Inebriety and criminal responsibility : a presidential address / by Norman Kerr.

INEBRIETY

AND

CRIMINAL RESPONSIBILITY

A Presidential Address

BY

NORMAN KERR, M.D, F.L.S.

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LONDON
H. K. LEWIS, 136 GOWER STREET, W.C.
1891

One Shilling.

These comments on recent civil and criminal trials with inebriate complications, which are published at the request of the Society to which they were addressed, will, it is hoped, aid in the enactment of amended legislation for the care and treatment of diseased inebriates, as well as in a juster and more effective procedure with inebriates accused of offences against the law, in the interests alike of the administration of justice, of the community, and of the individual.

N. K.

42 Grove Road, Regent's Park,
London, N.W.
June, 1890.

RECENT CIVIL AND CRIMINAL TRIALS COMPLICATED WITH INEBRIETY; THE NEED FOR A REFORMED JURISPRUDENCE AND AMENDED LEGISLATION.

By Norman Kerr, M.D., F.L.S.

(*Presidential Address to the Society for the Study of Inebriety, in the rooms of the Medical Society of London, on April 7th*, 1891).

From time to time I have had the honour to bring before you various observations suggested by a review of our judicial procedure in civil and criminal cases with inebriate complications.* These observations have had for their main purpose a recognition by the legal and medical professions of the diseased condition of not a few inebriates, who, in virtue of this morbid state, have not really possessed civil capacity, or have been actually irresponsible and without criminal intention.

It has afforded me deep gratification to have noted, of late years, a gradually increasing recognition of the morbid phenomena of the malady of inebriety or narcomania (a mania for any kind of intoxication), and an increasing regard to such morbid manifestations as a consideration in the determination of civil actions, in accountability for offences against the law, and in the treatment of the accused after conviction.

With a view to the further elucidation of this important subject, I now venture to lay before you the results of studies of recent cases, in the confident anticipation that they will meet with that candid consideration which my representations have ever received from the administrators of the law, of whose fairness, impartiality, and openness to conviction, I cannot speak in too high terms.

Inebriate Testamentary Capacity.

In the Probate and Divorce Division of the High Court, London, Mr. Justice Butt heard a probate suit, Morgan and another *v.* Kitchen, on February 3rd, 1891 ("Daily Standard," Feb. 4th, 1891). The Plaintiffs were the executors of the last will

* "Proceedings," No. I., 1884; "Inebriety: its Etiology, Pathology, Treatment and Jurisprudence," 2nd edit., London, H. K. Lewis, 1890.

executed on November 8th, 1887, by J. K. Wood, a retired innkeeper. The main contention was as to whether a public house was left to James Kitchen absolutely, or subject to certain legacies to several nephews and nieces. By a former will, executed in 1886, the public-house in question had been left absolutely to Kitchen. The accountant who drew this last will stated that he had never seen deceased drunk in all the 20 years he had known him, and that he considered him a sober man. In 1887, when sent for to have the will of that year completed, deceased was quite beside himself, and was unable to tell how he came to the hotel, or what he was doing, though he certainly was not drunk. He had seen no indication of failing before that year. He heard that after 1887, deceased, who died in 1890, would, at home, get at the spirits if they were left in his way.

Dr. Cottle, who sent deceased to Malvern in 1887, stated that there were symptoms of delirium tremens and brain disease, with confusion of ideas and inability to give a rational account of anything.

Deceased's niece and housekeeper said she first noticed a change in deceased's state of mind in the Spring of 1887. She had "never seen him drunk," but he "could take his drops." In October, 1887, he was childish.

Mr. Justice Butt pronounced against the will of 1887, and in favour of that of 1886.

In this case Mr. Justice Butt recognised a loss of capacity to execute a will only one year after there had been the possession of this capacity, though the testator was "not drunk" according to the accountant who drew up the latter will, and though his niece and housekeeper "never saw him drunk." She testified however that "he could take his drops." This is not an instance of civil incapacity from a deed having been executed or a bargain made while the individual was in a state of intoxication.* As to manifest intoxication there has been little dispute. I was summoned on one occasion to attend a man who was just beginning to emerge from a drunken bout, and who had sold all his personal property for a mere song. There was so little difficulty in this case that a legal notice of summary proceedings secured restitution of the property. In Morgan and another *v.* Kitchen something short of actual intoxication was in question, just as in a civil case in which I was recently a witness. In this case (I am not at liberty to give the names of the parties to the suit, it having been heard before an arbitrator) the claim for insurance against accident on the life of a man, aged 49, who was alleged to have been killed by a presumed slight accident,

* For an exhaustive exposition of the existing law on intoxication, see "The Law Relating to Drunkenness and Inebriety," by J. R. McIlraith, M.A., LL.B., Barrister-at-Law, H. K. Lewis, London; "Proceedings," No. 23, for January, 1890; and "The Medical Jurisprudence of Inebriety," by Clark Bell, No. 16.

fell to the ground on expert medical evidence, based on a post-mortem examination, and on a medical history of the deceased, that the man was so poisoned by alcohol that his life was not worth a day's purchase. Yet all the witnesses testified that though he drank, he was never seen to be drunk. He "took his drops," as did Kitchen. Herein is a distinct recognition, in the one instance of death, in the other instance of mental confusion brain disease and instability accompanied by testamentary incapacity, of physical and mental morbid conditions dependent not on drunkenness, but on frequent steady drinking in apparently moderate quantities. I cannot but regard this as a valuable legal application of the results of modern medical research in inebriety.

Acquittal on a Murder Charge.—The Perils of Inebriety.

Mr. Justice Hawkins presided over the trial, on March 21st, 1891, at the Central Criminal Court, London, of C. L., who, though unqualified, practised as a medical man, for the wilful murder of his brother, a qualified medical practitioner. It was sought to be established that the prisoner had administered a fatal dose of morphine to the deceased, no one else having access to the room in which the deceased died, in which he was shut up by his brother, it being admitted that deceased died from a poisonous dose of morphine. Deceased and his brother had both been intemperate, and the deceased was a morphine inebriate. The prisoner had tried to break his brother of the habit of taking alcohol and morphine. A verdict was given of "not guilty."

In this case, which happily ended in an acquittal, we have a striking illustration of the risk run by the inebriate and his friends, under the present law of Britain. Not only does the diseased inebriate, by his morbid craving for morphine and alcohol, and his inability to resist that craving, prematurely terminate his existence, but he also places those about him in peril of their lives through the risk of a criminal charge. The unhappy deceased really slowly killed himself and could not help doing so, and died under such circumstances as threw strong suspicion on the brother who had tried to cure him of his malady. Why should this have been? If the legislature had made due provision, as it ought to have done, in the interest alike of the victim his friends and the community, for compulsory reception and detention (for curative purposes) in an institution for the treatment of the disease of inebriety, this medical man, who was doing what he could to help his brother, would have been spared the humiliation of

detention in jail, and of a groundless and grave charge, while the deceased's life might have have been saved, and his cure and restoration to society possibly achieved. Such predicaments are continually occurring, though only a few such cases come before the Criminal Courts. Now that a narcomaniacal condition has been disclosed by medical investigation, the narcomaniac being impelled by an irresistible morbid impulse or crave to secure intoxication by some narcotic, the State should enact a measure for the compulsory seclusion and treatment for a sufficient period, of all such diseased inebriates as have been too paralysed in inhibition and in will to apply voluntarily for admission, in a genuine hospital for the treatment of the disease of inebriety. This measure ought to include provision for all inebriates who are unable to pay for their care and maintenance, and ought to cover cases of inebriety from alcohol, morphine, opium, chloral, ether, chloroform, cocaine, and other narcotic anæsthetics. Such an Act would be crime-preventive as well as curative, and prove in the end more economical than our present procedure.

Inebriate Heredity.

I. The Witnesham Murder.

Alfred Dixon, aged 25, was charged at the Suffolk Winter Assizes, 1890, with the murder of his mother, ("East Anglian Times," December 3rd and 4th, 1890). The fact of the murder was admitted, and there was an agreement as to the circumstances. The accused, who was living alone with his mother, after some words had passed between them, cut her throat in the front kitchen, took the body upstairs, changed his shirt, which was stained with blood, washed his hands, and wrote several letters probably shortly after midnight. Letters to his brother stated that, on their arrival at their destination, both his mother and himself would be at rest for ever. The medical evidence showed that death must have been instantaneous. The prisoner was found next morning with a cut on the left side of his throat, and unconscious. He had taken poison (ferrocyanide of potassium) first, and according to the medical evidence, had probably been too weak to use the razor effectually on himself.

The prosecution admitted provocation from the deceased probably having been "maddened" (as the prisoner wrote) by the loss of her chain, and by her habits.

The counsel for the Crown frankly recognised the "great step" which the prisoner took in the interests of his mother, who was addicted to intemperance, for whose sake he gave up his

career as a medical student at St. Bartholomew's Hospita (which education he was able to avail himself of through having gained a scholarship at Beccles school), and lived (without a servant) with her in a small cottage at Witnesham. His mother was 45 years of age.

The counsel for the defence contended that the prisoner was insane and unaccountable for the act of which he was accused. Insanity was simply a disease of the brain, and a man was as little responsible for his insanity as he would be for scarlet fever. The prisoner's father and two paternal uncles had died from drink, and his mother was a drunkard. The evidence for the defence proved that the accused had previously exhibited various eccentricities, was at times excited and wild, at times dejected and gloomy, was a somnambulist, and was very temperate in his habits. He had always defended his mother and had been exceedingly kind to her. The nurse at the hospital to which he was taken believed, from his demeanour and conversation, that he did not know of his mother's death. Dr. Edgar Shepherd, of Colney Hatch Asylum, was of opinion that the prisoner was a poor shattered creature, physically and mentally very much below par. Parental inebriety led to great instability of nerve element. Dr. Claye Shaw, of Banstead Lunatic Asylum, believed that prisoner had been labouring under a short acute attack of impulsive insanity, from the shock of which he was recovering, and at the time when he killed his mother he was not fully conscious of what he was doing. Dr. Hetherington, the Prison Surgeon, and Dr. Eager of Melton Asylum, believed prisoner was quite sane. Mr. Justice Hawkins in his charge to the jury declined on that occasion to make any suggestion as to whether the law might be amended. The law upon the subject had been stated many years ago after a very sad murder had been committed in London. In consequence of some questions having arisen, the House of Lords thought it expedient to take the opinion of the judges. The substance of the opinion was that every man was presumed to be sane until the contrary appeared, and that every man was presumably responsible to the law for his criminal acts, unless it were proved that the alleged criminal act was one for which he was irresponsible because he did not know, at the time he did the act, the nature and character of the act he was doing, and did not know it to be a wrong act. The jury found that, at the time the deed was done, the prisoner was not in a state of mind to know the nature and character of his act, so as to distinguish between right and wrong.

Mr. Justice Hawkins thus distinctly laid down, as the substance of the opinion of the Judicial Bench, that the only valid plea for irresponsibility is the not knowing the nature and character of the act, and that it was a wrong act. On reading the reports of not a few trials which have been followed by a con-

viction and heavy penalty, it is as clear to me as is the light of day, that many accused have been unjustly condemned, viewed in the light of Mr. Justice Hawkins' statement of the law. In some persons, during a drinking spell there are intervals of unconscious automatism, in which intervals the drinker has neither consciousness nor reasoning power. Various portions of his brain are paralysed, so that he cannot for the time being realise what he is doing, or perceive the rightness or wrongness of any act. These intervals of cerebral perceptive and moral palsy may occur after, as well as during, the inebriate paroxysm. Alcohol is an anæsthetic. In virtue of its anæsthetic action it deadens sensation, throwing a cloud over perception. The person wholly intoxicated is often beyond the power of committing a criminal offence because he is incapacitated for active effort of any kind by complete anæsthesia. The "ego" is *non est* for the time being, consciousness has departed, the will is obliterated, emotion is impossible, there is a total eclipse of the intellect, for in this state of "dead drunkenness," paralysis is complete, and through this valley of the shadow of death-in-life, the heart and circulation automatically retain the vital spark till the paralysed one gradually emerges (if he do emerge, he does not always survive) from the profound anæsthesia which has held him so fast in its death-like embrace.

But the anæsthesia may not be so profound and the paralysis so complete. There may be little or no muscular paralysis. The person may be able to deliver a knock-down blow. He may have sensation dulled and perception obscured. He does not see things as they are. His vision is distorted. Sensation is perverted. There is mental confusion. As his vision and sensation are disturbed, so are his thinking powers. To him "wine is a mocker." He lives in a world of his own, a whirl of distorted and blurred mental impressions. Reason he cannot, except in unreasoning fashion. With all this confused disturbance of perception, sensation, and reason, the "ego" is an *aliter ego*, a false man and not *the true;* a Mr. Hyde, not the original Dr. Jekyll. Though falsely active and demonstrative, while in this perverted condition there often is an utter loss of memory as well as a lessened, disordered, and depraved consciousness. The higher faculties are paralysed to a degree which prevents discrimination between right and wrong. He is now powerless to know the character of any act, realise its consequences, or remember its performance.

Such has clearly been the condition of persons of whose trials I have read the reports. From the evidence I recognised the disordered cerebral phenomena, having seen the same phenomena exhibited in persons under like conditions who would have done wrongful acts, if they had not been prevented.*

* For suggestive and original studies in the psychology of inebriety see "Inebriism," and various papers, by Dr. T. L. Wright, Bellefontaine, Ohio.

In the Witnesham tragedy there is presented to us a type of one form of narcomaniacal or inebriate heredity. This heredity may be homogeneous or heterogenous. In the former shape, the heredity descends in the same form in which it appeared in the progenitors. In the latter, the descent is manifest in a different form. Heterogeneous inebriety in the ancestry may develop in the progeny into insanity, hysteria, epilepsy, or some other neurosis; while insanity, hysteria, or some other neurosis in the parentage may appear in the children, or some of the children, as inebriety. In the Witnesham case the inebriate inheritance was altered in the son into mental instability and defective control. Both parents were intemperate. The son was temperate and self-denying, yet this devoted son, though talented, affectionate, and so self-sacrificing that he gave up a career of brilliant promise to live alone with his mother, without a servant, to endeavour to reform her, was, by transformed inebriate heredity, made the murderer of the parent for whom he had sacrificed so much.

Surely such an object lesson must demonstrate to all candid minds the reality of the physical aspect of intemperance.

In Reg. *v.* Mountain, (Leeds Ass., April, 1888) a man, aged 34, killed his mother. He had had delirium tremens five years before, and had taken little liquor at the time. There was evidence of insane heredity. In his charge Baron Pollock said that if at the time when the murder was committed (though the accused had been a drunkard and had had delirium tremens) he had taken only such a quantity as an ordinary man could take without upsetting his reason, and that the insane predisposition was the main factor, although the drinking of a small quantity of alcohol was a contributory cause, the plea of irresponsibility on the ground of insanity was good. I am glad to add that the jury returned a verdict of acquittal.

I ought perhaps to add that inebriate heredity, whether simple or transformed, may be mediate or immediate, *i.e.*, descend from a parent or parents, or, skipping a generation, from a grandparent or grandparents, or even from other relatives.

II. The Liverpool Cab Tragedy

Arthur Penfold (31), porter, was arraigned at the Liverpool Assizes, March 14th, 1891, for the wilful murder of a woman. For five or six days the prisoner and the deceased had been drinking and visiting public-houses together. One afternoon about 3 o'clock, they left the house where they were staying, apparently sober. At 7.30 p.m. they both still appeared sober on entering a cab. After a short drive, on arriving at their

temporary residence, prisoner said to the cab-driver, when the latter was opening the door of the cab, "I've stabbed her, cabby, she asked me to do it. You can go for a policeman if you like, I am not going to run away." The evidence showed that the accused had been fond of the deceased, and that on being arrested in the cab, though apparently sober, he looked like a man who had been drinking, appearing "shaky in his legs." There was no apparent motive for the deed. Dr. Wigglesworth, of Rainhill Asylum, said the act partook distinctly of the character of an insane act. After considering all the circumstances, he would say that at the time prisoner stabbed the woman he was suffering from mental disorder, the effect of excessive drinking. It would prevent him from fully realising the nature of the action he was performing. Dr. Glyn Whittle thought that the prisoner had been drinking. The prisoner might or might not have been insane when the deed was done. It was shown in evidence that the prisoner's mother died from an epileptic seizure at the age of 56. One brother exhibited great mental instability, the slightest excitement from grief or joy rendering him almost irresponsible. His two year old child had had repeated attacks of epilepsy. An older brother was the subject of nerve trouble, and three of his five children had suffered from epileptic fits. One cousin of the prisoner was an idiot. Prisoner had twice previously tried to commit suicide, had behaved at times very strangely, and had often complained of his head.

Mr. Justice Day said undoubtedly there was a family history of epilepsy and insanity, but it did not follow that any particular member of a family was insane because the others were subject to mental disease. Prisoner had suffered from heart disease and rheumatism, but there was no affinity between these and insanity.

There was no doubt that when a person was reduced to destitution, or was weak through illness or any other cause, he would be more disposed than otherwise to develop any hereditary disease in his body; but the prisoner had not developed, so far as the evidence went, any symptoms of epilepsy, and he never suffered from anything in the nature of insanity, as ordinarily understood, though on several occasions he had behaved in a strange manner. His lordship also pointed out it did not follow because a man acted unreasonably that therefore he was insane. People often became victims of their passions, but if they did an illegal act and knew it, they were responsible for it. The jury returned a verdict of guilty and the prisoner was sentenced to death, which, however, happily was afterwards commuted.

I beg respectfully to dissent from the statement of the learned judge as to rheumatism and heart disease. My experience is that these diseases are considerable factors in the causation of mental unsoundness, from their profoundly depressing effect on

the brain and nervous system. I have again and again seen mental instability, with excessive fear, an agonising dread and suspicions, arise apparently from no other cause than a heart affection. Rheumatism, besides disturbing the circulation by deposits on the valves of the heart, may induce intense pains in the head which may develop into insanity.

It is true, as Mr. Justice Day points out, that the prisoner did not develop the hereditary disease of epilepsy, but the family history shows that he did develop an inherited disease, though not in the form of epilepsy. This case is another illustration of inebriate heredity, though the converse of the Witnesham case. In that case Dixon, a temperate man, inherited mental instability from inebriate parents. In this case Penfold inherited inebriety from epileptic parentage on the maternal side. Both are instances of heterogenous or transformed inebriate heredity. There was here also exhibited the operation of crossed heredity. The mother was epileptic, and the neurotic inheritance fell to tne sons. Another phrase of inebriate heredity was also exemplified. The epileptic transmission descended as epilepsy in one son, as nerve trouble in the second, and as narcomania or inebriety in a third. Most of the prisoner's brothers' children were epileptics, and one cousin was an idiot.

With this family history the career of the prisoner has been such as, from medical considerations purely, I would have expected in the environment. Handicapped by such an heredity, under the external conditions in which the accused lived, his "criminal" act was but the inevitable result of the operation of a natural law. A fuller knowledge of the law of inebriate heredity would, I am persuaded, have changed the tenor of Mr. Justice Day's charge. He is pre-eminently fair and intelligent of comprehension, having a mind open to the fruits of reason and research. To him we are indebted for a ruling which I would be glad to see accepted by the Judiciary of the civilized world:—"Whatever the cause of the unconsciousness, a person not knowing the nature and quality of his acts, is irresponsible for them." (Reg. *v.* Baines, Lancaster Assizes, January 1886).

The evidence in this case reveals an apt illustration of what may be called "post-inebriate automatic unconsciousness." Though apparently sober before and after the murder, Penfold appeared "as if he had been drinking," "shaky in his legs," dazed, had no apparent motive for the deed, and made no attempt at escape. He had been drinking for days. This is not so uncommon a phenomenon as might be supposed. In certain brains, such as the brain now under review, with an epileptic transmission altered into an inebriate diathesis, there is occasionally seen a post-inebriate period of unconscious automatism, just as there is in cases of epileptic mania a post-epileptic period of unconscious automatism. During the latter

period, under alcoholic or non-alcoholic conditions, criminal acts may be done without criminal intention, without inhibitory power to resist morbid lethal impulses.

Children Dead from Inebriate Neglect.

At the Old Bailey, on October 21st, 1890, Margaret Batty was charged before Mr. Justice Stephen with the manslaughter of her infant child. The evidence disclosed continued neglect. Prisoner used to leave the child for hours, returning very much the worse for drink. For days together the child was left alone, while the prisoner was on a drinking bout. When the doctor was called in, the child was emaciated and beyond the possibility of recovery. The prisoner was found guilty of accelerating the death of the child by neglect, and was sentenced to nine months hard labour.

Mr. Justice Stephen, in his charge, which I had the pleasure of hearing him deliver, said he had nothing to say there on drinking habits, but if by reason of drunkenness a woman neglected her child, the fact that she was drunk was not to be lost sight of. "Drunkenness," he added, "is no excuse for crime, but in this case it goes a considerable way to constitute the crime."

With this charge and verdict let me constrast the ruling of Lord Young in a similar case at the Glasgow High Court, August, 1889. (Reg. *v.* Short, "Glasgow Daily Herald," August 16th, 1889). The wife of an army sergeant was accused of culpable homicide. The evidence showed that the child was in a filthy state, neglected, and ravenously hungry, was taken from her, and afterwards returned to her. The infant, which was described by the medical attendant as small but healthy at birth, died at the age of six weeks. The medical evidence was to the effect that death ensued from debility and ulceration of the bowels, through starvation and neglect. The mother was drunk every day, and had an attack of delirium tremens. Lord Young, without calling on the prisoner's counsel, said no evidence which had been heard could justify the charge of culpable homicide. If a woman, for the purpose of injuring a child, left it without food or that attention without which it would not thrive, she would be criminally guilty. It was not a crime punishable by law in that Court for a man or woman to take too much whiskey, or to get delirium tremens, which was insanity. There was not crime in this case because there was no intention to injure. No crime had been proved from the evidence. A formal verdict of not guilty was returned by the jury. In a subsequent admonition, his lordship regretted that he could not send her to a lunatic

asylum or a home for the treatment of inebriety. Lord Young further animadverted on the husband procreating children by an inebriate.

This ruling by Lord Young is the antipodes of that by Mr. Justice Stephen in the case of Reg. *v.* Batty, and by other English judges, in analogous cases. Though Lord Young's action in this case, and his exhortation to the inebriate accused to abandon her drinking habits (of the success of which he did not appear to be very sanguine), seem to leave unprotected innocent babes at the mercy of a drunken parent, this is the fault, not of his lordship, but of the legislature and the community. He would have been only too happy to have been in a position to have sent the unhappy *de facto*, though unintentional murderess, to some institution where a cure of her malady (the malady which was the cause of her fatal neglect) might have been possible. The noble-hearted champions of the neglected and maltreated children, who have achieved so magnificent results already, are generally inclined to favour sharp penal procedure in the case of ill-treatment of their little ones by inebriate parents or guardians, in fear that the abolition of severe punishment might cease to deter from the perpretation of such infamous conduct. But I respectfully submit that punishment, however heavy, is not calculated as a general rule to reform the erring individual, who has rendered himself or herself amenable to the law, for wrongful and harrowing bad treatment of young children through enslavement to narcotic drugs. The number of criminal inebriates without a previous medical history of disease or family taint of inebriety, or some other neurosis, is, in my experience, very limited. These inebriate criminals are labouring under a physical affection, are diseased individuals, and ought to be treated as diseased persons. A large proportion of such wrong-doers could be cured, and restored to their families and to society as law-abiding citizens. Punishment hardens them. Proper treatment might heal them. The State would act as a true guardian of the helpless and the oppressed, if it made provision for the seclusion and curative treatment of the cruel through disease.

"A Man should know his Weakness."

In January, 1891, before Mr. de Rutzen, at the Westminster Police Court, Samuel Davis was accused of violently attacking a constable without provocation ("News of the World," Jan. 11th, 1891). Defendant was drunk, and urged that he had had falls on the head, and a very little drink sent him mad. He had no recollection whatever of the offence. In sentencing the man to

a month's hard labour, Mr. de Rutzen said that anyone knowing the effect liquor had on him, and then getting drunk, must be held responsible for his foolish actions.

This learned and excellent magistrate's dictum that anyone knowing the effect liquor had on him and then becoming intoxicated, must be held responsible for his actions done in liquor, is in striking contrast to the deliverance of Baron Pollock in a case to which I have already alluded (Reg. *v.* Mountain) to the effect that "the last man to know his own weakness is the man himself. He cannot argue as doctors can do for him. He believes himself as strong as those about him." No truer words were ever uttered from the judicial bench. Many individuals are so constituted, by inherited or acquired influences, that they are unable to drink a glass of any kind of intoxicant without losing self-control. After one dram they are not their own masters, the reins have slipped from their hands. They do not realise that power has gone from them. On the contrary, they in the exhilaration stage of what is really an alcoholic transient paralysis, feel that they have gained strength, physically, intellectually, morally. Their eyes are raised too high to note that the reins have dropped from their grasp. They feel invigorated, emancipated, elated. They can take what liquor they want, and stop when they have taken as much as is good for them. Vain delusion! They are no longer sober, however small the quantity taken. They are filled with vain imaginings, their mind is a chaos of confused and distorted mental impressions, which have little or no resemblance to the actualities of the outer world. In this world of real mockery within, it is impossible for the person so affected to know his own weakness. This is when such an one has drank moderately. How is it with him before he has tasted strong drink in a non-alcoholic interval? We have seen that it is out of the inebriate's power to realise his weakness, while deluded under the influence of a little alcohol by the false belief that, whoever else is weak, he is strong. Can the inebriate during a spell of abstinence accurately perceive his condition? The occasional drunkard may, though he often does not. Some periodic or habitual inebriates do at times acutely feel their helplessness, some are ever cognizant of it; but from the morbid state of their brain and their disordered brain function, the great majority of inebriates cannot possibly thoroughly guage their real deficiencies, if indeed any ever fully realise the truth.

The drinking man has a dual nature. His better self may have clear perceptions, an unclouded vision, and acute reasoning powers. His worse self is so altered that it is a deteriorated and spurious edition. The unaltered natural sound man, with senses undimmed, can see things external and internal in a true light. The changed, unnatural, unsound man, with senses

obscured by brain incapacity from the degradation of brain tissue through alcohol, can behold things outside and inside that brain, only in a false light. One of the most characteristic of the physical effects of alcohol on the brain is the undue growth of connective tissue. In the brain of man there is the more delicate structure in the cells of which the intellectual work is carried on, and there is the coarser binding structure in which the finer cerebral tissue is as it were set as in an elastic framework. The one structure is as essential as the other, and when both are present in due proportion, we have a sound and normal brain. Alcoholic indulgence causes hypertrophy of the connective tissue, which presses upon, crushes, warps, and even obliterates cells which are the seat of higher brain function. This condition I have repeatedly seen in the examination of inebriates after death. Mental capacity is impaired by this destruction and distortion of cells in that portion of the brain which is the seat of the intelligence. The power and range of thought must be diminished, when the organ of thought is crippled and disabled.

This unhealthy redundance of connective intellectually inert brain tissue with its limitation and perversion of mental and moral performance, is a permanent lesion of the brain, as clearly defined as an abrasion of the skin or a broken arm. The alteration of brain structure remains after intoxicating liquor has been foresworn. I believe that under a proper system of medical treatment, with unconditional abstention from all intoxicants, this depraved brain condition may be very considerably remedied, by the renovation of new tissue, the building up in fact of a new brain. But this rebuilding is a long process, and can be achieved only on an abstaining regimen. It will therefore be seen that the inebriate while he, either continuously or from time to time, takes liquor, possesses a mind which is unable to see the truth clearly, which is unfitted properly to discern and reason.

In addition to this alcoholic and post-alcoholic mental inefficiency, the inebriate, from the permanence of the brain lesions, continues even in nephalian intervals, to dwell in a world of cloudland. His perception darkened, he cannot see accurately with either his body's or mind's eye. The images on his brain are deformed, and are not true impressions. He lives amid an atmosphere of illusions, in a "fool's paradise." Such a dwarfed and warped being, with weakened perceptive capacity, more and more falls back within the limited scope of self-absorption. He dwells on his own feelings and worries and excellencies, ever feeding his egotism by inordinate contemplation of his own virtues. In such a condition it is simply impossible for a man to know his own weakness.

Nor is it easy for anyone to realise that he is weaker minded than the majority of his fellows. He sees others around him

drinking a little and never apparently losing their self-control. Why should any external agency affect him injuriously any more than the rest of mankind? Many of these judicious bottle-holders are of inferior intellectual capacity to him. Yet they "know when to stop." "So do I," he says, forgetful of the fact that, from causes beyond his control, for which he cannot be held accountable, he possesses a constitutional susceptibility to narcotic influences which absolutely undoes him the moment he tastes the charmed potion. He is unmindful or unconscious of the fact that the very first glass overthrows his control, discrowns him of his soberhood, so that this partially paralysed and transformed individual is practically a different person from the formerly unalcoholised abstinent original. It is out of the question to expect such a physically handicapped one to know his own weakness. He rarely ever does know it. Again, when an inebriate, in an intermission of sobriety, makes a strong resolution to drink only "moderately," he is sober, and, for the moment, masterful. But when he has partaken of even the smallest dose of an intoxicant, he is no longer truly sober, he is not now his own master, his good resolutions (whether of moderation or abstinence) are swept away in the tidal wave of an overwhelming flood of another and degenerate, though evanescent, existence. The gallant resolve is the act of one person, the breakdown the act of a different person. The former person can make a good resolution, which the latter cannot keep. It is simply impossible that such individuals can realise their weakness.

Homicidal and Suicidal Inebriety.

In February, 1891, an inquest was held on the bodies of William Strefford and wife, manager of the Falcon Inn, Stone, North Staffordshire ("Times," February 20th, 1891). From the evidence it appeared that the couple had lived unhappily together. The wife was jealous of her husband, and since the loss of a child both had been depressed. The man had given way to drink, and had had an attack of delirium tremens. A verdict of murder and suicide by the husband, while insane, was returned.

In similar cases when the murderer has survived, a different verdict has been returned. He has been held accountable. If excused on a plea of insanity, after death, why should the murderer, if he had lived, not have been acquitted on a like plea? This is one of the anomalies of our procedure which properly raise the question as to the necessity for a medical enquiry into the physical and mental condition of the drunken accused.

Alcoholic Trance.

At the Central Criminal Court, London, on February 13th, 1891, John Hoare, a bricklayer's labourer was charged with wounding his son, aged five years, with intent to do him grievous bodily harm ("Times" Feb. 14th, 1891). Having obtained relief to the extent of fifteen shillings from the Lord Mayor, the accused went to the Chamber of Horrors at Madame Tussaud's, got drunk, and returned home. He then, apparently without provocation, with a knife cut the throat of his little boy to whom he had been much attached. When arrested the prisoner said he remembered standing before the guard of the fire, and his brain seemed to have left him. He only recollected hearing the child say, "Daddy." He added, "whatever made me do it I cannot think: the devil I suppose." A police sergeant said that drink had been the man's ruin, though he had been sober for some time prior to the offence. The prisoner on promising to abstain, was sentenced to one month's hard labour for unlawful wounding.

At the Clerkenwell Police Court on March 14th, 1891, George Stanton, aged 41, a labourer, was sentenced to fourteen days hard labour (The "People," March 15th, 1891). The accused, who was stated by a constable to have been "mad drunk," had picked up a little girl aged nine years, who lived in the same model dwellings, while she was playing on one of the balconies, and thrown her downstairs. The prisoner said he remembered nothing of the occurrence.

These two cases are illustrations of alcoholic trance.* In the first case, during suspended consciousness a tragic impression imprinted on the brain was automatically reproduced in an injury inflicted, without knowledge or remembrance, by a father on a child whom, when not under the influence of liquor, he dearly loved and never had any intention to injure. In the second case, the accused might, so far as he was concerned, have killed a child against whom he had no grudge, and had never harboured any felonious design. These inebriate trance phenomena are not so uncommon as might be supposed. A patient of mine in such a somnambulistic interval of unconscious cerebration, actually sold all his property for a mere song, and had no remembrance of this foolish deed.

This condition may supervene in epilepsy and other ailments, and is often difficult of detection. It is a real phenomenon and constitutes not the least of the many perils of an inebriate life.

* To Dr. T. D. Crothers we are indebted for elaborate investigations of this special form of trance phenomena.

Mad Drunk.

At Southwark on January 30th, 1891, Walter Marshall, a young man, was tried for an aggravated assault on his mother, aged 72 years ("Liverpool Courier," January 20th, 1891). When examined the prosecutrix was still suffering from her injuries. Her son had come home drunk on a Sunday night and without provocation had attacked her most brutally, striking her violently, knocking her down, and kicking her when down. On a previous occasion he had broken her finger, but had never attacked her violently before. He was wild when under the influence of drink, and was in the habit of getting drunk. Prisoner was committed to gaol for six months' hard labour.

Here we have a type of a large class of offences. The aged mother had been well treated by her son till he gave way to habits of drinking. After that degeneration, unprovoked violence was the issue of his inebriate paroxysms. We are not informed how or why this young man "took to drink;" but on the very face of the transformation recorded, in the brief report given there is a strong presumption of mental deterioration from alcoholic poisoning of the brain. Alcohol affects different persons differently. Some it incites to violence, others to gentleness, some to tears, others to prayers. All these are symptoms of brain palsy and functional inco-ordination through the operation of a material poison. The proper destination of such a case is a hospital, not a prison. The same may be said of the following case. The unhappy victim herself did not wish her husband sent to prison, as she no doubt knew that punishment would not do good, but rather harm to her drunken partner.

At the Guildhall, London, on March 12th, 1890, before Mr. Alderman Taylor, Thomas King, a brewer's drayman, was charged with brutally assaulting his wife when very drunk. He kicked her violently in the stomach, and put her outside the house, without boots or stockings. The wife did not wish him to be sent to prison; what she desired was protection and a separation order. It transpired that the wife had attempted to poison herself one day when the husband returned home intoxicated. When the summons was served on him defendant was drunk. The magistrate said that King was the greatest brute and coward ever brought before him, and ought not to be at large. The accused was sent to prison for six months with hard labour, after which he would be bound over in £10 to keep the peace for six months. There would be a separation order, and he would have to pay five shillings a week towards the support of his wife.

"Knew Perfectly well what he was Doing."

At the Staffordshire Winter Assizes, 1890, Mr. Justice Mathew had before him Samuel Willett, 46, a miner, who was convicted of causing grievous bodily harm to Mary Basterfield, with intent to murder her ("Birmingham Gazette," December 15th, 1890). His lordship said that the prisoner was a shocking example of the effects of drinking. He had been frequently convicted for drunkenness. On this occasion he maddened himself with drink, but knowing perfectly well what he was doing, he struck the woman a blow with his boot, which brought her to death's door. Prisoner received 5 years penal servitude.

I doubt very much whether this man actually did know what he was doing when he so savagely assaulted the woman.

As I have already pointed out, in or even after a drinking bout, an inebriate may without criminal intention and even without consciousness, be guilty of a grave offence. If drunk at the time the strong probability is that he did not intend to do harm. In intoxication the presumption is against such a motive, or even against a capacity to distinguish the character and consequences of an act. Frequent convictions for drunkenness are also *primâ facie* evidence of a diseased state of the prisoner's brain. In such a case a medical history and opinion of the accused should be available. On the other hand, if the man had when sober indicated a determination to assault, the presumption would be that he got drunk for the purpose of carrying out his unlawful design.

Manslaughter in a Drunken Orgie.

At the Liverpool Winter Assizes, 1890, Robert Jones, aged 42, a gasfitter, was tried for the murder of Sarah Scarisbrick, with whom he lived ("Liverpool Courier," December 6th, 1891). The deceased, the prisoner, and a number of other persons in the house were drinking together from early in the morning till late in the afternoon, as Mr. Justice Cave expressed it, till they were unable to sit up any longer. One by one they went off to bed, leaving the accused and Scarisbrick alone. The woman, who was killed by the prisoner, was found with a serious wound in her abdomen and died therefrom in about twenty-eight hours. No one could give a rational account of the circumstances under which the murder was committed, the murderer being too drunk to tell anything about the tragedy. There was no evidence of threats or premeditation. About ten minutes after the injured woman had been carried upstairs, the

prisoner put his hand affectionately on the deceased's forehead saying "I've done it." He then sat down and attempted to cut his throat with a knife, but this intention was defeated by a constable taking the weapon from him. The jury returned a verdict of manslaughter. In delivering a sentence of fifteen years penal servitude, the judge said the accused might consider himself lucky that the jury had taken a merciful view of the case and returned a verdict of manslaughter only. Mr. Justice Cave added that the sentence would offer an example to other people to keep their passions under control and abstain from drinking to excess.

In the above case the evidence disclosed a condition of things which seems to me to have shown clearly that the prisoner was an unintentional murderer. There appears to have been no motive for the deed. Several persons had been drinking together. Gradually they all but two could sit up no longer, and left to go to bed. The couple who remained together were unable to give an intelligible account of the wound which by its effects killed one of them. Here again the presumption is very strong that the man was too drunk to know what he was doing, or realise the consequences of what he did. There was no suspicion of threats or premeditation, and after the tragedy the man put his hand affectionately on the woman's head. By this time (probably twenty minutes to half an hour) the prisoner had evidently been partly aroused to consciousness by the appearance of the police and the carrying of the deceased up-stairs. Though probably only half awake he was so horror stricken that he tried to commit suicide. I know that, by the present law, the jury throwing out the charge of wilful murder, and returning a verdict of manslaughter, the judge was bound to inflict a severe penalty; but I do not hesitate to express the opinion that justice was not done to the unfortunate culprit. He was clearly unconscious of his dread act, never contemplated it, and never realised it till some little time after the act was done. He was literally insane at the time, through the physical effect of a material poison on the higher nerve-centres. He could not know that drunkenness would cause him to commit this act, and if he was to be punished at all, he should have been punished only for getting drunk or for drinking. The learned judge said that the sentence would be an example to others to keep their passions under control, and abstain from drinking to excess. Vain hope! Such a man as the accused had no power to keep from excess when he drank at all. The fear of punishment may deter a man from drinking a single glass, though I am afraid this would be deterrent to but a few. But the fear of punishment is of no avail with an inebriate once under the influence of a narcotic. You may as well try to reason with a stone wall as with an inebriate inflamed with alcohol, when he

is literally labouring under mental palsy produced by a material poison. The power to send, and the sending, such a man to a hospital for the proper treatment of his malady, would be infinitely more likely to act as a deterrent by calling attention to the risks of dalliance with drink. The community would thus be better protected, while the accused would have a chance of cure.

Murderer and Victim both Drunk.

At the Liverpool Winter Assizes, 1890, before Mr. Justice Cave, Robert Lynch, age 40, a sailor, who had been found guilty of the manslaughter of his wife, was sentenced to penal servitude for fifteen years ("Liverpool Courier," Dec. 17th, 1890). According to the evidence of the son, the prisoner was under the influence of liquor, and sent out the deceased to pawn his boots in order to obtain more drink. Neither the prisoner, nor his wife, threw any light upon the origin of the dispute which led to a fatal issue. The prisoner had pursued her with a deadly weapon—a large sheath knife—which he plunged into her body, with the result that she died some days thereafter.

This is another case somewhat similar to the last. There was nothing in the evidence incompatible with the theory that the fatal assault was delivered by a man infuriated with liquor, devoid of sinister motive, and with no ability to understand the consequences and quality of the act. Three to five years in a genuine institution for the cure of such cases, with leave of absence thereafter, if cure affected, would have been more influential in the production of a good effect on individuals as well as on the public mind.

Improved Procedure.

At the London Central Criminal Court, before Mr. Justice Charles, on February 13th, 1891, Henry James Putnam, a Deptford drover, age 40, was indicted for maliciously wounding a widow with intent to murder her ("Times," Feb. 14th, 1891). They had been on a drinking bout, went the round of the public-houses in the Borough, and were observed to be in a state of speechless intoxication. They went to the widow's house, and while having supper in company with another woman, after some words, Putnam cut the widow's throat with a table-knife. She admitted that she had "sauced" Putnam. The charge of intent to murder was withdrawn. In defence the prisoner pleaded that he had been drinking and had no intention to

injure Mrs. Clark. He did not know he had the knife in his hand. The accused was found guilty of unlawful wounding, and was sentenced to imprisonment for one month, on a promise to abstain.

Mr. Justice Charles deserves credit for the considerate course which he took with this offender. The man and the woman were both seen speechlessly drunk; in that case how could they reason on the rightness and wrongness of anything? For the time being there was a total eclipse of reason, an utter absence of moral sense and inhibitory capacity. The judge might lawfully have inflicted a weighty sentence, but *cui bono?* The offender would probably have been lowered in moral tone, hardened in heart, and also rendered by prison associations more ready than ever to become a prey to the voracity of the inebriate impulse. The most satisfactory procedure would have been seclusion in a home for sound treatment for an extended term. But as, I presume, this was not in the judge's power; in existing circumstances, a light sentence, coupled with a promise to the judge to become an abstainer, afforded the prisoner a chance of leading a new and strictly sober life. In the following case it is to be hoped that the reasonable and judicious binding over of the accused to keep the peace for six months, will be the prelude to a harmonious living together of two persons whose happiness drink alone had marred.

Before the Stipendiary (Mr. Greenwood) at Stafford, in February, 1891, Edwin Lowe, a potter, was charged with assaulting his wife ("Stafford Knot," February 3rd, 1891). Early in the morning he had come home, and while drunk struck both the mother and her baby. He had generally returned home at night drunk. They had been married eight months. The trouble had arisen through the husband's mother, with whom he had all his meals, and with whom he wished them all to live. There was some complaint of neglect and provocation on the part of the prosecutor. The defendant was bound over in £5 to keep the peace for six months.

Inebriate Kleptomania.

M. L., aged 40, a clergyman, pled guilty at the County of London Sessions, February, 1891, to stealing 16 books and 2 pipes ("Times," March 10th, 1891). It was urged on his behalf that he had been addicted to intemperance for 28 years, and was suffering from a painful disease. His father and brother had both been members of parliament. He had been originally intended for a sailor, but during the voyage he had injured his hend and suffered from sunstroke, which ended his

nautical career. He then entered the church and displayed so much ability that he received the presentation of two livings, neither of which he had been able to retain. Before the committal of the offence he had been unemployed for some time, and was suffering from insufficient food, drinking, and anxiety about the lack of employment. Sir Peter Edlin, Chairman, said the accused had been months in custody, had expressed penitence, and was willing to go into a Home for Inebriates. On the production of a surety for £100, and his own recognisances in the same amount to come up for judgment when called upon during the next 12 months, the accused was discharged on the understanding that he would be at once taken to the Home. The purport of the surety and recognisances was to secure his residence in the Home for at least 12 months.

At the same sessions ("Times," 10th March, 1891), M. M., aged 59, pled guilty to stealing a piece of silk from a shop. There had been three previous convictions, the last 5 years ago. The prisoner had plenty of money at her command, and it was shown that she was a secret confirmed inebriate, not knowing what she did when she was "in drink." Sentence was postponed to give her friends an opportunity of finding a home for her.

In these two cases, the course pursued by Sir Peter Edlin cannot be too highly commended. In the first case there is a long history of disease. Apart altogether from the heredity, of which in its inebriate relations we have no account, the accused had been affected with a painful disease, and had suffered from heat apoplexy, both affections strongly predisposing to the malady of inebriety. The inebriate addiction had extended over 28 years. I know of no more marked causes of inebriety than head affections or injuries. Sunstroke and falls on the head are not an uncommon incident in an inebriate career. Even in the previously sober, I have seen such events, as well as painful diseases, prove the starting point on a course of alcoholic excess. Inebriate indulgence for over a quarter a century is well calculated to permanently change brain tissue, and thus induce organic degradation. With such a medical chronology, especially in an exhausted man, it ought to excite no surprise to find theft or any other offence committed. Brain poisoning by alcohol often leads in different subjects to different illegal acts. One man whenever he got drunk stole a bible, one woman whenever she became intoxicated stole a tub. Yet while thefts under the influence of alcohol are being committed, the drunkard ordinarily does not know he is stealing, and in consequence has no recollection of the fact when he has recovered sobriety. As in some of the graver criminal cases on which I have been commenting, there is a condition of inebriate "double consciousness." During the outbreak he is too drunk

to know what he is doing. For a time after the outbreak he is irritable, excitable, and liable to be provoked to even fatal violence, though during this post-inebriate interval he is still unconscious and unable to tell what he has done or why. Excluding the period of intoxication altogether, the inebriate's mental state after a paroxysm, like the epileptic's, is as different from his ordinary state as Mr. Hyde was from Dr. Jekyll. When abstinent and undisturbed he may be pleasant, genial, and gentle with the patience of Job. When in the mental perturbation and transformation into really another "ego," he may be gruff, rude and ferocious, with the petulance of a spoiled child. To punish the genuine "ego" is useless, and in most cases only weakens that, while it adds power and force to the unwholesome "second self." In these cases, curative treatment will frequently strengthen the true man, and weaken the false man, thus restoring mental equilibrium and making the man once again of truly sound and well-balanced mind, conscious of his acts, capable of reason, and justly accountable for his deeds.

I am in hope that the excellent example set by Sir Peter Edlin in these two distressing cases, will be followed by other administrators of the law, wherever this can lawfully be done.

Our Present Procedure Trains Inebriates.

That our existing practice in dealing with inebriate criminals is a complete failure, no one conversant with the facts can deny. Look at a few only of the failures. One female inebriate was convicted over 600 times, though her husband had paid nearly £200 in fines on her behalf. Not a few drunken women have spent nearly their whole lives in prison. One was 52 times in prison in one year. Another, though but 35 years of age, had been imprisoned 700 times. The women beat the record, but inebriate males can show a long chronicle of repeated terms of imprisonment. The present plan of short sentences simply affords time for the drunkard, when his ability to go on drinking has gone from him for the nonce, to be re-invigorated under hygienic and sanitary conditions in a government teetotal clubhouse, and thus, at the expense of the ratepayers, once more to be capacitated, on his discharge, to renew his career of intoxication. In other words, our judicial procedure with inebriate police-court "repeaters," constitutes a grand training school of inebriates, re-establishing their shattered health and refitting them for their drunken excesses. Yet a large proportion of such "repeaters" are as fully under the domination of a morbid uncontrollable impulse as are the unfortunate subjects of epileptic seizures.

By our application of pains and penalties to the prisoner whose criminal offence was committed while he was intoxicated, or was laboring under mental eclipse while recovering from intoxication, we may punish him with even the highest penalty of the law for an act done without criminal intention, often without consciousness of the act, or remembrance of it after regaining mental sobriety and capacity.

We have punished persons who have, from the evidence on which they were convicted, evidently laboured under delusions, either before during or after their inebriate paroxysms, similar to those which I have seen in patients unmistakably produced by narcotic brain perversion, which patients have been prevented from perpetrating criminal offences solely by the watchfulness of friends and attendants.

Delirium tremens and *mania-a-potu* (acute alcoholic mania) are manifestly diseases which destroy for the moment consciousness, inability to distinguish between right and wrong, or control (or all these) ; yet persons have been convicted who were suffering from one or other of these diseases when they made themselves amenable to the law.

Happily Sir Fitzjames Stephen's ruling in the case of Reg. *v.* Davis, cited by McIlraith (Newcastle, April 27th, 1881), clears the ground as to the validity of a plea of irresponsibility for acts done after intoxication, if the accused can be shown to have been suffering from disease (whether caused by drunkenness or not) which incapacitated him from thinking "calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of an action." The prisoner, who was sober at the time of the act, though he had been drinking heavily previously, was acquitted.

Yet this high judicial authority in this very charge, said :—"If this man had been raging drunk and had stabbed his sister-in-law and killed her, he would have stood at the bar guilty of murder beyond all doubt and question." Why this distinction between the accountability of the intoxicated man and his unaccountability after intoxication ? The insanity following drunkenness is only a further effect of drinking on the individual. The drinker had no intention or desire to become insane after becoming intoxicated. Neither had he any intention or desire to become intoxicated. He had as little design to enter on the first as on the second stage of this drunken march to violence. There may be some criminals who intentionally drink in order to commit crime. These are not in question here. There may be some persons who begin to drink for the purpose of becoming drunk. The great mass of non-abstainers drink with the desire and resolve to remain "moderate" drinkers. Most succeed, but there are many who fail, and of these failures to preserve "moderation" are nearly all our inebriate criminals made.

They do not seek intoxication. Intoxication and the habit of intoxication overtake them, without their wish and against their desperate struggles to remain "moderate drinkers." "Raging" drunkenness, and the following abstinent interval of mental unaccountability are both products of their brain disturbance by a physical agent, alcohol. Why, in the name of all that is fair and just, should they be held responsible for the first and not for the second result of this poisoning process?

This is an anomaly of our jurisprudence which calls for rectification.

As I have already shown, inebriates are rarely, if ever, wholly healthy. Their powers of perception, of sensation, and of thought are all diminished, deadened, restricted. Mental coordination is destroyed. Their thinking is as confused as their visual capacity is impaired. They live in a maze of false impressions. What they fancy is real, is to the unclouded non-narcotised eye but a mirage. As with their false conceptions of external objects, so with their fantastic ideation within. Themselves and their own importance dwarf all else. Driven back on their own imperfect and deceptive imaginings their world of mind is a chaos of indefiniteness, with, alas, a growing and unweening dogmatic self-sufficiency the more their senses are clouded and their reason obscured. Hence in the truest meaning of the phrase, the inebriate is hardly ever *compos mentis*. Like the unsound of mind, he dwells in a world of fancy and unreality, is rarely able to think accurately or to exercise control, and is peculiarly liable to be the subject of a diseased state which Sir Fitzjames Stephen* declares carries irresponsibility, viz:—"which so disturbs the mind that you cannot think calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of an action."

Punishment Unjust.

Any man who drinks has no power over the operation of the alcoholic poison once he has drunk it. The poison exerts its legitimate influence upon the organism at its own sweet will, independently of the wishes or remonstrances of the operated upon. Various conditions modify the physiological and pathological effects. These are inherent in the individual idiosyncrasies, are unaffected by, and are beyond, the will of the individual. The dose of alcohol has its way on body and brain, just as has chloroform, or opium, or prussic acid. Narcotics wield an influence over the higher faculties which is not possessed by other poisonous substances. I have known a life saved after inhalation

* *Ut supra.*

of one of the most deadly poisons known, simply because the brain of the poisoned was unaffected, and he gave directions to a bystander who carried these out to the recovery of the cool and clear, though poisoned, votary of science. But if this sound brain had been affected by an alcoholic poison, perception would have been too dimmed and sensation too dulled to admit of that clearness and presence of mind, that collectedness and decision which, in the case of a fatal dose of any poison, are essential to recovery.

As no one can alter the poisonous action on body and brain once the poison has been taken and is careering through the blood, no one can with justice be held accountable for the results of any poison once it has been taken. He can be held accountable only for the taking. The inebriate accused, therefore, can be called to account only for the taking of the first glass. What happens after this initial dram is beyond his control. The theory of the law is that he can refrain from excess, that he is a *voluntarius daemon*, if he drink to excess. We have seen that many persons, if they drink ever so little, cannot, by an inherited or acquired inebriate predisposition, stop short of intemperance. By their physical constitution they must either be "Nazarites before the Lord" or drunkards. Therefore, if they are to be held accountable as voluntary madmen, it must be for *drinking a single glass*.

Their inability to keep from further drinking if they drink at all, absolving such inebriates from any responsibility for intoxication if they take the one "moderate" draught, the question remains:—Is it lawful for the inebriate to take a single drink? This is the only overt act over which such an one can possibly have any power. It may be urged that though he cannot refrain from drinking to drunkenness if he as much as tastes an intoxicant, he can at all events abstain. Now, it seems to me that no legal requirement can exact such abstention from any one. All are equal before the law, are bound by the same obligations and endowed with the same privileges under ordinary conditions. There is no sound argument which can justify compulsory abstinence on one section of the population. Either it is lawful or unlawful for all men to try to drink "moderately." If it is proposed to make the drinking of a glass of any kind of intoxicating liquor by anyone an illegal act, that is an intelligible though apparently futile proposition. But no one ever thought of such sumptuary legislation. Yet this is the only way in which the inebriate, while at large and not under treatment as a patient, can justly be held responsible for the consequences arising from the simple act of drinking an intoxicant.

Even if it were unlawful for an inebriate to take one drink, in many cases abstinence is beyond his accomplishment. His

brain has been injured, his senses have been blunted, his baser nature has been irritated and inflamed, while his higher nature has been depraved, and his will so palsied that he simply *cannot* refrain from "the maddening bowl" if it is within his reach. He is a mental and moral paralytic, and, unless he is cured of his disease, is utterly unable to resist the snake-like fascination of his alcoholic undoer.

Were we living under prohibition, were the sale of alcohol proscribed by law, then perhaps (though I doubt it), the "moderate drinking" of one glass might be made illegal. We are not, however, under a prohibitory regime. Alcoholic intoxicants are sold as beverages under the express authority and sanction of government. This pre-supposes the right of every adult to drink a moderate dose of liquor. The government and the community are to blame if any large number of persons cannot exercise this inalienable right of "moderate drinking" without going on to immoderation. The conditions presented by government in the shape of profuse public temptations to drink, by society in the form of social customs saturated with alcohol, by the church in the guise of her most sacred ordinance dependent for its efficacy on a brain-disturbing brain-paralysing poison, are in the highest degree inimical to the effort of the inebriate to abstain from his narcotic and anæsthetic enemy. In fact, under existing circumstances, it is practically impossible for a multitude of inebriates to persist in that abstinence in which alone lies their safety.

This being so, what right has government to inflict punishment on inebriates for offences done while under the influence of strong drink? By the conduct of government many inebriates are unable to keep sober. Yet the same government which thus literally compels them to be drunkards, has the audacity to exact the utmost penalty of the law for acts done in, or consequent on, a state of drunkenness.

Duty of the Legislature.

This consideration alone ought to influence the legislature to fulfil a long neglected duty to the victims of their legislation, by making adequate provision, (1) for the compulsory seclusion and treatment of all diseased inebriates who have no will left to apply for voluntary admission to an institution; (2) for the prompt reception and detention of voluntary applicants without the forbidding ordeal of appearance before justices; (3) for institutions for the proper care and treatment of the poor and for inebriates of limited means. As regards inebriate criminals, it

ought also to be the work of legislation to confine them, not in prison for punitive purposes, but in suitable hospitals for the treatment of inebriety. Such an enlightened and practical procedure would redound to the credit of the state, and, by remedying a crying wrong, would add to the dignity and influence of the law.

Practical Proposals.

I have no doubt that judges and juries have, as a rule, done their best in the administration of justice, in the present state of the law; but, in the hope of expediting a change for the better in our criminal procedure, I beg respectfully to submit the following practical proposals.

I. In all criminal trials in which the alleged criminal act has been committed by the accused when under the influence of liquor or has been committed by an inebriate, there should be an investigation into the previous medical history of the prisoner. This would, in many cases, reveal a fall on the head, an attack of heat apoplexy, or some other accident or disease which had been the starting point of a true intoxication-mania. There should also be an inquiry into the family history so as to elucidate the heredity with especial reference to inebriety, insanity and other neurotic affections, syphilis and gout. This twofold inquiry should be entrusted either to a medical expert, or to a mixed committee composed of a legal and medical expert acting conjointly. The object of this investigation is to ascertain how far the accused has been cognisant of his alleged criminal offence, and as to whether, if so cognisant and so competent, he was able to resist criminal impulse. Such an expert inquiry should be provided for the accused, whatever their circumstances, as a judicial provision to ensure a fair and just trial.

II. The appointment of a Mixed Commission of judges, counsel, solicitors, and medical experts, for the consideration of the question of dealing with inebriates who have been convicted of a criminal offence. This inquiry should have special reference to the best procedure to be pursued, whether, (1) if penal, by cumulative punishment or otherwise; or (2) if curative, by medical treatment for a diseased condition, with due provision for classification, occupation, hygienic measures, and elevating influences.

By some researches of this kind such light might be thrown upon the genesis of crime complicated with drinking, and the morbid conditions which precipitate not a few individuals into inebriate criminality, as might aid in the prevention of crime,

as well as improve the criminal's chances of reformation, and increase the majesty and power of the law by avoiding even the semblance of injustice.

DISCUSSION.

Surgeon-Major Pringle, as an illustration of a similar condition to that of the man referred to by Dr. Kerr, as, after a visit to the Chamber of Horrors, having returned home and committed otherwise unaccountable violence, mentioned the case of a soldier in India, who in this trance, with the greatest cunning, took a comrade's life, against whom he had no grudge, but only heard it said "it would be if his (the murdered man's) peg was vacant." Also the case of the soldier who shot a comrade without any apparent reason, and whose mind was a perfect blank on the subject, though he paid the penalty of it with his life; or the soldier in the Himalayas who in this condition of oblivion of his actions, deliberately fired his rifle at an unoffending native horse-keeper and shattered his arm, and when the man ran away, and the only object to kill was the poor pony, fired fifteen shots into it, till it fell off the road into the ravine below, dead. With reference to sudden sobriety after intoxication, Dr. Pringle gave the case of an European engine driver, who while under the influence of drink, drove his engine full speed on a single line of rail in the face of a train approaching him, and who when suddenly realising his danger, reversed the action, and racing before the train, got off his engine to all intents and purposes perfectly sober. Dr. Pringle alluded to the case of a sergeant, a *moderate drinker*, whose dread was that he should be found drunk on duty, which dread nearly resulted in a serious illness, but was completely prevented by the sergeant signing the army total abstinent pledge. The effect of alcoholism on the mind not infrequently leads to extraordinary vindictiveness in the disposal of property by will, and doubtless some eccentric wills are due to this condition, the lawyers doing as they are bid. The effect of a sunstroke is very frequently seen in the inability to take even the smallest quantity of alcohol without an intoxicant effect, and precisely the same effect often follows injuries received by falling on the head without any connection whatever with sunstroke.

Dr. Arthur Jamison said that the considerations adduced by the president were of the highest importance in the interests of justice, and were to some extent met in Prussia by having scientific assessors, employed by the authorities, not by parties to the suit, to advise the court. Inebriety was really a disease.

Dr. Heywood Smith suggested a conference of the legal and medical professions to consider the weighty criticisms and proposals of the president.

Dr. F. R. Lees said that the president's exposition of the disturbing and poisoning action of alcohol on the brain, went deeper than the treatment of criminals, even to the very foundation of crime. The inebriate's mind was so confused that he could not duly deliberate on the facts before him. The drink had got in, had perverted his judgment, and made him irresponsible. In all this we reaped what we had sown. Professor Demme had traced the after-history of one hundred families with both parents drunkards, twenty-five had been ruined, six were idiots, five stunted, one had chorea, and five water on the brain. This was a greatly enhanced proportion compared with that in several communities of abstainers.

Dr. Lord had been delighted with the clear explanation of the valuable researches by the president, which had thrown a flood of light on this difficult question, and moved that the address to which they had listened, be sent to every judge, counsel, and solicitor.

Dr. Geo. Eastes seconded, hoped that there would be a wide circulation of the address.

The resolution was agreed to, and it was moved by Mr. Hilton:—That the following practical proposals by the president be commended to all persons interested or engaged in the administration of the law.

I. In all criminal trials in which the alleged criminal act has been committed by the accused when under the influence of liquor or has been committed by an inebriate, there should be an investigation into the previous medical history of the prisoner. There should also be an inquiry into the family history, so as to elucidate the heredity with especial reference to inebriety, insanity and other neurotic affections, syphilis and gout. This two-fold inquiry should be entrusted either to a medical expert, or to a mixed committee composed of a legal and medical expert acting conjointly. The object of this investigation is to ascertain how far the accused has been cognisant of his alleged criminal offence, and as to whether, if so cognisant and so competent, he was able to resist the criminal impulse. Such an expert inquiry should be provided for the accused, whatever their circumstances, as a judicial provision to ensure a fair and just trial.

II. The appointment of a mixed commission of judges, counsel, solicitors, and medical experts, for the consideration of the question of dealing with inebriates who have been convicted of a criminal offence. This inquiry should have special reference to the best procedure to be pursued, whether (1) if penal, by cumulative punishment or otherwise; or (2) if curative, by

medical treatment for a diseased condition, with due provision for classification, occupation, hygienic measures, and elevating influences.

Mr. Hilton said that the address would prove a valuable guide to all administrators of justice.

Surgeon-major Pringle seconded the motion, which was agreed to.