





A

MEDICO-LEGAL EXAMINATION

OF THE

Case of Charles B. Huntington,

WITH

REMARKS ON MORAL INSANITY AND ON THE LEGAL
TEST OF SANITY.

NIHIL A CRIMINE, NULLA FICTA A MOREO TOTA.—*Esquirol.*

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medical witnesses in the case.

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It has been suggested to me, that advantage might be taken of the interest excited by the case of Huntington the forger, to disseminate those doctrines on the subject of insanity which, although quite familiar to those who have paid special attention to the study of the disease, still make their way with great difficulty in the legal profession, and are to the general public almost unknown. In assuming this task, it is proper to state distinctly, that I make no pretension to originality. I cannot hope to extend the scientific knowledge of the subject. The expert in legal medicine will find nothing in these pages with which his previous studies have not made him perfectly familiar. My object is not to instruct him, but to disseminate among the people those facts and doctrines which have long formed a part of his knowledge;—facts and doctrines which the labors of Pinel and Esquirol in France, Prichard and Winslow in England, and Woodward and Ray in our own country, have established—as we, their disciples believe—beyond the possibility of successful cavil.

It is not at all my desire or design to defend the medical opinions given in the case. If they were honestly and intelligently given, they need no defense; if not, none will avail.

I shall give a sketch of the case in its medico-legal aspect, but only as introductory to the remarks on the existence of moral insanity, and the legal test of sanity, to which I desire specially to attract the attention of my reader.

Charles B. Huntington was born in Geneva, New York, in 1821, of respectable, though not wealthy, parents. His ancestors, both direct and collateral, had generally enjoyed good health, and several of them attained to very advanced age. A paternal aunt became insane at the age of seventy, and remained so till her death; a paternal uncle is at present insane, and he became so in old age. A maternal uncle was obliged, at twenty-

two, to abandon his business, on account of mental aberration, which manifested itself by begging in the streets in the most piteous manner, though he was not in want, and often distributed with careless profusion what he had gained by begging. No other form of mental unsoundness in this man was in evidence. In infancy, Huntington was attacked with scrofulous disease of the scalp and neck, which continued very troublesome till his tenth year. To this disease his father attributed a waywardness of temper, a recklessness of consequences, and a want of truthfulness, by which the boy was distinguished from his earliest years, and which parental discipline never could eradicate. At school the same faults were noted, with a disposition to pilfer, for which he was often punished—till the master became convinced that it did no good. At sixteen he was taken from school, and placed in charge of a sales-room, to assist his father (a dealer in cabinet furniture). In 1848, he came to New York, and opened a furniture store. In a few months he failed; and so utterly unsuccessful had he been, that the assets paid but about ten per cent. From this time he continued in New York, except that in the winter of 1853-'4 he spent a few months in California. During the whole period of his residence in New York he was engaged in wild schemes and speculations, and undoubtedly committed more than one forgery. His speculations all resulted in losses to those whom he persuaded to engage in them; and for the part he took in one of them he was indicted, but the indictment was not prosecuted. After the explosion of each scheme he would sink into utter poverty, often unable to do anything for his support, and dependent on the charity of friends. He was overwhelmed with debt, and his affairs in complete confusion. Then some other scheme would be started; and, till the new bubble burst, he would have command of money, and use it extravagantly. In these alternations of wealth and poverty, extravagance and want, the time between his failure as a furniture dealer, and his establishing himself as a note broker in 1855, passed. Then (in 1855) began the series of forgeries which were continued for nearly a year, and the first effect of which was to give Huntington an almost unlimited command of money. This he squandered in the wildest extravagance—filling his house with costly furniture, plate, &c.; buying horses, carriages, or any thing else that caught his eye, without the slightest regard to cost, or to any notion of his own wants. These (the horses and carriages especially) were sometimes kept but for a few days, and then sacrificed for any thing they would bring. In other respects he was just as unreasonable. Though a kind, attentive husband, he on one occasion brought a brass band into his house, which he had ordered illuminated from garret to cellar for the occasion, and kept the musicians playing in the hall, while his wife was confined to bed with some nervous affection. This was done, as he said, to cheer her up—to raise her spirits.

In this career of extravagance and folly he continued till October 9th, when the character of the paper which he had for months been placing as collateral security was discovered, and he was arrested. He was bailed, and allowed to remain at large for a day and night; when, further discoveries being made, he was surrendered by his bail, and committed to prison. In prison, he was visited by Dr. Willard Parker, who gave upon the trial the following account, in substance, of those interviews:—

“Dr. Parker visited Huntington at the Tombs, as he testifies, in order to form an opinion as to the soundness of his mind. He states he had two interviews with him, which occupied an hour; that he was not introduced to him as a physician; that he found him quiet, and without any apparent appreciation of his situation. Physically, he was delicate; perhaps feeble. He seemed to be a man who was mild and inoffensive in character, and without much intellect. The doctor conversed with him freely concerning his crimes, and the infamy they would bring on his family and friends. He appealed to him concerning his children, with a view to create some emotion, but he was entirely unimpressible. No emotion could be excited. Huntington stated that he should commit the same crimes again, because ‘he could not help it.’ If the desire came upon him, he must and should yield to it.

“Dr. P. then examined into the state of his health, and learned he had suffered much from constipation and hemorrhoids for many years; that a year or two before, he had had the Panama fever; that for years he had had noises in his head, as if from machinery; that he suffered much from sparks before his eyes; that for several years he could not sleep well—rarely more than three or four hours in twenty-four. When asked if he had troublesome dreams, or if his business disturbed him, he replied ‘not at all.’

“Huntington stated he had forged twice before; that it was discovered, and he was let off because it was believed he intended to do no harm. When he went to San Francisco, he left spurious paper, which ‘*he had made,*’ unprotected.

“He said he had never gambled; that he had not been dissolute with women, although such had been his reputation. He did not care for money, and had made no provision for the future.”

Huntington was also seen by the writer of this tract on two occasions. At the first, one of his counsel was present; at the second, the prisoner was seen alone. During these interviews, the conversation turned on his forgeries and on their consequences to those he had defrauded, to his family and to himself. Upon all these subjects he spoke with the utmost freedom, confessed that he had forged repeatedly, and to enormous amounts, that many had lost or would lose by him, that some of these persons had been involved solely by their desire to assist and befriend him,

&c., &c. All this was told with a calm, smiling manner, the details being from time to time interrupted by trifling compliments, inquiries about the news, comments on the weather, and other idle talk.

When his attention was strongly directed to the dangers of his situation, his probable conviction, the prospect that in a few months, perhaps weeks, he would be in the State-Prison, his replies were in substance, "Oh, no! it is impossible! no twelve men can be found who will convict me." But why? "Oh, I never intended to injure anybody." But you have injured many persons. "True, but I did not intend to do any thing wrong." Nay you know that forgery is a crime. "Oh, yes, but I never intended to injure any one." To disturb, if possible, this impassive state, allusion was made to the distress of his wife and the heritage of shame he would transmit to his children. His replies were in the same smiling, good-natured, yet indifferent tone. He was sorry, but it would all come right—all blow over.

While talking on these subjects, the least trifle would divert, and, for the time, engross his attention; from the grief of his wife, the shame of his children, and his own utter ruin, he would turn without the slightest effort, to the spots on his dress, the quality of his segars, or any other trifling matter.

Such was the condition of Huntington, and such in part his previous history. On these facts the medical witnesses were required to give their opinions as to his sanity. They both stated that he was insane, or, in other words, that the disease of the brain had impaired both his intellectual and moral nature, Dr. Gilman expressly stating that he had that combination of intellectual with moral insanity which so frequently exists.

This opinion was based on the following considerations:—I give, in his own words, the views of Dr. Parker, and follow them with my own.

Dr. Parker states his belief that Huntington was of unsound mind or morally insane, and bases his opinion,—

First, on the hereditary taint.

Secondly, on the history of his actions from his school-days to manhood, and from manhood on to 1855.

Thirdly, on his want of sagacity and self-protection in his financial operations—his utter inconsistency in all his actions, his destructiveness and recklessness in his transactions, his supreme folly in the management of his own household; as, for instance, his wife being unwell, he lighted his house and filled it with bands of music at intervals for weeks, it being his object, he said, to soothe Mrs. H.'s nerves, that she might be able to go to Rockaway.

The Doctor stated further that there was nothing in his appearance or deportment that indicated the malevolent villain or the knave. He seemed a man of very moderate intellect, and as if he would serve for the tool in vice, rather than for the projector of schemes and plans.

The facts in proof in the case, clearly establish, in my (Dr. G.'s) opinion,—

First, extreme carelessness, profusion and wastefulness in the spending of money : he bought horses, carriages, plate, &c., &c., without the slightest reference to cost, and entirely beyond any reasonable view of his wants.

Secondly, utter improvidence, both as to the preservation of his property and as to his personal safety : he took, so far as appears, no measures to secure or lay by any thing of his ill-gotten gains, as a provision for the future.

He took not the slightest precaution to insure his personal safety in the event of his detection ; he did not attempt to conceal or destroy any of the proofs of his crime, though a very important part of such proofs (his letters to young Barry directing him to draw notes, which he, Huntington, might afterwards, and in fact did, convert into forgeries) were for a long time previous to, and for a day after his arrest, in his own office, and entirely under his control. When first arrested, and suffered to go at large on bail, he made no attempt to escape when such attempt was nearly certain to succeed.

Thirdly, recklessness of detection, manifested in the mode of committing his forgeries. There was little or no attempt to imitate signatures in any case, names were mis-spelled, the names in a firm transposed, notes were allowed to remain in the hands of Belden and others, till past due ; and, what is perhaps strangest of all, he not only employed young Barry to draw the notes, but sent him written orders to do so, although he could have drawn the notes himself, or, if indeed he chose to trust Barry, could, by walking a few steps from his own office, have given the order verbally, and thus kept from the hands of Barry, and eventually from those of the police, most important proofs of his criminality—proofs that were sure to be used, and eventually were used against him. For this reckless folly the only reason that appeared was, that Barry complained of having nothing to do, and Huntington replied, “I will give you something to do.” Such were some of the manifestations of carelessness, improvidence, and recklessness in this case. Do they prove unsoundness of mind ?

This is manifestly a question of degree ; for all will admit that, existing in a certain degree, carelessness, imprudence, and recklessness are inconsistent with mental soundness. Did they exist in that degree in Charles B. Huntington ? Had any other man in this community manifested the same reckless extravagance in the spending of money, no one can doubt that his friends would have sued out a writ *de lunatico inquirendo*, to take from him the control of the property he was so foolishly squandering. And do not the records of the Court of Chancery abundantly prove that the writ would have been allowed, and measures would have been taken to protect his family from the ruin his imprudence was bringing upon them ? But, with-

out dwelling too much on that point, let us look at the whole case of Huntington in the light thrown on the subject by Prichard, who has written so ably on Moral Insanity. He says, "An attentive observer will often recognize something remarkable in their (the patients') manners or habits, which may lead him to entertain doubts as to their entire sanity; and circumstances are sometimes discovered, on inquiry, which add strength to this suspicion. In many instances it has been found that a hereditary tendency to madness has existed in the family, or that several relatives have labored under other diseases of the brain.—*In some cases the alteration in temper and habits has been gradual and imperceptible*, and seems only to have consisted in an *exaltation or increase of peculiarities* which were always natural and habitual. In this state many persons have continued for years, to be sources of apprehension and solicitude to their friends and relatives, who cannot bring themselves to admit the real nature of the case. The individual follows the bent of his own inclinations, is continually engaged in new pursuits," &c., &c. Further on, Prichard speaks of cases "marked by thoughtless and absurd extravagance, wild projects and speculations, in the pursuit of which the individual has always a plausible reason to offer for his conduct." Let us try, I say, the sanity of Huntington upon the principles here laid down.

First, Prichard speaks of "attentive observers recognizing something remarkable in their habits or manners, which leads them to doubt of their sanity." Precisely such observations were made on Huntington by his school-mates and the friends of his after life. "He was always a strange boy," says one of the former. "I thought he must be crazy," said in substance an acquaintance of after life. "In many instances," continues Prichard, "an hereditary tendency to madness has existed in the family." Huntington had two uncles and an aunt insane. The remarks as to the "gradual and imperceptible alteration, and the exaltation of peculiarities which were always natural and habitual," are of such obvious application, that they need not be dwelt on.

Again,—"Thoughtless and absurd extravagance, wild projects and speculations," are mentioned as characterizing the insane. Did any man ever carry these wild projects and speculations further than did Huntington? Such were some of the reasons on which was predicated the opinion that Huntington was insane. Some other points which had their influence are so fully set forth by Dr. Parker, that I need not dwell on them here. These views were in substance given in evidence, and eloquently pressed on the attention of the jury by Mr. Brady, of counsel for the prisoner.

The prosecution insisted that Huntington could not be insane, as he knew right from wrong. "The idea of moral insanity," said Mr. Noyes, "where the intellect was unimpaired, the disease consisting of a depravation

of the moral propensities, is false and dangerous; it is not the theory of the law; and God grant that it never may be!"—"If a man knows that he is doing wrong, he is bound to refrain, and if he does not, he is a fit subject for punishment, both from the law of God and the law of man." Such was the law, as laid down by the prosecution.

In his charge to the jury, Judge Capron said, "The law, as at present administered, regards insanity, whether general or partial, as a derangement of the mind, the intellect, the reasoning and appreciating principle, the spring of motives and passions. To constitute a complete defence, insanity, if partial, must be such in degree as wholly to deprive the accused of the guide of reason in regard to the act with which he is charged, and of the knowledge that he is doing wrong in committing it. If, though somewhat deranged, he is yet able to distinguish right from wrong in the particular case in which crime is imputed to him, and to know that he is doing wrong, the act is criminal in law, and he is liable to punishment. But it is insisted for the prisoner that insanity, either general or partial, may exist, and the subject be totally unable to control his actions, while his intellect, or knowing and reasoning powers, suffer no notable lesion; it is claimed that persons thus afflicted may be capable of reasoning or supporting an argument on any subject within their sphere of knowledge.

* * * * *

This affliction has received the name of Moral Insanity, because the natural feelings, affections, inclinations, temper, or moral dispositions, only are perverted, while the mind, the seat of volition and motive, remains unimpaired. I will not positively assert that this theory is not sound: it may be reconcilable with moral responsibility for human conduct; but I am not reluctant to confess my own mental inability to appreciate the harmony between the two propositions, if it exist."

Under this charge the prisoner was found guilty, and sentenced to the State-prison.

It will be perceived that the law, as stated by Judge Capron, ignores the existence of moral insanity. He states distinctly that "to constitute a complete defence, insanity, if partial, must exist in such a degree as wholly to deprive the accused of the guide of reason in regard to the act with which he is charged, and of the knowledge that he is doing wrong in committing it." On the law, as thus, no doubt correctly, stated, I shall now proceed to make a few remarks, and first of *Moral Insanity*. This is spoken of as "*a theory*," a thing the existence of which may be denied. Much is said of the mischievous nature of such a theory,—of its impeding the execution of the law, being irreconcilable with the doctrine of human responsibility; of all this, hereafter. First, let us ask, does moral insanity actually exist as a substantive disease, or is it a mere theory invented by doctors to explain certain facts?

That we may discuss this question understandingly, let us first state distinctly what is meant by Moral Insanity.—*What is moral insanity?* I condense the definition of Prichard, “A perversion of the feelings, temper, and moral dispositions or impulses, without any perceptible aberration of the intellect, or any insane hallucinations or delusions.” I shall attempt to establish the existence of this form of mental disease; by showing that in some cases it has resulted from injury; in others it has obviously depended on physical disease; finally, that it has been cured by remedial measures addressed to physical disease.

Having given proof of these facts I shall claim that the existence of moral insanity as a form of disease is placed beyond all reasonable doubt.

Moral insanity resulting from injury done to the brain.

Acrel mentions a case where a young man, after receiving a severe wound on the temple, for which he was trephined, manifested an invincible propensity to steal; which was quite contrary to his former disposition. After committing several larcenies, he was imprisoned, and would have been punished, had not Acrel satisfied the judge that he was insane.*

Cases where moral insanity has obviously depended on physical disease.

CASE I. A peasant of Krumbach in Swabia, was from his eighth to his twenty-fifth year, subject to epilepsy. Then, without any apparent reason, *his disease* (in the significant words of Esquirol, from whom I quote the case) *changed its character*, and, instead of epileptic fits, this man was attacked with an irresistible impulse to commit homicide. He felt the approach of the attack some hours, or perhaps a whole day before its advent, being very sleepy, though unable to sleep, was very much prostrated; and experienced slight convulsive movements of the extremities. The first moment he is sensible of the approach of his evil hour, he begs to be tied—to be loaded with chains—lest he should commit some frightful crime. “*When it seizes me,*” said he, “*I feel that I must kill, must strangle some one, if only a child.*” His mother, to whom he is fondly attached, would have been his first victim. “*Mother,*” he would shout in a frightful voice, “*Mother, save yourself or I shall strangle you.*” During the attack he has his senses perfectly. Knows that in killing any one he would be guilty of an atrocious crime. The attack lasts one or two days. When it is over, he immediately cries out, “Unbind me,—Alas, I have suffered terribly, but still I am happy that I have killed no one.”†

CASE II. A patient of Mr. Daniel, laboring under disordered liver, without any sign of intellectual aberration, was found by Mr. D. in a state

* Gall sur Les Fonctions, vol. 4, p. 220. † Esquirol, in Hoffbauer, p. 347.

of great excitement. He confessed that while talking with his wife and family, his eye caught the sight of a poker, and he felt a desire to shed blood, which he feared he could not control. He shut his eyes and tried to think of something else, but in vain; when he could bear it no longer, he ordered them with a voice of thunder to leave the room. Had they opposed him, he felt that he should have murdered them all.*

CASE III. A nurse in the family of Baron Humboldt met her mistress returning home, and, in the greatest apparent excitement of mind, and falling upon her knees, besought permission to leave her service, and to be sent out of the house. On asking the reason of this most extraordinary request, Mad. H. was informed that whenever this wretched being undressed the infant of which she had charge, she was, on observing the whiteness of the skin, struck with an instinctive desire to cut it open; fearing she might not be always able to resist this terrible propensity, she desired to be discharged. This girl had always given entire satisfaction to her employers, and her sanity had never been called in question. She had amenorrhœa.

CASE IV. A servant girl aged 17, had never manifested any mental disorder; but from her fourth year, she had been subject to spasms, which finally degenerated into epileptic fits, which were unusually violent whenever they coincided with the menstrual period. She was guilty of two incendiary acts; a very severe fit occurring previous to the second. The faculty of Leipsic, who were consulted respecting the case, reported that, in consideration of the physical state of the accused, they did not consider it probable that at the period when she committed the incendiary act, she enjoyed the free use of her mental faculties.†

CASE V. Marie C., born of honest parents, from whom she received a good education, embraced the life of a teacher, which she followed for some time; when, finding it too laborious, she became a domestic servant in a family, with whom she lived eight years.

After innumerable acts of malignity and cruelty, she was at length committed to an asylum. There, in reply to interrogatories, she gives the following account of herself: "I never amused myself like other children. I had a fantastical and capricious temper, generally preferred seeing evil done rather than good. I took pleasure in nothing. *I have never been regular.* The physicians bled and leeches me for this, but it did no good. Six months ago I had severe illness (typhoid fever); since then I sleep little—the blood rushes to my head, and the desire of doing evil takes possession of me. I arise at night and go to torment my sister. Once I bit her very badly.

* Prov. Med. Jour. Nov. '42.

† Plattner, cited in Ray, p. 199.

Once I told her to bring me an axe to split wood ; when she brought it, I tried to split her head open. I have a great appetite ; am never able to satisfy it. If I had killed my sister it would not have worried me at all. I only think of evil. *I dream of shedding blood—I could drink it,*" &c., &c. In the hospital she was the terror of her ward, made many attempts to bite, injure, or slay the patients ; yet she deploras her condition.*

It would be easy to multiply cases of this kind,—the books are full of them ; but it is unnecessary. These same impulses to evil are sometimes noticed to occur in certain physiological states of the system,—as pregnancy, menstruation, &c. Gall gives four such cases, where women in their ordinary state of health, of perfectly correct moral character, were, when pregnant, violently impelled to steal. A case is quoted in Ray, p. 192, from Freidrich, where a pregnant woman, at other times perfectly honest, suddenly conceived a violent longing for some apples from a particular orchard three miles off. Deaf to all remonstrance, she started off, in company with her husband, on a cold September night, and was caught in the act of stealing. She was tried and convicted ; but a commissioner being appointed to examine her sanity, reported that she was not morally free and consequently not legally responsible. The cases heretofore given establish, we think, the fact that Moral Insanity has resulted from injuries, from disease, and occasionally from certain physiological states of the system.

We are next to prove that this moral condition is removed by medical treatment, or, in other words, that it is, like any other disease, *cured by treatment*. The records of any asylum for the insane would afford cases of this sort, and they abound in the books. I shall give one from Esquirol ; because while illustrating this point, it affords an excellent type of Moral Insanity.

CASE VI. M. N., at the age of fourteen years, was apparently in good health ; though she had never menstruated, all the other signs of puberty were very marked. At every month she complained of headache ; her eyes were red, face flushed, temper very irascible ; she often became furiously angry at trifles ; her mother was the especial object of her ill-temper, being often overwhelmed with abuse, threats, and maledictions. She made some attempts at suicide, and once threw herself on her mother armed with a knife, evidently eager to shed her blood. When the paroxysm was at its height, blood would flow from the mouth, nose, or even the eyes ; then followed tears, a general trembling, coldness of the extremities, cramp-like pains in the limbs, poignant regrets, followed by a long period of depression. This state continued many hours. Sometimes in the paroxysms she would roll on the ground, beat her head against the walls or the furniture, or

* Abridged from Morel.

strike herself with her fists. Her countenance, habitually very mild, became hideous; her face, ears, and neck were deep red; her head burning hot; the feet cold. The paroxysm over, she became mild, begged pardon of her mother, whom she overwhelmed with marks of tenderness. When remonstrated with, she wept and said, "*Why was I made as I am. Would that I were dead—wretch that I am. I cannot control myself when I am in my rage. I see nothing, and know not what I do.*"

She often did not remember circumstances that occurred during the paroxysm, and denied with surprise and regret what was told her. *At seventeen, her courses appeared. Soon there remained not the slightest trace of the evil propensities by which she had been so long tormented. She never had any appearance of intellectual aberration. (Hoffbauer, p. 32.)*

CASE VII. A. B., twenty-one years of age; nervous temperament; gloomy temper; moral nature dull; though deprived of his father at fourteen, he never manifested much affection for his mother. At eighteen his gloom augmented; he avoided society, yet worked industriously in his shop. No manifestation of intellectual aberration in his words or actions. He now avows an impulse to homicide, so strong that at times it would have afforded him pleasure to shed the blood of his mother or sister. When the enormity of this crime is represented to him, and the punishment which awaits it, he coldly replies, "Then I am no longer master of my will." More than once, a few minutes after having embraced his mother, his face would flush, his eyes sparkle, and he would scream out, "*Mother, save yourself—I shall kill you.*" Soon after he would become calm, and shed tears. One day he met a Swiss soldier, to whom he was unknown. He sprang on him, and tried by force to seize his sabre to attack him with it.

For six months that he was dominated by these frightful impulses, he slept little, complained of pain in the head, but manifested no intellectual derangement.

Committed to the asylum at Charenton, he coolly avows his desire to kill his mother and sister—says he has no motive. He was treated by baths and leeches for two months. He has now lost his sanguinary impulses, and his conduct is perfectly regular. Still there are occasional convulsive movements, and his face expresses sadness and discontent. The same treatment continued; and in three months he is more communicative, seeks amusement; visits the common room, is anxious to be discharged, saying that he has no longer any sinister desires. Eighteen months after his arrival he is discharged. He subsequently applies himself with diligence to business; manifests the fondest attachment to his mother and sister, and nothing has since disturbed the calm of his life.

CASE VIII. A young lady, of nervous temperament, and very excitable imagination, was seized with profound melancholy on account of the long

absence of her husband. Nothing interested her. She wept often, repeating constantly that she was the most unhappy of women. Her husband returned. His presence, far from diminishing, aggravated her trouble. She was now often tempted to kill her two little daughters, whom she worshiped; while embracing she was often impelled to strangle them; every time she saw them her countenance changed; she was no longer willing to be alone with them. One day, one of her children came alone into her apartment; she was obliged to scream for assistance, and had the child instantly removed. This interesting woman was placed under my care, after having made several attempts to commit suicide. She is isolated, and, after nine months, recovers, sees her husband, but never speaks to him of her children. After several visits, she appeared very well, very reasonable, and even gay. I allowed her to return to her husband. Madame — goes into the world, does the honors of her house, appearing wonderfully well; but she almost never speaks of her children, who are in the country. When she asks about them, it is in the phrase "How are those little people?" Six months pass. The husband ventures to propose the return of his children. The wife does not reply, but the change in the expression of her countenance shows plainly that the time for that has not yet arrived. Three months pass. She speaks more frequently of her children, and now with interest; in a month more she expresses a desire to see them. Finally, after eighteen months of absence, they return. She overwhelms them with caresses, and sheds torrents of tears. From that moment she occupies herself almost exclusively with them; she directs their education with a tenderness and devotion truly admirable. During the ten months which this lady passed with her husband without her children, her intellect was perfect, though she was subject to many perturbing causes; among others, a great reverse of fortune. None of these things disturbed, in the least, her mind.

The following cases from the *Annales d'Hygiene et de Medecine Legale* are added, both to show the character of varying forms of Moral Insanity, and to prove, as the second and third clearly do, that the administration of the law is as uncertain on the one as the other side of the channel.

CASE IX. A shoemaker aged thirty-five, sober and industrious, rose early to go to his work; soon afterwards his wife was struck with his haggard looks and incoherent talk. He soon seized a hatchet, and attacked his wife with the greatest fury. The neighbors running in, saved her with difficulty and seized him. His face was red, pulse frequent and a little full; he was covered with perspiration, his looks savage, his eyes bright. After noon, he became calm and slept well; in the evening his mind was calm and clear, but he could not remember the events of the morning.

CASE X. The son of a barber strangled his two young brothers, and fled from his home. At three leagues he was met by a gendarme, who asked,

“Where are you going?” “I don’t know, straight before me.” “Have you any money?” “No.” “Your father has driven you away?” “No.” “Why have you left home?” After a slight hesitation, he replied, “Because I have killed my two little brothers.” The boy was instantly arrested, carried to prison, tried and condemned. No sooner was he condemned, than several persons who had known him, and who saw in him only a miserable monomaniac, who, gloomy and taciturn at all times, had “killed his little brothers to make angels of them,” interceded for a commutation of his sentence. “What,” said Louis XVIII., “pardon a monster who has killed his two little brothers! Impossible!” The boy was sent to the guillotine.

CASE XI. Some time after this execution, a young man of the same city took a great fancy to the child of a neighbor, made it presents of toys, &c., often took it out walking. One day, as they were passing a stream, he threw the child into the water, and calmly continued his walk. The child was rescued. When asked, why he committed this atrocious act, he replied coolly, “Because I wished to die on the scaffold, as my neighbor W. did.” He was tried, but the court, warned by the terrible error they had committed in the former case, acquitted the prisoner, who was sent to Bicetre, where he was confined as a lunatic for years.—*Ann. d’Hygiène*, 1836.

The cases which have now been given, and which could be multiplied to any extent from the works of Gall, Esquirol, Prichard, Ray and others, are certainly sufficient to establish the fact, that Moral Insanity does exist; that it is not, as has been asserted, a theory of the doctors,—a thing invented to cheat the gallows or the prison of their victims,—but a disease, just as well known to those who have studied it, and just as capable of being known to those who will study it, as typhus fever or small-pox.

If this be so, is it reasonable for any body of men, whether judges or lawyers, willfully to shut their eyes against these proofs, and to insist that Moral Insanity does not exist? Is it decent for them to vilify professional men, because, when compelled to appear in a court of justice, they are found unwilling to say that a disease, with which they are, by reading and experience, entirely familiar, is a theory, a myth, a nonentity? But it is objected, First, that the doctrine that Moral Insanity exists, is irreconcilable with moral accountability. To this, it might be sufficient for the medical men to reply,—we are not called on to reconcile any of the facts of our science with any of the dogmas of theology; but we are utterly unwilling that our science should for a moment *seem to be in opposition with religious truth*; we will therefore meet this question fairly. How is the existence of Moral Insanity reconcilable with human accountability? First,—Moral Insanity exists as a disease, and comes of course from Him who at His will blesses His creatures with health, or visits them with disease. It comes from the same All-Wise, All-Powerful Source from whom all our religious knowledge

comes, and therefore the one cannot be irreconcilable with the other. His Creation cannot contradict His Revelation. But suppose that it has pleased Him for His all-wise purposes, to visit certain of His children with a malady which, depriving them of moral sense, releases them from moral accountability. Shall we say He has done wrong? "Shall the thing formed say to him who formed it, Why has thou made me thus?" Or, because my afflicted brother by reason of disease cannot know, or knowing cannot obey the law of God, shall I, who do know and can obey, say—I am released from my accountability?

But there is another objection to the admission of the existence of Moral Insanity: "it interferes with the administration of the law." To this there is a very simple answer. If the existence of Moral Insanity, or of typhus fever, or of the mastodon, interfere with the administration of the laws, then, let the administration of the law be so modified that such interferences shall not take place. The fact cannot be altered: typhus fever, moral insanity, and the mastodon exist and will continue to exist, whether the law ignore or admit their existence. They cannot change; then the law should. But how is it to be changed? That is for the lawmakers to decide, and we do not apprehend that there will be much difficulty in the matter, when once the necessity of change is admitted.

Having thus, as we suppose, established as an indisputable fact, the existence of the disease called Moral Insanity, and having attempted to answer some of the objections which have been made to the doctrine, we will next pass to the consideration of the second subject on which we proposed to remark,—the legal test of insanity. This has been variously given by different judges and writers; but we suppose that the most authoritative statement yet given, is that by the Twelve Judges of England, in their answers to certain queries propounded to them by the House of Lords in 1843.

They say, "We are of opinion that, notwithstanding the party did the act complained of, with a view, under the influence of insane delusion, of redressing or revenging some supposed injury, or of producing some public benefit, he is nevertheless punishable, according to the nature of the crime committed, if he knew, at the time of committing such crime, that he was acting contrary to the law of the land.

In reference to this test, I shall attempt to establish the following propositions: 1st. As a test of sanity it is utterly futile. 2d. It has not with any uniformity guided the administration of the law, either before it was formally laid down or since; having been disregarded even by some of the judges who laid it down. 3d. When it has guided the administration of the law, the result has been, the perpetration on the scaffold of some of the most cruel murders the history of which disgraces the annals of our race.

To establish the first of these propositions, viz., that the test of knowing

right from wrong—whether those terms are used in the abstract, or whether we adopt the modification (if indeed it be one) of the Judges, and restrict it to a knowledge of right and wrong in respect to the very act with which he is charged, it is equally and absolutely futile. It might be sufficient to appeal to the testimony of those who have had charge of insane asylums, and have practical knowledge of insanity; who all concur in the opinion, that a very large majority of those unmistakably insane, do know perfectly well the difference between right and wrong, both abstractly and with respect to the acts they commit. On this subject if we undertook to quote authorities, it would be to cumber our pages with the names of all those who have written on insanity. We will rather give one or two cases which strikingly illustrate this particular point, and go to prove not only a knowledge of the right and wrong of these acts, but a very accurate appreciation of the character of these acts in their relation to the law of the land.

CASE XII. A patient in Bethlem Hospital, who was for the most part quiet, orderly and rational, had an irresistible propensity to tear her bed-clothes. She was fully aware that she was doing wrong, was always ashamed of it, and continually begged that I (Mr. Wood) might not be told of it. When I attempted to reason her out of this mischievous propensity, and asked her why she persisted in it, she would try to avoid the question; but, on being pressed for an answer, could only say, "I should not do it, if I were not afflicted."*

Who can doubt, in reading this touching case, that this poor girl gave a true and philosophical account of her condition?

CASE XIII. Jonathan Martin, who fired York Minster, knew, when he did it, that the act was contrary to law; indeed, he knew that it was a capital felony, and expected to be hanged for it. He did it, in the language of the Judges, "with a view, under the influence of insane delusion, of producing a public benefit." Yet Martin was acquitted as undoubtedly insane.

James Hadfield, whose case will be hereafter given, knew that the act of firing at the king was a capital felony, and *did it for that very reason*, wishing to be hanged.

But it is needless to multiply cases; for the existence of Moral Insanity of which we hope the reader can now have no doubt, is utterly subversive of this test; and in the second place, we shall have abundant opportunities of illustrating the fallacy of this test, when speaking both of its being neglected in some cases and applied in others.

* Wood on the Plea of Insanity, p. 19

We shall therefore proceed to give proofs of the truth of our second proposition: viz., this test has not with any uniformity guided the administration of the law, either before or since it was formally laid down by the Twelve Judges; having been, in several cases, entirely disregarded by some of the very judges who laid it down.

CASE XIV. James Hadfield fired at King George III. in Drury Lane Theater. He made no attempt to escape, and when arrested avowed his crime, saying he knew his life was forfeited—he did the act for that reason. He was tired of life, and his plan was to get rid of it. He did not intend to take the life of the king; he knew that *the attempt* only, would answer his purpose.

Now try this case by the test of knowing right from wrong, whether in its naked deformity, as laid down by Justice Tracy in *R. vs. Arnold*, who said, “A man must be totally deprived of his memory and understanding, so that he does not know what he is doing, more than an infant, a brute, or a wild beast.” Or as given by Lord Lyndhurst on *R. vs. Offord*: “The jury must be satisfied that he did not know what the effect of the act, if fatal, would be, in reference to the crime of murder.” Did not Hadfield know what he was doing more than a “brute?” Did he not know perfectly and even accurately, that *the attempt*, even, to kill the king was a capital felony? Yet Hadfield was acquitted as an undoubted lunatic, and remained in Bethlem Hospital for years, unmistakably insane.

CASE XV. D. M'Naughton, after lurking for several days around the house of Sir Robert Peel, finally shot, from behind, a Mr. Drummond, who bore a striking resemblance to Sir Robert. He did this act because he insanely supposed that he had been persecuted by the Tories. M'Naughton's conduct may be described very accurately by transcribing part of the answer given by the Judges. “He did the act complained of, with a view, under the influence of insane delusion, of redressing or *avenging some supposed grievance or injury*.” There could not be the shadow of a doubt that he knew the act was contrary to the law of the land. Now, of such persons the answer of the Judges says, they are punishable. Yet M'Naughton was acquitted on the ground of insanity, Chief Justice Tisdale (one of the judges who presented the answers to the queries of the House of Lords) actually stopping the case when he found that there was no rebutting medical testimony,—several medical men having sworn to their opinion of the prisoner's insanity.”

The acquittal of M'Naughton caused a vast amount of popular clamor. It was denounced by the press. Mr. Warren, in *Blackwood's Magazine*, says of it,—“The acquittal of this cold-blooded murderer horrified and disgusted the public.”

"It created," says Mr. Townsend, "a deep feeling in the public mind, that there was some *unaccountable defect* in the criminal law." It was alluded to in both Houses of Parliament, and gave rise, in the House of Lords, to a protracted debate, in which all the great law lords took part; all agreeing that something must be done. It was finally determined to send the queries already mentioned, to the Twelve Judges, to get from them a formal statement of the law. Yet time has shown that this acquittal was right, for we have the testimony of Mr. Wood, medical officer of Bethlem Hospital, that "M'Naughton is now (1852) unquestionably insane."*

CASE XVI. Ross Touchet entered a shooting gallery, and deliberately shot the proprietor, inflicting a wound of which he died, after lingering for eleven months. After firing the pistol Touchet said "he did it on purpose, for he wished to be hanged." There was no evidence of intellectual aberration. Could any case present more indisputable proof that the prisoner "knew, at the time of committing such crimes, that he was acting contrary to the law of the land." Yet he was acquitted as insane.

CASE XVII. Almira Brexley, aged 19, was a nurse in the family of a gentleman in London. She had suffered for some months from amenorrhœa, and had been prescribed for by the family physician for that disease; he had never discovered the slightest sign of intellectual aberration, nor had the idea of her being insane ever been entertained by any one. One Sunday morning she went into the kitchen; and, selecting a large knife, *tried* its edge with her finger; and, when she was asked by a fellow-servant what she wanted it for, said "to cut Miss Mary's pencil." She was told that a smaller one would answer the purpose better; but said she would take that, as it would answer to cut bread for the children's luncheons. She then went into the nursery, and cut the throat of the baby in his cradle, nearly severing the head from the body, and of course producing instant death. She next rushed into her master's room where he was entertaining company and exclaimed "Oh what will become of me! I have murdered the dear baby." "Will you, Sir, (addressing her employer) forgive me?" "Will God forgive me?" Neither before nor after committing the homicide, did she manifest the least sign of intellectual insanity. She was tried before Lord Denman, and acquitted on the ground of insanity.†

CASE XVIII. Alice Snoswell, aged 17, suffering like Brixley from amenorrhœa, being on a visit to a married sister, went into the nursery and cut the throat of a little niece, for whom she had always expressed especial fondness, calling her "my Alice." There was no sign of intellectual disturbances,—no pretense that intellectual aberration existed or ever

* Wood on the Plea of Insanity.

† Lond. Med. Gaz.

had existed. She was tried before Justice Park, at the Maidstone Assizes, and acquitted on the ground of insanity.

CASE XIX. William Frost, a tanner, who had borne an excellent character, during a period of despondency killed his four children. He washed the handle of the hammer with which he committed the homicide, and afterwards hid it. Surely he knew perfectly well that he had acted contrary to the law; and had intellect enough to attempt to escape punishment. Indeed, the case was in this view of it so clear against the prisoner, that the judge (Mr. Justice Williams) formally abandoned the right and wrong test, and charged the jury "that it was not merely for them to consider whether the prisoner knew right from wrong, but whether he was at the time he committed the offense, deranged."*

Having now shown that this test has not guided the administration of the law, having been disregarded both by Chief Justice Tisdale and Lord Denman—two of the judges who united in the answer to the House of Lords, and formally abandoned by Mr. Justice Williams, I believe another of them,—we proceed to establish our third proposition, viz.: Where it has guided the administration of the law, the result has been in some cases the perpetration on the scaffold of judicial murder. First in order of time, and first in its display of judicial ferocity, we place the case of Bellingham. Aware that we have used harsh language, we beg the reader, before condemning us, to peruse, calmly if he can, what follows.

CASE XX. On Monday, May 11th, 1811, Mr. Spencer Percival, then prime minister of England, was shot in the lobby of the House of Commons, by a man named Bellingham, who had no personal feeling against that most amiable gentleman, but was incited to this miserable homicide by the insane notion, that in this way, and in this way only, he could bring before the public certain claims which he supposed he had against the government. In reply to the frantic cries of the by-standers "Where is the rascal that fired?" he calmly said, "I am that unfortunate man." On his trial, Bellingham's counsel claimed that he was insane; and fortified by strong affidavits, besought of the court for only such brief delay as would be necessary to bring from Liverpool and elsewhere, abundant evidence from parties who had known him from childhood, that Bellingham was and had for a long time been insane. This brief delay was opposed by the then Attorney-General, Sir Vicary Gibbs; who insisted that it was clearly a contrivance to delay the administration of justice, to impose upon the court a false belief; that justice would be grossly violated by delay: the affidavits were to retard

* London Medical Gazette, vol. XLII, p. 255.

and weaken justice. These furious denunciations were accompanied by insinuations against the counsel for defense, &c., &c. Sir James Mansfield* refused to grant the delay asked for. The trial proceeded; the Attorney-General, fortified, as he said, by the sages of the law, declared that "a man may be deranged in his mind, not having intellect sufficient to conduct the common affairs of life, yet is he answerable to the law for his criminal acts, if he is capable of distinguishing right from wrong." Bellingham, when called on to speak for himself, made a long, rambling harangue, setting forth his claims against the government, and the manner in which justice (as he said) had been denied him. In justification of the homicide, he said that a clerk had, in dismissing him, told him that "now he was at full liberty to take such measures as he thought proper for redress." This Bellingham insisted was a *carte blanche* from the government, and gave him the clear right to do what he pleased. He repudiated, in express terms, the idea of being insane, and thanked the Attorney-General for objecting to that plea. The whole speech is plainly that of a madman, and ought of itself to have convinced the court of Bellingham's insanity. The judge duly confirmed the law as laid down by the Attorney-General; Bellingham was found guilty, and hanged. *His crime, commitment, trial, and execution occupied just one week!* Mr. Percival was, as we have stated, shot on Monday, May 11th, 1811. On Monday, May 18th, the dead body of Bellingham had been given to the surgeons for dissection.

To show the condition of mind of this poor wretch, when about to satisfy the ferocity of the law, take the following statement from Blackwood's Magazine, for 1850, p. 564: "A military officer present at the execution of Bellingham, and very near the scaffold, told us that he distinctly recollects B. while standing on the scaffold, elevating one hand, as if to ascertain if it were raining, and saying to the chaplain, in a calm and natural manner, '*I think we shall have rain to-day.*'" It is worthy of remark, that Lord Brougham in the debate on the case of M'Naughton, while condemning the refusal of delay in Bellingham's case, coolly adds, "No one can doubt that, had the proof been obtained, the result would have been the same." Those who desired to satirize the law could not, I think, do it more effectively, than by adding to this remarkable opinion of the learned lord, the "*certainly not,*" of the old comedy.

CASE XXI. N. Laurence had been arrested for a petty theft, and taken to the police-station, where the inspector, an utter stranger to

* In many of the books it is stated that Lord Mansfield presided at this trial! this is obviously a mistake. Lord Mansfield died in 1793, long before the Bellingham trial.

Laurence, was standing with his back to the prisoner, talking to some friends. Laurence suddenly seized a poker, and struck the inspector a violent blow on the head, which speedily proved fatal. The prisoner admitted that he had no motive for the act, and would have struck any one who had been standing there at the time; he said he was glad he had done it, and hoped the inspector would die, as he wished to be hanged.

It appeared on the trial, that there was no possible cause of quarrel between the parties, but that the prisoner seemed to be actuated by some sudden impulse, for which not the slightest reason could be assigned. This man was hanged. Compare this case with that of Touchet, case XVI.; and can any one doubt that if Touchet was rightly acquitted, Laurence was most wrongfully murdered?

CASE XXII. Thomas Bowler was tried for murder, at the Old Bailey, July 2d, 1812. The killing being admitted, the defence was insanity. It was proved by unimpeached testimony, that the prisoner had, about a year before, an attack of epilepsy of great severity, and had ever since been greatly changed in conduct and conversation. Mr. Washburton, Superintendent of a Lunatic Asylum, swore that he had no doubt of the prisoner's insanity. To place the matter beyond doubt, a commission of lunacy by which, a short time before, the prisoner was declared insane, was produced. Yet all in vain—the judge charged as usual, that, if the prisoner was capable of distinguishing right from wrong, he was responsible to the law. The jury found Bowler guilty, though, the report adds, *with some difficulty!*

CASE XXIII. William Freeman, indicted in Cayuga county, New York, for murder. In this case there was a preliminary judicial inquiry, as to the sanity of the prisoner, when the jury found him sufficiently sane in mind and memory, to distinguish right from wrong; which was by the court held to be equivalent to a verdict that he was sane in mind. The prisoner was put on his trial, the defence of insanity interposed; but under the operation of the right and wrong test, which was adopted by the presiding judge, the jury found the prisoner guilty. His counsel applied for a new trial, which was granted by the Supreme Court; but before a second trial was had, Freeman died in his cell. A post-mortem examination of the brain was made by Drs. Brigham, McCall, Fosgate, and others, the result of which was, finding extensive disease of the brain. Dr. Brigham says, "I have rarely found so extensive disease of the brain, in those who have died after long-continued insanity."

To the mind, wearied with the contemplation of the long list of victims to unenlightened jurisprudence, it is refreshing to pause and contemplate the

conduct of the counsel of Freeman—the Hon. William H. Seward. His client was a poor, ignorant, half-brutalized negro; yet never had a monarch's cause a more zealous advocate. He fought the battle of humanity from its commencement to its close, with an industry and devotion rarely equaled in the annals of criminal jurisprudence. Popular prejudice was arrayed against him, and political enemies were but too ready to echo the clamor of the unthinking multitude. Yet did none of these things move him. Firm in the conviction of duty, he could say with Milton—

I bate no jot of heart or hope,
But still bear up and steer
Right onward.

To the evidence derived from the above-detailed cases, I will now add some authorities upon this subject:—

Dr. Woodward, for many years Superintendent of the Asylum at Worcester, Mass., says, "Of all the cases that have come to my knowledge, and I have examined the subject with interest, for many years, I have known but a single instance in which an individual arraigned for murder, and found not guilty by reason of insanity, has not afterwards shown unequivocal symptoms of insanity, in the jails or hospitals where he has been confined; and I regret to say, that quite a number who have been executed have shown as clear evidence of insanity as any of these.—*Tenth Annual Report, Worcester Asylum, p. 73.*

To the same effect Dr. Brigham, in his Eighteenth Annual Report for the Hartford Asylum, says, "I know it is a common, but frequently a careless remark, that the plea of insanity is too often successfully adduced as an excuse for crime. So far as I have any knowledge, this is not the case. I do not know of a single instance where the insanity of an individual has been certified to by those well informed and well qualified, by experience with the insane, to judge on such a subject, that time and public opinion has decided to be incorrect."

Dr. L. Bell, of the McLean Asylum, says that "for one real criminal acquitted on the score of insanity, there have been a dozen maniacs executed."

I here close my remarks on the third proposition. Can it be doubted that in all its force and in all its apparent harshness, the proposition is true, that where this right and wrong test has controlled the administration of the law, the result has been the perpetration upon the scaffold of most cruel murders? Will any one say that the reckless haste that denied to poor Bellingham the few days necessary to establish his defense, was aught less than murderous?

Was the partiality that sent Laurence (Case XXI.) to the gallows, while Ross Touchet (Case XVI.) was spared, any thing but murderous?

Above all, was the hanging of Thomas Bowler (Case XXII.) after he had been, upon due legal investigation, declared insane, and as insane deprived of the control of his property, aught but murder?

But, it will be asked, what must the law do for the protection of our lives and our property? On this subject it is not for a layman to give an opinion; but surely if those who make and those who administer the law are really convinced that something ought to be done, there cannot be any great difficulty, and there should not be any needless delay, in so modifying the law, as to make it conform to the present state of knowledge on the subject of insanity.

But, though unwilling to give any opinion as to what should be done, there is yet one question on which the humblest layman, if only his heart is in his subject, may and must speak boldly. That subject is—What must the law not do? The law must not continue this already too long catalogue of judicial murders. The law must not keep in her rusty armory a test of sanity which every man who has any knowledge of the subject knows to be vain and futile; the law must not keep this relic of an unenlightened age by her, to be brought out, as whim, or chance, or the feeling of the hour may dictate, to slay those whom the Almighty, in his mysterious—most mysterious providence, has visited with a disease compared to which all other and mere physical diseases are but as nothing. Such beings, instead of being dragged to the scaffold or thrust into the prison-house, should be hallowed by their great misery. The Heathen worshipped the tree that had been struck by lightning; let not Christian men be found less easily moved to sympathy with human sorrows.

Before closing this little tract, I feel it to be incumbent on me to reiterate the statement made in the beginning of it, that I make no pretensions to originality; my materials, derived from Esquirol, Hoffbauer, and especially from the admirable work of our countryman Dr. Ray, have been hastily, and I doubt not unskillfully, put together in the scanty leisure which professional and professorial duties have left me. I now commend my work to the candid consideration of all who desire accurately to know the ascertained facts, on the obscure but most important subject of Moral Insanity.

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A

MEDICO-LEGAL EXAMINATION

OF THE

CASE OF

Charles B. Huntington.

THIS medico-legal examination of the case of Huntington, was written as an Appendix to the Report of the Trial, prepared by the Counsel for the defence, and lately published by JOHN S. VOORHIES, No. 20 Nassaustreet.

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