unselfishness makes sacrifices of itself, never put forth fairer blossoms or yielded riper fruit, under the circumstances, than do many among our present establishments for the treatment of insanity.

Now, let it here be remembered, that we are discussing upon general principles, the question

of legal responsibility in cases of insanity, and it will readily be seen that this is not trifling with the spirit of laws. We intend no such thing. Law means incompleteness, imperfectness, and must be accommodated to human limitations and human guilt. In fact, all ordinances, whether great or small, are but accommodations to human weaknesses and imperfections, while all our present and future usefulness, and power, and happiness, must come from wisdom and knowledge rightly applied to human development.

And, in this respect, we are Utopian enough to have an almost unlimited confidence in the efficacy of education, using that term in its most comprehensive sense, and especially in its reference to the proper training of the moral faculties and powers. By education, man obtains the mastery of those lower desires and animal passions of his nature, which are, in their unrestricted indulgence or natural state, opposed alike to religion and morality, and to civilization and enlightenment. And it is by education that he is enabled to approximate that coincidence, or at least more perfect accord than at present is known to exist, between the Divine law, or God's will and pleasure, and man's present morality and highest intelligence, that is manifestly designed by the revelations in God's works as well as in His word.

Such are the foundations of actual progress and real civilization. Laws, therefore, as the exponents of wisdom and knowledge rightly applied to human development, must conform to the true genius of civilization, which is a conception or production of *Divine Energy* operating through human instrumentalities for the higher development of man's moral and intellectual character. Thus men are valuable to us as teachers, whether as jurisconsults or in any other capacity, only in proportion as they represent the great compass of humanity, or the proper development of man's moral and intellectual character.

But it is claimed for law, that it is founded in justice. Very well; that is true. Yet from human imperfectness, and the consequent incompleteness of laws, mercy becomes, under some circumstances, a necessary aspect or feature of justice, to temper the administration of law, and, then "becomes the throned monarch better than his crown."

Tacitus, the great Roman annalist and historian, in discussing incidentally the question of punishments, remarks: "Every example of punishment has in it some tincture of injustice, but it is expected that the sufferings of individuals will be compensated by the promotion of the public good." And Terence, one of Rome's greatest dramatic wri-

ters, says: "Law enforced to strictness, sometimes becomes the severest injustice." Such was the opinion of cultivated and enlightened, but unchristianized Rome. Yet it clearly involves the two-fold consideration of the imperfectness, incompleteness of penal laws on the one hand, and, on the other, of the absolute necessity of administering them *rightly* in their accommodation to human limitations and human guilt, in order to avoid unmixed evil.

Upon this same subject, one of the most elegant and forcible writers of the present day thus expresses himself: "It is impossible to deny that the habit of regarding criminals with unmixed hatred is a pernicious one. Law, taken by itself, benefits the good, and so far is most useful; but at the same time it makes the wavering bad and the bad worse, and vice hereditary, and so far does frightful mischief. Mercy therefore must be called in to temper justice, and here christianity is right."

Now if all this be true in respect of mankind and their affairs in general, "and earthly power doth then show likest God's, when mercy seasons justice," how very important it is, that we should not be unmindful of its peculiar applicability in doubtful and suspected cases of insanity where the preponderating influence of probability is on

the side of irresponsibility! Then, such judicial rulings as we have indicated would be, in our humble judgment, a satisfaction of both the spirit of humanity and of enlightened jurisprudence, because founded in justice, either as resting on established truth, or, on the greater probability of truth, without which law is nothing worth.

Of course the fact of insanity or unsoundness of mind, by which we mean that condition of the mental forces which prevents right reason and proper conduct, or right feeling and proper conduct, or, which knowing good and evil, or right and wrong, has nevertheless lost the faculty of choosing between them, or, in other words, the power of following after the one and avoiding the other, will have to be determined by the jury, because, according to our system of jurisprudence, the ultimate decision of all doubtful cases of sanity rests alone with the jury.

In such cases, "The role of the physician," says Dr. Bucknill, "is to point out to the court that which is disease and that which is not. The law recognizes his opinion because it recognizes a difference between passion which is the result of indulgence, and passion which is the result of disease." And here it would be best for him, if he so finds it, to state that the disease is manifested more in the conduct of the individual than in

his conversation; or that the insanity seems to be confined to the affective faculties or powers of the mind, judging from his conduct more than from his conversation, for the latter seems to be reasonable.

The duty of the judge on the contrary, is to interpret and apply the rule of law, and to do so in a clear and well-defined manner; for, depend upon it, much of the difficulty which juries have in coming to just conclusions in matters of insanity, proceeds not alone from the clouds and perplexities in which the physician envelopes them, but from their uncertain knowledge of the intent and meaning of the law as laid down by the judges.

Lord Brougham declared that, "though he knew what the learned judges meant by *right and wrong*, he was not sure that the public at large did, *especially juries.*" Why then make a knowledge of *right and wrong* the test of responsibility in doubtful and suspected cases of insanity?

"It would be a safer rule," says Sir James Simpson, "in the appendix to his work on Popular Education, for courts of law to direct their attention to the proof generally of diseased manifestations of the intellect and feelings; and when these are undoubted, to presume irresponsibility, because the contrary cannot be made sure of, and the balance of probability is greatly on the side of irresponsibility."

But under the rule, as we have stated it, at page 202, we believe much of that difficulty so frequently witnessed in the proceedings of courts of justice in matters of insanity will be obviated; for under that rule, the law is susceptible of application to every class and degree of mental alienation. It is as capable of being applied to those cases of moral insanity, which are being forced upon the attention of the public by the learned inquiries and practical observations of physicians and alienists, and which likewise are beginning to be recognized and adjudicated by the courts, as it is to any other form of mental disease. In a word, it is capable of practical application to those cases of mental alienation manifesting themselves in feeling and corresponding conduct, rather than in ideas; and these we think, may very properly be considered to be cases of moral insanity.

CHAPTER VI.

INSANITY MANIFESTING ITSELF IN FEELING AND CONDUCT MORE THAN IN IDEAS—MAN'S DEVOTION TO FAMILY AND KINDRED A MORAL QUALITY—CHARACTERISTIC DIFFERENCE BETWEEN MAN AND BRUTES—MORALITY AND JUSTICE FOUNDED ON THE PRINCIPLE OF HUMANITY—MORE ABOUT MAN'S MORAL AND RESPONSIBLE NATURE—SOMETHING RESPECTING THE STUDY OF MENTAL MEDICINE—CONCLUSION.

Now let us endeavor, in the further discussion of our subject under the rule, as we have stated it, to illustrate our views in relation to a perversion or extinguishment of the *moral sense*, producing a type of insanity, manifesting itself more in feeling and conduct, than in ideas.

For this purpose, we will take the conduct of a person who disposes of his property by will to aliens of the family, in violation of those natural affections and ties of consanguinity, which, in the providence of God and the good orderings of civil governments, constitute the foundation and happiness of families, and the welfare of communities and states. For although family and social affec-

tions may differ infinitely in depth, in richness, in refinement, in purity, in strength, in the delicacy of their shades, in the play and vigour and variety of their exercise, still these affections are common to mankind at large, and their objects in a general sense are the same, namely, the foundation and happiness of families, and by and through them, the foundation and welfare of communities and states, for the latter are but aggregations of the former.

Here then it will hardly be denied, that those ardent desires and cherished aspirations of our nature for the unity, and happiness, and present prosperity, and future welfare of family and kindred, are moral qualities and dispositions of our nature that are peculiar to man, and therefore must proceed from a *sense* characteristic of his nature—the *moral* sense. This *moral sense*, which, as we have already shown, results from the modifying influence of the *moral faculties* upon that supervisory mental power, the will, was implanted in the human mind from the beginning; and in connection with these faculties, from its sovereign character as a prerogative moral element of the mind, renders man, for his conduct in the affairs of this world, a responsible being in this life as well as an accountable one in the life to come.

Such is the *natural and healthy* condition, with

respect to the particular matter under consideration, of man's morally sensing powers. There is nothing to be found in the brute creation comparable with them, as we shall presently show, notwithstanding some brutes are admitted to possess a modicum of intellect, which is capable of a certain amount of cultivation. But brutes neither possess those moral faculties with which man has been endowed, nor that *moral sense* or modified supervisory mental power of the will, which characterize and ennoble his nature, and which elevate him from a terrestrial creature to a spiritual, from earth to heaven, to commune in confidence with his Maker.

In health, these faculties and powers are manifested throughout man's life, so far as family and kindred are concerned, by feelings of the most affectionate consideration and the most careful provision for their welfare and happiness. In dying, their healthy character in this respect is shown, by testamentary evidences of affectionate remembrance, in making the fullest provision the testator is capable of making, for the future material welfare and happiness of family and kindred. And if there are no such relations by consanguinity to be provided for, the healthy state and disposition of these faculties and powers will be shown on the part of the testator, by a bestowal

of his worldly goods upon persons and objects of the most deserving and praisworthy character.

On these facts, as the proper foundations or legitimate bases for human conduct in social and civil life within the sphere of duties immediately under discussion, rest all those moral qualities, and dispositions, and powers, which constitute the chief pleasures and delights, and the highest social charms and benefits of the family circle, of society, and through them, of states; and, in fact, of general civilization. Indeed, there is here such an approximation to coincide between Divine law or purest morality, and these higher principles or motive powers of man's social and civil life, as will prevent one of these influences from ever being placed in antagonism with the other. And hence it will be found, that in every moral conflict, the contest generally takes place between these higher qualities and dispositions of man's nature, and those lower desires and passions which are common to him and brutes, and which are in their unrestricted indulgence, opposed alike to religion and morality, and to the best interest and welfare of social and civil life.

Such being the case, it therefore follows, that any other course of conduct, under the circumstances of our case, than that here indicated, will be revolting to the natural affections and *moral*

sense of mankind, and must proceed from a perversion or extinguishment *for cause* of those natural affections and associated moral powers, which are so characteristic of man's nature. But this, it will be found, is rarely ever the case; for the bonds of family affection and ties of consanguinity, in the providence of God, bind up our hearts as with adamantine chains, and cling to us to the very last, even amid the obloquy and shame of family and kindred.

Or otherwise, it must proceed from a perversion or extinguishment of those natural affections and associated moral powers *without cause*, as exhibited in unfounded suspicions, causeless jealousies, or insensate hatred of family and kindred, and in conduct corresponding with these feelings. Now this is, in our view of the subject, and, *quo ad hoc*, moral insanity, as contradistinguished from intellectual insanity, wherein the reasoning powers would seem to be mainly involved.

Here then, we have a degree of mental derangement, or, as we would call it, moral insanity, which should, if permitted to influence the testator's conduct in the disposition of his property, annul testamentary capacity, under the rule laid down by Mr. Evans, "that every question should be reduced to the point, whether the act under consideration proceeded from a mind fully capable

in respect to that act, of exercising free, sound and discriminating judgment."

In all cases of intestacy, in every age and country where laws have been enacted upon this subject, by and through an expression of the general feelings and will of the governed, and especially among the most civilized and enlightened nations of the earth, human laws distribute property to family and kindred. Why is this the case? There are two reasons for it. In the first place, it accords with the natural affections and *moral sense* of mankind, and so "justifies the ways of God to man." In the second, it is self evident, that the more civilized and enlightened we become, the more capable we are of appreciating the purposes and benefits resulting from the wise and merciful dispensations of an Almighty Creator and Father, and consequently, the greater our desire to follow His teachings. In this way, and in none other, can we account for the universality of this law, and the greater comprehensiveness of its provisions and efficiency of its operations, the more civilized and enlightened the nation becomes that inforces it.

It is true that to make a will and dispose of his property as he pleases, is considered to be, especially by common law writers, one of man's natural or inalienable rights. But it must not be

forgotten in this connection, that in the exercise of none of his natural or inalienable rights, any more than in the discharge of his civil duties and obligations, for the latter proceed out of the former, as we shall presently show, is man in a state of mental health released from unqualified obedience to that *moral sense*, which is the characteristic law of his nature, and which renders him accountable here and hereafter for his conduct in this life.

When aliens or strangers are received into a family,or treated as members of it, and the property of the family disposed of by will to them, to the exclusion of family and kindred or blood-relations, the testator has commited the greatest mortal evil that can befall a man; his moral sense has deliberately gone astray—his concience has taken the wrong side of the great and fundamental question of social and civil life.

No theory, says a celebrated Greek poet, can overthrow ancestral traditions or destroy the ties of consanguinity. And the truth of this statement is attested by the ethnic history of every people, but more especially by that of the Jews, because they have, in a most wonderful manner, preserved their isolation. But what is true of them, on that account, even now, was, for the same reason, originally true of every nation.

For it is well known that in every age and country, man in a primitive state acknowledged no obligations or duties except to his family and kindred, and that while he felt at perfect liberty to rob and murder strangers, as all those were called who were not blood relations, the life and property of family and kindred were held to be sacred.

It is also well known, that there existed among the Greeks, who, at that time, knew nothing of the truths of revealed religion, but who were the most elegant and refined people of antiquity, the belief, that there were certain supernatural powers, whom they called Erinyes, who vindicated the abused rights and injured privileges of relations by blood.

All this shows that the binding sense and happy influence of blood relationship are natural and therefore universal, and therefore also, that we cannot conceive of a time or country when and where these peculiarly binding ties of family and kindred did not exist, nor of any natural or healthy circumstances releasing man from his obligations under them. And as communities and states are but the more comprehensive conditions of the constantly expanding circle of families and kindred, it might have been expected, even if it did not follow as a matter of course,

that the former would preserve the characteristic features of the latter, as exhibited in the earliest and fundamental principle of their organization; and accordingly, such has most generally, if not universally, been found to be the case.

Families in this way ultimately becoming states and nations, constitutions and codes of laws are framed to bind them together, to promote the general welfare and public interest, and to secure private rights and social virtues. But they are all founded alike on the supposition, whether true or false it does not matter, that they are all blood relations. In fact, the ties of consanguinity, apart from revelation, are the only true and proper foundations for morality and justice, for social virtues, civil obligations and general civilization. And so, although it would not be competent for us to trace here, interesting as it might prove to be, through the almost trackless depths of remote antiquity, and the very dim lights of preceding ages the rude outlines of customs that were the regular precursors of our present magnificent civilization, there is an obvious propriety in our stating the foundation principles upon which this superstructure has been raised; and in doing so, to point out the happy accord existing between our natural feelings and revealed truth.

Thus civil union and positive laws do not actu-

ally create morality and justice, they only become the formulated means adopted by families aggregated into communities and states, for securing and carrying into effect, or rendering practical in a general or public way, as between every citizen of the same state, the social virtues and the fair and honest dealings indicated by the natural feelings of affection toward blood relations. And when christianity came to shed its benign influence over mankind, adopting, in the fullness of the development of the sense of duty to family and kindred and country, the very language of blood relationship, it taught that every man is our brother and our neighbor. Then, under the influence of the principle of humanity, which was held to be universal in its application, it was sought to extend the same principles of morality and justice to the citizens of different states that had already, in the forward movement of the genius of civilization, been extended to the citizens of the same state, and codes of international laws, founded upon the idea of the universal relationship of the human family, were framed to secure and govern the intercourse of nations.

But previously to the advent of christianity, all such international relationships, when established, were the result of special treaty stipulations, which were respected and observed only so long

as it suited the pleasure or interest of either of the high contracting parties so to do. And even now, among unchristianized nations, the inhabitants of all other countries, as a general thing, are considered to be outside barbarians and fit subjects for spoliation, and even for murder. In other words, certain principles of morality and justice, arising out of the principle of humanity which is common with all men, but which had been previously manifested only as between members of the same family or those esteemed to be such, because sprung from the same parent stock, through these organizations ceased to be so confined in their sphere of action, and became generally operative upon a whole people, or even more extended, as between the citizens of different nations.

In this way it is rendered certain, that the *moral sense*, that sense of obligation to infinite Wisdom and Goodness, and to family and kindred, in which all laws have their origin, is of inexpressible importance, and that a deliberate violation of it is a great crime as well as a great evil, whether such violation be directly against God, or all the same, only in a lower degree, against family and kindred. And it is only in this way, that we realize the immense importance of this moral power as a social element, and also how, in this

complex life of ours, and within the sphere of our multiplied duties, we are unable to move in a single line independent of all its touches. In its personal influence, therefore, it may be expected to modify individual character much more than that objective morality and virtue which, although its legitimate fruits, are nevertheless the results merely of human laws and enactments. It is just like the possession of personal faith in Christ, which is more apt to be followed by the practice of the christian virtues *hope and charity*, than is ever seen to spring from that common belief in Christ, which merely belongs to Christendom, and which has simply grown out of the influence of association and obedience to human law.

In view of these conclusions, which we humbly believe to be strictly in accordance with the providence of God and the laws of civil governments founded thereon, we cannot understand that man has any *moral right* to give his property away from family and kindred, *unless by so doing, he obviously, as well as avowedly, prevents evil continually.* In that case, the question would have to be considered from an entirely different stand point. But even then, the main argument would be in vindication of the essential dignity, and power, and overriding importance of that very *moral sense*, which in a state of health constitutes

man an accountable creature in all things, in order to fully justify conduct which seemed to be so strikingly at variance with the natural affections and moral obligations of man's nature.

Thus may be shown, how widely different, in this connection, are the affective faculties and moral attributes and powers of man's nature, from those instinctive feelings which belong to brutes, or those simpler forms of attachment which grow out of companionship and association merely. These latter, besides being common with man, are found with brutes, and some brutes possess them in a greater degree than others, as the dog and elephant, for examples, especially in their relationship of dependence on man. But let it not be forgotten, that the attachment which arises from companionship or association merely, belongs to the simplest form of man's affective nature, while it constitutes the very highest of the same order of feelings to be found in brutes, and is the only one of the class possessed by them that is capable of cultivation. It may therefore be, for all we know, one of the links in the connecting chain of creation between man and animals.

All the other attachments of brutes, proceed from the instinctive desire to perpetuate species, or that other equally simple and resulting instinc-

tive desire to nourish and protect their young, until such time as they ought to be able, in the nature of things, to take care of themselves. When that time arrives, the parent animals will, by an irresistible instinct, as uncontrollable as were their previous instinctive desires for procreation and the nourishment of offspring, inevitably discard their young, without regard to health, strength, or any other condition capable of answering the ends of self preservation and support excepting that of age alone. We cannot, therefore attach a moral character to the actions of animals that are performed under the direction of a blind undesigning instinct, which operates in them as the spring which moves an automaton, leaving no choice between one course and another.

And so there can be no moral responsibility for their conduct, either in regard to disruption by violence or otherwise, of the attachment growing out of association and dependence on the one hand, or the actual neglect by the parent animals of their young on the other, because there has been no violation of a *moral sense*. They have none. Nor, indeed, has there been a violation of moral obligations and powers of any kind, for there are none such in their natures to govern and direct them. In a word, brutes are governed by

the law of instinct, and therefore *follow their inclinations and obey their propensities and desires.* They do not act under the influence of a *moral sense* and the obligations and laws which result from its supervisory control of the moral faculties; for they have not been endowed, as man has been, with moral faculties to be so governed and directed. And a wise and merciful God does not exact responsibility from his creatures, where there has been no bestowal of moral faculties and powers, to enable them to recognize moral law and its obligations.

Now, then, by a like course of reasoning, may we not very naturally conclude, that *in foro cœli* there will be no responsibility required within the proper sphere of those abnormal actions, which result from a morbid perversion of the *moral sense*; and certainly none, where there has been an extinguishment of it, by disease? And so would it be, *in foro civitatis*, if even-handed justice prevailed on earth as it does in heaven, although Lord Brougham thinks "he could conceive a person, whom deity might not deem accountable, but who might be perfectly accountable to human laws." This, be it remembered, was spoken of the insane in connection with criminal offences, and we confess, we do not any more understand it, than how it is, that the courts can dispense jus-

tice on the criterion of a knowledge of *right and wrong*, as the test of responsibility in matters of insanity, when the public at large and especially juries, do not know what the learned judges mean by *right and wrong*.

The difficulty of determining whether a man is legally responsible, that is, has acted *right or wrong*, as the judges understand the question of *right and wrong*, appears to be a problem of as easy solution by the courts, under the application of their test in such cases, as it seemingly is for the moralist and satirist of society to determine whether a man is a good or bad man. And yet it is, perhaps, entirely impossible for either party to settle upon a perfectly satisfactory and reliable test in the one or the other case. Certainly the test applied by society is extremely unsatisfactory and unreliable, and like the test applied by the courts may fall very far short of truth and justice. For example, he is esteemed a good man in society who simply observes the routine of what is commonly considered to be a proper role of duties; and he is the bad man who may simply fail to keep to such a routine. Yet it is impossible for the moralist or satirist to weigh properly the motives and temptations, and all the complex conditions and consequences, that attach to the conduct of either the apparently good or bad

man. Thus, the blinding influence of selfish passions, or the cold, calculating cunning of worldly prudence may sometimes, nay often does, dictate what appears to be a virtuous action quite as imperatively, if not more so, than virtue itself. While bad conduct may be, and often is, caused by ignorance, bad *teaching*, and bad example whose influence cannot be resisted, or the pressure of a necessity the force of which we cannot estimate, no less than by the indulgence of an unrestrained evil disposition. Is there, in point of fact and strict morals, no condemnation for the one, and extenuation for the other? And has not the right or the wrong of the motives for action nothing to do with their tendency? Do they not essentially qualify the action, because they are, in fact, inseparable from it? Will any one undertake to say, that wrong motives for right conduct, are not of more evil tendency—are not more likely to produce evil consequences, and to do society more serious injury, in the end, than wrong actions from right motives? This may be called casuistry, and so it does partake of the nature of the doctrine of cases of conscience. But can any reflecting mind consider the behests of society without entertaining such thoughts?

Christ, throughout his ministration on earth, showed a remarkable observance of this discrimi-

nating principle, and always seemed to admit its influence in his judicial determinations. That it is one of the cardinal principles and underlying foundations of the Christian religion, no one will deny, for without it the christian's hope of God's mercy and consequent forgiveness, for the shortcomings and miserable weaknesses of his human nature would be vain and foolish.*

Now there is doubtless a very great difference between a good man and a bad one. The one will do what is right when he knows it, and the other will, generally speaking, knowingly do what is wrong when it suits his purpose, without respect to social or civil law. But the latter's action in-

---

* But here we might ask, what does society by its institutions, toward giving a useful, wise and safe direction to the various faculties of the individuals composing it, so as to ensure right motives for conduct? Does it by its educational institutions restrain exuberance, or strengthen weakness; or by its legal ones encourage goodness and prevent crime? Does it ennoble worth by stimulating its right impulses and fostering their results, or emphatically stigmatize meanness by restraining its successes and disdiscouraging its results? It does none of these things, for the reason that it does not select fitting delegates to carry out understandingly its behests, even if these latter were clearly defined. Teachers, ethical writers, legislators, jurists are all nearly equally ignorant of, or inattentive to, the necessary and indissoluble connection between the physiological and phsychological nature of man, and the conditions for the manifestation of his faculties; and therefore, of course, for their right development and proper guidance.

volves the doing of wrong with the knowledge of right and the faculty or power of choosing between them. This fact, together with what the judges assume, must be similar conduct on the part of the insane, whenever they happen to have some knowledge of *right and wrong*, has, we think, erroneously determined in the courts the question of responsibility. But as in the case of either the apparently good or bad man, the great difference between them, as to the actual *right and wrong* of either's conduct, in a great measure depends more on the cause which leads to action, than merely on the act itself; just so is it with the insane, something more is necessary than merely a knowledge of *right and wrong*, in respect for determining the question of their responsibility. In this instance, as in the other, we must go behind the commission of the deed if possible, and ascertain if there be any rational cause or motive for action. Failing in that, if we should, in the course of our investigations, discover that the man has actually lost by disease the power of controlling his actions, and therefore no longer possesses that freedom of will which is absolutely essential to enable him to choose between good and evil, it seems to us to be a matter of very little practical importance what amount of knowledge of *right and wrong* he enjoys. For, along with this knowl-

edge, it is admitted to be a part of the law of man's moral or accountable nature, that he shall also possess the faculty or power of choosing between good and evil, to constitute responsibility. A right action, therefore, excepting by accident, cannot be performed without the operation of both of these agencies; and, as the latter agency, that is, the power of choosing between *right and wrong*, is the dominant one throughout, the very conception of responsibility is impossible without it.

Such is the law respecting man's responsibility. It is a moral law which man did not make, cannot change, is forced to acknowledge by virtue of his moral faculties and powers, and from which, in the full enjoyment of these faculties and powers, he cannot escape. Moral law means the distinction between good and evil, the obligation to practice the good and avoid the evil, and the power of fulfilling or not this obligation; or in concise terms, moral law, obligation and liberty of action.

These are the natural, and primitive, and universal facts which constitute human responsibility. There are none others. Thus while it is certainly true that there is no such thing as responsibility without previous moral law and resulting obligation, it is equally true, that there is no responsibility without liberty of action to observe or not

the obligation created under the law. Hence no proper responsibility is ever asserted without claiming liberty of action as its source; so that, if there was no liberty of action there would be no responsibility. Any law, therefore, which imposes obligation and does not allow of liberty of action virtually destroys responsibility; for liberty of action means the power of fulfilling or not obligation, and there is no responsibility without it. Then the absence of this power, when brought about by disease, as effectually annuls or destroys responsibility, notwithstanding the presence of a knowledge of good and evil, or right and wrong, as if that knowlegde itself were wanting. It is by reason and in virtue of these facts, that man, the richly endowed moral being and eminently responsible creature, is, nevertheless, a perfectly free agent.

We have here something like a proper conception of the beauty, and dignity, and power of man's moral sense, or responsible nature, which ought to be most impressive, and to yield the highest practical medico-legal lessons of benefit in the consideration of the subject of insanity. For we cannot but perceive, in this distinction, what a human creature may become, when the moral sense or responsible nature is paralysed or perverted.

In the language of a late beautiful writer on this subject, we would say: "Before, he was in government, having thought, and memory, and will, and passion, all bound up in terms of personal unity and self-active responsibility. Now, he is a sad looking wreck, an object of forlornest pity, not because the faculties thus named are gone, but because the moral sovereignty, or supreme moral nature, that held them in right order is fallen off its throne. They are nearly the same men that they were before, only minus in that supremely great something which puts them in obligation, or makes them capable of it. This one summit faculty gone, how different are they become! We define their insanity itself by saying that they are not any longer responsible, or capable of being responsible for their actions; paying thus a tribute how grand to the supreme dignity of the moral nature! We sometimes state the definition of their loss in a different manner, by saying that they have lost their reason. But we mean by this, if we understand ourselves, their moral reason. They understand causes, and do acts of causation correctly. They frame propositions that connect subject and predicate, in as good logic as ever. They reason correctly in the sense of drawing conclusions out of premises. But they fail, it is said, in the right perception of

premises; which term *right perception* means such kind of perception as co-ordinates things in the scale of right, and holds them in their fit signification, as related to the practical working of the moral life."

And again, in respect of this morally sensing power of things and actions, he says; "We have on hand thus all the activities, or active functions and faculties, working in full play; only the supreme moral self-dominion is gone, the power that colligates all the other faculties in terms of order and responsible action. Without this we are maniacs; with it men. And what a lesson of respect and homage do we thus receive from our simple moral nature—super-eminent, balanced in the poles of law, self-regulative, regulative towards all order and perfection, that which makes a man a man."

Such an idea, then, as that expressed by Lord Brougham, necessarily leads in practice to the punishment of those who are properly irresponsible; and such results are neither creditable to the age we live in as respects general civilization, nor to the present advanced state of our knowledge of mental medicine. But that such is its inevitable tendency, may be learned from the following remark of Baron Alderson, on the trial of Pate, for striking Queen Victoria, in the year

1849. He says: "You must clearly understand that it is not because a man is insane that he is unpunishable; and I must say that upon this point there exists a very grievous delusion in the minds of medical men."

This is forcibly expressed and plainly put, and clearly means that, while the medical man considers that insanity or mental alienation destroys responsibility, the judge does not so regard it. It also means that, while the medical man would acquit the insane of crime, and send them to Asylums to betreated for disease, the judge would convict them, and send them to the workhouses for correction, or gibbit them on the gallows, provided they had any knowledge of *right and wrong*; or, as the judges put it, "any knowledge of acting contrary to the laws of the land."

Here the judge conceives that to be a duty, which may perhaps prevent some evil, though that is doubtful; while the medical man proposes that which will certainly do a great deal of good, beside avoiding the revolting incident of man's taking vengeance of his fellow man for God's visitation. Great lawyers and learned judges are not always profound students of humanity. If they were, we should have to weep over fewer legislative and judicial errors. But medical men, where they do not lead, go abreast with the general pro-

gress of humanity, recording in their course the important facts which they discover, as so many landmarks that will remain forever as monuments of their wisdom and usefulness. The greatest lawyers and the most learned judges, however, are quite satisfied with this discovery—"thus is it written, thus has it been decided."*

---

* Since the above was written, we have seen the following from that very able and distinguished Lawyer S. T. Wallis, Esq., of Baltimore, who, in speaking of the legal and medical professions, says of the jurist: "He contributes little or nothing to the stock of human knowledge. He has given himself to the study and application of a science—if indeed it be a science—which as often deals with artificial principles and dogmas as with great abiding truths. In grasping at the philosophy of jurisprudence he is fettered, even in this day and generation, by precedents of scholastic absurdity which date back before the Wars of the Roses, and by statutes the very records of which were lost before the Reformation. The scientific aim and effort of his professional life is simply to show that "thus it is written." The legacy which he is able to leave behind him to society is therefore rarely better, in its best estate, than a tradition of high faculties, fearlessly and honesly dedicated to justice and duty."

Of the physician he says: "If you are animated by the love of science and your kind, one truth, thus brought to light, is in itself a victory and crown." * * * * * * * * * * * "Think you that the name of Harvey will die while men's hearts beat—or the theology of murdered Servetus live as long as his explorations of nature? No, gentlemen, your profession has this in it, that its progress goes step by step with the progress of humanity, and that every truth which it rears by the way-side shall stand there as a memorial forever."

The one says, "Thou shalt not kill," and whoso sheddeth man's blood by man shall his blood be shed;" and this is the law administered by fallible man as an immutable avenger. The other says, "Love thy neighbor as thyself," and "Do unto others as you would they should do to you;" and this is the law administered in mercy and according to human limitations and human guilt. The passage from one method to the other, as in the transition from the law to the gospel, will be mistaken by some for a license to lawlessness and crime, and they will prove their destitution of mercy by being lovers of law more than lovers of justice. But as in the one case, so in the other, it will be discovered in the end, that love is even more rigid than law, only in quite another and different manner. Moses and the prophets had their day; but we live under that "true light which lighteth every man that cometh into the world."

Now "look on this picture and on that," and say whether the medical man does not enjoy a very happy, instead of a "very grievous, delusion," and whether he should not be satisfied with the discrimination?

And here it will not be amiss for us to state, that upon the subject of penal laws and punishments a very considerable change has been gradually taking place in the public mind; and that a

very great majority of those, who have considered the subject with painstaking care and thoughtfulness, have entirely abandoned the idea that society has any right to inflict retributive punishment, or more properly vengeance, as an act of simple justice for offences committed against law. The objects of civilized society and enlightened states must be of a far higher and more ennobling character. Hence it is now admitted, that the sole ends of punishment, should be the reformation of the offenders, and the prevention of crime in others. And some go so far as to assert, that these two ends are so nearly identical, that the latter may be regarded as following upon the former as a matter of course.

Before concluding, we would remark that it has been erroneously stated by some writers, and is generally believed by the public, that the science of medical jurisprudence, of which insanity is only a material part, is nothing more than a proper application of the elementary branches of medicine and surgery, to the elucidation of judicial investigation of a medico-legal character; and therefore, that a scientific medical man must necessarily be a good medical jurist. This is a mistake. The most scientific physicians and surgeons have sometimes proved to be rather incom-

petent in this respect, when called upon in the courts, because a proper knowledge of medico-legal science could not be obtained from the common systems of medicine and surgery. Relying upon their knowledge of these subjects, they had failed to consult and properly inform themselves upon the question immediately under the consideration of the court, from works exclusivly devoted to medical jurisprudence; and hence their failure. Moreover, medical practitioners should be aware that all the rising lawyers in our courts attend strictly to questions of legal medicine. Very often forensic fame arises from the ability with which an advocate examines a medical witness, or properly makes use of medico-legal science in the conduct of his case. Lawyers fully appreciate this fact, and medical witnesses should not be unmindful of it, if they hope to escape the censure of the bench and the ridicule of the bar.

It is obvious, then, that medical jurisprudence is not only a distinct science, and that it is one of the utmost importance to the interests and welfare of the country, but that it is of great importance and utility for the members of the medical and legal professions to be thoroughly acquainted with it. Indeed, it is difficult to determine whether a knowledge of medico-legal science is more indispensable to one or the other of these learned

professions. But one thing is certain, that the man who is ignorant of it, whether as medical witness, advocate, or judge, is evidently incompetent to discharge his duty to the public generally, or to secure impartial justice to plaintiffs or defendants, or to accusers or accused.

While, however, we would urge the importance of studying medical jurisprudence as a science, we frankly confess, that it would be most unwise, in investigating the pathology of insanity, to overlook those mental disturbances which take place in the course of other diseases. Hence it follows, that scientific physicians and surgeons, when well informed upon the subjects of medical jurisprudence, make, of all others, by far the best medico-legal experts; and therefore is it, that they are chiefly relied upon by the courts, in their investigation of such questions.

"We go abroad," says a distinguished writer upon insanity, "to gain accurate information and opinions on that which is taking place at home; and the special student of insanity will do well to study the causes of delirious thought and perverted feeling, in all classes of bodily disorder, where they are observable. If he studies insanity alone, he will be apt to fall into the common error of attributing its causation to some simple pathological state, and his views will be as wrong as they

are narrow. But if he studies perverted feeling as occasioned by gout, or hepatic disease, or loss of intellectual power and fatal coma, occasioned by the suppression of urine, and the delirium of fevers, he will be led to appreciate the full extent of blood change in the production of purely mental affections. In the delirium of cerebretis, he will see a form of insanity, undoubtedly produced by inflammation; and in delirium tremens he will see another form of insanity, as undoubtedly produced by nervous exhaustion. He will thus be enabled to reject exclusive theories of insanity, and be prepared to admit the truth of the broad principle,—that insanity may be occasioned by any and every pathological state which is capable of taking place within the brain."

Greisinger, in his treatise on mental maladies, pathology, and therapeutics, expresses his own views in regard to the proper status of mental medicine as follows:

"Mental medicine ought more and more to be liberated from the narrow limits to which it has hitherto been confined, and to be studied as a branch of the pathology of the brain and nervous system generally, and the same strict rules of diagnosis ought to be applied to it, that are at present employed in every other department of medicine. To be an accomplished alienist, a man

must first be thoroughly conversant with general medical science, and especially with diseases of the nervous system. Besides this purely medical element, mental medicine demands another equally indispensable, which imparts its proper and special character to this division of the healing art, and that is the psychological study of the intellectual aberration observed in mental diseases—not psychological in the purely abstract, and so to speak metaphysical sense of the word, but rather in the sense of physiological psychology—a science of pure observation, which in the mental phenomena, both in health and disease, teaches us to recognize essentially the same kind of phe nomena as in the other functions of the nervous system. In psychiatry, the medical and psychological elements are equally of the first importance, and if this work has at all contributed to diffusing throughout Germany a taste for the study of mental diseases, it is because these two elements which I repeat are of equal importance, are constantly kept in view!"

With these views in relation to the subject of mental medicine, the course for medical men to pursue is a clear one. It is for us to state the facts as they are; to show when and where and to what degree the mental powers are impaired; to disabuse the world of its vague and crude

notions as to the constitution of the human mind; to point out the connection between mental and corporeal disease; to explain the dependence of the former on the latter; and to establish the axiom, that as the brain is the physical instrument for manifesting the intellectual and moral acts, so is it to its alterations and morbid actions that we must look for the causes and the explanations of their aberrations. To whatever result this pursuit of truth may lead, it is not material to inquire; for wherever the pursuit of truth leads, there we must follow, confident that all will be right. *Fiat justitia ruat cælum.* That pursuit is the noblest accorded by God to man, and it is a sort of blasphemy to pretend that the discovery of truth can be hurtful to the interest of society or general civilization. Society must be rotten and prove worthless indeed, when its parts are cemented by falsehood; and civilization will surely tumble down, if only upheld by error.

And yet, in this connection, we are sorry to say, that some eminent lawyers, learned jurists, and other distinguished men, have shown a strong prejudice, and sometimes a grievous opposition, to the evidences of progress and improvement in mental medicine, widely different from that calm and sincere love of truth, which should ever actuate the true philosopher and wise judge.

While on the other hand, equal candor compels us to admit, that the keen impetuosity of the human mind in the pursuit of knowledge, stimulated by the ardent desire of discovery, has ever tempted philosophers to generalize too hastily, and to presume too strongly upon the truth of conclusions thus drawn. This remark is, perhaps, more especially applicable to medical men, from the nature of their pursuits; the very opposite is true of jurists, from the nature of theirs, perhaps. The one sticks too closely, we think, to the old paths; the other, perhaps, is too prone to strike out into new ones.

And now as our only motive for bringing this subject in this manner before the public, has been simply to arouse the attention and talent of the medical profession in North Carolina to the momentous importance of the question of insanity, we shall feel amply rewarded for the labor we have bestowed upon these perhaps illogically written but thoughtful pages, should we succeed in accomplishing this desirable object.

THE END.

ERRATA.

On page 17, second line from bottom, read 'colligated' for 'collogated'
" " 24, thirteenth line from bottom, read 'psychopathist' for 'pshycopathist,'
" " 31, thirteenth line from bottom, read 'eminently' for 'emininently.'
" " 42. third line from top, read 'farther' for 'father.'
" " 45, twelfth line from top, read 'competitorships,' for 'compettitorships.'
" " 48, sixth line from top read 'exhibited' for 'exibited,'
" " 48, last line, read 'corrected' for 'connected.'
" " 51, ninth line from bottom, read 'written' for 'smitten.'
" " 71, thirteenth line from top, read 'psychopathist, for 'psycopathist.'
" " 80, thirteenth line from top, read 'consciousness' for 'consiousness.'
" " 82, tenth line from top, read 'altar' for 'alter.'
" " 83, fourth line from top, read 'unquestionably' for 'unquestionable.'
" " 84, eleventh line from bottom, read 'occurrences' for 'occurrances.'
" " 89, eighth line from top, read 'indispensable' for 'indispensible.'
" " 89, ninth line from top, read '*eadem*' for '*edam.*'
" " 95, tenth line from top, read 'admissible' for admissable.'
" " 121, third line from top read 'prejudices' for 'prejuces.'
" " 136, fourth line from top, read 'lunacy' for 'lunancy.'
" " 168, last line read 'Cottenham' for 'Cotthenham'
" " 193, fourteenth line from top, read 'dependencies for 'dependences.'
" " 205, tenth line from bottom, read 'innovation' for 'inovation.'
" " 206, eight line from bottom, read 'gladiatorial' for 'gladatorial.'
" " 224, fourteenth line from bottom, read 'committed' for 'commited.