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THE DISTINCTION BETWEEN  
CRIME AND INSANITY:  
AN ESSAY,

TO WHICH

THE SOCIETY

FOR

Improving the Condition of the Insane

AWARDED THE

PREMIUM OF TWENTY GUINEAS.

BY

THOMAS COUTTS MORISON.

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"The study of the human mind is the noblest branch of Medicine."—*Groffus*.

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ON THE DISTINCTION BETWEEN  
CRIME AND INSANITY  
AN ESSAY

THE SOCIETY

Exploring the Foundation of the Law

CRIME AND INSANITY

THOMAS COBBETT MORRIS

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TO THE PRESIDENT  
AND MEMBERS OF THE SOCIETY  
FOR IMPROVING  
THE CONDITION OF THE INSANE,  
THE FOLLOWING PAGES  
ARE  
MOST RESPECTFULLY  
DEDICATED BY  
THE AUTHOR.

TO THE PRESIDENT  
AND MEMBERS OF THE SOCIETY  
FOR IMPROVING  
THE CONDITION OF THE DEAF  
THE FOLLOWING TABLES  
ARE  
MOST RESPECTFULLY  
DEDICATED BY  
THE AUTHOR

ON  
THE DISTINCTION BETWEEN  
CRIME AND INSANITY.

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It is well known that man, in his sound mind, can deliberate upon the moral relations and probable results of his actions, as well as appreciate the causes which influence his judgment, and lead to the formation of those resolutions which are most conformable to his reason; in a word, that he is a responsible agent. But it is also well known that there are many causes which disorder the understanding, change the natural feelings and affections, excite unusual passions and propensities, and overturn all liberty of action.

SECTION I.

THE degree of influence which these causes exercise upon the mind, and the extent to which they render the individual irresponsible, is a subject which demands our immediate and attentive consideration. And first with regard to

VIOLENT EMOTION AND PASSION.

It is admitted by legislators, that offences committed during the mental agitation produced by the operation of violent emotion, have not the same moral character, as when they are perpetrated while the mind is calm and unbiassed. Thus the law regards every engagement which may have been entered into, while under the influence of bodily fear or terror, as null and void. Under similar circumstances also, the act of homicide is not regarded as a capital offence.

In instances however, where the uncontrollable violence of Passion alone is urged in extenuation of criminal offences, the case is materially altered, as the individuals are well aware of the consequences, as well as the nature of their actions, and are in general capable of exercising a proper degree of self-restraint.

M. Bellart, an advocate of celebrity in France, upon one occasion endeavoured to prove that murder may be committed in such a state of mental agitation from Passion, that the individual is hurried on by the resistless impulse of his frenzy, and that he ought therefore to be considered irresponsible for his acts. He says, "There are different kinds of Madmen, as those whom nature has condemned to the perpetual loss of reason, and those who merely suffer from a temporary abberation of intellect; in other respects, there is no difference between the delirium of years and the delirium of a day or an hour, except in the duration."

Hoffbauer, also, in his treatise upon Legal Medicine, maintains that the strong emotions and passions of the mind may cause a temporary abberation of intellect, during which, the individual is unable properly to direct his reasoning faculties to the relations of things; and if, during this paroxysm, he commit a crime, he is not responsible.

I cannot, however, agree with these authors, in looking upon the violent ebullitions of uncontrolled Passion as identical with Mental Unsoundness, or as annulling the guilt attached to criminal offences; it is true that there exists a striking similarity between them, but it must always be borne in mind, that the first is in a great degree *voluntarily* induced, and capable of being restrained within bounds by the dictates of reason; while Mental Unsoundness is dependent upon some physical disorder of the brain, by which the free agency of the will is permanently deranged.

It frequently happens, that sudden transports of fury are but the first violent manifestations of pre-existing Insanity. The person affected, feels himself influenced by strange and unusual impulses, and manifests sundry inconsistencies in his disposition and conduct; it is not, however, until some accidental opposition to his will, or some other cause of excitement be offered, that his Insanity becomes apparent. M. Falret, in his treatise on Hyponchondriasis, relates the following case, which strikingly illustrates this fact. "A man, aged

forty-five years, became suddenly subject to violent fits of jealousy, and having one night seen his wife conversing with one of his neighbours, he imagined that she was faithless to him—he said nothing to her at the time, but suffered her to retire quietly to rest, and when she had fallen asleep he went and stabbed her to the heart. The next morning he went and delivered himself up to the judicial authorities, and declared his crime. Upon his trial for the murder, notwithstanding his assertions that he was perfectly in his senses at the time he committed the deed, and that he did it solely because she merited death, he was pronounced to be insane. Sometime afterwards the justice of this sentence became apparent, for he committed suicide, having previously written a paper, stating, that his only motive for not putting an end to his own existence at the time he murdered his wife was, that he preferred receiving the punishment he deserved at the hand of the public executioner; but that since the law had not awarded so just a retribution, it remained for him to rid society of so guilty a being as himself.”

The second cause which I shall mention as tending to destroy liberty of action, is

#### DRUNKENNESS.

The state of mind which is induced by indulgence in alcoholic liquors, bears a strong resemblance to true Mental Alienation, not only in its character but also in its cause. It is not however regarded by our law as affording any excuse or palliation for criminal offences committed while under its influence; nor indeed are civil contracts entered into while in a state of *voluntary* intoxication, disputable on the ground of being the result of an unsound state of mind.

Though this disposition of the law be just in principle, those intrusted with its application ought to make a distinction between those who have all their lives maintained an irreproachable conduct, and who, being caught by wine (if we may so speak,) have committed excesses, and those who



ordinarily have recourse to intoxication as a means of gratifying their sensual appetites. The justice of such a distinction is recognized by the Austrian, Prussian and Bavarian Codes of Legislature.

Upon this subject, the Scotch Law, as explained by Alison, in his *Principles of the Criminal Law of Scotland*, appears to me to be worthy of general adoption,—“Drunkenness” says he, “is no excuse for crime, but on the other hand, if either the Insanity has supervened from drinking, without the panels having been aware that such indulgence in his case leads to such a consequence, or if it have arisen from the combination of drinking with such a crazed or infirm state of mind, or a previous wound or illness, which render spirits fatal to his intellects to a degree unusual in other men, or which could not have been anticipated, it seems inhuman to visit him with the extreme punishment of the law, which was suitable in another case.”

Sir J. McKintosh upon this subject urges, that “as example of punishment does not influence the man that is drunk any more than he that is mad, so to hang a man for what he does while drunk, is rendering the moral offence of drunkenness a capital crime.” His argument, however, is open to this objection: that although the fear of punishment cannot deter a drunken man from the commission of any act, to which his temporary Insanity may urge him, still the knowledge of the possible consequences of his debauch, ought to have such an effect upon him as to deter him from indulging in such stimulants of his natural passion and violence.

A broad distinction ought to be made between the immediate effects of drunkenness, and its remote consequences. It must be recollected that long-continued habits of intoxication are apt to produce actual and permanent Insanity,—and that in fact, drunkenness is one of its most fruitful causes; therefore, when criminal actions have been committed by persons in a state of delirium from the remote effects of

drinking, as in "Mania a Potu," their offences lose their criminality, and the individuals themselves are regarded as insane. It ought also to be borne in mind, that although excessive drinking be the remote cause, yet the attack of Insanity itself, is produced by the privation of the accustomed stimulus.

The following instance, which I have quoted at length from the III. vol. of the American Jurist, well illustrates the generality of such cases: "Alexander Drew, commander of a whaling ship, was indicted before the United States Circuit Court, for the murder of his second mate, Clark, while on the high seas." In August, 1827, they spoke a vessel at sea, from which Drew obtained a small keg of rum; he drank till he became stupified; when he recovered, he ordered the keg to be thrown overboard, and there was now no more liquor on board. In three days, he began to show symptoms of Mental Unsoundness; he could not sleep; he began to fancy that his crew had conspired to kill him, and expressed great fears of an Indian who belonged to the ship; he called to him when he was not present, begging him not to kill him; and once made an attempt to throw himself overboard. The next morning he, Clark, and the first mate, were at breakfast in the cabin, when he suddenly withdrew from the table, and appeared to conceal something under his jacket. He then ordered Clark on deck, and instantly taking up the knife—which he had previously concealed—he stabbed him in the right side of the breast: as one of the witnesses was going out of the cabin, he snapped a pistol at him, but it missed fire. He was then secured and bound, and lay in this state for three weeks. Upon recovering his reason, he was informed of all that had occurred, but he constantly affirmed that he had not the slightest recollection of the transaction.

The judge who tried the case, arrested it at this point, and said: "We are of opinion that the indictment upon these admitted grounds cannot stand. The prisoner, at the time of

committing the offence, was unquestionably Insane; and the question at the bar is, whether Insanity, whose remote cause is intoxication, is or is not a competent excuse for homicide, in a court of law, committed by the party while so insane, but not at the time intoxicated, or under the influence of liquor. We are clearly of opinion that Insanity is a competent excuse in such a case. In general, Insanity is an excuse for the commission of every crime, because the party has not the possession of that reason which includes responsibility. An exception is, when the crime is committed by a party while in a fit of intoxication; the law not permitting a man to avail himself of the excuse of his own gross vice and misconduct, to shelter himself from the legal consequences of such crime. But the crime must be the immediate result of the intoxication while it lasts, and not, as in this case, be the remote consequence, superinduced by the antecedent exhaustion of the party, arising from a gross and habitual drunkenness."

Criminal offences may also be committed by persons while in a state of

#### SOMNAMBULISM.

It is a much disputed point, as to whether individuals who are subject to Somnambulism should be held as irresponsible for such acts. The opinion of Hoffbauer is, that they should be considered as irresponsible for their criminal offences, as they act from impulse merely; but that they should nevertheless, be subjected to certain penalties, and ought to be made to repair the damage occasioned by them, while under the influence of their disease.

Surely, this opinion expresses in itself a contradiction? If he considers the individual to be irresponsible, why does he advocate the infliction of punishment?

M. Fodéré goes much further than Hoffbauer, and pronounces sentence against all Somnambulists for the offences which they may commit, for the following reason: "The

man," says he, "whose conscience is always conformed to the due performance of his social duties, does not belie himself, even in his slumbers; while he whose thoughts are directed towards the commission of crime, and the gratification of revenge, reveals, during his sleep, the inmost recesses of his soul."

M. Malle, very properly remarks: "That to make a person responsible for acts committed during sleep, is to imitate the conduct of a Roman emperor, who condemned a person to death because he had dreamt that he had killed him, thus punishing as a crime, an idea which had occupied his mind during sleep."

The elements of the acts of a Somnambulist are owing to the sportive influence of the imagination, and have no necessary connexion with the ideas which occupied his mind during his waking hours. He but realizes the visions of his sleep, and has no more controul over his actions while in a state of somnambulism, than he has over the direction of his ideas in a common dream. As in a dream every fancied event assumes a distinct place in his mind, and he acts as if every circumstance actually occurred. A case lately came under my notice, of a young man, who imagined that, by some means or other, he had become involved with the police, and that they entered his room at midnight to hurry him to prison; he started up and seized a razor, and asserted that he would sooner cut his throat than go; and, upon his imagined assailants continuing to molest him, he actually inflicted a wound upon his throat. The pain awoke him in time to obtain proper assistance, or he might have bled to death. M. Savarin, in his work, *Sur la Physiologie du Goût*, reports a very interesting case of Somnambulism, which I shall relate: "One evening, a monk entered the apartment of the superior of his convent, with his eyes open, but fixed: he held in his hand a large knife, and going direct to the bed of the superior, plunged the weapon into the bed; on returning to his own chamber, his countenance wore an expression of joy and

satisfaction. Upon the morrow, the superior asked him the cause of his strange behaviour during the night; the monk then informed him, that he dreamt that his mother had been killed by him, (the superior,) and that her apparition had demanded vengeance at his hands: he became transported with fury, and arose with the intention of stabbing the assassin of his mother; soon afterwards, having returned to his bed, he awoke, and was glad to find he had only been dreaming." M. Savarin adds, that if, under the circumstances, the prior had been killed, the Somnambulist ought not to have been punished, as it would have been an instance of involuntary murder.

Persons, upon being suddenly awakened, have occasionally deprived others of life, while under the influence of terror. The following case is narrated in the British and Foreign Medical Review: "A pedlar, who was in the habit of walking about the country armed with a sword stick, was suddenly awakened one evening while lying asleep by the road side, by a man seizing him by the shoulders, and shaking him roughly. The pedlar, in his fright, drew his sword, and stabbed the man who assailed him, who afterwards died. The pedlar was tried for manslaughter: his irresponsibility was strongly urged by his counsel, on the ground that he could not have been conscious in his half-waking state of terror; this was strengthened by the opinion of the medical witnesses; he was however, found guilty.

Judging from these, and many other instances which I might mention, I think that the acts of a Somnambulist, committed while under the influence of his disease, ought always to be excused; but, as these symptoms can be so easily simulated, suspicion ought always to be entertained of these cases, where the accused has never been known to be so affected; and more especially, if the deed was one by which he might reap any benefit, or gratify any malignant passion.

## SECTION II.

I SHALL now proceed to the consideration of those forms of diseased mind which have been regarded by the more recent medical writers, as amounting to Insanity, without however, any delusions being found to exist.

M. Pinel was the first who became convinced, by the facts which he observed at the Bicêtre, that the doctrine of Insanity being inseparable from illusions, was erroneous; and, says he: "I was not a little surprized to find that there were many Madmen, who at no period gave any evidence of lesion of the intellectual faculties, but who were under the dominion of instinctive and abstract rage, as if their active faculties alone had sustained injury."

The great tendency of this affection to pass ultimately into Intellectual Madness, (which is no less characterized by perversion of the affections, passions and appetites, than by hallucination) would seem to point out, that Intellectual Madness is but a more advanced stage of the disease, coming on after the malady has overcome the resistance offered to its progress by the moral faculties. The importance of its legal relations however, renders it worthy of a separate consideration.

Although the existence of Madness "without Delusion" is well established by the unbiassed opinions of the most celebrated physicians, it is not legally recognized, either as annulling the responsibility for criminal acts committed under its influence, or even as amounting to mental disease. Thus individuals affected may, under the influence of their disease, commit the most extravagant acts, ruin themselves and their families, become involved in every species of difficulty and danger; yet no protective measures can be had recourse to, until nothing remains to be protected.

Surely the law is in this respect most defective? If we go into any of our courts of law where a case of Lunacy is pending, we find that the law, as laid down by Hale and others, is

quoted as infallible ; were a case of juggling imposture brought before the same court, would the same reliance be placed upon Hale's opinions respecting witchcraft ?

It is an admitted fact, that all diseases are more susceptible of cure in their commencement, when they are prevented rather than cured ; and upon the same principle, were such measures adopted as would take cognizance of insane acts as well as insane words, not only would the happiness and property of multitudes be protected, but we should find that our criminal returns would be much diminished.

It seldom occurs that criminal offences are the first result of overturned reason, the change is gradual, and well marked ; discrepancies and irregularities of conduct are observed, which at once reveal to practised observers the real state of the person's mind.

Dr. Combe's remarks on the case of Earl Ferrers, who was tried for the murder of his steward, fully prove the benefit which would result from taking protective measures against those in the incipient stage of Mental Derangement.

“ Earl Ferrers was, in the opinion of all who knew him, a nobleman of a violent spirit, and as such had been guilty of many outrages. His behaviour to his lady was habitually so brutal that a separation was affected by act of Parliament. On his trial, it was deposed that he had long been beset with unfounded notions of plots and conspiracies, unconnected ravings, sudden starts of fury, denunciations of unprovoked revenge, strange caprice of temper, and frantic gesticulation. It was proved that insanity was hereditary in his family, and had affected several of his relations. Long before the unhappy event for which he suffered death, his nearest relations had deliberated upon the expediency of taking out a commission of Lunacy against him, and were only prevented by the apprehension of being convicted of *scandulum magnatum*, should the jury hold him to be of sound mind, a circumstance the more likely to have happened, as his madness appeared

more in his conduct than in his conversation. Even previously to the time of his separation from Lady Ferrers, his violence of disposition was so conspicuous that one of the peers declared from his seat, that he looked upon him as a maniac; and that if proper means were not taken to divest him of the power of doing mischief, he did not doubt but that they should have occasion to try him for murder. Such were his Lordship's natural dispositions. When the act of separation passed, trustees were appointed; and at the Earl's own request, Mr. Johnson (who had been all his life in his service,) was appointed receiver of his estates. In the state of morbid irritability in which he now was, his natural jealousy and suspicion gained the ascendancy, and he imagined that all his relatives were conspiring against him, and that Johnson had become one of their accomplices. He accordingly resolved to assassinate him. One day, having summoned him to attend with all his papers, Earl Ferrers having bolted the door, shot him with a pistol. Upon his trial, notwithstanding all the evidences of Insanity which were adduced, he was sentenced to death; and as if in death to show his countrymen the cruelty of their judgment, he dressed gaily for the occasion, in a light coloured suit of clothes, embroidered with silver; he took an opportunity of declaring that he had no malice against Mr. Johnson, and that the murder was committed in a perturbation of mind occasioned by a variety of crosses and vexations; but stoutly disclaimed being insane, having had recourse to the plea solely to satisfy his friends."

Earl Ferrers was beyond a doubt insane. The very manner in which he murdered his steward carries Madness in its face; he openly sent for him to his own house, and having accomplished his purpose, he took no precautions to hide the deed, or to secure his own escape, but rejoices in and proclaims the murder. The levity with which he conducted himself at the scaffold, as well as his whole previous history, argues his irresponsibility.



Dr. Crawford relates a very striking instance of this form of Mental Unsoundness, which occurred to his notice at the Richmond Lunatic Asylum. "The individual was intelligent, plausible and ingenious, but had been from his earliest infancy the scourge of his family. He had entered the army, where he was repeatedly flogged for his misconduct; and was at length drummed out as an incorrigible villain, for having attempted the life of one of his fellow soldiers. He never evinced the least degree of mental incoherence, nor any kind of hallucination. He was ultimately sent to a lunatic asylum for having attempted the life of his own father. The governors and medical officers of the asylum, often had doubts as to whether they were justified in retaining him as a Lunatic. He appeared however, (continues Dr. Crawford,) so totally callous with regard to any moral feeling or principle, so thoroughly unconscious of ever having done wrong, so completely destitute of all sense of shame or remorse when reprov'd for his vices or crimes, and had proved himself so utterly incorrigible through life, that it is almost certain that any jury before whom he might be brought, would satisfy their doubts by bringing him in of Unsound Mind."

Certainly the fact of this man's having been confined in a madhouse, might have its due effect upon the minds of the jury. I can see little or no difference, however, between this case and that of Earl Ferrers. They may both be termed moral idiots, as they both appear to have laboured under some congenital deficiency in the affections and passions.

In opposition to the opinion that such individuals should be regarded as irresponsible for their offences, it may be urged that it would be attended with dangerous consequences to society; that it would, in fact, open a wide door to the commission of crime with impunity; we might, it is true, allow some to escape capital punishment, who perhaps deserve it; that, however, would not equal our blame, if we, by bigotted ignorance, sacrificed the life of one who, from his disease, was incapable of governing himself.

Cases of this description are of extremely rare occurrence—we ought not, however, on this account, entirely to disbelieve their existence—and, on the other hand, we ought to be upon our guard when we do meet with them, and carefully weigh and examine each individual circumstance before we come to any conclusion.

“When the cause which produces Insanity,” says Georget, in the ‘*Dict de Medicine*,’ “is not immediate, the thoughts become affected gradually, and often imperceptibly. The patient himself is generally conscious of some disorder in his intellectual faculties; he is beset with new and odd notions, and by unusual inclinations; he feels himself changing in his affections, but at the same time he preserves a consciousness of his condition, is vexed at it and tries concealment; he continues his occupation as much as he can, and as people do in the first stage of intoxication, he makes every effort to appear reasonable; meanwhile, the bystander remarks something unusual and extraordinary in his habits and character; if he had been gay and communicative, he becomes sullen and morose; if orderly and æconomical, he becomes confused and prodigal; if moderate in his religious or political opinions, he passes to an extreme exaggeration in both: the exterior of candour and modesty, gives place to an air of conceit and assurance which (especially in women) astonishes us.” All these phenomena, however, may be much less strongly marked in some cases than in others, and unless the individual have been previously insane, no one may suspect the nature of the ailment which is present; and the ignorance which prevails with respect to the nature of Mental Alienation, may lead the friends to indulge in offensive insinuations, from their not perceiving his real condition.

This period of incubation may last a long time. M. Pinel relates the case of a man who believed his wife to have been ill only six months (the period of the invasion of furious mania); he allowed, however, after a multiplicity of questions,

that the disease must have been going on for fifteen years. It is often easy to go back months, and even years, in this way; and we finish by discovering, that circumstances taken for causes by the friends are frequently only the consequences of unobserved disease.

In fact, it often happens, at that period of the disease, that a slight contradiction, or paroxysm of anger, or some other equally unimportant cause, provokes the immediate and entire overthrow of reason, and so gives rise to mistakes as to its true nature and cause, as well as to its duration.

In the incubatory stage of the disease the will is occasionally under the influence of an impulse which suddenly drives the person affected to the perpetration of acts of the most atrocious nature—to the commission of which he has no possible interest or motive. Cases of this nature are frequently met with in abnormal conformations and conditions of the head, accompanied by an imbecile state of the understanding. Thus experience has established that there are few Epileptics whose faculties remain for any great length of time in a perfectly healthy condition; violent and unaccountable fits of fury bursting forth after each attack of the disease. The paroxysm of passion lasts from a few minutes to several hours. There can be no doubt that these persons ought to be regarded as Madmen, and treated as such, because they act from irresistible impulse, and are absolutely deprived of the free agency of their will; and in this light they appear to have been considered by the French courts of judicature. “A person at Villefranche killed a woman who said something offensive to him, while in the moody state of fury which succeeded his fits of Epilepsy; he was arrested for the deed, but was excused upon the ground of his being a violent Epileptic.” Another instance occurred in a person of a mild disposition, who became subject to severe fits of Epilepsy, at the age of forty, in consequence of sudden terror. One Sunday morning he perceived a little girl, about five

years of age, standing at the door of a Café, at Amplepuis, he immediately struck her so violently with a hatchet, that he nearly severed her head from her body—he was not subjected to any criminal punishment, on the ground of his being subject to fits of ungovernable fury, succeeding each attack of Epilepsy.

Another form, very deserving of attention, occurs in women, and seems to be intimately connected with the changes in the system, produced by menstruation, parturition, and lactation; the victim which she most frequently selects being her own offspring. To this temporary overthrow of the free agency of the will may be attributed, with justice as well as mercy, many of the cases of Infanticide, which are found in the daily columns of our newspapers. The agony of mind which many victims of seduction experience at the idea of becoming outcasts from their friends and homes, and objects of scorn and contempt to all they hold most dear, may produce (especially when accompanied by the bodily anguish of child-bearing,) a state of mental unsoundness, as much entitled to our pity, and to the protection of the laws, as any instance of Insanity which has ever been brought before a court of justice. Many are the instances which might be brought forward to prove that this form of Insanity is by no means of uncommon occurrence, even amongst married women, who have not the same mental agony to experience as the seduced.

Gall relates the case of a married woman, who experienced, especially at the menstrual periods, inexpressible torture at the idea which haunted her of killing both her husband and her children—she shuddered with terror as she described the struggle which took place between her sense of duty and religion, and her inclination to commit murder. For a long time she dared not bathe her youngest child, because an internal voice kept urging her to drown it. Whenever she entered the chamber of her husband, or her children, and

found them asleep, she instantly became possessed with a desire to kill them. Sometimes she precipitately shut the door and threw away the key, in order to remove the possibility of returning to them during the evening, should her unfortunate propensity return, and become too strong for resistance.

Dr. Michu mentions a case of nearly a similar nature—“A country woman, of simple and regular habits, became possessed with a desire of murdering her new-born infant; the idea made her shudder. She carried her infant to the cradle and went out, in order to get rid of so horrible an idea. The cries of her infant, who required nourishment, at length recalled her to the house, when she experienced a still more imperious desire to make away with it. She hastened away, haunted by the idea of committing so horrible a crime. She then proceeded to the church, where she offered up a prayer for aid to resist her temptation. The whole day was passed by this unhappy mother in a constant struggle between the desire of taking away the life of her infant and the dread of yielding to the impulse. She concealed her agitation till the evening, when her confessor was the first to receive her confidence; he soothed her feelings, and advised her to seek medical advice. When we arrived at the house,” adds Dr. Michu, “she appeared gloomy and depressed, and ashamed of her situation; being reminded of the tenderness due from a mother to her child, she replied, ‘I know how much a mother ought to love her child, but, if I do not love mine, it is not my fault.’ She soon afterwards recovered.”

It has frequently happened that the frightful state to which these unfortunate beings find themselves reduced has prompted them to commit self-destruction. Dr. Mareschal relates the case of a “lady unhappily married who had a child whom she tenderly loved and nursed for the period of three months; about which time she became melancholy, and was often found bathed in tears; one day,

when sitting near the fire, she exclaimed with eagerness "Snatch the child from me, or I shall throw it into the flames!" She then confessed that for a long time she had been struggling with an almost irresistible inclination to destroy the child, and that on approaching the window or the fire, the desire always redoubled its violence. The infant was removed from her care, and in consequence, she became melancholy, and deploring her unnatural propensity, attempted suicide. She, in a short time, completely recovered, but three years afterwards she had a relapse, and in the second month of nursing she was seized with the same unnatural desire of murdering her infant: after resisting its force for some time, she was again separated from her child. Horrified at her deplorable condition she repeatedly attempted self-destruction. She, however, ultimately became restored to health.

In some of the forms of Incipient Madness some individuals feel the approach of their paroxysms, and have been known to take precautions against themselves, in order that their impulses may be frustrated by the vigilance of those around them. Esquirol had a patient who acknowledged his constant inclination to destroy his nearest friends and relations, and who was known to supplicate his mother to quit the room, as he felt that he could not resist the impulse he had to murder her. Dr. Zimmerman also relates the case of a peasant, born at Krumbach, in Swabia, who was often attacked with an irresistible inclination to commit murder. He felt the approach of the paroxysm many hours before it broke forth, and from the commencement of the presentiment, he begged to be secured, that he might be prevented from committing the crime. When the fit comes on, he says, "I feel under the necessity of killing some one, were it only a child." His parent, whom he fondly loved, he often declared would fall the first victim of his maddened fury. On one occasion, he exclaimed, in a fearful voice—"Mother, save yourself, or I must kill you." Before the fit he com-

plained of being exceedingly sleepy, without being able to sleep; he felt distressed, and experienced slight twitchings in his limbs; during the fit he preserved his consciousness; laughed and cried by turns, and sang in rhyme. When he was disabled from doing any injury he made the most frightful contortions and grimaces. The fit lasted about two days, and when over he begged to be unbound, saying that he had suffered cruelly, but that he rejoiced that he had injured no one.

There seem to be cases of Homicidal propensity which are provoked by the influence of example. In France we are told, by Esquirol, that the case of Cornier excited several instances of the same nature, no less than six of which were under his own immediate observation.

There are various other insane propensities which may become the subject of Medico Legal investigation, and which, therefore, will require our attention. Amongst the most important of these are, an impulse to steal, to destroy or burn, and a desire to indulge in intoxicating drinks.

Dr. Rush makes the remark that "there are persons who are moral in a high degree, as to certain duties, but, who, nevertheless, through the influence of their disease, are subject to some one vice." In confirmation of this he relates the case of a "woman who was remarkable in her obedience to the moral law in every particular except one; she could not refrain from stealing. What made this the more remarkable was, that she was in affluent circumstances, and not addicted to extravagance in anything. Such was the strength of this vice, that when she could not lay her hands upon anything of value, she would fill her pockets with bread: she both confessed and lamented her unhappy propensity." Lavater mentions a physician who never entered the chambers of his patients without stealing something, taking no further care of the purloined articles. In the evening his wife inspected his pockets, and returned the keys, scissors, pincushions, &c., to their rightful owners. The following

case, which I quote from Prichard, strikingly illustrates the peculiar features of this insane propensity to steal, or "Kleptomania," as it has been termed. "A gentleman of independent fortune was at Scarbro', and in passing through one of the streets, he saw a friend and his daughter in a shop, whom he joined. They left the shop together. In a short time the mercer waited upon the father of the lady, and regretted much to state that his daughter had, no doubt by mistake, taken a silk shawl off the counter. The father contradicted the charge, and inquired who had been in the shop at the time that the shawl was missed. The reply was, "no one but himself, his daughter, and the other gentleman." The shop-keeper accompanied the gentleman to his friend's residence, in the hall of which they found the great coat that his friend had worn in the morning, and in one of the pockets was the lost shawl. The gentleman returned it, remarking that it was one of his friend's peculiarities, sometimes to take what was not his own." This theft could not have been committed for the purpose of gain, nor could the gentleman have stolen it for use. The neglect which he manifested in having it in his coat pocket, clearly points out the nature of the motive which instigated him, when he possessed himself of it.

There is in general, however, such a direct personal interest in stealing, that the evidences of Insanity ought to be very strong before the individual can be regarded as irresponsible. In this respect a marked difference exists between Kleptomania and Homicidal Insanity, as in many instances of the latter, the very act itself bears the impress of Insanity upon it, without any reference being made to the previous symptoms or history of the case.

The desire to set fire to, or otherwise destroy property, constitutes a particular species of madness, which has been especially treated of by the German writers, on the subject of Legal Medicine; the term "Pyromania" has been applied to it by M. Marc.



This form of madness is of rare occurrence in this country, and when it does occur, the individuals affected have, in almost every instance, been boys or girls, at the period of puberty, in whom the sexual development takes place but slowly, in consequence of the weakness of their constitution. Even in such cases, however, we ought to be very cautious in regarding their criminal offences as the result of mental unsoundness; as it may often happen that they have been taught, by the conversation of those around them, to regard such offences as mere mischief, and as a justifiable method of "paying off" their ill-tempered or avaricious masters.

The following instance is narrated by Dr. Mareschal, as exemplifying the true form of "Pyromania." Jean Hipper was brought before the court of assizes, at Metz, on the 2nd of August, accused of incendiarism. "His character, it was deposed, from a boy, had been trifling and imbecile; instead of habitually employing himself, he remained for days shut up in his chamber. He was much addicted to drunkenness, and the state of furious excitement which resulted from it was always attended with danger. His father and his sister had often experienced the effects of his drunken fury—upon one occasion, having taken a little brandy, he became quite furious, and threatened to set fire to the house, which he accordingly did in several places. The flames made rapid progress; he, however, retired to his room, and laid down upon his bed, and did not quit it until dragged forth by the police. Insanity was successfully pleaded in this case, in consequence of the previous history of the accused, as well as from his unaccountable conduct in retiring to his own room after the commission of his crime."

According to Esquirol and Georget, there is a distinct variety of Madness, which is characterized by an irresistible inclination to indulge in intoxicating liquors. Esquirol thus describes this form of Insanity—"There are instances of Madness, in which the propensity to get drunk is the consequence of some accidental derangement of the moral and physical sensibility which deprives the individual of all liberty

of action. Those affected are, previously to the attack, of agreeable manners and sober habits—they become, however, changed in their demeanour, and they experience an impulse which they cannot resist. The strongest resolutions, the most solemn promises, and the dangers to which they expose themselves are of no weight in comparison with this lamentable propensity. The paroxysm over, these unfortunate individuals frequently return to their ordinary employment and habits of temperance.

I am well acquainted with a case which exactly coincides with M. Esquirol's description. A female about twenty-seven years of age was sent to a large asylum in the neighbourhood of London, where I have had frequent opportunities of watching her case. During the prevalence of her disorder she is roused to the highest pitch of fury upon the slightest opposition being offered to her will, and appears to lose all power of self control.

Her inclination for spirituous liquors is so strong, that while the beer is being carried round for the patients' dinners she endeavours, both by threats and entreaties, to prevail upon the attendants to give her some, and she will, if not narrowly watched, drain every mug within her reach; a very small quantity is quite sufficient to render her quite Maniacal. She is free from all delusions, and when not under the influence of this propensity, conducts herself quietly, and renders herself very serviceable in the wards. Upon two occasions she has been employed as a domestic servant to one of the officers of the Asylum, but the access to the beer cask was too much for her, and she was each time sent back to the wards perfectly furious.

Previously to her admission she had been confined in different prisons for her violent conduct. The Magistrates at length, very properly regarding her as incapable of self-restraint, sent her to an Asylum for the Insane.

It most frequently happens that cases of this description become, ultimately, insane in ideas as well as in conduct.

Having now passed in review the principal forms of Incipient Insanity, or as it has been termed, "Madness without Delusion," it is now time to consider in what particulars it essentially differs from crime.

Criminal actions are, in general, committed with premeditation and design. The time, place, and other circumstances are chosen, so as to be most favourable to the success of the offenders object, and also to his escape from the reach of that justice, which he is aware that he has outraged.

The Madman, on the other hand, in general, evinces no design or premeditation in his misdeeds; he makes no selection of time or place, but gives vent to the dictates of his fury where it is roused. When the deed is finished he attempts no escape, and frequently evinces no fear of its consequences.

The criminal seldom spills more blood than is absolutely necessary for the completion of his purpose, and the accomplishment of his escape, and always selects as his victims those who could prevent his crime, or prove his identity when apprehended. He also has accomplices who aid him in his crimes.

On the contrary, the madman is reckless as to the expenditure of blood, and makes no selection of his victims, but madly sacrifices all who may chance to cross him. Often murdering his dearest relatives and friends. He has no accomplices, and nothing to urge him on but his insane impulses, and frequently, when his appetite for blood is sated, he is the first to inform the judicial authorities of his crimes.

The criminal is impelled by the powerful motives of self-aggrandizement, or self-interest, or else he is instigated by the passions of revenge or jealousy.

The madman, on the contrary, seeks not to possess himself of any property, or article which may benefit himself by such murders; and if he avow a motive for the deed, it is of such a nature as to bear no proportion to the crime which it induces, and would not be regarded of any moment by a

person in his sound mind. Previously to the commission of these crimes also, the individuals have been noticed to have undergone some remarkable and striking change, both of temper and disposition.

These are some of the characteristics of Insanity, as distinguished from crime. I do not mean to assert, however, that the presence of any one of these will clearly indicate unsoundness of mind, or that the presence of all, or even any individual one of these symptoms, is necessary to the existence of Insanity. As is the case with every other disease, the presence of Insanity is never established by any single diagnostic symptom. When, on the other hand, we meet with instances in which the whole, or the greater part of these characteristics are present, we are justified in presuming that we are dealing with some form of Mental Unsoundness.

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### SECTION III.

IN all civilised communities, Mental Unsoundness, if accompanied by delusion, is considered as annulling the guilt attached to criminal offences, and as abrogating all the civil contracts of individuals proved to be so affected. The only difficulty in such cases is to determine whether the person's mind really was in such a state, as to render him irresponsible for his actions, or whether the impulse under which he acted having subsided, and the passion of anger, revenge, or jealousy, having ceased, the plea of Unsoundness of mind is merely set up as affording some chance of escape, when every other ground of defence must fail.

For the elucidation of this difficulty the law has laid down some general principles, leaving their application to the discretion of the judicial authorities.

I shall take a cursory view of some of the most important of these tests, commencing with that of the competency of the individual to distinguish right from wrong—the main point kept in view when Mental Unsoundness has been urged in extenuation of crime.

Thus : Le Blanc, on the trial of Bellingham, for the assassination of the Right Hon. Spencer Percival, informed the jury that they had to determine whether the prisoner, at the time he committed the act, was capable of distinguishing right from wrong, if so, he was amenable to the laws. Lord Chief Justice Mansfield, upon the same trial, when speaking of a species of Insanity in which the individual fancies the existence of an injury, and seeks an opportunity of gratifying revenge by some hostile act, observes, if such a person be capable, in other respects, of distinguishing right from wrong, there is no excuse for any act of atrocity which he might commit under such a species of Mental Alienation.

In opposition to these opinions, I shall quote that of Haslam, who very justly observes, that the “Madman’s belief in the good of his principle, and his faith in the right of his actions, are superior to arguments. His motive cannot be controlled by reason, nor baffled by the fear of punishment ; impressed with a belief in the truth of his delusion, he hurries forward to its accomplishment, and in the pursuit of the phantom, cannot be deterred by the most awful consequences.”

Ray also observes that, “Madmen’s abstract conceptions of crime not being perverted by disease, presents its hideous outlines, as strongly marked as ever they were, in the healthiest condition of their mental faculties, and the disapprobation they express at the sight of crime, arises from a sincere and honest conviction. The particular criminal act, however, becomes separated in their minds, from its relations to crime in the abstract, and being regarded only in connection with some favourite object which it will obtain, and from which

they see no reason to refrain ; it may, in fact, be regarded as of a highly meritorious and laudable nature."

It may happen, in some cases, that the Maniac loathes the act in question, and is perfectly conscious of its consequences to himself, while, at the same time, he feels himself urged to its execution by a voice from heaven, or by a strong conviction of certain great ends which it will promote. Martin, who set fire to York Minster, appears to have been a Maniac of this description. I believe there has never been a doubt entertained of his Insanity. Many persons, however, think that as he evinced so much design in the execution of his offence, and so much precaution in providing the means for his escape, that his Insanity was scarcely sufficient to absolve him from all responsibility. He acted, however, under the impression of his having received the Divine commands for his deed, and, in consequence, he imagined that he had no alternative but to obey ; at the same time he was fully conscious of the danger to which he was exposed, and, therefore, he not only provided means for his escape from the burning pile, but also, to avoid the punishment of his offence.

Alison, in his treatise on the Criminal Law of Scotland, has considerably modified the decisions of the older lawyers, by stating, that "to amount to a complete bar to punishment, the Insanity, at the time of committing the act, must have been of such a kind as entirely deprived the accused of the use of reason, as applied to the act in question, and the knowledge that he was doing wrong in committing it." It is impossible, however, to know, with any degree of certainty, the views of the maniac, respecting the moral character of the act committed by him, under the influence of his delusion ; it is nevertheless known that one of the most striking and characteristic effects of Insanity is, to destroy the relations between the end, and the means to attain that end.

Thus, Bellingham, believing himself to be the object of neglect and persecution, resolved to bring his wrongs at once

before the consideration of government; he, therefore, assassinated Mr. Percival. He could never be brought to regard this murder as criminal; he considered it, he said, as an unavoidable circumstance; at the same time he lamented it, on account of the mildness and amiability of his victim's disposition, and regretted the necessity which drove him to the commission of the deed. In the trial also, which has recently excited so much attention, Mac Naughton, believing himself to be persecuted and annoyed by suspicious looking persons, gradually connected these unknown enemies with the party at the head of the Government, and insanely enough fancied, that by assassinating their head, he would free himself from their continual machinations.

The judges of the land have also determined that Insanity, in order to excuse crime, must amount to a complete and entire deprivation of reason. Sir Matthew Hale observes, that "there is a partial and a total deprivation of mind. Some persons, who have a capital use of reason in respect to some things, are yet under a particular dementia in respect to some particular subjects or discourses, or else it is partial in respect to degree; and this is the condition of very many, especially melancholy persons, who, for the most part, discover their defect in excessive fear or grief, and are yet not wholly destitute of the use of reason; and this partial Insanity seems not to excuse them in the commission of any offence in the matter capital, for, doubtless, most persons that are felons of themselves are under a degree of partial Insanity when they commit these offences."

Nothing can be more remote from the truth than the opinion that Madmen of this description have their whole disorder centred in, and restricted to one delusive idea. The false impression, which occasions partial Insanity to be termed "Monomania," is, generally, a particular symptom or propensity, which supervenes upon, and inordinately exalts itself above the previously existing disease. One illusive notion,

or train of notions, engrosses his mind and his attention, to the exclusion of almost all other subjects, and is ever uppermost, mingling itself with the every-day occurrences of life: a careful examination, however, will show that the whole mind is diseased. There are, indeed, cases on record which, if they have been faithfully and accurately narrated, answer to the Psychological definition of "Monomania."

It is said, that persons have continued to exercise their professional avocations, and to conduct themselves with uniform propriety in all the relations of life, while labouring under delusion; such cases are, however, extremely rare phenomena; extraordinary exceptions to a general rule.

I must here observe that the law draws a most improper distinction between the civil and the criminal acts of the Insane; in the former, proof of the disease is drawn from the nature of the act in question, which, in the absence of other evidence, is held to be conclusive as to the individuals sanity or insanity.

Swinburne, in speaking of wills, makes the following observation—"In the case of a person who is sometimes sane and sometimes insane, if there be in the will or deed a mixture of wisdom and folly, it is to be presumed that the same was executed during the persons folly, even if there be but one word sounding to folly."

It is the height of absurdity to suppose that the mind is less under the influence of disease, and enjoys a more sound and vigorous exercise of its powers, when meditating a great crime, than when making a will, yet the practice of the law virtually admits such to be the case. In the disposal of property the mind is engaged in that which perhaps has often engaged its thoughts; the conditions and consequences of the transaction require no great mental effort to be comprehended, and there may be nothing in it to deprive the mind of all the calmness and rationality of which it is capable, while it is well known that even the strongest minds become unstrung



and agitated to an extreme degree at the commission of criminal actions. How much more probably will this occur in the minds of those individuals whose reason shares a divided empire with their propensities and passions?

Dr. Ray observes, that the language which the law virtually addresses to Maniacs, is—"Your reason is too much impaired to manage your own property; you are unable to distinguish between those measures, which would conduce to your benefit, and such as would end in your ruin, and therefore, you are wisely deprived of all controul over your actions; but, if under the influence of any of your insane delusions, which have rendered this step necessary, you should kill your neighbour, you will be supposed to have acted under the guidance of sound reason, and you will be tried, convicted, and executed, like any common felon, whose understanding has never been affected by Madness." Georget, also, very properly inveighs against such an absurd and unjust a disposition of the law, and observes that, "these legislators appear to place a higher value upon the property of individuals than upon human life."

Responsibility ought then to be annulled, in all cases where any connection is traced between the delusion and the offence; but, because we are unable to trace any such connection, are we justified in declaring that no such connection exists?

Haslam observes, "that, if violence be inflicted by such a person, during a paroxysm of his madness, there is no acuteness of metaphysical reasoning, or investigation, which can trace the succession of his thoughts, or the force of the impulses by which he is goaded on to the accomplishment of his purpose; and, as it would be difficult, in a person of the soundest mind, to detect the succession of thoughts, tracing that which was most remote from that which was proximate to the action, it can less be expected that the medical evidence should be capable of noting the consecutive irregularities of a disordered intellect."

There are a variety of circumstances which may prevent

the full force and tendency of the delusions becoming known. Thus they may conceal them, so as to suffer no expression to escape them which would betray their mental state.

Muratori relates the case of a "Jesuit, named Segambari, who believed himself to be a cardinal, and claimed to be addressed by the title of "Eminence." A friend was anxious to convince him of his error, and obtained a patient hearing of his arguments—when he had finished, the madman replied, either you consider me mad or rational; on the latter supposition you do me injustice by your reasonings, and on the former, I hardly know which is most mad, I for believing myself to be a cardinal, or you for thinking to reason a Madman out of his folly."

The dominant delusions of the Partially Insane, also, in some cases, are frequently changing their subject. How, then, can it be decided, whether any particular act, committed by a madman, is, or is not, in relation with the morbid impression which besets his mind.

In conclusion, I think that, where ever madness is proved to exist, capital punishment ought invariably to be abolished, for, although it cannot be denied that crime may be committed by the Insane, under a full consciousness of its nature and consequences; still, for the reason before stated, imprisonment for life seems to be a punishment of sufficient severity.

*London, 1844.*

the ill-timed and unbecoming of the definition becoming clear.  
Thus they may counsel them, so as to utter an expression in  
cases where which would betray their mental state.

Instead of taking the case of a "Jagat" name, the author  
who believed himself to be a cardinal, and claimed to be ad-  
dressed by the title of "Cardinal". A friend was anxious  
to know him of the case, and offered a paper; being  
of the arguments - when he had finished the machine re-  
solved that you consider up and down, on the last  
question you do not injure by your reasoning, and on  
the former I hardly find a word that I for believing  
it to be a cardinal, or for the thing to receive a title  
out of his title.

The learned gentleman, the learned, learned, and in  
the case, are dependent on their subject. Thus  
it can be seen, that the author's own case, con-  
sidered as a question, is not in relation with the cardinal  
title, but rather as a question.  
The question, I think, is, whether the author is  
a cardinal, or not. The author's own case, con-  
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