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## P R E F A C E .

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THE following chapters appeared originally in "The Spectator" newspaper. The influential character of that journal secured for them much notice; and the author was gratified in receiving, during the intervals of their publication, kind assurances from many of its readers, that the progress of his argument was regarded with the warmest interest.

Upon their completion, he had also the pleasure to learn that his letters had attracted the favourable attention of the Trustees of the Henderson fund for the advancement of Phrenology, and that the publication of them in a collective form had been resolved upon, in accordance with the following minute:—

"Extract from a Minute of the Trustees of the late William Ramsay Henderson, Esq., at a Meeting held at Edinburgh on the 13th day of April, 1841.

“The Trustees having perused Letters upon ‘Criminal Jurisprudence in relation to Mental Organization,’ by M. B. Sampson, Esq., are of opinion that their extensive circulation, in a cheap form, would tend to promote ‘the Advancement and Diffusion of the Science of Phrenology, and the Practical Application thereof in particular,’ (the objects of Mr. Henderson’s Trust bequest,) and therefore resolve to print and publish an edition of them, in double columns, at a price which may bring them within the reach of all classes of the community.”

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In sending forth the present edition, the Author is desirous of requesting a continuance of the indulgence already received. He does not seek indulgence for his opinions, for if these are erroneous, he desires that they may be refuted; and if they are true, as he believes them to be, it is out of the power of any individual to retard their recognition. But, in stating views wholly subversive of many deeply-rooted ideas which have long been maintained by abler minds, it is next to impossible, while an attempt is made to express them with clearness and force, to present them in a style entirely free

from all appearance of arrogance or presumption ; and what he would ask is, that his readers should estimate this difficulty, and do him the justice to believe that it has been his anxious endeavour to avoid it. In his own mind, he feels certain that the views which he has stated must, sooner or later, overturn the present system for the treatment of criminals ; but he lays claim to no discovery, and is aware that, under any circumstances, his only merit must consist in his having been among the first to apply to a consideration of the subject the aid of our advanced physiological knowledge—an aid sufficient at once to remove the chief difficulties of his task.



## INTRODUCTORY PREFACE.

BY THE EDITOR.

THE views of Criminal Jurisprudence expounded in the following work, have never before, it is believed, been presented in any definite and concise form. Comparatively new in their character, and of wide bearing upon the whole phenomena of crime, their importance would seem to entitle them to more general attention than they can receive through the circulation of the English edition.

For this reason, and because the subject of Criminal Jurisprudence, at the present period, is claiming much of the public attention, it has been thought that a reprint of this work would be useful. To adapt it somewhat more perfectly to the purpose of interesting the popular mind—for it is emphatically on the popular mind in republican America that such a work must exert its chief influence—the editor has added some of the many facts which her own experience and that of others have furnished, illustrative of its most novel doctrines. The truth on which Mr. Sampson's positions are based, is comparatively new. Its discovery dates scarce half a century back; and

though it has gained a wide popular acceptance, both in Europe and America, it evidently is not yet sufficiently recognized as the basis of penal legislation or the administration of criminal law. It is with the earnest hope of gaining somewhat in both these particulars, that the editor has undertaken a task which, entered upon without explanation, might seem presuming in one of her sex. It will be found, however, that her office is very humbly discharged, no aim being made to add force to the arguments, which indeed their completeness and cogency forbid, but simply to place them before the mind less as abstract truths than as the expositions of laws which govern the daily conduct of life and its most momentous interests.

The ground which Mr. Sampson has taken, is so modestly and unobtrusively occupied, that even the most prejudiced opponent would scarce find a decent pretext to wage combat. The statements made are propositions of incontrovertible truths. But the language adopted in making them may sometimes create objections and provoke opposition, to which the opinions themselves differently expressed would not give rise.

The term Insanity,\* for example, is applied to all mental conditions in which the mind is deprived of the power of true moral perception, or alienated from that standard of morality which the best minds adopt. That the different degrees and kinds of moral aberration are evidence of the want of moral sanity, there can be no doubt. But the term by which Mr. Sampson designates them, has been used to indicate the irregular, uncertain, or uncontrollable action, flowing from *disease*, either functional or organic, of the physical instrument of the

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\* See page 6.

mind. Those who are not familiar with the philosophy on which his statements are founded, will not, it is feared, be prepared to accede readily even to a truth expressed in terms with which they have been accustomed to associate ideas and phenomena so widely different as, in their minds, the disease insanity is from the tendency to crime.

The discovery of the immediate and inherent connection of mind with its material instrument, has placed the question of mental tendencies, of every description, on definite and intelligible grounds. Impulses, desires, and acts, which before set both reason and charity at defiance, when these could examine only external causes and circumstances, are now clearly explicable by reference to the existence and force of internal causes. These, like all natural causes, have a certain specific and legitimate force—and like them, too, the effects which they produce bear a well defined relation to themselves in character. If they act, a certain effect must flow corresponding with the extent of the action; its character as inevitable in the case of the destructive, acquisitive, or combative propensities, as in that of benevolence, ideality, or justice. If an individual be so endowed with the propensities as that the natural action of his faculties leads only, or for the most part, to vice and crime, he is not yet regarded as insane, though he act in strict obedience to natural causes operating within himself. Nor is it conceived that, strictly speaking, he is so; since every part of his organization may be healthy, and acting with perfect fidelity to its natural constitution. There is no irregular or uncertain action. We may calculate with much exactness what effect certain causes will produce on his faculties, and what, in turn, will be the consequences of these acting outwardly upon surrounding objects. But, if the brain be diseased in structure,

or to any considerable extent in function, effects no longer follow causes in their true relation. The laws of the natural state cease to indicate the character and force of the mental operations. The circumstances and conditions of life no longer produce their foreknown and legitimate effect on the mind, or rather the brain; for the former is reached only through the latter; and thus irregular, extraordinary, and unforeseen results follow the action of ordinary causes.

This condition constitutes, I believe, what is popularly acknowledged to be insanity, and when a person is clearly shown to be in such a state, society, for the most part, is willing to absolve him from responsibility for his acts. But many individuals are so constituted that while all the cerebral organs are in a healthy condition, their predominant tendencies are continually to wrong. These tendencies reign with different degrees of power over different minds. In some their supremacy seems to be undisputed by any higher influences in the same mind. In others, again, reason and the higher sentiments struggle with them for the mastery, and sometimes obtain it. In still another class the balance is so much in favour of these latter faculties, that the propensities act without their consent only on rare occasions, when they are very powerfully addressed by external causes, and thus excited to their highest and most intense action. It is a fundamental truth, which society and legislators have failed to recognize, that all these individuals act in obedience to the operation of physical causes in themselves. The ignorant, who constitute by far the larger class of criminals in all countries, are seldom responsible for the strength with which these causes operate at any period of their lives. Entering largely into their original constitution, they are the sources of the earliest desires and impulses which

they feel. Year after year passes with only few and feeble influences addressed to their better powers, and these naturally weak, fall by disuse into a still feebler state, till at length their existence is scarcely recognized. Meantime the intellect, uninformed and uncultivated, gives no warning of the consequences that must flow from the continued indulgence of the propensities. Occasionally, struck by the greater happiness and beauty of a higher life, the individual may resolve to reform when a few years' more indulgence shall have sated his appetites, but he is too ignorant to know that every year of such life lessens his ability to return to or maintain a purer one. Such individuals have never outraged better faculties. They have differed little from the brute animal, to whose mental constitution their own is so nearly assimilated. In this condition who can doubt that their responsibility is as positively lessened, we will not say destroyed, as that of the insane patient? And is not the treatment which society is called upon to administer to each, more nearly allied in its character and objects than has hitherto been conceded? So far as its rights and interests are concerned, is not the latter truly its patient; having a right as one of its members, and in virtue of the moral and mental deformity under which he suffers, to such treatment at its hands as will enable him to exercise his membership safely and happily? It is in this sense that persons addicted to crime may be pronounced insane. They certainly have not that mental soundness which enables them to perceive and adhere to the highest standard of rectitude which society requires and judges its delinquents by. It may be said that the will should restrain these propensities. And doubtless one of its most important offices is to do this. But who, save the criminal himself, shall tell how often it has succeeded or

failed? What human scrutiny shall discover, or what hand record, the crimes that have struggled into being despite its firmest decisions, its most patient and faithful labours? Or who shall number the misdeeds that have been conceived, and that would have grown into shocking and monstrous magnitude before earth and heaven, but that its extinguishing grasp had been laid firmly upon them at the first moment of existence?

But the will is not an agent of unlimited power, which the depraved have only to call on in order to be secure against temptation from without or propensity within. Nor does its strength in all minds bear the same relation to the propensities which it has to combat. Like all other mental powers, it is governed by the laws of organization. It therefore has a certain specific and definite action, which is strong or weak, according to the relative size, energy and tone of the organs with which it is connected. It has no more capacity to resist a faculty, superior in strength to itself, than any other power with which we are endowed.

If it be considered, too, that the will is not a moral faculty, that it has no inherent tendency either to vice or virtue, but may be enlisted to sustain either, and that in most criminals it is unenlightened, it will cease to be regarded in the light it now is, by those who think little on these subjects, as that power which stood ready to save, if the criminal would have called [on it to stay his evil desires. No man, whatever his constitution, can determine to exercise a stronger will than that he possesses over any excessive faculty. Properly enlightened, he may place himself where external circumstances or influences will aid this power, but in no way can it be made to exceed the strength which it possesses in virtue of the constitution of its material organs.

Criminals who are really such from natural constitution are generally distinguished by two features in their cerebral organization—an excessive development of the propensities, and a deficiency in the whole superior region, including the moral and higher intellectual powers. With such endowments it is as inevitable that they should experience a continually recurring desire for the excessive indulgence of their propensities, as that the lion should take prey, or the singing bird gather seeds. All these must *feel* by the laws of their constitution the various impulses by which they are animated. The two latter must *act* likewise in obedience to the same law. Man alone has the ability to know if his feelings be right, and the power to oppose them if they are not. In the great body of mankind, this opposing power becomes likewise a controlling one in the more serious emergencies and conflicts of life. When it is so, it places its possessor among what is reckoned the virtuous portion of the race. This class become inevitably the judges of those less fortunately constituted. Finding that they have been able to control their evil tendencies, in their ignorance of the varieties of original constitution, and of the dependence of mind upon its physical instruments, they have judged all persons equally capable, and have consequently erected one standard, which none may fail to reach, however they may be incapacitated, without being judged guilty, not only of the offences they have committed, but of the infinitely greater one of having acted in defiance of the decisions of higher powers, powers which they never possessed; of having wilfully and perversely outraged all those purer and better sentiments, and defied all that reason which saved their more fortunate brethren from the same degradation. They are not only therefore deemed worthy of the penalties which naturally fol-

low crime, namely, the loss of that liberty which would enable them to repeat it, but of additional suffering, designed to express the indignation with which man views their conduct, though He, whose higher laws they have violated, neither prescribes nor inflicts such punishment.

It is to demonstrate these errors and their fatal tendency, that Mr. Sampson has written; and it is with the belief that his work will shed light upon the inquiry, now so generally abroad, into the tendencies to crime and their remedies, that this edition is presented to the American people. The small additions which have been made by the editor, have been prepared amid a variety of the most engrossing duties. This it is hoped will cause them to be received charitably. If they shall aid any mind in a dispassionate and earnest search for truth, or cause even a small number to study the author's arguments in an honest spirit of inquiry, they will effect all that is anticipated.

My acknowledgments are due to the officers of the Penitentiary on Blackwell's Island for their politeness in furnishing me with facilities for taking the daguerreotypes, and to Mr. L. N. Fowler for aiding me in the selection of cases; nor must I omit to name Mr. Edward Serrell, who was obliging enough to take the outline drawings for me; or Mr. Brady, to whose indefatigable patience with a class of the most difficult of all sitters, is due the advantage of a very accurate set of daguerreotypes.

I am happy also to acknowledge myself much indebted to Mr. Harmon Eldridge, the indefatigable and excellent keeper of Mt. Pleasant Prison. His long experience in prisons, his humanity and good judgment, make his opinions and statements in matters of this kind very valuable. These have been freely given

me, and have been of great service in many particulars. It is proper to state also, that this gentleman is doing an essential and noble service to humanity in his management of the Institution under his charge. In his hands it is approximating, as rapidly as its great size and other untoward circumstances will permit, to the supremacy of moral influences.

E. W. FARNHAM.

FEMALE PRISON,  
*Mt. Pleasant, N. Y., June, 1846.*



# CONTENTS.

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## CHAPTER I.

Conflicting theories respecting the treatment of criminals.—Dependence of the mind upon the conformation and health of its material instrument, the brain.—Mental sanity dependent upon the harmonious development and activity of the cerebral organs.—Obedience to the laws and customs of society the true test of the possession of mental health.—Definitions of insanity.—Views of Sir William Ellis, Dr. Andrew Combe, and Mr. S. B. Woodward, . . . Page 1

## CHAPTER II.

Insurmountable difficulties consequent on the present mode of testing insanity.—Practical bearing of the views set forth in the preceding chapter.—Affections or diseases of the brain arise from causes analogous to those which produce affections or diseases of any other organ, and should be treated upon similar principles.—Injustice and inefficiency of human punishments.—Arguments in their favour on the ground of responsibility, license, and example.—Answer to the objection regarding responsibility, . . . . . 29

## CHAPTER III.

Answer to objections continued.—Views which should actuate society in the treatment of criminals, . . . . . 51

## CHAPTER IV.

Practical adaptation of the foregoing views.—Eastern State Penitentiary of Pennsylvania.—Neglect of education in England, and of the obligations of society.—Inexpediency of capital punishments, . . . 69

## CHAPTER V.

Statement of homicides committed in Great Britain for five years, from 1831 to 1835 ; with other cases showing the coincidence of the suicidal with the homicidal propensity, and the tendency of capital punishment to act as a stimulant to the perpetration of murder, 83

## CHAPTER VI.

Further illustrations of the inexpediency of capital punishment.—Objections on the part of Government to its abolition.—Objections answered.—Neglected duties of the Government.—Summary of the principles upon which criminal laws should be founded. . 103

## APPENDIX.

No. I. Obedience to the laws the test of mental sanity, . . . . .	124
II. Eastern State Penitentiary of Pennsylvania, . . . . .	129
III. The destructive propensity, . . . . .	137
IV. Term of imprisonment, . . . . .	140
V. Dread of being considered insane, . . . . .	146
VI. Unaided efforts to escape from crime, . . . . .	150
VII. Illustrative drawings, . . . . .	153

# RATIONALE OF CRIME.

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## CHAPTER I.

Conflicting theories respecting the treatment of criminals.—Dependence of the mind upon the conformation and health of its material instrument, the brain.—Mental sanity dependent upon the harmonious development and activity of the cerebral organs.—Obedience to the laws and customs of society the true test of the possession of mental health.—Definitions of insanity.—Views of Sir William Ellis, Dr. Andrew Combe, and Mr. S. B. Woodward.

It usually happens that those questions which are of the greatest importance to the welfare of mankind are the last to become the subjects of general public discussion. The practical details of life form the objects to which the action of popular opinion is more immediately directed, and it is only when the evil working of any of these details is shown to be beyond the possibility of reform, except by an attack upon some great principle to which they owe their origin, that men can be persuaded to question the soundness of any general idea upon which, through past time, they may have been accustomed to rely.

Among the subjects which have of late, in this way, been forced upon the public attention, that of Criminal Jurispru-

dence has been the most conspicuous. The want of a well defined and fundamental principle with regard to the treatment of criminals is generally felt and admitted; and conflicting theories are every where promulgated on the subject. The intentions of Nature, however, are always simple, and have only to be clearly stated to be understood; and as the theories hitherto propounded in relation to the treatment of criminals have almost all of them in turn found advocates amongst the most eminent men, of whom not any two agree upon the matter, a strong suspicion may reasonably be entertained, that amongst all the discordant systems referred to, we shall attempt in vain to find the true one.

I propose in the present work to draw the attention of my readers to this important subject, and to attempt to lay down some general principles in relation to it. In doing this, it will be necessary that I should enter into a consideration of the cerebral organization of man in connection with the subject of social responsibility: and regarding the latter point, I shall be able to show, by some important facts, the urgent necessity which exists for a concise definition of its nature and bounds. I shall then suggest a new view of its nature, of a wider character than that which at present obtains; in the hope that I may be able to induce a belief that a system of criminal treatment may be based upon it, which, while it is unchangeable in its principles, and certain in its effects, will also harmonize more fully with our advanced knowledge of the human organization, and with the clear and benignant doctrines of Christianity.

It is now acknowledged as an unquestionable truth, that all the manifestations of the mind, including the feelings and the passions, are dependent upon the conformation and state of health of its material instrument, the brain; and that all derangements of this organ arise from causes analogous to those which produce derangement of any other organ of our

physical frame. The question then arises, Why do we not treat irregularities of the mind in the same way as we treat all other physical disorders, viz., by confining ourselves solely to an attempt to cure the patient? and why do we talk of punishment when we are considering a case of morbid action of the brain, any more than when we are considering a case of morbid action of the heart, the lungs, or any other organ?

The difference has arisen from the confused notions which have been universally entertained regarding the social responsibility of man, all tending to the belief that there exists a middle ground, not to be doubted, yet never to be defined, where responsibility ends and irresponsibility begins.

It will be admitted, that if a man could be found in whom *all* the qualities of mind and body were healthfully constituted and harmoniously developed, we should then behold a being who would realize, humanly speaking, our ideas of perfection. That all men fall far short of this standard, is a truth which religion and experience alike confirm; but, some approach more nearly to it than others; and the question that we have to consider, in estimating the qualities of our fellow-men, is not, whether any one exists whose mind and body are thus perfectly sane, but, What is the relative degree of his divergence from the perfect type which we have supposed? The tendency to evil, which, more or less, is the characteristic of all men, indicates in each the amount of this divergence from that harmonious balance of the mental powers in which alone true soundness of mind can consist. False impressions, ungovernable desires, deficiencies of intellect or feeling—in short, all that makes up the sum of human errors—arise from an unbalanced action of the various faculties of the mind; and to the extent, therefore, that any one faculty is deficient in its comparative relation to the others in any individual, such is the extent of his departure

from true soundness of mind in regard to those objects to which that faculty may relate. For instance, we may suppose a man exerting his natural tendency to the acquisition of property : if this tendency does not exist in his mind to a greater degree than the sentiments of benevolence and conscientiousness, he will gratify it by the acquisition of property through means consistent with justice and humanity ; but, if the tendency to acquire preponderates greatly over the moral tendencies which I have named, he will then gratify it by theft or falsehood, or by any means that may be open to him ; and this will arise from his deficiency in those portions of the brain which are the necessary instruments of the two higher feelings. Owing to this deficiency, he is unable to manifest, to a proper degree, these emotions, which are common to man ; and the result is, that he cannot perform the mental operations that are necessary to keep his acquisitive tendency within its legitimate bounds. Now, it would be as reasonable to expect a man to run fast with feeble legs, as to expect a man, in the case which I have supposed, to act with benevolence and justice. Just as reasonable, also, would it be to say that the man who is deficient in those portions, or qualities, of the brain which are necessary to the manifestation of these feelings, possesses any thing else than an unsound mind.

To the extent, then, that any one power of the mind assumes an irregularity of development, such is the extent of the departure from mental sanity, and the consequent tendency to a disobedience of the moral or physical law over which the defective faculty was intended to preside ; and, as there exists not an individual in whom a perfect balance of all the faculties can be found, so it has been well said, that, "If we speak with rigorous exactness, there is no human mind in its right state."

It will probably be urged, that, as the perfect type to

which I have alluded has no real existence, it is impossible to estimate, with any degree of exactness, the amount of departure of each individual from its bounds; and that, as mankind are too apt to make their own notions of morals the standard by which they measure the actions of others, this standard would vary not only with individuals but with entire nations, and that it is, therefore, totally inapplicable to any practical purpose. Now, although it cannot be maintained that there exists any human mind in a state of perfection, yet we may consider as perfect, for all social purposes, that mind which comes up to the average state of mental power characterizing the society of which it is a part. This average state of the social mind is precisely indicated by the laws and institutions which society frames, or permits to be framed, for its own governance; and, hence it may very safely be taken as a rule, that every person is sane to the requisite extent for the performance of social duties, so long as he possesses the mental power and disposition to act in obedience to the laws. Although, therefore, it may be asserted that, in the eye of Perfection, there exists no human mind in its right state, yet so long as an individual infringes no general law or habit of society, he may be considered as coming up to the average point of civilization, and may, therefore, be regarded as perfectly sane.\*

Irregularities of disposition arise from two causes,—viz., the transmission of an irregular cerebral organization from parent to child; and, subsequently, the effect of accidental circumstances, as bad example, ill-conducted education, injuries of the head, &c. It is precisely from analogous causes that irregular conditions are occasioned in other organs of the body. They are more or less, in all cases, transmitted in an imperfect and unhealthy state; and the subsequent

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\* Appendix, No. 1. Obedience to the laws the test of mental sanity.

effect of defective physical education and accidents aggravates the predisposition to morbid action which was thus originally established. If a child be born with an irregular organization of brain (and to say that every child is born thus, is merely to aver that none are born perfect), he comes into the world to the extent of that irregularity insane; and as, by subsequent education, that irregularity may be reduced or increased, so will this insanity be aggravated or relieved.

I am aware that one of our most successful practitioners, the late Sir William Ellis, in treating of insanity, arrives at the conclusion that, "Independently of cases of idiocy, imbecility, eccentricity, and moral evil, man is sane while the manifestation of his mind, sentiments, passions, and general conduct continue either to improve or to keep in accordance with the exhibition of his previous powers and habits:" but we must not overlook the fact, that Sir William is treating expressly of that kind of insanity which results from disease. In many instances, as in idiocy, we meet with mental unfitness or incapacity combined with perfect health of the organization, such as that organization is: just as we may have a child born and live healthy without legs or arms. By accurate medical philosophers the term insanity is used only to describe a morbid state; but, in order to avoid unnecessary distinctions, I have used it in its wider and more popular sense, viz., as applying not only to unsoundness of mind resulting from diseased organization, but also to that unsoundness which arises from a conformation originally defective. If we were to take Sir William Ellis's definition in any other shape than in the limited one which I have explained, it would be difficult to conceive upon what grounds his views have been formed, since he acknowledges the law of hereditary transmission, and says, "As we find that children resemble their parents in conformation of the body, in

feature, and complexion, and even in the colour of the eyes and hair, it is but reasonable to presume that there should be a like resemblance in the structure of the brain." If, therefore, the possible transmission of a defective form of brain be recognized, how can we in fairness limit the plea of unsoundness of mind to those whose conduct exhibits a *sudden* derangement from their usual mode of action? since those who inherit a defective organization commit crimes to which, on account of that conformation, they have exhibited an invariable tendency, and for the commission of which they certainly cannot be considered responsible to a greater degree than those who are impelled by a sudden derangement !\*

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\* "The form of head possessed by all dangerous and inveterate criminals is peculiar. There is an enormous mass of brain behind the ear, and a comparatively small portion in the frontal and coronal regions. Such a conformation always characterizes the worst class of malefactors; and wherever it exists we find an excessive tendency to crime."—MACNISH.

"It has now been fully established by the researches of modern physiologists, that the visceral ganglionic system, the medullary columns of the spinal chord, the annular protuberance, and other cerebral ganglionic expansions, together with the numerous complex formations at the base of the brain; that the cerebellum and the middle and posterior lobes, with but a rudimental or deficient expression of the anterior ones, and of the upper convolutions of the hemispheres, are those parts of the nervous system which, subserving chiefly muscular and animal activity, predominate and characterize the lower exemplar of type. The base of brain predominates.

"Such are the brains of savage tribes, and the degraded characters of even civilized populations; such also are the brains of those found in the prisons, at the galleys, the penal colonies," &c.

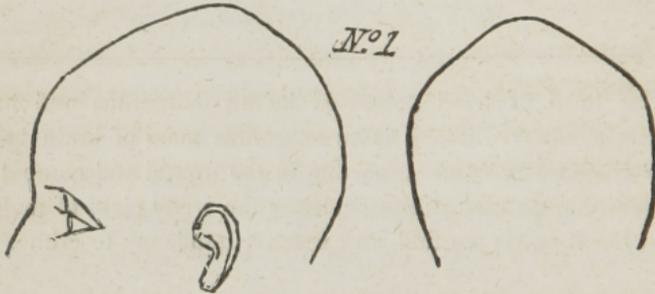
"Those parts, on the contrary, of the cerebral system which are deficient in the lower type, form, by their complete development, the very characteristics of the higher. These are the upper convolutions of the hemispheres and of the anterior lobes, which may be considered as the

The argument of Sir William Ellis, if received without the limitation which I have named, would lead us to pre-

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last additional extensions of the nervous system having relation to the higher attributes of humanity."—Dr. ROBERT VERITY "*On Changes produced in the Nervous System by Civilization.*"

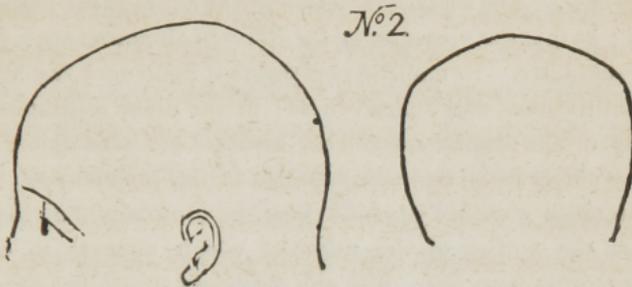
"The cerebral system being the system of the sensations, of judgment, of volition, it is to it we must refer all morbid conditions of these mental acts or functions. Every derangement of the senses, every form of delirium, or of coma, or of perverted imagination or judgment, every act of violence, must be referred to the condition, primary or secondary, of the cerebrum or cerebellum."—Dr. MARSHALL HALL "*On the Diseases and Derangements of the Nervous System.*"



[Drawings Nos. 1, 2, 3, and 4, illustrate this statement. No. 1 is the head of a very depraved person. The drawing indicates great firmness, with a very large development of the inferior propensities. He has always been coarse and brutal in his conduct, an object of terror to children, and the dread of peaceable citizens. His whole person is characterized by the rudeness and coarseness of his mind. His temperament is a combination of the sanguine and lymphatic, and the texture and contour of his frame are loose, harsh, and offensive. He is 24 years old, and is under a sentence of ten years for arson in the third degree. The circumstances of his crime are strongly indicative of his character. He had made a bet of five dollars that at the next fire a certain engine company would be the first at the scene of action. The next night he fired the building contiguous to their house in order to secure his bet!

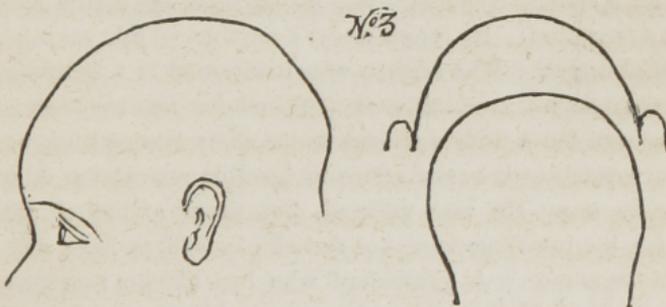
No. 2, an Englishman, 23 years of age, of a nervous sanguine temperament, and much addicted to intemperance. He is under a sentence of six years for grand larceny. He is a professed thief and burglar.

sume, that, if a man who has during his whole life been a model of integrity, should suddenly exhibit an uncontrolla-



Some of the most daring burglaries ever committed in New-York were planned and executed by him.

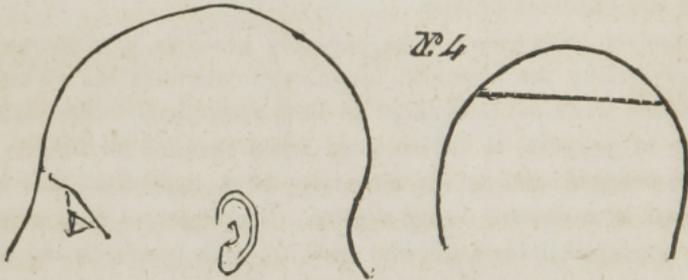
Whenever he is arrested, he suddenly becomes, in appearance, very pious, professing the strongest intentions to abandon his wicked ways; he will even write out and adopt in form resolutions indicative of great integrity of purpose, to be executed when restored to liberty. He is therefore detested among his associates as a hypocrite; and has that other mark of a coward, brutal cruelty. The organ of destructiveness is largely developed in his head, and must, from his peculiarly irritable temperament, receive great stimulus from the use of intoxicating drinks. He boasts of acts of cruelty which would make the most degraded men shudder. The drawing indicates an exceedingly imperfect development of the superior sentiments. He has no education beyond reading and writing.



This is the head of a coloured female, 26 years of age, under her third sentence to the Mt. Pleasant State prison for larceny. Her organization is strongly marked by a predominance of acquisitiveness, secretiveness, and

ble propensity for thieving, he should be allowed the plea of insanity ; but that, if a man is tried for theft who has ex-

destructiveness. The social characteristics of her race are likewise largely developed ; so that she presents, under different circumstances, two distinct phases of character. In one, the predominant influences are benevolence, philoprogenitiveness, and adhesiveness ; in the other selfishness, cunning and cruelty. The disguises which she assumes are so complete as to elude almost any observation, and the quietness of her manner such that, without acquaintance with her cerebral constitution, it would be impossible to believe her the author of the mischief which appears to come from sources so remote from her. She will doubtless spend her life in prison, for she is constitutionally a criminal.



This is the head of a man about 50 years of age, with the first class of endowments for a petty villain. He has cultivated his natural gifts assiduously. When a schoolboy he lost no opportunity of committing petty depredations upon the possessions of his companions, and as a man he has been equally criminal. All his offences are of the smallest and meanest description. He is now under a sentence of five years for burglary in the third degree. The offence was committed in a farmhouse, where neither courage nor cunning were required for its execution ; and even in this he was but a useless second to his more enterprising accomplice. He is an inveterate liar, and seems to have no conception of what truth and fidelity are. He was married, but never exhibited the smallest regard for his marriage vow, nor seemed, indeed, to have any adequate notion of its nature. A gentleman who has known him during a considerable part of his life, thus summed up his character: "I consider him an utter brute in his appetites, and meaner in his methods of gratifying them than any person I ever knew." His temperament is sanguine-lymphatic. When at large he was intemperate.—ED.]

hibited that propensity from the first moment when he was capable of action, he should, on the contrary, be considered responsible, and be severely punished.\*

In one case, a sudden and morbid action of the brain produces the effect, and in the other it is produced by malformation of that organ from birth. It is the duty of Justice and Benevolence to adopt means for the cure of both. To speak of punishment, in either case, is erroneous; because, as regards the question of social responsibility, there can be no real distinction between the two states: yet, if we could imagine it to be necessary, it would most assuredly seem more fair to punish the man who, having originally possessed a comparatively healthy organization, had contrived to impair it, than to inflict it upon one who never possessed, from his very birth, a tendency different from that which he has exhibited. Those who make the distinction in favour of the former case, might as reasonably assert that a man who falls into consumption through sudden exposure to cold, is deserving of our pity; but that he who suffers from the same disorder, owing to an original narrowness of chest, brought it on of his own accord—that it was an ‘optional’ act on his part, and that he is therefore unworthy of like consideration.

Dr. Andrew Combe, in his valuable observations on Mental Derangement, takes a view with regard to the de-

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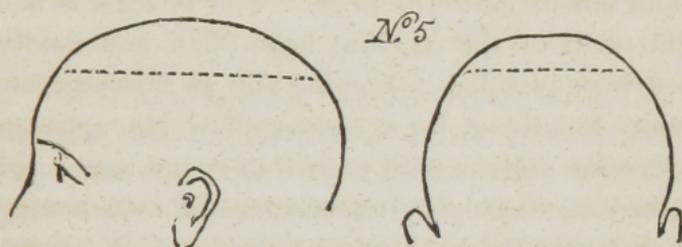
[\* Our penal legislation, for the most part, is based upon this presumption, and Criminal Law is administered with the strictest adherence to it. Accordingly, the greater the pertinacity with which the propensity seeks indulgence, the higher the evidence of guilt, and the more severe the punishment. The first offence is lightly dealt with; the second more severely; and when the third or fourth demonstrate the great excess of the propensity, and the consequent want of that mental balance which constitutes soundness of mind, then mercy is clean forgotten, and no situation is too abandoned of human sympathy and reclaiming influences for so inveterate an offender. Thus, that which constitutes the surest evidence of the criminal's need of remedial treatment, separates him farthest from it.—ED.]

definition of insanity similar to that which has been adopted by Sir William Ellis. He says, "Many men in the full enjoyment of health are remarkable for peculiarities of character and idiosyncracies of thought and feeling which contrast strongly with the general tone and usages of society; but they are not on that account to be held as insane, because the singularity for which they are distinguished is with them a *natural* quality. *It is the prolonged departure, without an adequate external cause, from the state of feeling and modes of thinking usual to the individual when in health, that is the true feature of disorder of mind.*" It will be seen that to this definition the same restriction must be applied as to that of Sir William Ellis. To show that this is necessary, we may suppose the case of a person who, from his earliest youth, has given indications of possessing in a very weak and inactive state any one organ of the body. Let his lungs, for instance, be so constituted that it is only by a painful effort that they are able to perform the function of respiration; or let the liver or kidneys be so constitutionally weak as imperfectly to fulfil their respective offices in the animal economy: it would not be asserted that the possessor of any one of these organs in the weakly state of development which I have supposed, is in a state of bodily sanity, merely because the ailment with which he is afflicted presents in its effects no appearance of departure from his "usual" state of health. In like manner, it must be impossible to say with correctness that the mind is in a state of sanity, according to the popular sense in which that word is understood, when any one or more of its important organs are, and have been from infancy, in such a state of feeble development as to be incapable of performing with effect their relative duties.

If we were to entertain Dr. Combe's definition as applicable to all cases of mental unsoundness, we should be

entitled to come to the conclusion, that the subject of the following account is perfectly sane, although it is considered by the medical officers of the institution in which he is confined, that any jury, before whom he might be brought, would satisfy their doubts by returning him insane.

In the Richmond Lunatic Asylum, Dublin, Mr. George Combe saw a patient, in 1829, who had been confined for ten years.\* He exhibited a total want of moral feeling and principle, yet possessed considerable intelligence, ingenuity, and plausibility. He had been a scourge to his family from child-



\* In Mr. Combe's report of this case the patient is lettered E. S. No. 5 is a drawing of a young female now under my charge. Her moral endowments are little superior to those of E. S. In giving an account of her life, she told me that her earliest recollections were of drunkenness and brawling in her father's family; that she had no remembrance of a time when she was even comparatively pure, and her life since she was twelve years of age has been one continued scene of the most awful depravity. Her superiority to E. S. consists mainly in the little capacity she has to see that she has done wrong. This, however, does not amount to any thing like a restraining or guiding sense. It is like the faintest gleam of starlight shining through the blackness of midnight. Great pains have been taken to ascertain how far this capacity was susceptible of cultivation; and nearly two years' assiduous attention have indeed brought it up to a degree of strength for which the most sanguine would not have dared to hope. But it is apprehended that this would be manifest only while the propensities were under restraint. With the return of liberty there will unquestionably be a return to former indulgences.

hood—had been turned out of the army as an incorrigible villain—had attempted the life of a soldier—had been repeatedly flogged—and had since attempted the life of his father. Respecting this man, Dr. Crawford, Substitute Physician at the Asylum, made the following remarks :—“ *He never was different from what he now is ; he has never evinced the slightest mental incoherence on any one point, nor any kind of hallucination. It is one of those cases where there is great difficulty in drawing the line between extreme moral depravity and insanity, and in deciding at what point an individual should cease to be considered as a responsible moral agent, and amenable to the laws. The governors and medical gentlemen of the Asylum have often had doubts whether they were justified in keeping him as a lunatic, thinking him a more fit subject for a Bridewell. He appears, however, so totally callous with regard to every moral principle and feeling, so thoroughly unconscious of ever having done any thing wrong, so completely destitute of all sense of shame or remorse, when reprov'd for his vices or crimes, and has proved himself so utterly incorrigible throughout life, that it is almost certain that any jury, before whom he might be brought, would satisfy their doubts by returning him insane, which, in such a case, is the most humane line to pursue. He was dismissed several times from the Asylum, and sent there the last time for attempting to poison his father ; and it seems fit he should be kept there for life as a moral lunatic : but there has never been the least symptom of diseased action of the brain, which is the general concomitant of what is usually understood as insanity. This, I consider, might with propriety be made the foundation for a division of lunatics into two great classes,—those who were insane from original constitution, and never were otherwise ; and those who have been insane at some period of life from diseased action of the brain, either permanent or intermit-*

tent.” There are few who will hesitate to coincide with the opinion of the governors and medical officers of the above institution respecting the proper, and therefore humane, course to be pursued towards its unhappy inmate. But from this case the absurd cruelty of our general system of criminal treatment becomes at once apparent. The individual is here admitted to the benefit of medical care and treatment, because he has proved himself totally incapable of manifesting one spark of moral feeling.\*

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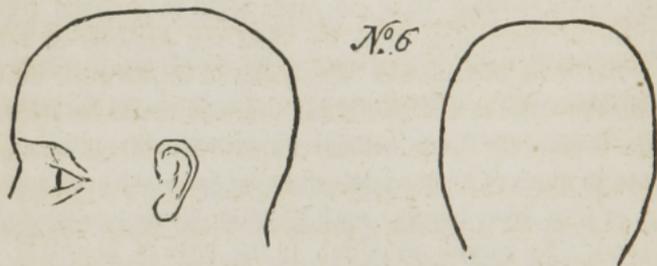
\* The possession of a faculty *in any degree*, implies *some* capacity to use it. If an individual could be found utterly destitute of the moral sentiments, society would have no more right to demand from him a manifestation of them, than from the idiot the exercise of reason and intellect. But if he be endowed with them at all, be their development never so feeble, there is a capacity for use, and in use for improvement. A man who should be born without an arm would not be expected to approximate to the use of one; but if he be born with an imperfect or feeble one, or if it have become such through disuse or disease, the case is far different. By careful attention to the laws of muscular exercise, by proper application and sedulous cultivation of healthy action in its different vessels, nerves, muscles, &c., its power would be increased, until, perhaps, it should become an effective and valuable limb.

If the owner were made acquainted with these laws, and the consequences of obedience or disobedience, and should then neglect them, the loss of capacity, comfort, and usefulness, would be recognized as the just penalty of his conduct. But if, in entire ignorance that such laws existed, and that obedience to them was the only condition on which he could recover, he should err in gratifying his appetites, or yielding to indolence, thus thwart the remedial purposes of nature, all humane persons would feel the deepest commiseration for his ignorance as well as his sufferings.

Yet the condition of most criminals is parallel to this. Inheriting an exceedingly defective endowment of the superior faculties, they, for the most part, grow up not only destitute of any knowledge respecting the nature of mind or its operations, but also destitute of that general information which, to a considerable extent, is the basis of respectability, happiness, and worth.

Owing to the utter depravity of his nature, he escapes the vengeance of the laws ; but let him manifest one gleam

Violation of the social and civil law, is regarded by them as an evil, only because it brings punishment ; and to become so accomplished as to be able to escape detection, is the farthest boundary of their aspirations. I have conversed with great numbers of criminals, and have found in the confirmed and inveterate classes as much pride in success, as among any of the learned professions. They regard the law as a tyrannical measure of their enemy, society, and submit to its penalties in a spirit of resisting endurance, to which the reflection that they shall be even with it, when the penalty is paid, adds daily strength. Very seldom do they take any moral view of crime and its consequences.



On my first visit to this prison my attention was struck by a young female of much personal beauty, of a certain order, whose organization, as shown by the drawing, is peculiarly defective in the region of justice, self-esteem and firmness, and amply developed in the whole of the inferior posterior region. It was remarked there that the sentiment of justice must be almost unknown to her. Subsequent acquaintance has verified that opinion to a painful degree. Great pains have been taken to appeal to, and stimulate, this sentiment, and much improvement has been manifested in her, and the general character of her feelings. Possessed of strong benevolence, she has been made to feel the bonds which kindness, attention, and sympathy can throw over a grateful spirit, and while this alone is depended on, all is promising and pleasant enough. Her nature responds warmly and brightly to such influences ; but the moment "right," as a rule of action, is introduced, she seems entirely at a loss. She is unable to perceive its existence, or comprehend its influence. She has become aware herself of this incapacity, and said, not long since, "When I think of you and Miss M——

of human kindness,—let him express one remark of sorrow for what has passed, or one slight aspiration towards a better frame of mind, he then becomes a fit subject for “punishment:” a Bridewell is selected for his temporary detention, whence, after the expiration of his sentence, with evil passions excited to the utmost, he is turned upon the world, and placed in the way of temptation to the gratification of those propensities which must finally lead to his own destruction, and probably to the destruction of a fellow-creature.

It is evident that the moral depravity of the patient, in the above case, arises from an original malformation of brain. It is only from disease, or from malformation of this organ, that such manifestations can ever arise. Mr. Combe observed, that in this individual the coronal region, which is the seat of the moral sentiments, was in a state of the most imperfect development, while the posterior region, the seat of the animal propensities, was of an unusual size: but, apart from the external indication which is thus afford-

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being so kind to me, I feel as if I ought to be good all my life; but I don't think so much about its being right.” I am inclined to think her absolutely destitute of the faculty, or so nearly so that only years of well-directed treatment could call it into abiding activity. Is a person so constituted a proper object of punishment? This female, if rightly restrained and placed under influences adapted to appeal exclusively to her better powers, would lead a life comparatively upright and pure. But no social circle that she can enter will answer this purpose to her. Society has no institutions designed for this office, nor does it recognize any right of hers to such treatment. Her moral imbecility is to civil institutions precisely as if it were the greatest strength. All previous evidences of inability to pursue the right course, however, only aggravate her guilt in the eye of the law. It takes no cognizance of her unfitness to be measured by it; but binds her to its Procrustean bed, and witnesses her sufferings as calmly as if the highest remedial virtue resided in them, and both justice and philanthropy dictated their infliction.

ed by the shape of the head, we have quite enough to carry us to the conclusion, that the frame of mind which leads to criminal acts should invariably be attributed to a derangement of the mental organs, or to an inherent defect in their structure.\*

In coming to the conclusion that malformation, affection, or disease of any kind, exists in one of the internal organs of the body, our only means of judging arises from the observation that the functions which we have been accustomed to attribute to that organ are not efficiently conducted. We know, for instance, that it is the function of the liver to secrete bile ; and when we perceive from external signs that this function is irregularly performed, we do not hesitate to infer that there must at least be diseased action going on in that organ. We also know that it is the function of a healthy brain

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\* [The popular idea of responsibility is, that society has a right to punish an offender for his crime. The punishment is to be inflicted purely as such. Respecting the individual, the prominent object is, to compel him to endure an amount of suffering which shall be esteemed an adequate retribution for his crime ; the second and indirect object is to deter him from a repetition of the offence, and others from following his example. But the spirit both of the law and its executors, awakens in those of his class who witness or contemplate his sufferings, a love of endurance and of daring provocation, which is in itself a very dangerous exercise of the propensities. No single feeling which might have a tendency to make him relent in his course of crime, is appealed to by these penalties, save the fear of suffering ; and this, in most criminals, is feeble compared with the combined action of all those propensities, whose diseased and tremendous demands indulgence alone can satisfy. Nothing is more clearly established, than that severity of punishment does not elevate the character, or stimulate the moral sentiments, whose action must not only regulate a pure conduct, but constitute the very essence and body of moral life.

Yet responsibility, in the popular sense, is fearfully increased by detection and punishment. Every penalty, it is conceived, should prevent the future indulgence of criminal desires ; and, though both in its character

(it must not be forgotten that *all* the manifestations of the mind are dependent on the brain as its instrument) to guide its possessor to at least an average fulfillment of all the duties of life: that it is not, for example, the function of a healthy brain (and by a healthy brain I mean one of

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and mode of infliction, it may have outraged or destroyed the natural restraints upon propensity, yet on the next detection the offender is judged all the more harshly, as he is supposed to have violated more numerous obligations, and set at naught the experience of former suffering. This truth was well presented not long since, in the case of a woman, who had paid her penalty of two years for a larceny, and during the whole of that time had been exposed to the worst influences, having her resentful and aggressive faculties provoked to their highest action, and indeed all her propensities daily trained in the most effective manner. After her release, the fruits of this punishment appeared in a most abandoned life, and a second felony, for which she was adjudged to a penalty exceeding double the term of her first imprisonment; the event, doubtless, considering that her previous incarceration ought to have prepared her to become a safe and honest citizen! The first year of her second term was spent under influences similar to those which had presided over her former experience. She grew daily more abandoned and desperate, until a change in the government of the prison produced one in the influences by which she was addressed. As was to have been expected, these, at first, were violently resisted. When, however, the violence had been subdued by firm and quiet measures, then came the time for awakening self-restraint, and whatever of moral sensibility there yet remained. This was a work demanding great patience, kindness, and industry. The inflamed propensities were often stimulated by uncontrollable causes, and as often seemed on the point of asserting their superiority. But this was prevented by watchfulness and kind interposition between her and the temptation. These, together with the instruction given her upon the peculiarities of her mental constitution, and the sources and character of her temptation, have enabled her thus far to adhere so faithfully to the dictates of her better powers, that she has long afforded an example of restraint and good conduct, to which all may be pointed. She has been restored to liberty, and in all her demeanour thus far, has given most satisfactory evidence that her improved conduct is the offspring of genuine and sound internal motives.]—ED.

average form and quality), to be the instrument of pleasurable emotions at the contemplation of murder, fraud, or rapine, as was the brain of the subject of the foregoing case. Hence, when a desire for these or any other criminal acts become a feature of the mind, we should—if in forming a judgment of derangement or inefficiency of the brain we were to follow the same course we now pursue in judging of the derangement or inefficiency of any other organ—infer, from the irregularity that is visible in outward signs, that some wrong action is going on in the organ itself.

One great source of error in considering the proper treatment of criminals, has arisen from the fallacious opinion that insanity is limited to the operations of intellect alone; and that, if no hallucination of the reason can be proved to have existed, the criminal could have been actuated by no impulse but such as his will might have restrained; and that his intellect being in an average state with the intellects of his fellow men, he might have resisted the temptation to crime with as much ease as any other person. Now, however, that it is known that the operation of the feelings and passions, which alone furnish *motives* to the intellect, depends upon the physical system no less than the understanding, our views in this respect must undergo alteration. Mr. S. B. Woodward, the superintendent of the State Lunatic Asylum of Massachusetts, to whose valuable experience I shall constantly refer, in a report, dated December, 1837, has the following remarks:—

“Is it not well known that the passions and propensities are even more affected by disease than the mental powers? Is it unphilosophical or irrational to suppose that these faculties can be subject to such impairment as to be beyond the control of the reasoning powers and the judgment?”

And again—

“Besides this *disease* of the moral powers, there seems to be in some cases something like MORAL IDIOCY, or such an imbecile state of the moral faculties from birth as to make the individual irresponsible for his moral conduct. The persons to whom I allude have rarely much vigour of mind, although they are by no means idiots in understanding. Of the idiots that have come under my care, there have been some whose minds are very imbecile, who seem to have considerably correct views of moral obligation, and whose moral powers are susceptible of culture. There are others, who, having better powers of understanding, are capable of learning to read, and of understanding what they read, yet seem to have little or no moral sense.”

“There is also what I denominate INSANE IMPULSE; which is an uncontrollable propensity, as transitory as it is sudden, by which an act is committed without one moment’s reflection or premeditation, the individual being sometimes perfectly conscious of what he is doing, and sometimes apparently not at all so. The mind in such a case may be under the influence of a delusion, or it may not: even when it exists, the delusion does not always impel to the deed of outrage; nor has it, in many cases, as far as can be discovered, any connection with it in the mind.”

In illustration of the fact that a person may be fully convinced that he is doing wrong, and yet be unable to resist the tendency, Mr. Woodward further says—

“To establish moral insanity, it is not necessary that the subject of it should be wholly reckless and regardless of consequences. Many individuals are constantly under the influence of uncontrollable propensities, and at the same time are conscious that they are not doing right. Such instances are daily presented to us: they violate and repent, and resolve to do better; and in a moment violate again! This is as

often seen in acts of petty mischief as high-handed crime and misdemeanor.”\*

When a man commits a crime, it is the custom to exclaim that “he *ought* to have known better.” Now, if he was, from natural deficiency of the reasoning or moral powers, unable to perceive that he was doing wrong, it cannot be disputed that he was of unsound or partially idiotic mind. If, on the other hand, he did possess the power to perceive the right course, and yet was unable to act up to his conviction, it is evident that he possessed a brain of such an irregular formation, that the higher mental powers bore no sufficient relation to the lower propensities, which it is their duty to control ; and that the latter, when roused by the presentment of their own stimuli, possessed a strength so disproportionate as completely to overpower the former. If, while in this state, he commits a crime, he will exclaim that “he

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\* Georget mentions a case of a woman who consulted him, and who was evidently healthy and rational, whose irresistible propensity it was to murder her children ; she abhorred herself for the feeling, and avoided windows and sharp instruments, and often fled the house to get out of their way.

Gall relates the case of a man at Vienna, who, after witnessing an execution, was seized with a desire to kill. He wept bitterly, struck his head, wrung his hands, and cried to his friends to take care and get out of his way. Pinel speaks of a person, exhibiting no unsoundness of intellect, who confessed that he had a propensity to kill ; he nearly murdered his wife, and then frequently attempted self-destruction.

It was recently mentioned in the London Medical Gazette, that in 1805 a man was tried at Norwich for wounding his wife and cutting his child's throat. He had been known to tie himself with ropes for a week, to prevent his doing mischief to others and to himself. A man exposed to a sudden reverse of fortune was heard to exclaim, “ Do, for God's sake, get me confined ; for, if I am at liberty, I shall destroy myself and my wife ! I shall do it unless all means of destruction are removed ; and, therefore, do have me put under restraint. Something above tells me I shall do it—and I shall !”

could not help it," or that the Devil (i. e. the cerebral organ of the offending propensity) was too strong for him. His judgment, in fact, was strong enough, under ordinary circumstances, to teach him the erroneous tendency of his passions; but it was not strong enough to prevent his falling, when those passions, always disposed to disproportionate action, became suddenly excited by some external cause. In such cases, the mental balance is completely lost, and he is reduced to a state of relative insanity. Under these circumstances, the "responsibility" which attaches to the result of his conduct should be (and under the operation of the Divine laws certainly is) shared by those who, being too ignorant to estimate the nature of his infirmity, suffered the exciting causes to be placed in his way, instead of endeavouring to repress the activity of the overruling propensity by withholding the objects of temptation, and by appealing to his higher but hitherto neglected powers.

One point, at all events, should never be forgotten by those who condemn him; and that is, that, if at birth they had received a brain of a quality and formation similar to that which the unfortunate criminal received at his birth, they would, if they had been subsequently surrounded by the same external influences, have acted precisely in a similar manner. It is vain to say that he may have brought his present position upon himself, by giving way to temptation, and by associating with evil companions in his youth. Whence arose the reason of his selecting such companions? Let us, in answer, suppose the case of two youths of equal temperament, similarly educated, and subject to the same circumstances of external condition, placed in the midst of the most depraved society, one of whom gives way to the temptations that are held out to him, while the other looks upon them with disdain, and firmly rejects them. The difference of conduct between the two boys arises solely from

the difference of their cerebral organization as transmitted to them at birth. If the two boys could have changed heads, the conduct of each would have been reversed. He, therefore, who pursues the upright course, has no cause for self-pride, and no claim for reward, since he reaps his reward in the innate sensations of pleasure which such a course alone can generate ; and he has no cause for pride, because, had he been originally similarly circumstanced in all respects with his less fortunate companion, he would then have fallen into a similar fate. In the writings of Jeremy Taylor, of whom it has been truly remarked, that his influence and authority in the Church, whether for power and splendour of mind, orthodoxy of belief, or sanctity of deportment, have never been surpassed, I find the following passage :—“ If a man be exalted by reason of any excellence in his soul, he may please to remember that *all souls are equal* ; and their differing operations are because their *instrument* is in better tune, and their body is more healthful or better tempered ; which is no more praise to him than it is that he was born in Italy.”\* On the other hand, if his course entitles him to

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[\* This truth is too generally understood and acknowledged to need illustration, but a fact of such striking interest occurs to my mind at this time, that I shall venture to relate it.

Travelling in one of the Western States in the winter of '40, I one day found myself the only passenger on a route of 60 miles, great part of which lay over uninhabited prairies. It was a raw, chilly day, in March, and the ground was in that half-frozen state which renders the roads nearly impassable. We were therefore compelled to abandon the coach and take a heavy open wagon. I was informed that our driver would go through to the last stage with me. In my situation, with the long and solitary road before me, I felt no little interest to learn what sort of a person was to be my sole companion. I took my seat far back in the long wagon, and when he took his in front, I scrutinized him as closely as the wrappings about his head and neck would permit, and satisfied myself that whatever annoyances or misfortunes I was doomed to experience that day, he would have little share in producing them. His face, which

no reward in this world beyond the natural one of the inevitable happiness of mind which Heaven has decreed to be the

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was destitute of strength of any kind, had the purity of a child's, and the whole basilar region, both of the posterior and middle lobes of the brain, was the smallest I had ever seen.

We drove on, and though he had four young and restive horses that were plunging and rearing continually, as they broke through the half-frozen surface, he did not utter an oath or strike a blow—two facts that verified, remarkably, the correctness of my first conclusion. Not a word was spoken between us until, after driving some ten or twelve miles, he stopped at a post-office with the mail. I ought to remark that meantime, where others would have whipped and cursed, he frequently stopped, dismounted, and went to each of his horses in turn, patting them and speaking in soothing tones of voice; and sometimes letting them rest a few moments, after they had passed a difficult spot, though I had never, with so light a burthen, seen any such attention paid to the necessities or comforts of brutes.

While he was in the office, which, by the way, was kept in a grocery, I sat in the wagon. A good deal of noise and carousing were going on inside, and when he came out his face wore an expression of decided indignation. After taking his seat he addressed me for the first time, saying that if the law did not compel him to stop at that place he never would; that a man who kept such a house ought not to have any decent person go near it. Before this remark was made, my interest had been much excited to sound his character. I therefore replied, by saying that such scenes were not generally offensive to persons of his class; to which he answered, that whatever they were to others, they were most disgusting and painful to him, and that he never remained with such company when he could escape, and always, to use his own language, "tried to coax other fellows away with him." Some few remarks followed, when I proposed to change my position for one that would more readily admit of conversation; and having done so, I led him on to speak of his past life, of his disposition, his desires, enjoyments, &c. As a primary element in understanding what he should disclose, I inquired what sort of a character his mother possessed. He said she was an angel, and had gone to heaven long since. His father, he said, belonged to the other order of spirits, and was still alive.

By various questions I drew from him that he had been a stage-driver, to use his own words again, "ever since he was big enough to sit on the

consequence of its physical health, so it is but fair to allow that the opposite course can merit no punishment beyond the

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box and hold the reins ; that he had never participated in the scenes which the fraternity usually chose, but on arriving at the end of his routes, went to meeting, if there was one in the vicinity, instead of joining the company usually assembled in the bar-room on such occasions." To the question whether he did so from a sense of duty and in opposition to the desires of his mind or not, he replied that he liked it best ; that he could never see any pleasure in the drinking, gambling, and carousing usually going on, but on the contrary it was very disagreeable to him to be within hearing of such company. I inquired whether, with all this preference for moral and religious duties, he was a member of any church. He seemed somewhat embarrassed, but finally said that he believed he was pretty near a converted man, *but he never yet had experienced that awful sense of guilt which every body must feel before they could become Christians !*

Every reply awakened in my mind a deeper interest in the wonderful phenomenon of a character borne through such a life as his had been, without spot or blemish. His language, like his face, was pure and straightforward as a child's. I questioned him very closely as to whether he had ever felt differently and had been obliged to struggle against temptation. He said he had never known what temptation to the common sins of his class, was. He could never associate with them the idea of pleasure. Neither did he wish me to understand that he claimed always to have done right. Sometimes he had neglected his team, entrusting them to other people when he was tired, and sometimes he had not been patient enough in his efforts to lead others to do right. In the last respect, he felt himself particularly censurable.

During my conversation, no better opportunity was afforded for estimating the character of the cerebral organization than that which had led me to my first conclusion. That the organs of the moral sentiments greatly predominated I could not doubt. Their natural language was manifest in every tone, look and gesture. That those of the propensities were very feebly developed was manifest, also, not only from the contour of the head, but from the want of energy exhibited in the whole character. I determined, if no opportunity offered unsought, to seek one before we parted for verifying these conclusions. Meanwhile my mind dwelt with the deepest interest upon the extraordinary fact that such a character should be found in that condition of life.

inevitable pain which Heaven has decreed to be the consequence of its physical derangement. If the argument is good for any thing, it must tell both ways with equal force.

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It was an extreme case, illustrating the laws of hereditary transmission and organization in their broadest and strongest sense. According to his own statement, he inherited from his excellent mother whatever there was good in his mental constitution. And these tendencies had possessed sufficient native strength to resist all the opposing influences of a life cast among the most profligate and reckless class of men—a complete superiority, in short, over all the propensities. So that the vices dear to others had no allurements for him. He said it was no virtue in him not to do wrong with his companions, because he had no desire to do so. If he had, he supposed he should do as they did. His mind had too strong an original bias to be susceptible of change. A whole life spent in an employment which usually degrades, had not degraded him. On the contrary, he had improved others.

While I was thus pondering upon the phenomenon, we reached the place where he was to stop. It was an obscure house, in an uninhabited region ; and as we were to dine here, the landlady seated us both at the same table.

It will be supposed that I did not permit so good an opportunity to pass unimproved. And yet, prepared as I was for a conformation of head such as I had never before seen, I was altogether surprised by that now before me. The whole head was about medium size ; the intellectual region moderate ; the basilar very small, and the sincipital very large. The latter was both high and broad, and thus the head was much larger at the top than at the base. This corresponded admirably with the superior strength of the moral sentiments ; and the defective development of the propensities was altogether in harmony with the want of energy which he condemned in himself, and which was manifest in his movements, thoughts and sentiments. This, together with the moderate character of his intellect, accounted for the fact that with all his moral excellence, with all his aversion for the vices of his class, all the pain to which he was subjected through the violence done each day to his best sensibilities, he still remained in the position in which he had been placed by a corrupt parent. Without being altogether contented in it, he was still too destitute of energy to redeem himself from it. Extraordinary as his character was, it was yet so simple that the unthinking, ignorant people, among whom he lived, understood him well, and respected him accordingly.

Seeing my earnest scrutiny, the landlady remarked to me when he left the room, "I reckon you don't often find such a boy as that driving stage. He is the best hearted child I ever knew. Every body likes him that knows him, and he seems to make every body that lives with him better than they were before. When he first came here, the other drivers used to swear dreadfully, but he has talked them and all the other men about the house, out of it. He don't say so much, either," she added, after a pause, "but somehow nobody can quarrel with what he says."

In this case, the original bias of the mind had been too decided to admit of change, even under circumstances the most unfavourable for its continuance. Such a character, preserving its purity amid such scenes and occupations, would be deemed extravagant or unnatural in fiction, yet here it was in fact the individual, not indebted to any exertion on his own part or entitled to any praise, but simply the fortunate inheritor of a constitution which placed him beyond temptation, and consequently the necessity of resistance.

How many, by the same law, are born to the inheritance of propensities whose solicitations for criminal indulgence know no restraints? The force of the physical law is the same in the case of each set of faculties. If their organs act, the emotion, desire or feeling, which they produce, must be experienced. In the one, virtue flows naturally, as in the other vice. Had this man's predominating tendencies been of an opposite character, he would have been deemed worthy of detestation and punishment, though the relation between cause and effect would have been as natural in one case as the other. It is not my design to teach that crime is inevitable, but that the causes which lead to it often are, so far as the individual criminal is concerned, and that society ought to direct its treatment to causes instead of effects.—Ed.]

## CHAPTER II.

Insurmountable difficulties consequent on the present mode of testing insanity.—Practical bearing of the views set forth in the preceding chapter.—Affections or diseases of the brain arise from causes analogous to those which produce affections or diseases of any other organ, and should be treated upon similar principles.—Injustice and inefficiency of human punishments.—Arguments in their favour on the ground of responsibility, license, and example.—Answer to the objection regarding responsibility.

IN the preceding chapter I called attention to the dependence of the mind upon the conformation and quality of its material instrument, the brain, and I referred particularly to the fact, that the operation of the feelings and passions depends upon the physical system, no less than upon the understanding. It was also my object to show that the proper function of a sound brain is to lead its possessor to an average manifestation of all the mental powers common to man ; that this average manifestation is tested by his obedience to the laws and institutions of the society of which he forms a part ; and that, consequently, as our only mode of judging of the degree of unsoundness of any organ arises from observing the extent of its departure from the due performance of its proper functions, we are bound, when a person has committed, or attempted to commit a crime, to receive that fact as sufficient evidence that his brain is in an unsound state : the degree of this unsoundness being indicated by the extent of his offence. The recognition of this fact necessarily leads us to the con-

clusion, that the infliction of punishment, in any case whatever, is wholly inconsistent with all ideas of justice.

But, although this conclusion is founded upon physiological truths which are now generally admitted, it will doubtless seem in the eyes of those before whom it may for the first time be presented, to be one of a startling and dangerous description. I trust fully to show, that the difficulties by which it may appear to be surrounded exist only in imagination.

Before proceeding, however, to a consideration of the objections which are likely to be raised, I beg to call the attention of my readers to the contradictory ideas and lamentable results which must continue to arise under the present modes of testing the existence of insanity, and estimating thereby the responsibility of criminals.

From the time of Lyttleton to the present day, almost every legal authority upon this subject seems to have laboured under a consciousness of the insurmountable difficulties by which it must be surrounded, so long as the assumption is persevered in, that there are some peculiar descriptions of crime which result from defective or disordered organization, and that there are other descriptions which result from causes independent of organization altogether. We find each succeeding writer exhibiting a tendency towards the recognition of forms of insanity, which, in a preceding age, would have called forth upon their hapless subjects the severest tortures of the law; and, even up to the present hour, indications of this steady progression of opinion may readily be observed. But from amidst all these changing views, no one doctrine appears ever to have been selected as deserving of permanent recognition in our criminal courts. Jurors are instructed that the possession of an unsound mind entitles an offender to exemption from punishment, while at the same time they learn that there are no definite means by

which the existence of this unsoundness can be estimated. The opinions of the judge, the counsel, and the medical witness are not unfrequently found to be mutually discordant ; and, amidst the perplexities thus raised, a decision is at length come to, by a body of men from whom, in a majority of cases, it would be found the question had never previously received one moment's serious consideration.

It is obviously unnecessary to enlarge upon the evils to which circumstances of this description must constantly give birth. It would also needlessly occupy space to select, from amid the ever-shifting and contradictory decisions which are recorded, any number of specific cases, for the purpose of pointing out the erroneous nature of the different views from time to time set forth. There are, however, one or two physiological facts, too well established to admit of a supposition that they are not generally recognized in our courts, to which it is proper to allude, because deductions may be made from them which must inevitably show, that, under the present system, the decision at which juries arrive regarding the mental condition of the prisoners brought before them, can have no other foundation than the merest guesses ; and that, in a country where the maxim that "it is better that fifty criminals should escape, than that one innocent person should suffer," is familiar to every ear, the mode of testing the existence of mental unsoundness is confessedly so uncertain, that it must frequently involve not only the entire escape of guilty parties, but the far more serious calamity of the condemnation of the innocent.

It is known, that, according to the excessive size of any organ, such is its tendency, other things being equal, to disproportionate or excessive action. This holds good with regard to the various organs of the brain, as well as to the other portions of our system. Excessive action can only be main-

tained by an over-supply of nutriment: and hence a permanent increase of sanguiferous circulation occurs in the region of the organ;\* which increase, if suffered to exist in a great degree for a lengthened period, may lead eventually to struc-

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\* [Where this sort of action is maintained for any considerable length of time in a cerebral organ, the structure of the skull in the region covering the organ often undergoes a manifest change. In the town of Quincy, Ill., a few years since, a skull was handed me as affording a triumphant refutation of the doctrines of Phrenology. It was the skull of a man who had been executed some years before, for a deliberate murder. It was stated that the horrible deed was almost unprovoked, and committed in such a manner that nothing but the most violent action of a strong destructive propensity could account for its commission. The head was altogether an inferior one, both in size and proportion, and very thin at the base, particularly in the region of destructiveness. A good deal of speculation was entered into immediately by the friends of Phrenology who were present, to reconcile this appearance with the fact of the deliberate and prolonged cruelty of the killing. Suspecting, from a minute examination of the condition of the skull at the parts in question, something of the real nature of the case, I introduced a candle through the spinal foramen, and the whole region of destructiveness on each side seemed transparent almost as glass, and scarcely thicker than paper. In other parts the skull rather exceeded the average thickness!

Upon further inquiry, I learned that the man had been generally of a gentle and obliging disposition, but during the latter years of his life had been addicted to intemperance. Gradually, as the habit grew upon him, his disposition changed, until, in his fits of intoxication, he was often furious and uncontrollable. At length, while in this state one evening, one of his companions attempted to force his way into the house, with the avowed purpose of taking his bottle from him. The consequence was, that he met him at the threshold, and expended the full fury of the excited and doubtless diseased organ on him, not only taking his life, but beating his corpse with a brutality perfectly revolting. He was tried, condemned, and executed; and it was left to a period long subsequent to that in which he met his fate, to solve the mystery of his crime, and show that, had the repeated warnings which he had given, been correctly understood and acted on, society would have been spared the dreadful deed and he the awful doom which it inflicted on him.—Ed.]

tural change, and assume the form of incurable insanity. But, although in old cases of insanity diseased organization of the brain is almost invariably found, in recent cases there is *rarely* diseased organization, but the vessels on the whole surface of the brain are surcharged with blood, and clearly indicate the existence of increased cerebral action. Now, as diseased organization is not necessary to the production of insanity, at what point of excessive sanguiferous action shall we decide that insanity commences? If a person is under the slightest excitement, nay, under the mere operation of any ordinary feeling, an increased supply of blood for its manifestation is required and sent to its organ in the brain. If the emotion increases, the supply of blood to its organ increases in due proportion, until rupture of a vessel ensues, or the supply shall have become so great as to carry it to a state of blind excitement sufficient to cause it to overpower all other emotions, and eventually even lead it to act without the knowledge of the intellect, or the concurrence of the other feelings. The excitement might at first be raised by a very trivial cause, since, coupled with original malformation or defective quality of brain, the slightest cause is sometimes sufficient (and where these conditions do not, either one or both of them, previously exist, maniacal excitement will never arise, except in cases of accidental violence to the brain, or from sympathy with other diseased organs of the body); but, having once arisen, unless the exciting cause be removed, or some unusually strong antagonist motive be presented, its tendency is to increase in power, until, spending its force in blind and ungoverned action, the whole system becomes so exhausted that the circulation is enfeebled in every part.

The following anecdote will serve as an illustration of the coincidence of excited feeling with increased sanguiferous circulation:—A Portuguese, of the name of Rabello, was

employed by a mechanic in the western part of Litchfield county, Connecticut, to assist him as a shoemaker. He had been in the neighbouring towns, and his conduct seemed singular, but usually inoffensive. In the family of the mechanic he had appeared pleasant, and grateful for the kindness which had been extended to him. One day a little son of his new employer accidentally stepped upon his toes. The lad was twelve years old only. Rabello was exceedingly angry, and, in the moment of his rage, threatened his life. The next day he appeared sullen, refused his food, and looked wild and malicious. The following morning he went to the barn-yard with the boy, seized an axe, and killed him on the spot, mangling him in the most shocking manner. He went deliberately away from the house, but was soon overtaken by those in pursuit. He acknowledged that he had killed the boy; and gave as a reason, that he had stepped upon his toes. It was found from the evidence produced on his trial, that this was an offence considered most heinous, and not to be forgiven. Many instances were given in which the same accident had produced the same excitement of temper, often accompanied with threats. One of the physicians who visited him in gaol, stepped, apparently by accident, on his toes while he was counting his pulse: the pulse, he declared, rose immediately forty strokes in a minute, his countenance flushed up, and he appeared instantly in a rage.

The result of this tendency to a rapid supply of circulation to the brain, is often exhibited in the daily events of life. A person, naturally predisposed to destructive emotion, meets with some slight offence, and vents his fury in angry words and cutting remarks; roused by resistance, he seizes some article of furniture, breaks a glass or a window, and laughs with wild delight at the gratification which this act has given to the excited propensity. In this way, if the opposition be

withdrawn, the maniacal excitement may be expended, and the unfortunate victim of "temper" may find relief in tears. If, however, he be of a firm disposition, the gratification in which he has indulged may serve only to stimulate his "mad fit" to an ungovernable extent, and it may then find vent only in the utter destruction of his opponent.

There are cases of murder which are apparently committed without any previous excitement; but, in these instances, it will generally be found that excitement has been produced by the use of stimulating drink.\* It has, indeed, been calcu-

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\* [There is now in the Mt. Pleasant prison a colored female, who has been under sentence some four years on conviction of assault and battery with intent to kill. The act was committed against her husband. An attempt was made by him during the past year to procure her pardon, and I was called upon by His Excellency Gov. Wright for information as to her deservings in that regard. I replied, in effect, that she was among the most hopeful of our prisoners; that she was kind, gentle and affectionate, in all her intercourse, and seemed altogether very far from the sort of character one would expect to find in such a case. My opinion was formed from general observation of her deportment and conduct. I had never scrutinized her closely, or given any particular attention to the constitution of her mind, and when called upon, I felt that my impressions were already sufficiently clear to enable me to do justice to the case. But in reply to my communication, the Governor informed me that there was a very wide difference between the character which I attributed to her and that shown in evidence on her conviction, and no action was had on the application for pardon. I was not a little surprised at this, but was too much engrossed at the time and for several months subsequent to the correspondence, to investigate the case and ascertain where was the error. When I did so, I was obliged to confess my entire mistake. I had never, previously to recommending her, made any estimate of the character of her cerebral organization; but upon doing this, I was forcibly struck by excessive development of destructiveness and combativeness, and the smallness of the organ of justice. I had previously learned that she indulged in intoxicating drinks, and their influence in stimulating both these propensities, naturally so strong, would lead one very readily to believe that she might have been guilty, and also to fear that in similar circumstances she would

lated that nine-tenths of criminal homicides have resulted from this cause.\* Where this is not the case, it will usually be found that the predisposed mind of the criminal has been for some time stimulated by a perusal of details of murder or suicide in the public prints, by visiting executions, or by the unhealthy condition of some other organ (frequently the liver) acting by sympathy on the brain.

“Insanity,” says Sir William Ellis, “whatever may be its primary cause (with the exception of cases arising from loss of blood, want of nutrition, or some other debilitating source), *begins* with an excess of sanguiferous circulation in the brain, or some part of it. The immediate cause of this excess of circulation is either over-exercise of the brain, or some part of it, or irritation produced in it by its sympathy with some other diseased bodily organ.” Since, then, the proximate cause of insanity is the increased supply of sanguiferous circulation, and since it must always be impossible to ascertain the amount of circulation with which the brain, or any part of it, was charged at any given time, it is clear that we must always remain in every case unable to fix upon any stage of increased supply as that at which *insanity* really commences. If, therefore, we are, in Criminal Jurisprudence, to continue to act as if the line between responsibility

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be very likely to sin thus again. And yet, notwithstanding the presence of these strong disturbing powers, her whole deportment in the prison was marked by the characteristics of her race—benevolence, adhesiveness, and philoprogenitiveness. These, in the absence of every thing adapted to stimulate or excite the harsher faculties, predominated, and produced that gentle and docile deportment which had so misled me in my first conclusions.—ED.]

\* “In the ordinary use of fermented liquors, until, from their being taken to excess, torpidity is produced by a *quasi* apoplexy, the operation of the mind, the sentiments, and the passions, are quickened in the same ratio in which the stimulus increases the action of the brain.”—*Ellis on Insanity*.

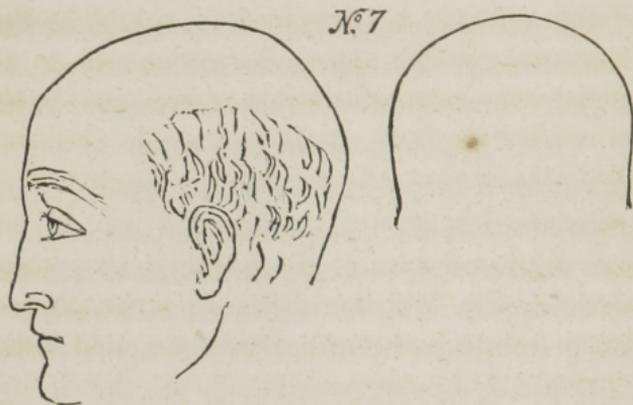
and irresponsibility had an absolute existence, we must (as we can never, in any case, get at information as to what was the condition of the criminal's brain at the time of the commission of the offence) be prepared to submit to the belief that, in those cases which approach most nearly to the imaginary verge, we frequently pass erroneous judgments; sometimes wrongly granting an acquittal, and sometimes sentencing a culprit to death, for the commission of a crime, of which, had we known the precise state of his brain, we should have declared him to be guiltless by reason of insanity. Indeed, Sir William Ellis remarks, that "in insanity arising from moral causes diseased action of the brain is rarely produced by any sudden shock, but it generally arises from the continued operation of some exciting cause, producing excessive vascular action in the brain, or some part of it. Unfortunately, the alteration in the sentiments and conduct, in many cases, is so gradual that diseased action of the brain may have existed *without being suspected* until diseased organization" (the incurable stage of insanity!) "has actually taken place."\*

Thus, it will be seen that insanity may go on even to its ultimate stage without being suspected; and that it is, therefore, impossible, excepting by a *post-mortem* examination, to assert that any given individual is not only not already visited with the incipient growth of the disorder, but that he has not passed even to its last and incurable stage. Yet, notwithstanding the difficulty which is thus known and confessed, it is always presumed that any twelve men taken from the ordinary duties of their shops and counting-houses, are fully qualified to pronounce an opinion as to the mental condition of the culprits that may be brought before them. Assuredly

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\* [The following case is directly in point. The drawing represents the head of Thomas Toppan, an Irishman, about 50 years of age. He was

the old method pursued among the Scottish Borderers of executing the prisoner first and trying him afterwards, was



tried in New-York for the murder of his wife, convicted and sentenced to death. While he was under sentence, his case attracted the attention of Mrs. Ann S. Stephens, a lady known as well for the ardour and warmth of her generous impulses as for her many contributions to the polite literature of our country. Mrs. Stephens soon became convinced of the unfortunate man's insanity, and immediately addressed herself, with admirable energy and determination, to the humane purpose of saving his life. She caused witnesses to be found and examined as to the condition of his mind previous to, and at the time of the act, and procured such satisfactory evidence of insanity, that Gov. Seward, upon its presentation, commuted the sentence of death to confinement in this prison during life.

The following extract from a note from Mrs. Stephens, in reply to some inquiries which I addressed to her, will set forth the case more clearly than any language of my own :

“ Previous to the murder of Toppan's wife, he had been considered insane by all the members of his family. His father was not a man of sound mind. Ten years before this act, Toppan was injured by a sun-stroke, and after that was subject to wild fits. One or two landlords refused to have him for a tenant on that account ; and he often committed extravagant acts, such as flinging a sick sister into the snow, threatening people's lives, &c., all which made his family afraid of him.

“ The plea of insanity was set up at his trial, but so completely unsustained by evidence that it had no weight. The sixteen witnesses that I had examined at the second trial were none of them present at the first.

much more consistent with reason than the modern plan, since in those cases they did really possess the means, by a

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He was not capable of giving information to his counsel, and so his case had to take care of itself. He could not be made to comprehend an after life, and was quite incapable of receiving religious instruction:—so his clergyman testified. He could understand one idea well, but did not seem to have mind enough to grasp but one at a time, and that was soon forgotten. He was never cruel, but to the reverse, exceedingly kind; often going hungry that his children might have enough to eat. His employers spoke of him as a kind, simple-hearted fellow, without wit enough to protect his own rights. One man with whom he worked four years, I think, went with me to Albany to obtain his pardon, at his own expense, and really seemed to love the man.

“ He was not, so far as I could find evidence, intoxicated at the time of the murder; but his food, and all his habits of life were irregular, owing to poverty and the intemperance of his wife; as after fasting for days, he would eat a full meal, and probably brought on his insane fits by this irregularity.”

He has been in the Mt. Pleasant prison about four years, labouring regularly at his trade; during that time he neither manifested violence nor any active form of mental aberration; yet his unsoundness of mind is not a matter of doubt with those who know him well. If the facts in Mrs. Stephens's note, as to irregularity, long abstinence, &c., are taken in connexion with his hereditary weakness, his nervous-sanguine temperament, and the action of the cerebral system impaired by the sun-stroke—a misfortune from which the soundest minds rarely if ever recover—we shall have no difficulty in reconciling the prolonged and terrible cruelty of the deed with the organization which has none of the characteristics of the murderer, or even of cruelty. Benevolence is well developed; destructiveness is quite moderate, and so, indeed, are the organs of the inferior propensities generally. His deportment in prison, where exact regularity and the absence of all exciting or disturbing causes place him in a more favourable condition for the proper exercise of his faculties, is characterized by these natural traits. He is docile, retiring, and easily controlled.

This is one of many cases which illustrate very forcibly the imperfection of our Criminal Law. To commute the sentence of death on the ground of insanity, is in effect saying that insanity is a crime—not of a magnitude to deserve death, but what in some instances is more severe:

*post-mortem* examination, of ascertaining from the *only source which can be relied upon*, (if we reject the evidence afforded by functional disturbance,) the absolute condition of the brain of the offender.\*

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ignominious incarceration with felons for life. I know it will be said that the safety of society requires the perpetual restraint of such persons; and this is granted. But does not humanity require, also, that the most terrible calamity which can befall a human being, *INSANITY*, should not be made the cause of life-long ignominy and suffering? One of the loudest demands made by the imperfect state of our Criminal Law at the present time is, the excision of this monstrous feature. Let it be considered, also, that this is a condition from which the most virtuous and excellent are not more exempt than the depraved, and that this awful doom could be averted by a simple legislative enactment, which would call for no extraordinary sagacity or judgment, but the exercise, only, of common humanity. If the Executive were clothed with power to transfer the insane criminal from the scaffold—not to the State Prison, but to the State Asylum, at Utica, or such other suitable refuge as may be convenient, we should be spared the infliction of injustice worthy the dark ages, and the disgrace of punishing as a crime what is the greatest of all earthly misfortunes.—ED.]

\* In the consideration of all cases of extraordinary atrocity, the first attempt is to discover the motive which actuated the perpetrator. If no motive can be traced, he stands a chance of being considered insane, and of thus escaping from punishment; but, if there can be found the slightest indication of the concurrent action of any other faculty with that, the activity of which led to the outrage, the minds of his judges are completely satisfied. Thus, suppose a man were to kill another under the effect of a momentary impulse, and without the slightest apparent motive (beyond the motive of gratifying the destructive propensity), it is just possible that some juries might be disposed to doubt his perfect sanity; but if it should be proved that, having murdered the man, he had taken from his pocket a few shillings, or even a few halfpence, the conviction of his soundness of mind would be complete. As if to any person of sound mind such a motive would be *sufficient*. In one case the destructive tendency acts singly, in opposition to all the other faculties of the mind; in the other case, the destructive and acquisitive tendencies are united in action, and these two act in opposition to all the remaining faculties.

Having endeavoured in these few words to point out the evils which must inevitably continue to arise under a perseverance in our present mode of estimating the mental condition of offenders, I proceed to consider the practical bearing of the views set forth in the preceding chapter.

All affections or diseases of the body may be traced to causes analogous to those which produce affections or diseases of the brain, viz., original malformation, sympathy with other diseased parts of the system, ill-directed exercise, contagious association, accidental lesion, &c. &c. ; but when we speak of persons being in ill health, in cases where any other organ of the body than *the brain* is affected, we never think of expressing a desire to *punish* them for their misfortune, because we consider that the pain they must necessarily suffer, and the restraint and confinement to which they must submit, in order to promote recovery, are circumstances that should awaken our pity rather than our anger, and we urge them to seek the aid of a competent physician. Yet the moment the brain is discovered to be the organ that is in an unsound state, our view of the matter immediately changes. We then talk of "responsibility," and of the necessity of "punishment" (without questioning as to whether these terms must necessarily be united); although it would be quite as rational to flog a man at the cart's tail for having become infected with the scarlet fever, owing to a predisposition and exposure to the disease, as to pursue the same course to one who, falling into temptation, had given way to a predisposition for taking possession of whatever he could lay his hands upon. To be sure, it might be said, that the flogging could not operate so as to deter the man from catching another

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The difference is one of very slight degree ; that part of the brain which is the instrument of the moral sentiments being in both cases in a state of impaired health or deficient development.

fever, while it might deter the thief from repeating his offence; but this distinction will not hold good, because, in the first instance, dread of the punishment might possibly induce the patient to attend in future so closely to the laws of health as to keep him safe from infection, and it could do no more in the latter case with regard to the laws of morality.

But it will be said that one who offends against the laws of health by neglecting the precautions and duties necessary to the preservation of bodily sanity, injures only himself; that the evil consequences are entirely personal, and that society has nothing to do with it; while, in the case of a moral offender, society generally is exposed to injury, and it therefore becomes its duty, as a matter of self-defence, to resort to the infliction of punishment. There is, however, nothing in this argument that can be maintained for a moment; for the injury done to the race is just as extensive in the one case as in the other. If a man by his own imprudence ruins his bodily health, society suffers by the impairment, in one of its members, of those energies which were given and intended to be used for the good of all; and it suffers far more seriously even than this, when the man of ruined constitution transmits to another generation his own delicate and enfeebled powers. Assuredly, if mankind could at one view take a glance at all the ills that have been brought upon the race collectively by the inattention of man to the general health of his frame, they would be disposed to allow that they had quite as much interest in enforcing obedience to the physical as to the moral laws!

Another argument will be raised, to the effect that, as a consequence of the neglect of health, pain is felt, and that this consequence is quite sufficient to act as a punishment, and to deter others from a similar neglect, without the infliction of additional torture; while in cases of moral delinquency, the patient does not suffer any pain beyond that

which society may inflict. This idea can only be urged by those who are accustomed to regard the mind as an immaterial power, manifesting itself in this world independently of any material instrument. Those who are accustomed to consider the fact that the brain is the instrument of the mind, and essential to all its manifestations in this life, will not for a moment suppose that this, any more than any other organ, can be subject to derangement without the production of a consequent and proportionate amount of pain. All our faculties were intended to be harmoniously gratified; and, if we are subject to a deficiency of any one of them, we lose a means of pleasure which it was intended we should possess: and if, on the other hand, one is so much in excess as to create a great relative deficiency in the rest, we are then confined to one source of pleasure, and lose the varied delights that spring from a healthy development of all. He only can truly enjoy life who possesses, in an harmonious state, all the faculties which were implanted by his Creator as the means of such enjoyment; and in proportion as this frame of mind is deranged, so are our means of happiness surely diminished. But not alone is pain thus negatively inflicted by the diminution of our means of pleasure, for the morbid emotions of an irregular mind act by sympathy on the rest of the system, and produce general uneasiness: there is, moreover, actual pain in the organ itself; for, the moment the balance of mind is once disturbed, (and the true balance, as I have said, exists in no one,) the various faculties cease to act in their intended relation to each other; and, instead of that which gratifies one being the source of gratification to all, we are tormented, to the extent of our irregularity, by a constant sense of opposing desires.

Having thus attempted to show that the infliction of punishment for disorders of the brain is no more reconcileable to our ideas of justice than would be the infliction of pun-

ishment for disorders of any other organ of our physical frame, it is probable that my readers will suggest the following objections :—

1. That the doctrine which I now advocate would destroy all ideas of responsibility.
2. That it would leave all men to follow their inclinations with impunity ; and,
3. That, as it would enforce no punishment on offenders, it would present nothing that could deter others from following their example.

But these objections, as I shall proceed to explain, are wholly without any solid foundation. And first, with regard to Responsibility.

Although upon this great question legislators, lawyers, physicians, and moralists have differed and doubted from all time, almost all of them have been unanimous in what appears to me to be the one great error—of allowing that there exists “somewhere” a line of demarkation where responsibility ceases, and irresponsibility, by reason of insanity, is to be allowed ; the former being subject, in cases of murder, &c., to the punishment of death, the latter entitling the culprit to immunity. The application of these views depends entirely, of course, upon the peculiar metaphysical opinions which may dwell in the minds of the jury before whom a criminal is tried ; and, as no fixed ideas exist, a person may be executed as “responsible” under the verdict of one jury, for the very same offence which, committed under like circumstances, might, in the eyes of another jury, entitle him to the plea of insanity. In illustration of this fact, I cite from a numerous collection, the following remarkable case :—

Catharine Ziegler was tried at Vienna for the murder of her bastard child. She confessed the act, and said she could not possibly help it ; she was forced to do it ; she

could not any how resist the desire she felt to commit the murder. The frankness of this her confession, connected with favourable circumstances, her good character, &c., induced the tribunal to pass a merciful sentence ; and, on the ground of insanity (which she did not herself plead), she was acquitted, and at length let out of prison. But she told the court, that, if they let her escape, they would be responsible for the next murder she committed, for that if she ever had a child again she should certainly kill it. And so in fact she did. About ten months after her release from prison, she was delivered of a child, which she soon murdered. Brought again to her trial, she repeated her old story ; and added, that she became pregnant merely for the sake of having a child to kill. It does not appear whether she was brought before the same judges as before ; most likely not ; she was *executed* for this second murder.

Cases have also been known where a criminal has been executed under the verdict of a jury, although the well-informed and more experienced judges of the court before whom the trial was had, entertained no doubt of his insanity. The following case occurred in one of the New England States :—On the morning of the 23d June, 1833, Abraham Prescott went into a field with Mrs. Cochran, his foster-mother, to pick strawberries. They had been gone but a short time, when Prescott returned nearly to the house, and was heard crying, or whining, so as to attract the attention of Mr. Cochran, who was left in the house reading. Upon inquiry of Prescott why he cried, he replied, that “he had killed Sally” in the pasture ; which, upon examination, proved true : near to her was a billet of wood that had been a stake in the fence, with which he had struck her on the head. On his trial, it was proved that Prescott had, in the month of January preceding, risen in the night, about ten or eleven o’clock, and built a fire in

the kitchen, preparatory to butchering swine, which was to have been done the next day ; that Mr. and Mrs. Cochran slept in an adjoining room ; that Prescott, without waking them, took an axe, and entered their room, and there inflicted on the head of each a severe blow, which left them entirely senseless. This extraordinary transaction was supposed at the time, both by the physician and the wounded friends of Prescott, to have been done in a fit of somnambulism. He disclaimed any knowledge of the affair, and was diligent and active in procuring relief. He had lived with Mr. Cochran some six or eight years, and had always been respectful and affectionate, particularly to Mrs. Cochran. Upon inquiry of him how he came to do so diabolical a deed, he stated that he had a violent toothache come on while in the strawberry-field, and sat down upon a stump ; after which he disclaimed any knowledge of what had happened till he found Mrs. Cochran dead before him. After his arrest, he made various confessions in the gaol, so discordant, that the Chief Justice, in his charge to the jury, declared them worthy of no consideration whatever. The plea of insanity was made on his trial ; but the jury gave a verdict of wilful murder, and he was sentenced to be executed.

A second trial was had, in consequence of some irregularity in the proceedings of the first jury. At this trial there was little or nothing proved differing from the first ; and, although the court evidently felt favourably disposed towards the prisoner, he was condemned to death, and was executed.

After the second trial and verdict, the Judges of the court before whom the trial was had, united in a petition to the Executive, that execution of the sentence might be postponed till the legislature should be convened, that an opportunity might be afforded for a commutation of punishment

to perpetual confinement. This petition, signed by all the Judges of the highest court in the State, contained the following language:—"The defence set up by the counsel assigned him (Prescott) was insanity; and the very strange circumstances which attended and preceded the act, go far, in our opinion, to raise reasonable doubts whether he was at the time of sound mind." Speaking of the jurors who tried him, they say—"But the circumstances tending, in our opinion, to excite doubts of the prisoner's sanity, do not appear to have operated with the same force upon their minds as upon ours."

The extraordinary degree of confusion which prevails regarding the question of moral responsibility, and the necessity that exists for a more perfect definition of insanity, was well exemplified in the trial of the imbecile Edward Oxford.

In this case, it was asserted that the grandfather of the culprit had been insane: it was fully proved that the father had always been subject to destructive and suicidal mania; that the mother was affected by nervous delusions; that one of her children had been born an idiot; and that, during the time when she was pregnant with the subject of the inquiry, she was exposed to great distress, from frequently receiving from her husband blows on the head which rendered her insensible; and that on one occasion she was subjected to the greatest terror by his presenting a loaded gun at her person. These things were coupled with proofs of habitual conduct on the part of the prisoner chiefly of a similar character to the following:—"When he was out, he would get stinging-nettles, and beat children with them on their arms until their were quite blistered. He was sometimes given to laugh and cry violently at the same time, without any cause. When any one boxed his ears for doing any thing wrong, he would laugh in a very pe-

cular manner ; and he was often in the habit of breaking, or throwing out of windows, different articles that came in his way." With all these facts before them, coupled with the absurdity of his plans, and the subsequent indifference of the prisoner ; with the knowledge that by far the largest class of insane cases can be traced to hereditary causes ; that the impressions produced upon the mind of the mother during the period of gestation are usually the source of peculiar dispositions on the part of the child ; that the want of power to repress ordinary emotions is one of the most frequent symptoms of insanity ; and that this disease, when it arises from transmission, usually assumes its most violent appearance at about the age at which the prisoner had arrived ;—we see the counsel for the prosecution, among the highest legal authorities of the realm, gravely attempting to assert the sanity of the individual, with the view of subjecting him to a verdict that shall involve the penalty of a public death ; and while, in common with the medical witnesses, they stated their utter inability to draw the line where responsibility ends and irresponsibility begins, perfectly willing to condemn in ignorance, and to leave the definition upon this point to future inquirers.

In the evidence upon this trial, Dr. Chowne stated : " I have patients often come to consult me who are impelled to commit suicide without any motive for so doing. They tell me they are happy and comfortable in other respects, but that they have a strong desire to commit suicide." This showed that persons may be insane, and yet possess a perfect knowledge of what they are about. The jury listened to this evidence from a high authority ; and, half an hour afterwards, they were informed by one of the legal advisers of the crown, that " if the prisoner was of unsound mind, unless he was so mad, so unconscious, that he did not know what he was doing, or what would be the effect of his pull-

ing the trigger, the plea of insanity would not avail!" Fortunately, the jury determined otherwise. Yet it is evident that, amidst all the conflicting arguments by which they were perplexed, the fate of the prisoner completely hung upon the result of their theoretical opinions, instead of upon the operation of any well-defined and rational law.

Thus we see that the line of demarkation between responsibility and irresponsibility shifts place according to the imaginations of different individuals; and that, although in all other respects the laws of the country are so narrowly defined that the Executive is not suffered to swerve a hair's-breadth in the administration of them, the law of responsibility is perfectly enveloped in doubt;\* and its administration, upon which in reality depends the fate of the criminal, is left to the casual decision of, in many cases, uneducated jurors, whose metaphysical notions may be reasonably presumed to be somewhat capricious and indefinite.

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\* [Those who are not prepared to adopt Mr. Sampson's views on this point, may perhaps consent to follow where truth shall lead, and let the question of responsibility take care of itself. If we can ascertain what is the Divine Will in the treatment of moral evil, it seems to be of little consequence to inquire into the abstract question of responsibility. Our duty plainly lies in two principal aims: first to prevent crime, second to remove the tendencies to its commission—in other words, to cure those who are so unfortunately constituted as to possess criminal desires, as we would those who are affected with a physical disease, by the application of all those remedies which God has placed within the scope of our powers to apply. Whatever view may be taken of the means best adapted to effect these objects, it cannot be greatly modified by any settlement of this long vexed question. For if, on the one hand, we are to punish an individual to any given extent for certain crimes, it is of little consequence to ascertain any thing in his case, except the fact of guilt, and provide for the infliction of the penalty. And on the other hand, if we contemplate only the extermination of the criminal desires, and the restoration of soundness and moral equilibrium to the mind, it surely cannot be important to that object to ascertain any thing beyond the

The doctrine of responsibility, which appears to me to be alone consistent with reason, religion, and morality, is simply this: that, so far from the Creator having sent into the world some beings who are responsible, and others who are exempt from responsibility, there is, in fact, no exception whatever; and that every human being is alike responsible,—responsible (according to the degree of his departure, either in mind or body, from that degree of sanity necessary to the proper discharge of his social duties,) to undergo the painful but benevolent treatment which is requisite for his cure.

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means which, in each particular instance, will the most readily and surely effect these purposes. Whatever the true standard which God has appointed may be, we may rest assured that our speculations will neither change nor improve it, and that no truth which we can discover within the limits of this question can be unsafe, if fairly and honestly practised upon.—ED.]

### CHAPTER III.

Answer to objections continued.—Views which should actuate society in the treatment of criminals.

IN the last chapter, it was my object to illustrate the vague manner in which the question of Social Responsibility has usually been considered ; and to show that it has been the custom to regard it in too limited a sense, all persons being alike responsible, according to the degree of their departure from a perfect state, to undergo the treatment necessary for their cure.

He who neglects the laws of health, by exposing himself—say, to a sudden and violent change of atmosphere, and has thereby produced a pulmonary affection—has to submit to the restraint of confinement at home, or to a temporary exile in a warmer climate, to remedy the evil effects of his disobedience ; or, if, by incautiously venturing into an impure air, he has contracted an infectious fever, and he should nevertheless refuse to take measures for his recovery, it would be the duty of society, both to themselves and to him, forcibly to remove him to a better atmosphere, to keep him secluded from all to whom there might be danger of his communicating the disease, and to enforce the administration of proper remedies. In like manner, if he offends against the moral laws from hereditary disposition and the contagion of bad example, or from any other cause, it be-

comes the duty of society to remove him from the source of contagion, and from the means of transferring it to others: to repress the unhealthy tendency of the mind, and to stimulate its deficient organs.

But, although religion, justice, and benevolence point to this as the chief, nay, the only duty which should be regarded by society in the treatment of offenders, it is one which, in the blind and popular eagerness for the infliction of "punishment," is almost invariably lost sight of; and, as a natural and inevitable consequence of this neglect, details of the most disastrous kind are day by day forced upon our attention.

The following appeared some months back in the "Times." "*Suicide.*—Thomas Pepper, fourteen years of age, potboy, a clever lad, but of sullen and morose disposition, committed suicide by hanging himself in an arbour in his master's bowling-green, where he was not discovered for two or three days. It appeared, from the landlord's evidence, that he considered the mind of the deceased to be peculiarly formed; his conduct frequently evincing a predisposition to cruelty. Frequently he would hang up minor animals, such as mice, &c., for the purpose of enjoying their throes in death; and often he would call in boys like himself, saying, 'Here's a lark; he's just having his last kick.' He had often been known to catch flies and throw them into the fire, that he might observe them while burning. He had also been observed, while passing along the streets, to pull the ears of the children, lifting them off the ground by their ears, and, when they cried at his unfeeling conduct, he would laugh with a kind of fiendish delight at their sufferings."

Other witnesses deposed, that, about four years since (when he was ten years of age), he attempted to strangle himself on an occasion of his mother chastising him for

some offence, and locking him up in a room by himself; and, when discovered, life was nearly extinct.\*

The above account forms a forcible illustration of the necessity of early measures of prevention and cure, and the duty which exists on the part of society to see them enforced. The conduct of this boy, even up to the time of his death, and in its mode of execution, continued to keep in accordance with his previous powers and habits. His chief delight appears to have been in acts of destruction; and, as from habit they increased in degree, they at length terminated in suicide. Had not this been the case, it is probable that he would have gone on until he had destroyed some fellow-creature; when it would have been the province of the law, as it at present stands, to terminate his life—an act which he himself had contemplated with pleasure. It would be a vain employment to endeavour to fix a point at which insanity commenced in this boy. Is it not evident that he possessed from the first a badly constituted mind; that he was impelled by an irresistible desire; and that the act of suicide was merely a result of an increase of that tendency which induced him to watch with pleasure the death-struggles of his tortured victims? It was the duty of society to remove him from the means of gratifying the desire, and of doing injury to himself or others. By this course his life might have been saved, his disposition ame-

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\* In this, the jury found a verdict similar to that which is rendered in most cases of suicide, viz. Temporary insanity; because it is a common opinion (and a very just one), that any person who is so deficient in the natural feeling of love of life as to destroy himself, must necessarily be regarded as possessing an imperfect mind. It should also be remembered, that benevolence is a feeling just as natural to man, and much higher in degree, than love of life; and that any one, in whose mind this sentiment is so deficient as to admit of his committing homicide, should, in like manner, be regarded as insane.

liorated, and the list of suicides, which by its amount forms a national disgrace, might have been lessened. It is well, however, that his career did not terminate more fatally. He gave, by his conduct for many years, a warning to those around him, which they were too ignorant to construe rightly; and if he had terminated his career by a more fearful tragedy, how much of responsibility would have fallen upon them?

But, although, when these tendencies lead to their most fearful and natural result, society is prepared and eager to inflict the severest punishments, it never seems to be conscious of its own neglect in not acting upon previous minor indications, which should have called forth a preventive care. The London papers of the 26th June, 1840, copied the following from the *Greenock Advertiser*:

“A man named Miller, a barber at the Broomielaw, was arraigned before Bailie Small, on the charge of fearfully maltreating his wife. The evidence which was adduced brought out a case of extreme barbarity. It appeared that the man had thrown her down stairs, kicked her, dashed her into the fire, and inflicted many other cruel injuries. The man had a curious method of refinement with his cruelty; for it was brought out that he was used to place a razor and huge ham-knife under his wife’s pillow, upon which he forced her to lie down, hinting, at the same time, that he would operate upon her with them as soon as he found it convenient. Bailie Small sentenced him to confinement in Bridewell for sixty days, and almost regretted that the case had not been taken before a higher tribunal, as *this was not by any means the first instance of his cruelty.*”

This man has given a warning to society; and the only advantage that is taken of it, is to inflict sixty days’ imprisonment, without medical or moral treatment of any kind; at the end of which time, whether improved or otherwise, he

is again to be turned loose upon his fellows. If his conduct should go on to its most probable conclusion, society will doubtless (when it is *too late* to prevent a fatal consequence) inflict revenge by its most energetic means.

Another curious instance of the indifference of the public to its own duties of prevention, may be mentioned in the fact that the identical London daily papers which endeavoured to excite the indignation of the public, by characterizing the insane conduct of Oxford as “an atrocious,” “abominable,” “treasonable and diabolical” attempt, contained on the very same page the following paragraph:—“Another mad visitor to the Queen.—On Thursday afternoon, a man, very genteely dressed, went to Buckingham Palace, and demanded to see the Queen. *It was soon seen*, from his demeanour and incoherent language, that he was insane, and he was persuaded to accompany an officer to the Police station in Scotland Yard. When asked the nature of his business, he said he wanted to see the Queen, to tell her in person that he was not a leader of the Chartists, as some of the country papers had represented. The unfortunate lunatic further said, that, if the Queen should change her religion from Protestantism to Catholicism, as he had understood she would do, *he would offer violence to her*, and think it no sin. It was elicited from him that he had come from a town near Scarborough, in Yorkshire; that he was in independent circumstances, and was at present staying at a hotel in the neighbourhood of the office. He was then allowed to depart, being considered to be labouring under a momentary delusion.”

Here we see that the premonitory symptoms of dangerous mania are allowed to pass without the slightest advantage being taken of them. When a fellow-creature is in this state, it is “soon seen” that he is insane, or that he is labouring under a “momentary delusion.” Should his insanity (pursuing the usual course of neglected disorders)

increase in violence, and ultimately lead to some fatal outrage, by which the life of the offender would be brought within the power of the law, it is probable that we should then read of the "atrocious" or "diabolical" nature of the attempt; and, so far from its being "soon seen" that he was in a state of insanity, a hundred witnesses in his favour would not be able to convince the counsel for the prosecution that there was the slightest ground for finding a verdict to that effect.

The necessity for the adoption of curative means in the cases of moral offenders, and the injustice of inflicting punishment where this course has been neglected, was admirably enforced some few years back, in a work called "Old Bailey Experience," by an imaginary letter from a lad convicted of picking pockets, who was on the point of leaving England for Botany Bay. It ran as follows, and the truthful satire which it conveys is worth a hundred essays:—

"I was born in Dyot Street. I never remember my mother; but my father's companions sometimes spoke of her as one who had been transported for passing bad money; my father used to look gloomy and sorrowful when she was mentioned, and never recovered without a glass of liquor: some people said she died broken-hearted in goal; but I never heard the truth of it. In our street, he who thieved most cleverly was the most admired, and the only disgrace that could be incurred was the shame of detection. I sometimes, at the end of it, saw people ride past in fine coaches, and these, I supposed, had robbed still more successfully. I knew nothing, and was taught nothing but to steal; and I practised my art with an industry which I thought most laudable. I have heard of God, of Hell, and of the Devil; and they once told me, when the bell tolled at St. Giles's, that people went there to pray that they might go to heaven; but I saw nobody who seemed to believe this, and I thought

these words, like many others, were only useful to swear by. The only thing I was taught to fear was a thief-catcher; and, though I eluded his vigilance for some time, he caught me at last. In prison the parson told me how I ought to have been brought up. He found that I had never been idle; that I had laboured in my calling; that I had never robbed my father, or cheated my landlady, and that to the best of my power I had done what I was told to do; and yet I was put into goal, and, if I had not been a very little boy, the parson said I should have been hanged.

“There are some hundred boys in London who are all living as I lived; and, when I was tried, a gentleman in a great wig talked very kindly to me, and if I knew what his name was, I would send this letter to him: he said he would have a school in Dyot Street, where boys might be told what was right; and I think, Sir, before they are caught and hanged, it would just be honest to tell them that they are in danger of it, and to tell them what is law, and what is society, and not to let them hear of it for the first time when they are tried.

“I am going, they say, among savages, and I never desire to come back: the savages would have taken care of my education, have taught me to hunt, shoot, and fish, and would have told me how to be a great and good man; but the Christians have not done so; and if it was not that I am sorry for my companions that are left behind, and hope the gentleman in the large wig may see this letter, I would not give myself the trouble of asking my fellow-prisoner to write it.

“JACK WILD.”

Having answered the objection that the views which I have advocated would destroy all ideas of responsibility, by showing, that, so far from destroying these ideas, they lead us to consider it to be necessary to *extend* the sphere of their application, I proceed to the second objection, which I have

supposed as likely to be raised, viz., that the doctrine which I have advanced would leave all men to follow their inclinations with impunity.

I have just stated, that I consider all men to be alike responsible, and that this responsibility involves submission to the treatment necessary for the cure of their disorders. In cases, such as those of which the law now takes cognizance, it is the duty of society to see this treatment *enforced*, but in slight matters it might be left, as it now is in medical cases, to the option of the patient; trusting to the effect which public opinion, the natural sensations of discomfort caused by the disorder, and the spread of knowledge regarding the advantages of obedience to the physical and moral laws, would naturally bring about. In dangerous cases, where a mitigation cannot be effected to the requisite extent,\* so long, indeed, as there exists cause of apprehension of bad results from the disordered person holding communication with others, it must always be necessary to keep him in a state of seclusion, apart from temptation. This will obviate the ob-

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\* [Were society more fully enlightened in these respects, its institutions would be so framed as to administer in their ordinary operation preventive and curative treatment to a large proportion of its moral patients. Mr. Combe, in treating of the duty of society to such persons, uses the following plain and forcible illustration. As I quote from memory I can vouch for the identity of the thought only. He says, when a cow is given to hooking a board is put upon her horns, which answers the double purpose of warning all who approach of her disposition, and also of preventing the mischief which, without such restraint, she would commit. When Phrenology is generally understood, the bad organization will be to its possessor what the board is on the horns of the vicious animal. It will advertise his dangerous tendencies. And society, actuated by the spirit of true enlightenment and humanity, will recognize his necessity and right to be spared temptation, and to be aided in the exercise of his higher faculties.

Could we foresee, when placing an individual in any position, that its

jection that my views would leave all men to follow their inclinations. Punishment from man is not necessary ; when a patient is suffering from fever, we do not attempt to “punish” him, but we keep him in seclusion from all but his medical attendants (who run little risk of infection), and we oppose his irrational desires, control his actions, and, if necessary, perform painful operations.

I shall now consider the third point of objection to which I have alluded, viz., that my doctrine would not enforce any punishment on offenders that should deter others from following their example.

In the case of all ordinary physical maladies, we see the pain which is inflicted upon the patient, and to which he is obliged to submit, coupled with surgical operations, tedious confinement, or nauseous and restricted diet. And this pain, which is the price at which he purchases his cure, and thereby avoids more serious pain which otherwise awaits him, being in accordance with the intentions of our Creator, is, I should presume, as likely to be effective as any punishment could possibly be, in deterring the patient himself, and

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strongest temptations would be addressed to those propensities which are most powerful in him, and did we regard his moral well-being, we should most assuredly modify our treatment of him by that knowledge. Thus, no humane, or just, or prudent person, would place in a position of great pecuniary trust another who was endowed with large acquisitiveness and feeble restraining faculties, but rather seek for them a place which would be free from such temptation. The variety of propensities which, being excessive, lead to crime, is so great that where one would fall another would stand secure and unassailed. Had we the knowledge which would enable us to discover these weaknesses before they were made manifest in crime, how much moral ruin and suffering might be escaped ! Guided by such knowledge in the common intercourse and offices of life, we should minister unto each other often in the time of our sorest need, and be enabled to defend our unfortunate brethren most effectively against the most dangerous of their enemies, their own evil desires.—Ed.]

the parties who witness it, from running any risk for the future of contracting a similar disorder. It will be observed, too, that the system to which the patient has to submit, is precisely that which, under his individual circumstances, must be the most painful to him. For instance, if a man of sanguine temperament, to whom exercise is one of the chief delights of life, indulges the tendency beyond its legitimate bounds, and, by some violent action, ruptures an organ of motion or respiration, he has, in order to his cure, to submit to a long period of total restraint from exercise of any kind, which to him would be the most painful infliction he could possibly undergo; and if a person of lymphatic temperament impairs his digestive powers by over-indulgence in the pleasures of the table, he has to submit to the bitter restraint of the most simple diet. If, however, the sanguine man were to legislate for the punishment of the lymphatic, he would doubtless think that he inflicted the heaviest penalty by forbidding *exercise*, and the lymphatic man, on the contrary, would forbid *all indulgence at the table*. Each party would think that he had inflicted upon the other a very terrible punishment, whereas they would have inflicted scarcely any punishment at all, and would only, by denying to each other the source of pleasure to which they were least prone, and which would have been most beneficial to them, have increased the tendency of each to fall into the very sin which it is sought to repress. Thus, then, we see that in physical disorders the patient suffers more from the discipline to which he is subjected by the benevolent physician by whom his cure is attempted, than he could be made to feel by one who merely legislates with a view to his punishment. The same holds good in all cases; and in like manner it may be affirmed, that, in all cases of moral delinquency, pain would be more severely administered to the patient by the adoption of those measures which would at the same time effect a cure,

or at least insure a mitigation of his infirmity, than by any other method. This, however, would be a work of benevolence instead of revenge ; for, although all his desires flow in the direction of his offending propensities, in the gratification of which he has found his only source of pleasure, and in the suppression of these faculties, therefore, the greatest amount of pain is incurred, yet, as the work of suppression goes on, and other faculties are called into play, new and higher sources of pleasure are awakened, and less pain is felt from the non-gratification of the erring desire ; while, at the same time, he is saved from the inevitable and accumulating consequences which would otherwise have arisen from fresh infringements of the Divine laws. It leads, therefore, to good alone, good to society with good to the sufferer ; and the real good of both must always go hand in hand, since

“ True self love and social are the same.”

As a curious illustration of the fact, that the most severe pain which can be borne by an offender is that which is inflicted by benevolence in the first efforts to cure, I may cite a remark made at the Lambeth Street Police office by Mr. Wallace, one of the Guardians of the Poor of the White-chapel Union ; who stated, in answer to some complaints on the part of a pauper respecting the Workhouse discipline, that, “ the *greatest possible punishment* that could be inflicted upon those persons who were in the habit of living in filth and rags, was to take them into the workhouse, and compel them to clean themselves, and to keep themselves so.”

Again, let us take the case of drunkenness. Would the severest advocate for the punishment of his fellow-creatures wish to inflict upon a drunkard any more terrible pain than that which is involved in the first step towards cure ? The hand that, in kindness, and with no desire to punish, withdraws the bottle from the infatuated drunkard, inflicts upon him the most excruciating sufferings.

In Macnish's "Anatomy of Drunkenness," the following characteristic anecdote is related:—A gentleman of very amiable dispositions, and justly popular, contracted habits of intemperance; his friends argued, implored, remonstrated; at last he put an end to all importunity in this manner: To a friend, who was addressing him in the following strain: "Dear Sir George, your family are in the utmost distress on account of this unfortunate habit; they perceive that business is neglected, your moral influence is gone, your health is ruined; and depend upon it the coats of your stomach will soon give way, and then a change will come too late," the poor victim, deeply convinced of the hopelessness of his case, replied thus: "My good friend, your remarks are just; they are indeed too true: but I can no longer resist the temptation. If a bottle of brandy stood at one hand, and the pit of hell yawned at the other, and if I were convinced I would be pushed in as sure as I took one glass, I could not refrain; you are very kind, I ought to be grateful for so many kind good friends, but you may spare yourselves the trouble of trying to reform me; the thing is impossible."

To this man, who confessed that even the certainty of eternal torture would have no effect in deterring him from the gratification of his propensity, what terror would have been imparted by any human punishment? The dread of the punishment of death which was inflicted by the Athenians for this crime, would, in his case, have been without avail. It is evident that the only course which could operate with success in a case of this sort is the forcibly withholding the means of gratification and exercise to the morbid propensity.

Is there any greater pain to one who has long indulged in the gratification of lust, than that which is administered in his case, also, by the first step towards cure, viz., a separation from all intercourse with the objects of his desire? Would a miser feel any thing so keenly as the being deprived

of the power of accumulation, and compelled to distribute his riches to the needy? And does not the same rule hold good with regard to all the faculties of the mind? The only way in which the *most severe* pain is inflicted, is, by preventing the indulgence of the easily-besetting sin, and forcing into activity the higher and hitherto neglected faculties.\* That this is widely different from the present system of crimi-

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\* [The character of criminals is for the most part strongly marked by predominance of propensity over all the better powers. Of the females especially, a large majority have been reared and habituated to scenes of violence and depravity, that would themselves be the greatest terror to better constituted minds. Years of such excitement have prepared them to enjoy only scenes like those in which they have previously participated. Thus trained, aggression and resistance are the spontaneous and continued fruits of their minds. They come to the prison, therefore, prepared to war against physical measures, and the supremacy of animal courage, and to derive their highest enjoyment from such contest.

While in this condition, no punishment could be more severe than the unseen, quiet restraints of a moral system, which furnish no excitement to their resisting faculties, offer no provocation to endurance, open no account of injuries to be revenged on some future occasion. The mental inanition of this period, the presence and supremacy of influences with which the mind has no sympathy, the monotonous character of the life contrasted with the intense excitements which have preceded it, the absence of all stimulus to the physical as well as the mental energies, are circumstances, the combined severity of which seems sufficient to answer the strongest faith in the saving influence of punishment.

Yet this is the lot which inevitably awaits all whose lives have been thus spent, and the more perfect the moral government of the institution, the more severe is it to those who remain in this condition. An occasional burst of passion and resort to coercion an occasional scene in which depravity makes itself heard in foul language or deeds of violence, are holidays to them. Something of the old life is again felt in their veins; something of the old spirit is rekindled. The countenance and entire manner indicate the vivifying influences which such scenes have exerted over them.]—(Extract from the Annual Report of the Matron of the New-York State Prison for Females, 1846.)

nal treatment, we are too well aware: for, although sometimes a little good is effected by the infliction of fines, and the endurance of personal restraint, these methods occasionally tending to bring other faculties, such as caution and the love of property, into antagonizing action to the offending propensity, yet no attempt is ever made to repress that propensity by any direct means: such as absolutely preventing its exercise, and at the same time promoting the activity of the moral feelings. In fact, from the promiscuous association to be found in our demoralizing prisons, an effect the very reverse of this is usually obtained.

Let any man contemplate for a moment the possibility of his being placed in a situation where all the long-cherished and strongest tendencies of his mind are opposed, and where the only feelings that he is permitted to gratify, are those, the exercise of which have, up to the present moment, been most distasteful to him. He may then form some idea of the painful nature of those moral remedies which have cure, and cure only, for their object. Let the religious man contemplate what his sensations would be were he forcibly held in a situation where only the grossest impiety and blasphemy were breathed around him, and amid which he should be compelled to exist without the power of expostulation or resistance. Let the benevolent man imagine himself compelled to watch, day by day, in some inquisitorial cell, the infliction of torture upon helpless and unoffending fellow beings. Let the mother, who has found all her delight in the presence of her children, contemplate what her feelings would be if they were withdrawn for ever from her sight and knowledge. The pain which would be felt in these instances would, nevertheless, not exceed that which must be felt by those who are suddenly forced to abandon the gratification of long-loved vices, which arose from the predominance of the lower feelings, and to submit to a discipline, of

which cleanliness, industry, justice, subordination, and a consideration for the feelings of others, are the prominent features. Yet, in the latter case, the pain inflicted would only be subservient to kindness; it would be that which had been decreed by Heaven, and not revengefully administered by man. Between man and man, however different their relative situations may be, nothing but love should ever subsist. He who lives in the practice of religion and virtue should not look even upon one who is staggering in the wild intoxication of crime with any other feelings than the love and pity which the sad fate of a brother should awaken—love for him as a fellow man, possessing the same capabilities of an eternal destiny, liable to the same sufferings, and sharing, all misused, neglected, conflicting though they be, the same inherent feelings. If we could cure the evil dispositions of men without the infliction of any pain whatever, it would be our duty to hail the opportunity of doing so, instead of looking out eagerly, as we now do, for the means of inflicting punishment long before we have satisfied ourselves that the punishment will produce improvement. As the Creator has established a system whereby pain must be suffered as the consequence of disobedience of his laws, he has not left this penalty to be inflicted by the ignorant hand of man, but has provided that, in the natural order of things, it shall inevitably follow, and in fact arise out of, the offence itself. Man, therefore, has nothing to do with punishment: this has been provided for by his Creator; but, although it cannot be averted after an act of disobedience, we may lessen the future weight of human misery by arresting the offender in his wrongful career, and preventing him from adding, by the commission of new offences, to the amount of pain which he is already destined to endure. To diffuse, then, by general instruction and example, a knowledge of the Divine laws, the relation subsisting between the constitu-

tion of man and his Maker, and the inevitable consequences of disobedience, is our first great duty.\* The next is, to re-

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\* [I have found nothing more encouraging in the treatment of criminals, than the excellent effect which flows from imparting to them a knowledge of the peculiar constitution of their own minds. As soon as the source of their evil desires is brought clearly within their comprehension, all mystery, doubt and uncertainty are cleared away. Show them that the strength of these desires is governed by physical laws, in the same manner as the strength of a limb or other organs of the body ; that by indulgence this power will continually increase ; and that it is in the restraints which their own moral sentiments and intellect impose upon propensity, that sound and healthy advancement can be made in the path of moral reformation, and they have then some well-defined idea of what their duty is, and of the means of discharging it. Add to this some knowledge of the adaptation of their own constitution to that of external nature, of the conditions of human happiness, and the invariableness of the laws on which it depends, and of the relation subsisting between themselves and their Maker, and if there be sufficient intellectual energy to comprehend something of the force and value of these truths, they will rarely fail to produce the highest efforts of which the mind is capable. This sort of instruction, while it offers every incentive to the moral powers, furnishes also to the judgment a sufficient reason for every requirement made by it. So great in my estimation is the value of this knowledge, that, next to the Scriptures, I would require our prisons to be furnished with books designed to impart it. At the head of this kind of works stands Combe on the Constitution of Man. I have adopted this in my instructions in this prison. Of the little time that is afforded for this purpose, I am now and for the last four months have been spending a great part in reading, illustrating and enforcing the truths taught in this admirable work. Among the better class of minds thus taught, are many who receive and understand the laws therein expounded, and there is not one, even the most stupid, who has not been made better by its clear and forcible expositions of duty and of the sources and conditions of happiness. I am persuaded that the improvement in this prison is due as much to this as to any other efforts which have been made in it. In addition to this public reading, I have placed this and kindred works in the hands of our most intelligent convicts for private study. One colored woman, who has been especially instructed in this kind of

move from temptation all those who are so constituted as to be peculiarly liable to its effects, to prohibit the use of the

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knowledge, expresses herself thus on the origin and character of moral evil.

“Who and what is the devil is a subject that has often occurred to my mind. As far back as I can remember I have heard of the devil, and from the way I have heard some people talk and preach of him, I have until lately believed him (if it is a he) to be an external being that had great power, who having nothing good in himself nor could ever be good, tried to make others as bad on the earth as himself, and also to preserve dominion over those that had been his subjects, having an endless burning lake.”

I come to the following conclusion according to my own judgment, and it seems as probable to me as the above. According to phrenology, I understand we have two distinct sets of qualities, one called the moral sentiments, and the other animal propensities. I see that if these last were large, or even one organ large, for instance destructiveness, and I, following the dictates of that organ, were to knock a man down and kill him, some one would say the devil was in me, or that he had such possession of me as made me go and kill a man. Now I do not see how any devil external made me kill, and if he was in me he must have been born in me, and if I had not had destructiveness or combativeness, I would not have struck or killed, without the devil had taken me up, bodily, and used me as an instrument.

So I find that it is the principle of the person that makes him or her do wrong or right, whether they be ignorant, insane, or sensible. For, if they do wrong through ignorance, that shows there is a defect in their education, and if there is a devil he had surely nothing to do with that. If they were insane, that shows a derangement of the brain,—the devil could not have been in that; and if they are sensible, and then do wrong, they are only following the dictates of their lower propensities, without due adherence to their reasoning faculties or intellect. I do not see how the devil has any thing to do with that. If a person strikes me, and I wish to retaliate, it is evident that my combativeness is excited, but not that a devil is near me, instigating me to do the wrong I want to.

I believe there is a Being who made all things, and that he has placed in man some very high and noble qualities, that he may go through the world in an honourable and useful manner, innocent, free from any desires

faculties which they may have abused, and to force into activity those, from the non-exercise of which they had fallen into crime.

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injurious to himself or his fellow-man ; that if we do not use these in the manner we ought to, we bring down shame and suffering on ourselves, and then lay it to the devil, and say that he led us astray, not thinking of the first cause in our own constitution. I was thinking of Jesus being tempted of the devil. Now, the man who wrote about it was a man, and not Jesus himself. He says that " he was taken up into a high mountain and showed all the kingdoms of the earth, the devil saying to him, ' All these will I give thee if thou wilt fall down and worship me.' " Now I have thought, that as Jesus was hungry and destitute, and went to this place, as he frequently did, to be alone and escape his persecutors who followed him, though he was without sin and pure, his mind ran on the kingdoms of this world and the wealth he might possess, and the homage he might command if he were vile as man, &c.

I know that man is a mortal being, with an immortal soul or spirit given him at his birth ; whether it be large or small, according to its capability will be what is required of it. If it lives little, it will die little. If it lives mean, it will die mean, and I suppose the better people would say it had gone to the devil. But my belief is, that natural principles or causes have shut it out from light and happiness enough without its being placed bodily in the outer darkness, which is spoken of in the Bible (as some people read it). It seems to me that these natural causes are the outer darkness.—ED.]

## CHAPTER IV.

Practical adaptation of the foregoing views.—Eastern State Penitentiary of Pennsylvania.—Neglect of education in England, and of the obligations of society.—Inexpediency of capital punishments.

THAT the views which I have endeavoured to enforce, of the necessity for abandoning, in moral disorders, all ideas of inflicting punishment *as such* (substituting the simple effort to *cure*), are correctly founded, I am happy to be able to illustrate, by the long and valuable experience of those who have, in the right spirit, partially made the experiment, and who have met with corresponding success.

At the Eastern State Penitentiary of Pennsylvania, United States, an institution which is under the superintendence of a gentleman remarkable for benevolence of feeling and acuteness of intellect, the idea of inflicting any avoidable pain upon a prisoner is never entertained. It was organized by the efforts of those who avowed their belief “that religion and policy alike dictate the adoption of mercy, of kindness, and forbearance in the infliction of reformatory punishment,” and that “*the infliction of pain, misery, and terror on our offending brethren, has not been intrusted to fallible and erring mortals by that Being who has emphatically prohibited retaliation by the declaration, ‘Vengeance is mine—I will repay.’*”

The following is a brief outline of their plan, extracted from the Reports of its promoters:—“The convict, on his entrance, after the customary examination, is clothed, blind-

folded, and conducted to his cell, where he will remain locked up; and, after a patient and careful inquiry into his history, and the delivery of an appropriate address to him on the consequences of his crime, and the design to be effected by his punishment, he is abandoned to that solitary anguish and remorse which his reflection in solitude must inevitably produce. Every means which have been devised by philanthropy and experience for effecting reformation, will be zealously applied. The labour in which the convict will be employed is considered as an alleviation, not an aggravation, of his sentence. Labour prescribed as a *punishment* is an error in legislation, founded on an ignorance of the feelings, the desires, and antipathies, the habits and associations of mankind; the tedious hours spent in solitude will be a punishment sufficiently severe, without rendering the infliction of hard labour for this cause necessary. The want of occupation will produce a feeling of tedium or irksomeness; the state of mind in which labour or employment will appear to the convict, perhaps for the first time in his life, as a means of preventing uneasy feelings, of producing relief and pleasure; and, as the powerful influence of association is acknowledged, this beneficial feeling will become habitual, and, after the discharge of the convict from his durance, will be a most effectual safeguard from the temptations of idleness. Accordingly, persons duly qualified will be employed to teach the prisoner suitable trades, and to instruct him in religion and in the elements of learning. The prohibition of all intercourse with society is not, therefore, to be continual: the visits of the virtuous cannot injure, and must benefit, the majority of the prisoners, between whom *alone* all communication is to be rendered impossible." And again, "religious and other instruction will be constantly and regularly administered; the visits of the virtuous and benevolent permitted and encouraged, under proper restrictions; unremitted

solitude, or separation from all society will not, therefore, be practised. Intercourse with the enlightened and virtuous members of the community must inevitably frequently console and benefit, and can never torture or injure the convict. *He will be separated only from evil society*, from association with the depraved and hardened: the progress of corruption will be arrested; he can neither impart nor receive from them contamination: if a germ of virtue or of shame exists, it may be preserved and *cultivated*; his character will not be irreparably destroyed by exposure; his resolutions of reformation blasted by an acquaintance with his fellow convicts—an acquaintance which, when once formed, can never be dissolved.”

These were the views under which the institution was organized by the Legislature; and, although, from the circumstance that the true principles of criminal treatment are here only partially adopted, and imperfectly carried out (the institution requiring to be systematized as a moral hospital), I am prevented from fully entering into the sanguine views of its founders, I can yet offer the best testimony of its success as compared with all previous plans.\* After an experience of four years, the Annual Report of the Warden contained the following passages:—“The punishment (discipline?) inflicted, not merely on the body, but on the mind, of the prisoner, *uniting severity and humanity*, is one which the unhappy culprit feels with all its force; but there is nothing in its operation calculated to increase his evil passions, or stimulate him to hatred or revenge. Those who have the care of him treating him with the *kindness and compassion which are due to the unfortunate man, rather than the unnecessary and unfeeling harshness too frequently displayed to the victims of folly, vice, and crime*, he is soon made to feel

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\* See Appendix, Art. A.

that the horrors of his cell\* are the fruits of sin and transgression, and the only certain relief to be obtained is through the Redeemer. Having no one to prompt in wickedness, or shame him for his tears, he becomes humbled in spirit, and anxious for help in the way of truth ; and, I am pleased to be able to say, that *I believe there are some who rejoice that they have been brought here.* I can truly say, that the more I see of the operation of our system, and the more thoroughly I become acquainted with the character of its inmates, the more important I view its establishment, and *the greater its humanity appears.* It is a mistake to suppose that the inmates of prisons are a set of outlaws and tiger-like beings, lost to all good in this world, and without hope of an hereafter. Too many (indeed most of them), on first conviction, are either neglected youths thrown into the world without education and without friends (often the victims of hard masters), or ignorant men, the dupes of artful knaves who know how to elude detection. Neglect of early education, the use of ardent spirits, gambling, and dealing in lottery-tickets, are the most prominent causes of felony.

“The deficiency in common school learning is greater than is generally supposed : of the 142 prisoners who have

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\* Although the Warden speaks of the “horrors of the cells,” he must not be understood to imply that the cells are rendered horrible in themselves, by the absence of light, warmth, proper ventilation, or convenient space. In a visit which the author paid to this institution in the year 1838, he was most agreeably surprised by the appearance of cleanliness and comfort which was visible throughout.

[The following statistics of the Mount Pleasant Prison, taken for the years '44 and '45, exhibit similar facts :—

In 1844, of 864 male convicts, only 536 could read and write. Of these, again, about 100 could read well enough to derive some correct idea of the subject treated of. Another class, 210, could read, but not write. Nearly all these were very indifferent readers ; their notion of reading being limited, for the most part, to the act of pronouncing the words. The re-

been received here from the commencement, only four have been well-educated, and only about six more who could read and write tolerably; and we rarely meet with a prisoner who has had attention paid to moral and religious instruction."

Every person convicted of a felonious offence within the city and county of Philadelphia, whose term of servitude is for two years and upwards, is sentenced to this Penitentiary; as also all prisoners convicted of felony in the counties lying east of the mountains, whose term of imprisonment exceeds one year. This district includes the largest portion of the State of Pennsylvania, with a population of more than a million.

In 1838, after it had been established nine years, the report testifies—"The experience of another year enables us to state that no instance of insanity has occurred in this institution which has been produced by solitary or separate confinement operating injuriously on the mind. Cases of

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maintaining 115 could neither read nor write, and had never received instruction of any sort.

At the Female Prison, in the same year, were 73 convicts, of whom 22 could read and write, 30 read only, and 21 unable to do either. The same remarks as to proficiency in attempts to learn, would apply to these as to the males, with the additional one, that of the 30 who could only read, 10 had been taught to do so since their incarceration.

In 1845, like investigations showed the following results:—In the male prison, of 790 convicts, 100 could read and write well; 402 read and write indifferently; 197 read only; 91 neither read nor write, and have grown up destitute of instruction of any kind.

In the female prison, for the same year, of 63 convicts, 18 could read; 24 read and write, and 21 could do neither. Of 25 received this year, 11 had enjoyed no instruction of any sort, and 7 others were able to read only in the most indifferent manner. During the year, 10, including some of these new comers, and some of those formerly here, have been taught so as to read very tolerably.—ED.]

dementia, the effects of vicious conduct, occur every year ; but they usually yield to medical remedies. The fears which some entertained as to the influence of long confinement in injuring the health of the body as well as the mind of the prisoner, have proved groundless. One, who had been in confinement for seven years, was recently discharged in good health, reformed in temper and conduct, and is now doing well. When he was convicted, he declared that he preferred death to confinement for seven years. When discharged, he expressed grateful feelings for the kindness manifested to him ; declaring that he had received benefits which could never be forgotten, and which he hoped never to lose.

“There are some prisoners now in the institution who have been in confinement for eight years, some six, and some five, and all of them in good health. Among the healthiest prisoners are those who have been the longest time in prison.

“Many of our discharged prisoners are doing well, and some exhibit satisfactory evidence of a reformation of heart and life. In our walk through the city, we frequently meet them ; and they always greet us with thankfulness, uniformly declaring that it was good for them to have been in the cells of the Eastern Penitentiary.

“We cannot close this report without our acknowledgment to the Supreme Ruler of the universe for His goodness in crowning our efforts with so much success. We feel persuaded that the legislature will continue to this enterprise of benevolence its fostering care and protection ; and that the time is not far distant when, by the influence of moral and religious instruction about to be diffused by the aid of common schools throughout the State, such a healthful state of morals will ensue, that intemperance, poverty, and crime, shall almost cease to have a name in our beloved State.”

And in 1839, after the experience of ten years, during which time 1036 prisoners had been received, the reports continued to present the same favourable character. The following striking paragraph will illustrate the fact, that a large portion of the infringement by individuals of social duties, arises from the previous non-fulfilment of the duties which society owed to them. Speaking of the prisoners re-received during the past year, it says—"More than one third of them could neither read nor write: 28 had been apprenticed, and served until twenty-one years of age; 34 had been at trades and left their masters; and 116 had never been placed out at any regular business—a sad proof of the neglect of duty in parents and guardians."\*

It is well known, that in England, a similar neglect of duty prevails to a great extent. In the returns presented to both Houses of Parliament, dated 11th June, 1840, entitled "Criminal Tables for England and Wales for 1839," it is stated that the calculations which have for several years been made as to the ages and degrees of instruction of criminals, exhibit a very great uniformity of result. During the last four years, nearly 41 per cent. of the criminals do not exceed twenty-one years of age; and the number of those not exceeding thirty years amounts to 71 per cent. The tables dated 19th May, 1842, contain the following report, viz.:

Degree of Instruction.	1841.	1840.	1839.	1838.	1837.	1836.
Unable to read and write,	33.21	33.32	33.53	34.40	35.85	33.52
Able to read and write, imperfectly, . . .	56.57	55.57	53.48	53.41	52.08	52.33
Able to read and write well, . . . .	7.40	8.29	10.07	9.77	9.46	10.56
<i>Instruction superior to reading and writing well, . . . .</i>	0.45	0.37	.32	.34	.43	.91
Instruction could not be ascertained,† . . .	2.27	2.45	2.60	2.08	2.18	2.68

\* Appendix No. 2, Eastern State Penitentiary of Pennsylvania.

† In relation to the above figures, Mr. Redgrave observes,—“These

And yet, in the face of this non-fulfilment on the part of society of obvious obligations, advocates can be found for the infliction of revengeful punishments upon those who are the hapless sufferers from its neglect!

It will be seen, from what I have stated, that, so far from being the advocate of a sentimental humanity, which turns with horror from the contemplation of that law of the Creator by which pain is rendered consequent upon misconduct, I advocate a *severer* system than that which at present obtains, since I assert that the most severe pain which can be inflicted upon any offender is precisely that pain which results from a philosophical treatment for his cure. It is a treatment which the patient would ever afterwards remember with mingled feelings of gratitude and terror,—gratitude for the improvement which it has wrought upon his nature, and terror at the remembrance of the prolonged and bitter struggle by which that improvement was attended.\* The dif-

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results are favourable. The decrease of uninstructed criminals ‘unable to read and write,’ and the increase, amounting to nearly four per cent., of those who have received the minimum of instruction, ‘able to read and write imperfectly,’ is to be attributed rather to the general increase of instruction, which has been considerable for some years, than to the increased proportion of instructed criminals; while the decrease of nearly three per cent. in those better instructed, ‘able to read and write well,’ may be considered a proof of the effects of education in restraining from the commission of crime.”

\* [My experience and acquaintance with criminals enables me to bear testimony that this is not merely pleasant-sounding philosophy, but valuable practical truth. The treatment best adapted to the cure of excessive propensities, must be that which at once restrains these faculties and stimulates those of a higher character. No treatment, save that which inflicts physical torture, could be more severe than this to the individual who has been accustomed to live in the constant and unrestrained indulgence of his appetites and desires. The influences and efforts which make up such treatment strike no sympathetic chord in the mind. All its familiar images, operations and desires, are for the time forbidden, and

ference between the system which I advocate, and that which is at present in force (if the vague and contradictory treatment

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the whole mental being becomes a stranger to itself. It does not recognize its own creations, or any thing with which it is familiar in the conditions which surround it.

Another very severe feature in this mode, is that inevitable suffering which springs from the first feeble action of the moral faculties. These faculties must always, from their nature, derive a very large share of their gratification from the internal condition of the mind to which they belong, including themselves. They differ essentially from the other classes of feeling, not only in their character and functions, but also in constituting a tribunal by which all others must be tried and judged. The propensities are little pained by retrospection. The wounds of the past once healed, rarely open afresh in them so as to cause suffering; or if they do, their keenest anguish from this source is soon assuaged. Their own excesses are never condemned by themselves. Thus, while their dominion is preserved, the past, however filled with horror, is a source of little pain; nay, its most heinous deeds are often the highest boast of the offender. But when they have been dethroned or subdued by restraint, and the moral sense is summoned to pronounce upon their career, then commence the sufferings which Mr. Sampson truly pronounces a sufficient penalty for past sins.

These sufferings would be less protracted and terrible, if the supremacy of the higher class of faculties could become complete and undisputed. But their victory is difficult and uncertain in proportion to the strength of their antagonists; in other words, to the depravity which they have to combat. And if want of harmony between the various powers of the mind is every where, even under circumstances of much less serious moment than these, a most fatal enemy to peace and happiness, what must it be to sustain a conflict like this, in which, on the one hand, all the faculties that have governed our whole lives are enlisted, with all their fierce, impetuous, ungovernable desires and impulses; while on the other hand, justice, faith, hope, kindness, respect for man, and awe of his Creator, forbid the indulgence? I have witnessed such conflicts, and seen them continue for months without the respite of a single day; and I have seen them when a brief period of repose has been enjoyed, and hope has beamed upon the future and all has promised well, return with a consuming and withering fierceness, till the unfortunate criminal has aban-

of offenders, which is now practised, can be called a system), is simply this, that I advocate a discipline which should

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done all hope, and renounced all pursuit of virtue herself, if she were ever to be thus dearly won. In this situation, a knowledge of the constitution of the mind and its mode of operation comes to the weary and perplexed spirit like light from above, or the firm earth beneath his feet to the lost mariner. It breaks gradually over the mind—truth after truth is revealed, developing the sources of evil desires, and definite, demonstrable modes of opposing, checking, restraining them within the limits of just and proper gratification, till, step by step, the feeble dawn is converted into the full light of day; and knowledge, the indispensable guide in all tasks, however insignificant, is furnished to the labourer in that greatest of all which human nature can attempt—the redemption of itself from the dominion of depraved propensity.

But such results will not follow mere restraint, in which, while we deny the propensities their accustomed gratification, we stimulate and provoke them to action in other directions. This kind of conflict, which is to the genuine ore of the mind like the seven times heated furnace to gold, is purely an *internal* one. Those sentiments which have lain dormant or been crushed by outrage and defiance, must be gently summoned into being, and tenderly and patiently nursed by continual influences, which fall pleasantly upon and around them like dew upon the sickly seedling. If they do not respond as fully as we desire to our appeal, we must subdue our impatience to frame and present another, and another. We must bear in mind the philosophy by which we would have the subjects of this labour themselves guided, and take courage from partial success, from faint attempts at obedience; remembering that a feeble moral faculty can no more act with the full strength of a vigorous and well-trained sentiment than the child can display the ability of the full-grown man.

Nor should it ever be forgotten that it is the language of the moral sentiments alone, in the officer or superior, that can call the same faculties into action in the dependent or inferior. The exhibition of combativeness, destructiveness, self-esteem and firmness, except to give weight, dignity and force to the decisions of justice, benevolence and respect, will never excite these latter faculties to action in those toward whom they are manifested. The universal and invariable law is, that propensity continually appeals to propensity, sentiment to sentiment, and intellect to in-

benevolently produce great pain at first, with the view of preventing much greater pain, which must otherwise inevitably be endured for the future; while at present we revengefully inflict pain in a lesser degree, which is productive of little future benefit to the sufferer—leaving, indeed, his disorder generally unmitigated, and oftentimes increased.

If, then, in moral complaints, the true system is that in which the cure of the offender is the sole thing to be considered (for by the means taken to effect that object we insure the other object of Criminal Jurisprudence, viz., inspiring a wholesome dread in the minds of others, as there can be no more powerful check upon the tendency to abuse an over-

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tellect. The relation of each class of faculties in one individual to the same in another, is as fixed and definite as that of sound to the ear, light to the eye, or odour to the olfactory nerve. The officer of a prison who should subject those under his charge to the rigorous exactions of a discipline founded on the dictates of propensity, would have no more reason to suppose that he was improving their moral powers, than he who should shut men perpetually in a dark dungeon, that he was cultivating their faculty of sight. The supposition would be no more preposterous in the one case than the other; and yet one is continually done, while the other would at once be denounced, even by the most ignorant, as absurd and cruel in the highest degree; because mankind understand, instinctively, enough of the faculty of sight and its relation to the natural world, to know that certain conditions are indispensable to its preservation and improvement. But of mind, and its constitution, relations and dependencies, such knowledge is neither possessed, nor esteemed essential, even in those positions where duty can never be done without it. What would be thought of placing a man in charge of an eye-infirmary who knew nothing of optical diseases, or of the structure of the eye? Yet people every day are placed in charge of prisons who are utterly ignorant of the constitution of mind, of the sources of criminal desire, and of the modes of checking their action, as well as of the origin and character of mental phenomena. If any higher object, then, than mere detention and the infliction of a certain amount of retributive suffering, be aimed at, it must fail, to a great extent, under such an administration of the soundest system.—ED.

ruling faculty than the dread of its being forcibly subjected to entire restraint), it will be impossible to justify in any way the infliction of capital punishment, by which the grand object which I have named—the reform of the criminal—is rendered altogether impossible. At the present day, the infliction of capital punishment is mainly confined to the crime of murder; and it is on that account that the chief difficulty is presented against its abolition. It will not, however, take many words to show that, if capital punishment is unsuitable as a remedy for other descriptions of crime, it is, above all, the most unfit to be applied as a corrective in the case of homicide.

The infliction of death puts the sufferer out of the reach of improvement: it is, therefore, as far as he is concerned, *unmitigated punishment*. It has been my object to show that the mere infliction of punishment, as such, upon any human being, is an act of inherent and barbarous injustice. If I am correct in this position, it becomes my task to prove that it is, at the same time, not only ineffectual in producing the result at which it aims, but that it actually aggravates the evil which it professes to cure. This must be the natural result of any unjust proceeding, since the real good of society was never yet promoted by the infliction of injustice upon any individual. The good which is done to the whole, produces, in its ultimate effects, good to every part.

The punishment of man consists in the infliction upon him of a treatment which is in opposition to his desires. Pleasure arises from the gratification of his desires; pain is the result when they are offended. If a man desires above all things to gratify the tendency to destroy, which results from the activity of a faculty common to his race, it being at the time in a state of excitement so great as to overmaster the dictates of all his other and higher powers, and to act independently of them, the idea that in gratifying it he incurs

the risk of self-*destruction* is that which of all others would be least distasteful to him. That, under such circumstances, he might even contemplate it with pleasure, is shown by the large proportion of cases of murder which are terminated by the suicide of the criminal. The tendency to destroy is one of the blind propensities of man's nature, absolutely necessary to adapt him to his relation to the external world; and, when acting harmoniously with the intellect and moral sentiments, it produces only the most beneficial results: but, when roused to unbalanced action, it exhibits itself in maniacal fury, and, overpowering the reason and the feelings (which it must do before its possessor can commit murder), imparts oftentimes as strong an impulse towards the destruction of its possessor as towards the destruction of any other individual. It gives, in its morbid state, an inordinate tendency to violent *action*, a wild desire to overpower restraint of every kind, and to break down and destroy all that comes within its reach. To one, therefore, who is labouring under this feeling, the present sanguinary law acts chiefly as a stimulant. The only thing that would at all operate with preventive force upon a mind in this state would be, the impression that if the organ should be gratified up to the point of homicide, it would subject its possessor to a life of perpetual RESTRAINT.

From the consideration of these views, it would hardly be too much to assert, that the present system of punishment for the crime of murder has actually been the *cause* of a large proportion of those murders which have been committed; and that outrages of this nature would become extremely rare, if the stimulus which this punishment affords to the suicidal tendency (which, as I am prepared to show, is always an accompaniment of homicidal mania) were altogether removed.

One means of judging of the efficacy of any given punishment in deterring from crime is, by observing the degree

of anxiety which is manifested by the criminal to escape from its infliction, particularly as to the degree of caution with which he lays his plans previously to the committal of the deed. In all ordinary cases of crime we see this caution exhibited. Burglaries are seldom executed but upon well-matured plans, and the most ingenious contrivances are employed to escape observation; frauds are accomplished and secreted by false tales and the alteration of accounts; and even the common pickpocket acquires his chief reputation amongst his colleagues by the artfulness with which he contrives to elude detection. The only exception to this rule is to be found in cases of homicide. The punishment for this crime is death, and it therefore becomes necessary, in support of my last assertion, to examine into the degree of anxiety which is manifested by criminals of this class for the preservation of their own lives in connexion with the commission of the offence.

In my next chapter I shall be able to illustrate this point by a long string of facts, calculated to impress my readers with a just estimate of the effect of the law, as it at present stands, in regard to this crime.

## CHAPTER V.

Statement of homicides committed in Great Britain for five years, from 1831 to 1835 ; with other cases showing the coincidence of the suicidal with the homicidal propensity, and the tendency of capital punishment to act as a stimulant to the perpetration of murder.

IN the last chapter I stated that, however unsuitable the punishment of death may be as a remedy for other descriptions of crime, it is, above all, the most unfit to be applied as a corrective in the case of homicide ; and I proposed to corroborate this assertion by showing, that the contemplation of this punishment, so far from producing a beneficial effect upon the minds of persons labouring under homicidal tendencies, actually, in many cases, stimulates them to the commission of the crime.

Those who take the trouble to refer to any considerable number of cases of murder, will be struck by the remarkable fact, that the homicidal is almost invariably accompanied by the *suicidal* tendency ; and hence, that persons, who are in the state of mind which renders them capable of attempting the destruction of a fellow-creature, are usually, at the same time, *desirous* of self-destruction. In a proportion of at least two out of three cases, this peculiarity is evidenced either by the circumstance that the individual has attempted suicide previously to the perpetration of the murder ; that he has destroyed himself immediately afterwards ; that he has given himself up to justice, expressing at the same time a de-

sire to be hanged ; or that by his conduct previously to the offence he has evinced the absence of any solicitude so to lay his plans as to enable him to escape from its consequences. Now it is, doubtless, a startling conclusion, that the punishment of death, by administering to the suicidal propensity, operates as a stimulant to the perpetration of the very crime which it is intended to repress ; but, startling though it be, it is one to which, by a consideration of the circumstances to which I have alluded, we are inevitably led.

On referring to the " Annual Register," I find that the murders recorded therein, as committed in Great Britain during a period of five years, from 1831 to 1835 inclusive, amount in all to thirty-one. Of these, in ten cases the perpetrators surrendered themselves to justice, expressing, in most instances, a perfect readiness, and sometimes an eager desire, to meet the fate that awaited them ; in three cases the murder was followed by the immediate suicide of the culprit ; in two cases suicide had been attempted previously to the perpetration of the homicide ; and in five the parties showed by their general conduct the absence of any wish to escape from the consequences of the act : thus making a total of twenty out of thirty-one cases in which the desire for self-destruction was more or less clearly manifested. From these I select the following .

29th July, 1831.—John A. Bell, aged fourteen, tried at Maidstone, for murder of Richard Taylor, aged thirteen. The prisoner *made a confession previously to the trial*. On entering the gaol, he said he need not be ironed ; he knew he should be hanged, and would not attempt to escape. He was found guilty ; but the Jury recommended him to mercy, on account of his youth, and the profligate and unnatural manner in which it appeared that he had been brought up. This recommendation was not attended to, and the sentence was carried into execution.

5th August, 1832.—Thomas Songe, of Stockport, murdered his wife, and then *destroyed himself*. One of his children, a girl eleven years old, was present at the time, but was compelled to be silent, in consequence of a threat that Songe held out to her, that, if she spoke a word, he would murder her also.

8th August.—A man, named Cook, tried at Leicester, for the murder of Mr. Paas. The prisoner was traced to Liverpool, and arrested as he was making off in a boat. He leaped overboard and *attempted to drown himself*. Failing in this, he took out a bottle and tried to swallow something from it; but it was knocked out of his hand. The prisoner *confessed the murder*; and said, that “afterwards he did not care whether he was apprehended or not.” It is stated that “he died the death of infamy as cool and unappalled as if he had been a martyr sacrificing himself for his country or the human race.”

14th January, 1833.—Inquest at Leeds upon William Cryer, an infant who had been murdered by its mother; who *immediatety afterwards destroyed herself*.

25th March.—Samuel Chadwick, tried at Derby, for the murder of Susannah Sellers. Labouring under an impression that a surgeon in the neighbourhood had given him a slow poison, he assaulted the surgeon with a hammer; for which he was taken to gaol, and on his way made an attempt to *destroy himself* by jumping into a river: subsequently he attempted to do so with a razor: both these attempts having been frustrated, he promised to behave well in future, and WAS SET AT LIBERTY! He afterwards called at the house of the deceased, and asked her for a cup of water, which she rose to give him, when he seized an ax and killed her. A surgeon gave an opinion that he was of unsound mind; and he was acquitted on the ground of insanity, and ordered into confinement.

16th December.—Mary Evans, aged twenty, was murdered by Richard Tomlinson, at Ranton, Staffordshire. The prisoner had kept company with deceased for some time: walking together on the day of the murder, a quarrel took place between them; and, upon her repeatedly reminding him that “his father was poisoned, and that his mother died in gaol,” he knocked her into a ditch and killed her. *He then went to a farmer in the neighbourhood, and confessed his crime.* Upon being apprehended, he said, “I did it; *I am ready to die for it.* I only wish to be laid by her side.”

25th July, 1834.—Benjamin Gardiner, aged twenty-nine, private grenadier, Fiftieth Regiment of Foot, tried for murder of Patrick Feeney, Sergeant of the Regiment. The prisoner deliberately shot the deceased during parade, in the barrack-yard at Chatham. Immediately afterwards he said, “I have rid the world of a tyrant and a rascal, and *I am ready to die for it.*” He then turned to another Sergeant named Hewer, and said, “Sergeant Hewer, you are safe that you are living, for that piece was loaded for you before;” and on hearing that the Sergeant who was shot was not dead, he said, “I hope he will soon die, for I am not afraid of the rope.”

20th March, 1835.—Norman Welch was tried for the murder of William Southgate, at Liverpool. Deceased was a surveyor of warehouses; prisoner had been a locker, but had been reduced to the inferior station of weigher in consequence of a representation from deceased that a robbery had taken place in one of the warehouses. The day before the murder, he had said, “Mr. Southgate and I have been too long in the world together; we shall both resign. I hope we shall both go to heaven together.” The prisoner shot the deceased while he was in conversation with another officer of the Custom-house. He then threw down the pistol, and said “There!” A Custom-house weigher instantly

seized him : when he said, "It is I who have done it ; I am a robbed man." When asked if he was aware what he had been doing, he replied, "Yes, that he had shot a d—d rogue, who had robbed him." During his confinement, he said he had drunk spirits very hard of late, which had kept up a constant excitement in his mind ; he had taken leave of his family on the morning of the murder, *as he did not expect to return to them*. For the defence, Dr. Norris, an army-surgeon, proved that the prisoner had formerly received an injury of the head, which might affect his mind, and the more readily when he had taken liquor. Several witnesses proved the propensity of the prisoner to acts of violence and outrageous passion, frequently excited and inflamed by drinking. He was, however, found guilty, and sentenced to death.

*7th September.*—An inquest was held on the body of Henry Stanynought, junior, who had been killed by his father. A surgeon, who had been sent for, found Mr. Stanynought in bed, and the dead body of his child lying by his side. He had also wounded himself ; and said, in a perfectly quiet manner, that he did it with his own hands ; that he had meditated destruction to himself and child some length of time ; that he had burnt charcoal in his room for two nights with that object ; he had also taken laudanum. Subsequently he said, "How could I do it ? It would be a mercy for any one to *destroy me*." The Jury pronounced a verdict of "Wilful Murder ;" but added, that they entertained a strong suspicion that Mr. Stanynought was labouring at the time under mental delusion.

It is proper to remark, that the records from which I have collected the above details, are for the most part extremely limited. I consider, therefore, that it is very probable, that if I were in possession of full particulars relating to each case, including some account of the previous lives of the culprits, I should be able to show that, even in the

eleven instances in which I have not been able to collect facts illustrative of my present view, the union of the suicidal with the homicidal tendency had also been strongly manifested.

Towards the close of 1841, when the public mind was excited by the case of Blakesley, I was induced to look over a file of the daily papers to see how far my views would be carried out by the experience of the few preceding weeks. I went through a period of little more than *two months* and met with the following cases:—

“Suicide and Murder.—A policeman at Abergavenny, named Powell, murdered a woman with whom he had cohabited, *and immediately afterwards drowned himself.*”

“Murder in Bristol.—On Thursday, a man was stabbed in the public thoroughfare of Bristol. It was dark at the time, and the perpetrator was unknown; he escaped into a house, but immediately upon seeing a police constable, exclaimed, ‘*I am the man who did it.*’”

“Horrible Murder.—The ‘Louisville Tablet’ contains the particulars of an awful murder by Mrs. Roper, who cut off the heads of three of her own children with an axe. It was her intention to have killed two more in the same manner, and afterwards *hang herself* with a hank of yarn; but she was prevented by the interference of her husband.”

“Murder and Suicide at Haywood.—A poor woman and her child were taken into custody on a charge of stealing half-a-crown. She was locked up; and on the following morning was found to have murdered her child, and to have *terminated her own existence by hanging.*”

“An inquest was held on the body of a linen-draper at Camden Town. Latterly the deceased had had some difficulty in business, and had frequently been heard to declare that he ‘would murder some one.’ Speaking of a person who had offended him, he said, ‘The villain has only three days to live; by God! I will murder him.’ He repeated

this several times, and added that he had *no value for his own life*. He went out to get some pistols for the purpose, as he said, of murdering this person; but he was eventually captured. He was attacked by a fit on the way to the Station-house, and subsequently died in the Marylebone Infirmary."

"Shocking occurrence at Gainsborough.—A young man, named Wilson, in a fit of jealousy, attempted to murder the object of his affection. He made a plunge with a knife at her side; but, having hit against a rib, the fatal purpose was not effected. After striking the blow the assassin ran off, and was never seen afterwards till discovered next morning *hanging upon a pear-tree quite dead.*"

"St. Alban's. Jabez Kirk, private in the 34th Regiment, was charged with an attempt to murder Jane Pearce. The prisoner had passed the night with her at a public-house, and in the morning arose and cut her throat with a razor, which he had previously borrowed. He then raised a cry of 'murder,' and upon the landlord answering his call he exclaimed, '*Send for the police to take me into custody.*'"

"Thomas Johnson, confined in Beverley Gaol on a charge of poaching, has *made a full confession* of the murder of a gamekeeper, three years back. Many innocent persons have been from time to time suspected of committing the deed."

"Shocking tragedy at Burnley.—Robert Morris, private, Sixtieth Rifles, stabbed the Lieutenant of his Regiment, and a girl named Isabella Hadden. He *immediately afterwards* stabbed *himself*. All these deeds were perpetrated in about two minutes."

I believe that the above instances cannot fail to induce a strong belief of the correctness of the position which I have taken, and, if the subject were one of less importance, I would here willingly abstain from any further reference to details so shocking in their nature. But, painful as it is, I feel it a duty to present, concerning it, a mass of evidence

that shall be sufficient to convince all before whom it may come, of the urgent necessity which exists for the abolition of the not merely ineffective, but dangerous law, which decrees to the homicide the punishment of death. I subjoin, therefore, memoranda of similar occurrences which took place during the first *four months* of the past year (1842), extracted from such newspapers as casually passed through my hands during that period.

*3d January, 1842.*—Mansfield. A young woman, named Mary Allan, was murdered by a man named Jones. He had been paying his addresses to her ; but had been rejected by her family. He took her to his work-room, and there destroyed her. Upon the discovery of the murder, the girl's father sought for Jones, and found him "asleep, in bed with the son of his landlady." He instantly confessed that he had committed the murder, and described the way in which it was done. The account goes on to say, "He expressed no regret, but says that he intended to have destroyed himself, only he was afraid of the responsibility of two murders. *He wishes to be hanged*, and hopes his example will be a warning to others."

*11th January.*—Sheffield. A coroner's inquest was held upon Henry Vaughan. The deceased, after having for some time paid attentions to a young woman, named Sarah Poole, by whom he had been rejected, rushed into her presence, one evening, exclaiming, "Revenge! revenge this night, if I go out a corpse!" He discharged a pistol at her, but she escaped ; he then fired at and wounded one of her sisters. Subsequently he fired another pistol through a door at some parties who had arrived to take him into custody, and, upon the door being forced open, he was found to have *destroyed himself*. The Jury returned a verdict of *Felo de se*.\*

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\* It seems to be a cherished opinion amongst Juries, that it is one of

19th January.—Joseph Cherry, a journeyman bricklayer, was charged with attempting the life of John Raymond. Cherry rushed upon him with a knife, stabbing him severely, and exclaiming that he would “do for him.” Previously to the attempt, he had said, “Never mind, Jack, you shall suffer, and *I shall suffer* ; but I’ll do it.”

29th January.—“John Hogan, the murderer of Roughan, at Castle Waller, has been arrested. He has confessed his guilt, and states that it was without premeditation, but that *he is anxious to expiate the offence by capital punishment*. It appears that he went to the wood to cut timber, and, being discovered by the steward, and dreading prosecution, he at first fled, but returned and slew his victim.”

29th January.—William Taylor, a law-writer, was charged with threatening to take away the life of his son by stabbing him. He had been observed to carry a knife about his person, and, in one of his fits of passion, threaten-

the functions of a sound mind to impel its possessor to the crime of murder. In mere cases of Suicide—no matter if performed with the most unparalleled coolness—a verdict of “Temporary insanity” is almost invariably rendered ; but when it is proved that an individual has previously committed, or attempted to commit, murder, all doubts regarding the healthy state of his mind are at once removed, and a verdict of *felo de se* is returned. Some time back, an inquest was held on a shoemaker named Silcox, who, calling upon a man and his wife with whom he was acquainted, rose up, after partaking of some elder wine, and stabbed and beat them to death. He then pursued a boy with the same intent, but, not succeeding, retreated from the house, and, after mutilating himself, threw himself into a stream where he was drowned. This was pronounced *felo de se*. Had the case been that of some rich merchant who had destroyed himself in a calm and deliberate manner, after an unsuccessful speculation in the Stocks, it would doubtless have been “Temporary insanity.” In the latter case, the destructive feelings of the Jury would not have been excited. Here, by anticipating the action of the law, the poor maniac aroused a sense of disappointed vengeance.

ed to do away with his son, saying, that he knew he “*should eventually have to suffer for him at Newgate.*”

13th March.—A man named George Lucas murdered his three children, and then *destroyed himself*. “Previously to the murder, he had, on one or two occasions, expressed his fears that he would be tempted to lay violent hands upon himself.”

24th March.—“One of the soldiers of the Guards, in the St. George’s Barracks, loaded his firelock with ball-cartridge last evening, while four other men were in the room, and commenced firing, whether at either of them it is not possible to say: but, immediately on his doing so, the others most improperly left the room instead of disarming him, and he continued firing some time, until the whole of his ammunition was expended. One of the shots seared a man who happened to be near. During this time, he was so furiously excited that nobody durst enter the room. He then *threw himself from the window* (it being a top-room that he was in) into the barrack-yard, and he now lies at the hospital, of course, in a hopeless state.”

30th March.—“Charlotte Godfrey, landlady of the Crown and Sugar-loaf, on Garlick Hill, was charged by her husband with intending to do violence to herself, or him. The husband stated that she was addicted to drinking, and, when drunk, she became ungovernable, and had made several attempts to *kill herself* and to injure him. She had hung herself three times, and once thrown herself into the Thames, though she was only twenty-four years of age, and had made several attempts on *his life*. He was now afraid to live with her, but he would willingly make an allowance for her separate maintenance. After an admonition from the magistrate, she was surrendered to the care of her uncle.”

4th April.—Bristol. Samuel Cook murdered his sister,

Edith Cook, and then *destroyed himself*. “When discovered, life was nearly extinct, and he was unable to speak, with the exception of the following words, which he once uttered distinctly: ‘It was I who did it. I murdered her first, and then myself.’ The cause of the quarrel is not known, but they were of penurious habits, and it is supposed to have arisen out of some money affairs.”

23d April.—“An insane attempt to murder, and subsequently to commit self-destruction, occurred at Southampton on Wednesday night. A young man rushed into a shoemaker’s shop, and, seizing a knife, made an attempt on the life of the errand boy by making a plunge at his throat. The poor boy instinctively hung down his head, but was dreadfully cut. The assassin then endeavoured to *stab himself* in the left side, and immediately sank exhausted into a chair, exclaiming, ‘I am a murderer!’ The wounds were not mortal in either case.”

It will be observed that the cases which I have cited extend over specific periods, and they will, therefore, possess more weight than merely isolated illustrations. If I were to select cases of the latter description, I could furnish proofs of a still more irresistible kind. Thus I may allude to a case which is upon record, of a woman at Onolbach, who murdered a girl with whom she was on the best terms, merely because she *wished to die*; and she thought that, by committing murder, she would have time allowed for repentance, which she would not have were she to destroy herself. In 1822, a woman murdered her child in Bethnal Green, exclaiming immediately afterwards, that she *wanted to be hanged*. In 1840, a man shot his wife at Mitcham, and, when secured, said, “I have done it! I have done it! I have murdered my wife, and *I hope I shall be hung!*” At the commencement of 1841, a woman at Norwich mur-

dered a child to whom she had been much attached, for no other reason than that she herself was "*tired of life*," and wished to be put to death by the operation of the law. In April of the same year, a deliberate murder took place at Manchester, the perpetrator of which was found to have *previously* made preparations for *hanging himself*. During the same month a man, who had previously avowed his intention, shot another at Bristol, in the presence of several persons: and, when apprehended, said to the constable, "I will go any where with you, for *I know that I shall be hanged for it!*" Within one week of this event, the papers contained an account of a female who committed suicide under the apprehension that she should murder her husband and child; and, at Kensington, a man named Brooke committed suicide by strangling himself, "having first, it is believed, meditated the murder of his family." A person, also, named Jenner, at Liverpool, by whom *self-destruction* had been attempted in the preceding September, destroyed his wife and child.

It will be seen, that, in a large majority of the foregoing cases, the punishment of death was fully contemplated previously to the committal of homicide; and that the subsequent confession, and voluntary surrender, of the guilty party, in each instance, was, in fact, a sort of indirect suicide added to the first crime, and intended to form part of the transaction. In some cases, it seems, indeed, as if the murderer considered that, in surrendering himself to death, and gratifying the suicidal propensity, he achieved a kind of moral expiation of his crime; and that it was by contemplating this course that he reconciled it to his views of equity.

In the remaining cases, where murder was followed by the direct perpetration of suicide, it will be seen that the latter act did not arise from remorse, or from any sudden im-

pression that suicide had become necessary as a means of escape from the more fearful alternative of a public execution.\* In some instances attempts at suicide had *preceded the murder*; in each case the two acts appear to have been committed almost simultaneously; and not infrequently there is evidence that they both formed part of a premeditated course, and that the culprit had prepared himself and indeed entertained a desire for his own death.

A curious instance, bearing upon this point, may be referred to in the case of William Lees, who was executed, a year or two back, for the murder of his wife. In this, it was satisfactorily proved that the prisoner had, at different times, received severe wounds on the head, the scars of which remained, and were of a permanent nature. Those about him had often found it needful to remove dangerous instruments from his reach; and, *on different occasions, he did violence to himself*. When brought up for examination, he had an absolute fit, which deprived him of consciousness, and required the abstraction of one or two pints of blood for his recovery.† This man, after having murdered his wife,

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\* [In the State Asylum at Utica I saw a female patient who had murdered her father. Belonging to a highly respectable family in Western New-York, she lived alone with her aged parents, and was very devoted in her care and attention to their comfort. At length she fell into a state of despondency, perhaps arising from her seclusion, and the absence of mental stimulus, and finally contemplated suicide as the only means of relief. But while anticipating the peace which the grave would afford her, she remembered that her parents would be left alone if she were dead, and ultimately convinced herself that it was her duty to kill them first, and afterward herself. Accordingly, she took her father's life, but was prevented before she attacked her mother. She was soon after sent to the Asylum, where, notwithstanding the most intense mental suffering, she was, when I saw her, slowly recovering.—ED.]

† “It is questionable,” says a writer in the *London Medical Gazette*, “whether we direct sufficient attention to the physical treatment of cer-

prepared a rope for the purpose of hanging himself; but he deferred his purpose, and went first to acquaint his friends with the crime he had committed. After this, he was taken into custody; and, it appearing on his trial that he had committed one crime, viz., the murder of his wife, and that he had intended to commit another of equal magnitude, viz., the murder of himself, the law awarded, that, as a punishment for the first, his desire for the second should be gratified; and he was accordingly executed in the very mode which he had previously contemplated.

Despite "the example" intended to be effected by the public strangling of this unhappy being, we afterwards hear of the murder of a wife in the public thoroughfare of Clerkenwell, followed by the immediate suicide of the criminal; and, although executions have of late been frequent, the tendency to homicide seems fearfully to have increased; every case, with rare exceptions, also furnishing a striking illustration of the desire for *self*-destruction which animates the perpetrators.

In further illustration of the peculiar features of destructive mania, the following instance of homicidal insanity, the

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tain mental conditions. In many cases where a morbid propensity to kill has been manifested, a timely-administered purge and the abstraction of blood have cured the patient of his depraved propensity. We know well enough, by a reference to our own experience, how much the spirits are affected by what is termed bilious derangement. There are crimes for which men are hanged, but of which they might easily have been cured by physical means. Damien persisted to the last in declaring that, had he been bled that morning, as he wished and requested to be, he never would have attempted the assassination of Louis the Fifteenth.' It is recorded of Caligula, that his reign commenced with mildness, but that at the end of the first year, *after a violent fit of illness*, he entered upon the practice of cruelties of the most capricious and revolting kind: slaughtering the noblest men of Rome, and hunting the spectators of a public show into the waters of the Tiber.

subject of which murdered his wife, and afterwards became an inmate of the State Lunatic Asylum of Massachusetts, may be quoted from the reports of that institution:—It is stated that, on the morning of the murder, the man was sitting with his wife. He was in a state of excitement; and, in these circumstances, the noise of the children always disturbed him. In order to render all quiet, the children were sent into a field to play, or labour: he and his wife sat by the fire; he on one side indulging in the gloomiest forebodings; she at her work on the other side, doing all in her power to console and comfort him. After a while she arose, went to the cupboard, and poured some wine into a tumbler, brought it to him, and said, in the most cheerful manner, “Come, let us drink and forget our sorrow, and remember our poverty no more!” She tasted the wine, and handed it to him, and he drank, and said, in reply, “*I wish it might kill me,*” or “I might die.” She took her seat again by the fire, and went to her work: he arose soon after, without any particular object or design, and walked into an adjoining room; in a moment the idea of Samson and the weaver’s beam rushed into his mind; he instantly seized a weapon which was before him, stepped behind his wife, and gave her the fatal blow.\*

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\* [The following case, extracted from the Eighteenth Annual Report of the Retreat for the Insane at Hartford, illustrates the same point:

“One case was preceded by a homicidal propensity, and its bearing is so direct upon the Medical Jurisprudence of Insanity, that I will briefly relate it. It was that of a lady, the mother of three children, one of whom she suddenly murdered by repeated wounds with a hatchet. She had not been considered insane previously, though she had for some time been unwell and low-spirited. Soon after the act she endeavoured to kill herself, and was brought to the Retreat a decided and wretched maniac. For several weeks she remained without much change, rather stupid, as if with no recollection of the past. After this her bodily health began to improve, when suddenly the memory of what she had

This man, during his confinement, often spoke of the amiable disposition of his wife : he declared that he had no fancied direction from higher powers ; and that the thought of killing her never entered his mind till that impulse came upon him, and that it was as sudden as possible, and wholly irresistible. He also spoke of his having made many attempts previously to commit *suicide*.

In conclusion, I would call attention to the illustration which the practice of duelling affords of the fact that personal recklessness is a usual accompaniment of that depraved state of mind which impels an individual to the destruction of a fellow-creature. I must also call attention to the effects of capital punishment as applied to this form of homicide. "One of Richelieu's severest and least politic laws," says Sir E. L. Bulwer, "was that which made duelling a capital crime. Never was the punishment of the offence more re-

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done seemed to return, and the agony she was then in for a few hours, until her feelings were overcome by opium, was indescribable, and most painful to witness. She however recovered after various changes and symptoms, among the most striking of which was violent palpitation of the heart.

"This lady has now been well for nearly one year, and has the care of her family as usual. She has visited us since her recovery, and has often assured me that she could recollect no motive whatever that induced her to commit the act, and does not believe that she thought of it until she saw the hatchet.

"This case," continues Dr. Brigham, "I consider important in reference to the Medical Jurisprudence of Insanity. It seems to have been an instance of that singular form of mental disease mentioned by Esquirol and others, which suddenly impels one who has previously exhibited no disorder of the intellectual or moral powers, to take the life of another without motive—without passion or interest, but apparently from a sudden and irresistible impulse. Had this amiable lady and affectionate mother killed a neighbour or domestic, I fear there would have been difficulty in convincing a jury that the act was the consequence of insanity."—ED.]

lently enforced ; *and never were duels so desperate and so numerous.*"

The above facts are sufficient to show that the coincidence of the suicidal with the homicidal propensity is not an accidental circumstance, but one that arises from a natural law of the human constitution. The imperfect statements which I have drawn from the Annual Register show its occurrence in 60 per cent. of the cases recorded during five years, and the experience of subsequent periods goes far to establish a much higher proportion. It will be seen that the class of persons by whom the crime of murder is committed, are not only not affected by the dread of death, but that the so-called "punishment" is actually regarded by them, in some instances, as a desirable infliction ; and we shall therefore be led to the conclusion, that, however unsuitable death-punishment may be for other crimes, it is most especially so for that of murder. If it be true that this class of offenders are animated by a desire for self-destruction, to hold out self-destruction as a consequence of the act, must be as sure a way of affording a stimulus to its perpetration as would result if, in cases of theft, we were to "punish" every offender by presenting him with a purse of money. "There are many instances on record," says Dr. James Johnson, "where the monomaniac lacks courage to commit suicide, or cannot make up his mind as to the means of accomplishing it ; under which circumstances *he has committed capital crimes with the view of being capitally punished ;*" and, among the cases which I have quoted, there are several in which the prospect of this punishment appears to have operated as the sole motive to crime. Hence, I do not hesitate to express my belief that a remarkable diminution in the number of murders by which our country is annually disgraced would be the immediate consequence of its abolition.\*

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\* The undue activity of the destructive propensity appears to impart

But as I have shown that this infliction is regarded by those who come within its scope rather as an incentive than a check to the perpetration of homicide, it may be said that there is, at all events, little inhumanity in its nature, since it accords so much with the desire of the criminal. I fear, however, that, although it produces no beneficial effect in deterring from crime, it will nevertheless, oftentimes be found to involve the highest refinement of cruelty. Before the crime is committed, the excitement of the culprit is at the highest pitch : when he is taken into custody, he is subjected to quiet and restraint, all stimuli are removed, his diet is of the least exciting kind. Feelings, calculated to repress the activity of the destructive propensity, are called into action ;

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not only a desire for self-destruction, but, in cases of high excitement, it awakens in the individual an uncontrollable wish to inflict upon himself tortures of the most frightful description. Instances of this peculiarity are by no means rare. In 1841, a lunatic of St. Hymer, in Calvados, in one of his paroxysms, opened his body with a scythe-blade, and, with every demonstration of satisfaction, continued to tear out and cut up his entrails, until he was seized and prevented. Some years back, a man named Howison was tried for murder in Scotland, respecting whom the following facts were incidentally narrated :—" He had a fancy to become a Quaker, and attended the meetings of that persuasion for some months, where he paid no attention to the worship, but muttered to himself, smelt his Bible, and pricked himself with pins or needles, to the effusion of his blood. He demanded instant admission to the Society on one occasion, and with violence ; he went more than once to the meeting-house early in the morning, and was seen to kneel, and heard to invoke the Virgin Mary, while he wounded himself over with both hands, and smeared the doors with his blood. He habitually wounded his hands, wrists, and arms with needles or pins ; and if he went to bed without his weapons, he rose and came for them. He had an incredible appetite, and used to suck the blood from his own wrists after every two or three mouthfuls of food." Many attempts were made to convince the proper authorities that these were not the manifestations of a perfectly healthy mind ; but they were disregarded, and the poor wretch underwent the penalty of the law.

and thus to the criminal, under the influence of this amended physical state, life is sometimes again made to appear an object of desire only at the very moment when it is about to be extinguished. Hence, many of those who, while they are under the influence of excitement, readily avow the commission of offences, and express an avidity to meet the punishment of death, become, after subjection to prison discipline, most anxious to escape from its infliction. Benjamin Gardiner, the soldier who, in 1834, shot his sergeant, and exclaimed that he was "ready to die for it," pleaded at his trial that he did not know the gun was loaded.

But although, when it is too late to operate upon the mind of the criminal so as to deter him from evil, the prospect of death may sometimes be rendered terrible to him, it must be recollected that its exhibition never strikes any fearful example into the minds of those who witness it, and who gaze upon it solely under the activity of the same brutal instinct which impelled the culprit to the crime for which he suffers. The state of their feelings approaches to the state which characterized the mind of the criminal at the time of the perpetration of his offence, and the motives which induce them to take part in the ceremony are not frequently precisely similar to those which at that period actuated their miserable victim, viz.: the desire to enjoy the pleasure of terminating the life of an individual whose existence is distasteful to them, and whom they conceive they have a right to destroy. In these people the destructive principle has not been tamed, as in the case of the prisoner, by the administration of prison-discipline, moral advice and medical treatment—influences which would impart a real terror to the spectacle, and consequently induce them to shun with horror, instead of to seek with delight, an opportunity of witnessing the scene.

I seek to lay great stress upon the facts which I have

cited in this chapter, because it seems to me to be impossible that they can admit of any other interpretation than that which I have drawn from them, and that they must, therefore, operate conclusively upon the question of capital punishments. I entreat the supporters of these punishments to weigh them deliberately, and with that deep sense of responsibility which a consideration of the consequences of promulgating erroneous opinions on a subject which bears upon the existence of many of their fellow-creatures, is calculated to generate. I have a firm trust that they will not dismiss the argument now adduced with the inattentive haste of those who desire not to be convinced, because I believe that the supporters of the present system, or at least that portion of them whose influence is likely to tell upon society, are actuated, equally with its opponents, by a sincere wish for the general good; that they look upon the existing law as a painful necessity, and that they will gladly welcome any argument which may enable them conscientiously to change their views. If the punishment of death be calculated to lessen the number of murders, it is evident that the voice of humanity should be raised to demand its infliction. Those amongst the educated classes who support it, support it only upon this ground. I am therefore far from charging them with any want of benevolence, and I feel some degree of confidence that I shall not appeal to them in vain, when I ask them respectfully to examine for themselves the result to which the above statements lead, with the view of pointing out where the error lies, if error there be in my deductions, or of aiding, if satisfied of their correctness, in the call which should immediately be founded upon them for the abolition, in this country, of the last vestige of sanguinary laws.

## CHAPTER VI.

Further illustrations of the inexpediency of capital punishment.—Objections on the part of Government to its abolition.—Objections answered.—Neglected duties of the Government.—Summary of the principles upon which criminal laws should be founded.

IN the last chapter I laid before my readers a series of facts, calculated to impress them with a just estimate of the inefficiency of capital punishment, by showing the satisfaction with which it is usually contemplated by those who are labouring under homicidal tendencies.

Other instances of the effect of this brutalizing infliction have been so frequently dwelt upon by the public Press, that it is hardly necessary to dilate upon them here. It may be as well, however, just to allude to some of the most prominent objections which have been urged against its continuance, and which offer striking instances of the way in which the action of an unjust law inevitably recoils upon the society having recourse to it.

1st. With this view, I may notice the acknowledged effect of executions in exciting the destructive impulse, coupled with the *imitative* tendency, which is, in a greater or less degree, inherent in every human mind. In a work from the pen of M. L. M. Moreau Christophe, Inspector-general of Prisons, on the reform of Prisons in France, published some few years back, the author alludes to the very remarkable tendency, which is developed in society under certain circumstances, to imitate atrocious deeds. Of the influence of

imitation, two strange instances among others may be quoted. Under the Empire, a soldier killed himself in a particular sentry-box, and immediately many others acquired the suicidal monomania, and selected this box for the scene of self-destruction. The box in consequence was burned, and the imitation at once ceased. Again, an invalided soldier hung himself at a particular door : in a fortnight afterwards twelve other invalids chose the same door for the same purpose. The gate then was walled up, and the hanging ceased to be epidemic in the hospital. These things are not peculiar to Frenchmen. It is notorious in other countries that instances of rare offences, remarkable for their atrocity, for some singularity in their mode of execution, or otherwise calling largely on the public attention, are uniformly followed up by successive iterations of the crime.

It is a well-known fact, that the class of persons by whom executions are attended, or by whom accounts of them are most eagerly read, are those who feel a peculiar kind of fascination in witnessing the infliction of pain ; and it is obvious that, when in individuals thus constituted the imitative tendency is excited in the direction of cruel acts, the additional impulse must prove of the most dangerous description.\*

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\* In relation to the above point, some remarkable circumstances are alluded to in a letter received by the author shortly after the first publication of this treatise ; it ran as follows:—" A clergyman who has read the treatise on Criminal Jurisprudence would suggest whether the following fact is not connected with the general theory : Some years ago, in the north of England, a clergyman of the Church of England, in a town of moderate size, deemed it proper to preach a discourse to his parishioners on suicide. There had been no case of the kind occurring to induce him. Within three weeks afterwards *three* of his parishioners cut their throats. Is not the well-known fact in Roman history, of the suicide-mania among young women, and which was cured only by passing a law that such should be exposed after death, also to the purpose ?

It has been stated by Mr. Ewart in the House of Commons, upon the most unquestionable testimony, that out of 167 persons who had been executed during a certain period, 164 had been present at executions. The ordinaries of Newgate affirm, that it is very rarely that any one suffers at the Old Bailey who has not previously been a witness at a similar scene. These facts are universally admitted and deplored; and yet capital punishments are supported by those who, at the same time, confess that the infliction of death in a secret manner presents, if possible, still more objectionable points. It seems strange that it should not occur to the persons who make these allowances, that, if the punishment itself were consistent with religion, benevolence, and justice, there must exist some mode in which it might be performed without outraging these feelings, and that the fact that no such mode can be discovered, clearly shows that it is not founded in wisdom.

The following is stated to have been the scene at the execution of the two men, named Bishop and Williams, on the 5th of December, 1831:—By daybreak it was estimated that not fewer than 30,000 persons were assembled. Before proceeding to the scaffold, both prisoners confirmed their confessions. Bishop mounted first. The moment he made his appearance the most dreadful yells and hootings were heard amongst the crowd. Williams was then taken out, and the groans and hisses were renewed. The moment the drop fell, the mob, who had continued yelling and shouting, gave *several tremendous cheers!*

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Is not even the ardour to become martyrs, observable in the Christian Church under the emperors, something of the same kind, which Marcus Aurelius attributes, in his time, to the *madness of habit*? The writer of this note has collected many similar facts, which he has been accustomed to resolve into the attraction of the sympathetic powers, but is now convinced that phrenology affords a more philosophical or at least a more obvious, solution."

I presume that those who contend for the advantages of public executions, do so on account of the moral feelings which they believe such exhibitions are likely to excite in the minds of the spectators, coupled with the salutary dread which they are calculated to inspire, thereby deterring others from pursuing a similar course. Upon the degree of moral feeling excited by such occasions, the fact, that, in the above instance, the mob, consisting of 30,000 persons, gave "several tremendous cheers" at a moment when the two unfortunate beings of a race of which all are sinful, were launched into the presence of an Eternal God, is a fearful commentary. And regarding the "salutary dread" to be inspired in the way of example, it will be sufficient to notice the fact, that, for many subsequent months, the newspapers teemed with accounts of murders of a similar character to those for which these criminals suffered, and which, being of a nature previously unknown, were distinguished from ordinary homicides by a name derived from their original perpetrator.

Those who have rightly studied the facts, which every where abound, relating to the exciting causes of the various emotions of the human mind, know that those who attend executions from choice, do so with the view of gratifying the very propensities, the activity of which it is ostensibly intended to suppress. The benevolent and religious are shocked at the infliction, and abstain from witnessing it. The tendencies which find gratification, and which, under the laws of habit, are fostered at scenes of this description, were pretty strongly indicated at the execution of Blakesley, in November, 1841. "For the first couple of minutes," says the newspaper account, "the wretched man struggled very much, and some persons in the crowd *expressed gratification at the pain which it was supposed he suffered.*

The *Metropolitan Magazine*, for March, 1840, contained

a curious account of one of the natural results which arise from these exhibitions. It ran as follows:—"Odd taste for Newgate ropes, and its consequences.—We knew a healthy, robust, independent gentleman, who went some years since with the Sheriff into the interior of Newgate, to visit a malfactor who was to be executed the same day. After the drop had fallen, he went with others to the breakfast-table, where he could think of nothing but the execution he had witnessed; and, before he left, he requested the Sheriff to procure the rope with which the man had been suspended. It may be mentioned, that it was not an execution of common occurrence. Possessing one rope, it subsequently occurred to him, as the next much-talked-of execution was to take place, that he would also have the rope used on that occasion. In the course of a short time, he had a collection of ropes, labelled and carefully deposited in a drawer. About two years after the *penchant* for collecting ropes used at executions had manifested itself, it was observed by his friends that his conversation most frequently turned on the subject of the executions he had witnessed, and the success he had met with in procuring such a number of ropes; which he usually brought out to exhibit to his friends, expatiating on the comparative merits or demerits of the sufferers, until at length his society became unbearable, and he received the *soubriquet* of 'The man with the pensile idea.' He lived about fourteen years after witnessing the first execution; at last *putting an end to his own life*, by suspending his body by one of the ropes he had collected from the common hangman."

2d. A strong point of objection is found to exist in the natural and intuitive disinclination of benevolent men to become the means of putting a fellow-creature to death, and the consequent falsification of their duties as jurors; by which means a culprit of the most dangerous kind is sometimes permitted to escape. This was well instanced in the

recent case of Gould: had the contingent punishment been any thing short of death, it is most probable that he would never have received an acquittal.\*

3d. Another evil of this punishment is presented in the occasional instances which occur of parties suffering for crimes of which they were innocent, society being thus disabled from offering reparation for injuries which they have themselves committed. It must also be remembered, that the more heinous the crime laid to the charge of the accused, the greater is the probability of an erroneous conviction, on account of the excited feelings of his accusers.

4th. The employment of death-punishment destroys one source of testimonial proof. The death of one criminal is in a great measure an act of amnesty in favour of all his accomplices. The "honour-among-thieves" feeling can nerve a man to die like a wolf, in silence; but, amid the tedium of confinement, haunted by fancy's pictures of the liberty his equally culpable colleagues are enjoying, his de-

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\* [The petition of the opponents to Capital Punishment to the Massachusetts Legislature, praying that the clergy, who, for the most part, have been its most zealous defenders, might be appointed by law to inflict it, was founded in true philosophy, and might with perfect consistency have been granted. For, if capital punishment be a Divine Institution, it can neither dishonour nor degrade any man to be its minister. On the contrary, great solemnity and the awe which it is claimed to inspire, render it particularly fitting that those whose calling and lives invest them with the highest respect and the holiest character, should be its administrators. The degradation and brutality of those chosen for common executors of this law, and the detestation and horror in which they are held, are either cruel anomalies, being the natural and inevitable consequence of obedience to a Divine command, or else they argue an aversion to duty in the higher classes of minds, which, by forcing it upon these abandoned men, becomes highly culpable.

If the duty be an abhorrent one, those who teach it should be the first in this as in other cases, to set an example of self-sacrifice in practising it.—ED.]

termination may relax, and information calculated to promote the ends of justice be obtained from him.\*

5th. The remarkable diminution in the number of offences which has invariably followed the abolition of death-punishment for other crimes, furnishes an irresistible argument for its abolition in cases of murder. If this penalty is insufficient to deter men from the committal of crimes to which they are prompted by comparatively slight motives, it must be expected to prove inefficacious in deterring them from homicide,—an act which is usually perpetrated under the influence of the most violent passion. The experience of the past goes to prove, that death is less dreaded than almost any other infliction, and yet it is maintained by our legislators as the penalty for murder, which they profess to regard as the most heinous crime that can be committed, and as one to which the most dreaded penalties should therefore be applied.†

In a debate which occurred in the House of Commons on a motion for the abolition of capital punishments, Lord John Russell stated that he did not think that any substitute could be proposed for the punishment of death, by which the

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\* *Spectator*, 11th July, 1840.

† A large proportion of suicides originate in the desire to escape some threatened punishment of a trivial kind. I extract the following from a country paper:—"John Thompson, a boy only twelve years of age, in the service of Mr. F. Phillips, of Haskerton, was some time ago reproved for cutting the hair off the tails of the cows. On Friday afternoon he put out the eyes of one of his master's pigs, for which Mr. Phillips threatened to have him punished by a magistrate. This threat appears to have very much alarmed the youth, who went into a shed adjoining the house and hanged himself to a beam with a plough-line. An inquest was held, and a verdict of *felo de se* returned. And, at the time of my writing, the current number of the *Times* reports the case of a female pauper, who, after committing a paltry theft, resorted to self-destruction to escape being taken before a magistrate for punishment.

frequency of murders might be lessened ; but, as I have shown, from recorded cases, and also upon the authority of Dr. James Johnson, that the present law has actually *been the cause* of many murders, it may be urged in reply that some good would surely result from the substitution of a mode of treatment, which, failing to deter men from murder, might at least possess the negative virtue of offering no stimulus to its perpetration. Moreover, as it is well known that there are countries where a substitution has been effected, and followed by eminent success, his Lordship's opinion seems to be entitled to little weight. In Tuscany, while there were no capital punishments, there were but four murders in twenty-five years ; while in Rome there were twelve times that number in a single year, death being the penalty. It has been found that in all countries where capital punishments are rare, the tendencies of the people are always proportionably humane : indeed the punishment of death could not long exist under the authority of any government which did not possess, in by far too strong a degree, the very propensity, the morbid indulgence of which it is intended to repress.

In Mrs. Trollope's "Austria and the Austrians," I find the following passage : It relates to the fate of a criminal convicted of a murder of more than ordinary atrocity ; and states that, "Upon its being announced that it was the emperor's intention to commute the punishment of death to that of imprisonment, although the perpetration of the crime unquestionably spread abroad a universal feeling of horror in Vienna, where capital punishments are extremely rare, *the satisfaction inspired by the news was very general.*" Will it be asserted that the satisfaction which was thus generally expressed, arose from the delight which was felt at the prospect which it imparted to others of being enabled to commit murder without subjecting themselves to the punishment of

death? Did it not rather arise from the general respect for human life which had been generated by the rareness of this punishment?

A striking instance of the general misapprehension which exists regarding the predisposing causes of crime, was exemplified in one stage of a debate which took place on Mr. Fitzroy Kelly's bill for the abolition of the punishment of death in all cases excepting that of murder. This bill was thrown out on the 29th of July, 1841. During its discussion, the opponents of the measure expressed the greatest desire, in case the bill should pass, to retain the punishment of death for the crime of setting on fire, or destroying, the Queen's ships; thus showing a total ignorance of one of the chief features of destructive mania. In looking over a large number of cases, it will be found that, in many instances, the suicidal impulse has first manifested itself by setting buildings on fire. To make suicide the consequence of this act, (as the law really does by holding out self-destruction as the penalty,) must only tend to stimulate the excited mind, and it may thus, in some cases, become the actual cause of the commission of the offence. Mr. Woodward, in relating a case of homicide, the perpetrator of which was afterwards placed under his care, says,—“On one occasion he felt that he must *burn* his barn; he instantly seized a firebrand, and ran towards it with the fullest intention of accomplishing his object; he was fortunately prevented by the interference of his friends. Much of the time his thoughts were occupied by the contemplation of *suicide*, and the impression that he must commit *homicide*.”\*

The only point of objection to the abolition of capital punishment for the crime of murder which seems to carry any real weight, is, that, in cases of highway-robbery, bur-

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\* Appendix, No. III. The destructive propensity.

glary, &c., if the robber knew that the punishment would be the same whether he murdered his victim or not, he would invariably do so, in order to remove the danger of his evidence. This, however, offers only an apparent obstacle. The treatment for any crime below that of murder, should not, even if death-punishment were abolished, be so severe as for murder itself. In lesser crimes the same necessity for *perpetual* restraint does not exist; and therefore the period of the incarceration of the criminal should be contingent entirely upon his own improvement,\* and certainly need rarely be so prolonged as to terminate only with his life. In these cases, hope at all events need never be abandoned; but the crime of murder should involve, as its penalty, the doom of *perpetual* imprisonment; since, although a person by whom it has once been committed may be apparently cured of the tendency, it can never be safely predicated that the impulse may not again arise under the sudden influence of external excitement. He must be kept from temptation, because the maniacal tendency may always be presumed to lurk in the system; and, even if the patient were to be so far brought back to habits of self-control as to be no longer dangerous, the possibility of his transmitting the fatal tendency to another generation should never be permitted. Although, therefore, in cases of murder, the confinement of the patient should be effected with as much humanity as possible, it should never, *on any pretence*, be remitted. Every effort should be made to bring his mind to that state which shall induce him to acknowledge the justness of his fate, and to be sensible that it is inflicted out of regard both to the welfare of himself and of society, and that revenge has no voice in the administration of his doom. That these measures would operate powerfully in deterring

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\* Appendix, No. IV. Term of Imprisonment.

others from the commission of the crime by which they became necessary, is well instanced in the suppression of the regicidal mania which existed in France during so many years of the reign of the present king. In the early instances, the usual impolitic course of a revengeful trial and a sanguinary death, was resorted to by the authorities; it was not until that course was abandoned, and one of the offenders was consigned to the *obscurity of a private madhouse*, that the regicidal epidemic appears to have been in any degree stayed.

I may here remark upon the well-known fact, that the chance of being considered to be insane is always looked upon with horror by every mind. If it were once clearly understood, that obedience to the laws is the real test of social sanity, we should forthwith take away all the temptations to crime which operate upon that large class who commit it for the sole purpose of acquiring notoriety. Criminals of the Corsair, Eugene Aram, and Jack Sheppard school, would soon become obsolete, if the only prospect which awaited their career was that of being transferred to an hospital for the cure of mental disorders, instead of being enshrined in the pages of romance, as interesting men, possessed of dark yet mighty minds, far beyond the ordinary level or comprehension of their race. The stimulus which the vague admiration of the public affords at present to this class of criminals, exciting, as it does, their unduly developed faculties of love of distinction and self-esteem, to act in unison with their preponderating animal propensities, would be withdrawn; and these very faculties would then furnish powerful motives to deter their possessor from running the risk of subjecting himself to a fate so low as that which would distinctly mark the condition of his brain as being below, instead of above, the ordinary level of the brains of his fellow-men. If all crime were acknowledged to result from mental disorder, we should not hear so frequently of those who are anxious to

blazon and boast of their misdeeds, any more than we now hear of persons who are desirous of challenging public attention to any other physical infirmity.\*

Another advantage which would attend the recognition of the fact that criminal acts result only from an ill-conditioned brain, would be found in the ready aid which the relatives and best friends of the criminal would offer to the operation of the law. Under the present system, there are few persons who, in the case of crime committed by a husband or wife, a father or brother, would not attempt to stand between the culprit and the vengeance which awaited him in the shape of capital punishment; while, if his crime were recognized to arise from a disorder, which, unless it should be speedily mitigated, must lead to more fearful results, they would at once use all their efforts to place the unhappy subject of their care in a position where alone this object could be effected.

If, in reviewing the "difficulties" of this question, Lord John Russell had given expression to the difficulties (which, under the present system, should arise in the mind of every man), regarding the justness of the infliction by society of capital punishments, or, indeed, any *punishments* whatever, on those persons who commit offences to which they have been stimulated by the institutions of society itself, we should have had reason to hope for some good result. By a reference to the records from which I have quoted of the murders committed in Great Britain from the year 1831 to 1835, it will be seen that a very large proportion have been committed by soldiers. It is also well known, that the sympathetic crime of suicide is prevalent in a very disproportionate degree amongst this class. In cases of English cities, where a very large proportion of the military are quartered, the ra-

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\* Appendix, No. V. Dread of being considered insane.

tion of suicides is greater than in the whole population of the country, but still much below that among the troops. On the whole, the suicides among the Dragoon Guards and Dragoons are at least five times more numerous than among civilians. These men are trained to a life, the duty of which consists chiefly in the exhibition of the destructive propensity. According to the degree in which it is effective in battle, it is pronounced to be praiseworthy ; and if, when the war is over, and the soldier returns to his country, the propensity which has thus been excited, gratified, and applauded, should refuse to subside, and should at last assume a vigour of action beyond the control of the individual, he is then to be punished for the fatal effect of that very disorder which it has been the effort of his fellow-men to stimulate to the utmost.

But it is not alone with regard to the crime of murder that these considerations should have been awakened in the mind of one to whom the administration of the government was confided. The large majority of crime of all kinds is committed by those who are not only the inheritors of defective organization, but who have also been neglected by that society of whom, helpless as they were, they had a right to demand guidance and protection.

There are, as I have shown, few among criminals who possess the power of reading or writing ; and there are many classes trained up to meet the wants of society, who, when their power of rendering their bitter and ill-paid service is over, have no resource but in depravity and crime. Then only is it when men begin to reap, from the depredations of these unhappy creatures, the just punishment which follows, under the operation of the moral laws of the world, as the result of their own culpable indifference, that they awaken to a sense of what virtue, duty, and "responsibility" are ; and, that, after having been oblivious of their own duties, they

preach to the wretched victims of their neglect the duties which they, the victims, owe to them.

To future generations it will appear scarcely credible, that, in the nineteenth century, revengeful punishments were not only resorted to in all ordinary cases, but that they were commonly inflicted upon many unhappy beings who, conscious of their own infirmities, had perseveringly appealed for aid towards their extrication from crime ; the government of the country, ever ready to punish their offences, having looked with calm indifference upon the unavailing struggles by which these offences had been preceded.\*

The fulfilment of the duties which we owe to those who are less favourably constituted than ourselves, involves, however, a necessity not only for watchful exertion but for a strict self-discipline, to subdue those instincts towards retaliation which at present find a place in almost every human mind ; and although these exertions, and this self-denial, would yield an immeasurable harvest of good, we shrink from undertaking the irksome task, and contentedly sacrifice the future to the present.† To check vice by methods that

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\* Appendix, No. VI. Unaided efforts to escape from crime.

† [The greatest difficulty is to procure the services of minds properly constituted to conduct this labour. Hitherto, mental qualifications have had little to do in these matters. The policy has practically been to let our prisons to the lowest bidder, or, in other words, to commit them to the charge of those who would sell their services at the smallest price. Moral or intellectual qualifications have been utterly disregarded. The writer's position for the last two years has made her intimately acquainted with the policy of the largest State Prison in the Union, and to that, stronger remarks than these would apply without qualification. In 1844, the head one of the highest functionaries of this institution, declared, while discussing the propriety of increasing the pay of some of the subordinates, that he could procure any number of men for assistant keepers, as well qualified as he could wish them to be, for \$400 per annum ; and that in public affairs, it was the duty of himself and his colleagues to be, not

shall accord with the dictates of the intellect and the moral feelings, is a task demanding from the highest minds the ex-

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only economical, but penurious! While such a policy reigns, it is not wonderful that cultivated, intelligent, clear-minded men (and many such there are among our criminals), should be daily exasperated and made more desperate by the domination of inferior, ignorant, and stupid keepers, who, conscious of the mental superiority of those they govern, intentionally revenge themselves for it, in tyrannical and cruel exactions, or unintentionally, in their utter ignorance and incapacity to do otherwise, adopt those modes of treatment, which are the natural product of their own coarse minds, and consequently the worst to which the criminal could be subjected. Not only is any knowledge of mind esteemed superfluous in prison officers, but that it is even unnecessary that a man should have those habits of reading and thinking which constitute ordinary intelligence. I feel assured that truth will sustain the assertion, that a large majority of those attached to our prisons, in a subordinate capacity, fall below the average standard of intelligence and mental capacity. This is, indeed, the greatest obstacle to reformation. Uneducated officers, in whom the propensities greatly predominate, necessarily govern by those influences and means which appeal to the lower faculties in the prison. Nor will any presentation of theory, or any exposition of natural law, avail to produce a better state of things in such minds. Totally unaccustomed to weigh moral causes of human conduct, unacquainted with the most obvious principles of mental philosophy, recognizing no motive of action that does not spring from propensity, and incapacitated by the very constitution of their minds, to perceive or feel the force of higher principles, such persons esteem that the best government which secures most effectually the short-sighted purposes of the present moment. Thus it is easier to flog a man into immediate obedience, though it degrade and injure him, than by addressing his moral and intellectual powers, to reach the same end by a method which shall have a lasting and salutary influence on the highest and best faculties of his mind. Five minutes with the lash, will settle, for all purposes which such an officer can comprehend, a question which otherwise might occupy much more of his time, and demand the exercise of much thought, patience, and self-denial. Lamentable indeed is it to see moral interests of such magnitude intrusted to such minds, but while they are, let not philanthropists hope for any considerable advancement. Light is never brought of such darkness.—ED.]

ercise of anxious thought and untiring zeal : in punishing it by the whip and the gallows, we may dismiss all trouble, and appropriately delegate the office to the vilest of our race, avoiding, at the same time, that bitter trial of philosophy (although the surest evidence of conscious power) which consists in receiving a blow without striking in return.

“I am clear for hanging all criminal madmen,” said an educated gentleman to a high officer of the criminal law in Scotland. Nearly the same sentiment lately appeared in one of the medical journals in the United States ; and it was only a few years ago that the Attorney and Advocate-general of France, in a case of homicide, declared that the plea of insanity is dangerous ; that it leads to encourage simulation, and defraud justice. Had these persons been aware that, by the multiplication of public executions, they increased the personal danger of every member of society, by stimulating and fostering the destructive tendency ; had they also known that their own liability to an accession of mania was by no means so limited as they had been accustomed to suppose it to be, since the growth of a speculæ of bone, pressing upon a certain part of the brain, might induce, in their own minds, the tendency to similar acts ; had they known that hepatic disorder, exposure to cold, intemperance, or inanition, a blow on the head, over-exercise of the mental powers, *coup de soleil*, old age, and many other unthought-of conditions, might lead to a similar result, either in themselves or in their children ; that the effect of sudden terror, or other violent emotions, occurring to women during the period of gestation, frequently leads to the most fatal tendency of mind in their offspring : and that the advocates for the indiscriminate infliction of death might, from these causes, themselves become, at some future day, the parents of those who might exhibit “criminal madness,” it is probable that these considerations, coming home to their feelings of *selfish* regard, would have

operated so as to produce a more benevolent view of the duties of the law. When mankind, actuated, as it unfortunately is, by a predominance of personal and selfish emotions, shall become more fully acquainted with the causes of mental unsoundness, and shall learn to regard the infliction as one to which all persons are more or less liable ; and when each man shall consider that there is not a human mind, not even his own, or that of any one of his dearest friends, which may not, by some of the accidental causes which I have enumerated, become suddenly affected, even to the most frightful extent of maniacal fury, we shall be more anxious that the subject should be rightly considered, and that care should be taken never to inflict additional tortures upon those who ought only to be the objects of our sincerest pity.

In conclusion, I may be permitted to repeat, that the true object of all criminal laws should be simply to remove offenders from the power of gratifying the special tendencies from the action of which their errors of conduct may have arisen, and at the same time to stimulate those faculties which have hitherto lain dormant and inefficient. This must in all cases be the most painful operation that the criminal could undergo ; but the object should be, by enlightening the minds of those who are doomed to suffer it, to show that it is undertaken with no feeling of vengeance, but with the same certainty of producing a good result to the patients themselves, as would be felt in medically administering a specific for any ordinary disease. They should be taught to feel that the *cure* of the depraved mind (or, to speak more correctly, of its disordered instrument), is the only thing that is aimed at, and that an eventual increase of comfort to themselves must be the result of the pain which is inflicted ; that the desire is not to administer punishment, but the reverse—to see, in fact, how far they can be saved from punishment, by an effort to produce the cure or mitigation which

is benevolently sought, by the infliction of the least possible amount of pain. It is happily known, that, when those who are suffering from any unfortunate tendency of mind can be made to see and understand an intention of this description, many an offender will voluntarily submit to the necessary discipline. The pangs which are thus freely borne by that large portion of the Irish population, who have been made to know the inevitable effects of gratifying the propensity for ardent spirits, and who, while this knowledge was imparted to them, had also their higher feelings of religion, faith, self-respect, &c., stimulated by the eloquent appeals of their benevolent countryman, Father Matthew, is a good illustration of this point.

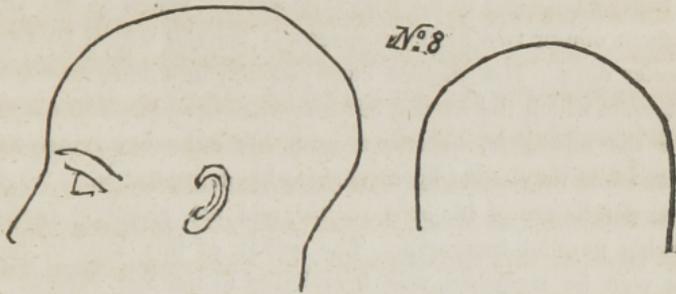
The almost universal ignorance, which prevails at present, of the fact, that the dispositions of men are within the power of remedial treatment directed to the brain, is much to be deplored ; but I am sanguine enough to believe that the time is not far distant, when men will learn that the gratification of their lower passions, by the blind punishment of unfortunate criminals, is only worthy of the days when the lash and chain were considered to be the proper portion of the madman ; that they will perceive that it is the duty of those who have inherited high endowments to show nothing but kindness and compassion to their less fortunate fellow-creatures, and to endeavour to raise them as nearly as possible to their own state ; and that, if they neglect to do so, they will assuredly share, with the offenders themselves, the evil consequences that may arise.\* Above all things we

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\* [No. 8 is an American, about thirty years of age. He is of respectable parentage and has received a tolerably good education. He has a nervous-sanguine temperament, and all his action, both mental and physical, is prompt and energetic. He possesses a high degree of nervous irritability, a strong love of excitement, and very ardent social affections. Through the attachment of these to a selfish and unworthy object, he was

should remember that *a mitigation of the evil tendencies of the lowest mind is never impossible, so long as lesion of the brain*

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tempted, when very young, into the commission of crime. This was overlooked by his kind employers; but soon after, and subsequent to the year 1834, he was implicated, though unjustly, in a deed which gave great notoriety to all the parties concerned. This destroyed his reputation, and effectually robbed him of all means of earning an honest livelihood in the community where it occurred.

While suffering the destitution thus forced upon him, he committed an offence for which he was sent to this prison for the term of five years. During a part of this imprisonment he experienced all the horrors which the harshest system, administered in the most brutal spirit, can inflict. On the day he entered the prison, he was placed in a shop where a great deal of machinery was running, which was propelled by steam. He had never seen any thing like it, and being left idle for an hour or two, and having a very inquisitive mind and an impulsive temperament, he could not avoid looking up at the numerous bands and wheels in motion about him. The keeper in charge came to the convict when he saw him raise his eye, and addressed him in the following language: "Now I have seen you look up once, you rascal, and I only want to tell you, that if you do it again, *I'll take your shirt off!*" Not understanding the precise nature of the promise conveyed in this elegant phrase, the prisoner was left to wonder, and ascertain its character by experience. This he soon did; for casting a glance again soon after at the machinery, he was flogged on his bare back some twenty or thirty lashes, for the offence. On another occasion he was knocked down with an umbrella, for turning his head aside in the ranks, while going to his shop; and on another, beaten in the most shameful manner in presence of visitors. They had nearly surrounded him at his work, and remained so long in that position, that he could not

*has not taken place* ; and that when lesion has occurred, and improvement is no longer practicable, death will certainly

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forbear raising his head to see who they were. When he did so, he saw among them one or two highly respectable females whom he had known in his better days. His surprise betrayed him into an earnest gaze, for a moment, upon which the keeper left his seat, came, and standing between him and the strangers, beat him with his cane upon the head and shoulders, while they stood by to witness his degradation.

These details are of his own recital, and are painfully confirmed by innumerable parallel instances. The effect of this kind of treatment, as might well be supposed, was brutalizing to the last degree. He declared that he left the prison tenfold more desperate than he had ever before been ; that his sufferings, instead of making him dread punishment, only stimulated him to seek revenge, and that his return was to a great extent due to the indulgence of that desperate and reckless spirit provoked by this treatment. Being asked if he thought the milder discipline now in force calculated to exert a better influence, or more likely to secure reformation, he replied that there could be but one opinion as to that, among those who *know* the criminal character. Even brutes grew more docile and willing to obey a kind than a cruel master, and the most degraded man had some capacities superior to theirs, which would expand and acquire strength under humane treatment.

He is now undergoing his second confinement. He possesses much shrewdness, tact and cunning, and great impulsiveness and ardour of purpose. The drawing indicates a full development of the intellectual powers, and they are manifest in his character. It also exhibits a less striking deficiency of the organs of the moral sentiments than most of the other drawings. He is, in fact, a man made up of the influences which surround him. If they are pure, he yields to them, and is comparatively upright. If they are evil, he yields to the desires which they awaken in himself, and plunges into crime with all the active energies of his mind, aroused to the accomplishment of its purposes. The better and baser powers of his being are so nicely balanced, that a slight weight thrown into either scale determines their direction for the time.

During his present confinement, much interest has been felt for him by some of the officers of the prison, and such attention shown to the improvement of his mind and the cultivation of his moral feelings, that, with his own efforts, which appear to be put forth with real earnestness

result. To destroy the life of a fellow-creature, in whom any improvement may be effected, must be an act of wickedness and barbarity ; and to destroy him when he has passed to the state in which death is approaching from the hand of his Maker, must be not only barbarous but impious.

Under these views, when they shall be more effectively enforced, and more amply illustrated, how much of increased happiness may be looked for ! when the only object of the law shall be a consideration as to the means by which it can best work towards the permanent good and happiness of the offender, and when the injunctions of the Divine Teacher shall find a place in our hearts as frequently as they do now upon our lips, and our sole aim shall be to return good for evil !

#### POSTSCRIPT.

In dismissing this treatise, it is proper for me to remark, that the views which it expresses regarding the treatment of criminals are in accordance with principles of moral philosophy, which have been for some time before the public. Most of my readers are doubtless familiar with the work of Mr. George Combe on the Constitution of Man ; to those who are not acquainted with it, and to whom these pages may have appeared in any degree valuable, I beg leave to recommend a consideration of its doctrines.

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and sincerity, there is much reason to hope he will yet become a respectable and useful citizen.

# APPENDIX.

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No. I.

## OBEDIENCE TO THE LAWS THE TEST OF MENTAL SANITY.

THE remarks upon this subject in the text drew forth the following letter to the Editor of the Spectator, at the time of their appearance in that Journal:—

“ TO THE EDITOR OF THE SPECTATOR.

“ SIR,—I take the liberty of asking Mr. Sampson, through you, whether there is not some qualification required to his statement in the first note to his letter [No. I.], wherein he asserts that every one is sane to the requisite extent, who has the power and disposition to act in obedience to the laws. Now, is not this giving more credit, even to the general laws of any existing society, than is their due? And does it not go far towards admitting them to be in stricter harmony with the laws of God, than the view of the constitution of man, for which he pleads, can justify? Can obedience to such be the true test of sanity? Are *reformers* insane?

“ I merely throw out this as a hint (perhaps a worthless one), because I am exceedingly anxious that he should make

his ground good as he advances in the all-important cause he has undertaken, and in which I from my heart wish him God-speed in bringing it to a successful issue.

“ I am, Sir, your obedient servant,

“ W. R. EVANS.

“ *Kingsland Rectory, Leominster,*  
13th October, 1840.”

To this pertinent and well-expressed inquiry, the following answer was published :—

## ANSWER.

“ In asserting that the laws and institutions of any society precisely indicate the average state to which the mental organization of such society has advanced, I mentioned that the mere fact of an infringement of the laws on the part of an individual is a sufficient evidence that his organization does not reach to the average degree of health, or capacity, and that he is therefore to be regarded as socially insane. But, in speaking of an average point of mental power, it will be seen, that, while there is a class who fall below the average, there must also exist an equally extensive class who rise above it,—men who see some of the imperfections of the law, and who are capable of suggesting improvements. These men, however, implicitly obey it, although they see its errors. They appeal to the intellect and to the moral sentiments of mankind, and endeavour, by the diffusion of knowledge, to raise the social mind to that point at which men will, by common consent, proceed to the necessary alterations. But active resistance to the law implies the use of violence, and the cause of improvement has never yet been aided by this means. The advancement of mankind is observed to result from the increasing ascendancy of the moral powers over the animal passions, which are merely supported by brute force. The enemies of those who would advance the condition of the race, are the class who seek to maintain their power by the agency of the latter; and an

attempt to meet them with their own weapons must always prove abortive. If a reform can only be effected by means of physical force, it is a sure sign that a preponderating amount of the social mind is not yet upon its side, and consequently that society has not advanced to that stage of civilization to which the reform is adapted. An attempt to force its operation before the public mind is ripe for its reception, although it may advance it for a moment, must eventually retard it. In this country there are many persons who regard the infliction of the punishment of death as an objectionable law. If these persons are correct in their views, they are, as far as a perception of this question is concerned, in advance of the social mind: and they will, as reformers, endeavour, by appealing to the intellect and higher sentiments of mankind, to raise the social mind to the point at which they have themselves arrived. But, if these persons were to overpower the officers of the law, and to rescue the convict from the hands of the executioner, they would be rightly looked upon as criminals. It should always be remembered, that, if the social mind preponderates in favour of any one point, there can exist no necessity to force that point by violence; because human power dwells in *mind* alone, and it is impossible for the lesser to stand for one moment before the greater power.

“These facts have been so long observed, that there is scarcely a page of history on which they may not be traced: and thus it is, that, even as the lower animals seem instinctively to become cognizant of the unseen presence of their natural destroyers, the oppressors of the earth, the believers in the might of material power, have always instinctively dreaded the general diffusion of learning and morality. Those who, in any circumstances, would have recourse to violence, show a want of confidence in the final strength of reason, morality, and religion, treasonable to the cause of truth: and perhaps the worst enemy to human interests is the man who would endeavour to force a law, even good in itself, upon a society that had not become sufficiently advanced to be prepared for its reception.

“20th October, 1840.”

The above answer will, I trust, appear to my readers to be satisfactory; but I desire to avail myself of the present opportunity to add a few further remarks. It will be asked,—If it is a fact that when a preponderating amount of the social mind is on the side of any measure, it is impossible for the opponents of that measure to offer one moment's effectual resistance to it, how is it that violence is sometimes used, and not only used, but that, after a long struggle, it sometimes actually succeeds? The answer to this is very plain. Let us suppose any given question to have been broached, and gradually to have made some way on the public mind, without any violence or means of artificial excitement having been had recourse to, for the purpose either of forwarding or retarding it; and that it gradually makes its way until the mental majority against it is not very large. Still, in the ordinary course of things, while any preponderance exists against it, it cannot gain a recognition on the part of society so as to be acknowledged as a law. We will then imagine that the advocates of the measure become so excited as to determine to have recourse to violence in order to establish their views. While they are acting under this temporary excitement, an increased amount of mental power is evolved. The action of their brains is quickened, demanding and receiving an increased supply of sanguiferous circulation, and this increased activity causes the exhibition of increased mental powers sufficient to turn the scale, and to make the amount of active mind on their side greater than that on the side of their opponents who are not acting under similar excitement. In illustration of this point, it will be seen, that, although two parties may exist, each possessing equal powers of mind, yet if the powers of one party be subjected to greater excitement than those of the other, the balance of mental force will temporarily be in favour of the active side; just as of two persons, one asleep and the other awake, the former would easily be overpowered by the latter. We will, therefore, as I have said, suppose that the minority suddenly become strongly excited, and have recourse to violence; and that this excitement, producing an increase of mental power, turns the scale,

which previously was in favour of the existing state of things, and gives the triumph to its opponents. But the excitement, having been carried to an unusual height, at length subsides to its ordinary amount,—it cannot maintain itself constantly at the undue height which it had temporarily reached,—and, sinking to the point whence it arose, or perhaps somewhat lower, the scale is again turned, and both parties are then once more placed upon their former footing. All that had been gained by violence has then to be restored, and perhaps some penalty is exacted in addition. The question, which had been steadily advancing in the public mind by the force of reason and right, has thus been pushed forward for a moment only to be thrown backward eventually to a greater extent; for its advance did but wait upon the increasing intellect and virtue of its opponents; and the measures to which its professed friends have had recourse, can merely have awakened and stimulated those lower propensities, in the very activity of which lay the only obstacle to its success.

## No. II.

### EASTERN STATE PENITENTIARY OF PENNSYLVANIA.

THE remarks lately made by Mr. Dickens, in his "American Notes," call for a few observations in relation to the statements in the text. He appears to have been unfavourably impressed with the above penitentiary; and, after speaking of the system as one of "rigid, strict, and hopeless solitary confinement," he describes the appearance and manner of the prisoners whom he was permitted to see, as indicating minds crushed rather than reformed. His cases are too vague to render them of much value in support of his opinion, but they are sufficient to strengthen the belief which I have expressed, that the sanguine views of its founders will not be fully realized. This belief arises from the circumstance, that the plans of its original promoters, and even the avowed intentions of its present conductors, do not appear to be faithfully worked out. The penitentiary professes to be a place whence all idea of punishment is discarded, but the amount of solitude to which the prisoners are subjected appears to be unnecessary and cruel. It is stated to be the intention to "separate them only from the corrupt;" but they receive only occasional visits from the warden, and as there appears to be but one "moral teacher" to nearly four hundred convicts, it is evident that the promise to benefit them "by the society of the virtuous and refined," is very imperfectly performed. "He never," says Mr. Dickens, speaking of the prisoner, "hears of wife or children, home or friends, the life or death of any single creature! He sees the prison-officers, but, with that exception, he never looks upon a human countenance, or hears a human voice!" That this de-

scription is in some degree erroneous is rendered evident by the circumstance, that several of the prisoners were permitted to see Mr. Dickens, and to converse with him. The author of this treatise was also allowed a similar privilege; and the Moral Instructor, in his Report, dated January, 1842, mentions, that he has "been aided by ministers of the Gospel of various denominations." I was not aware that the prisoner was not allowed to hear of his relatives; and, supposing Mr. Dickens to have been correctly informed on this point, the rule is evidently an infringement of the professions of the founders of the institution. It can form no incentive to virtue to deaden or blot out all exercise of the social feelings; to shut a man for ever from those associations which at all times shed a lustre upon the good, and often form the sole redeeming virtues of the depraved, and therefore such a course, not being calculated to promote the reform of the culprit, can only be regarded as a mode of revenge. I believe that solitary confinement for a few weeks is absolutely necessary, to break down the ruffianly spirit which a convicted criminal is prone to exhibit; but it is evident, from the Warden's Report, that this effect is soon produced, and that the patient then becomes docile, and apparently thankful for all acts of kindness—a stage at which the attempt to strengthen his mind in the direction of virtue should instantly be commenced.

Some of the facts mentioned by Mr. Dickens are contradicted by others which he quotes. Thus, after having said "the faces of the women it humanizes and refines,"—perhaps on account of "their better nature, which is elicited in solitude,"—I understand him to remark, that it is upon the *best disposed* that the system produces the most disastrous results: and, after describing the general discipline of the institution as involving an amount of torture which it is scarcely possible for the human mind to contemplate without horror, he concludes by narrating an anecdote of a drunkard, who, being anxious to reform, voluntarily subjected himself to this discipline for a period of two years, although "the officers of the prison had orders to release him at any hour of the day or night when he might knock upon the door for that purpose!"

It is evident that the true test by which this institution can be judged must chiefly be looked for in carefully-prepared statistical returns of the number of re-commitments, the health of the prisoners, their subsequent course of life, &c., &c. I am now in possession of all the published reports, and even the latest of these do not afford evidence of failure. The following paragraph, from the Report of January, 1842, will show that the system cannot with fairness be described as one of "rigid, *strict*, and hopeless solitary confinement." "Of the number discharged, seventy-four could read and write, *nine of whom learned in prison*; sixty-nine could read, *twenty-eight of whom learned in prison.*"

At all events, whatever may be the true state of the case, it is evident that the doubts of Mr. Dickens and others, as to the ultimate success of the institution, arise from the belief that *too much punishment* is still inflicted; that the plan of its promoters having been deviated from, the present management is at variance with the views which it has been my endeavour to establish in the preceding pages, and that, for this reason, disappointment may be expected.

#### ART. A.

[The Penitentiary of which Mr. Sampson here speaks, is considered, I believe, the model prison of the Union, by the friends of the separate system. It is at present in the hands of a very humane warden, and its government is administered with as much kindness and regard to the well-being of its inmates as could be shown to persons so situated. He enjoys the benefits of a comparatively liberal policy on the part of the State, and the advantages of being situated in the heart of a philanthropic and most charitable community. It has two standing committees of visitors, consisting, if I mistake not, each of twelve persons. The ladies' committee, some or all of them, visit the females weekly, and the committee of gentlemen as often discharge the same offices to the male prisoners. All the officers of the State are entitled by law to visit

and inspect the prison, and many of the officers of each county, such as judges, sheriffs, &c., together with the clergy, and other classes of persons, to whom such privileges are usually extended.

Great pains have been taken by the citizens of Philadelphia and other parts of the State, since the erection of this prison, to give the system introduced there its highest efficacy. Their humanity and zeal are well known, and have been the theme of too frequent and warm praise to require notice from me. This prison and its system of discipline have together constituted an object of peculiar and earnest interest in Pennsylvania. Its original design was to inflict a greater degree of punishment than could be procured under the associate system. Its primary character and aim have, however, been much modified, and the desire to separate the criminal from his associates for purposes of punishment, has gradually been supplanted by the theory of secluding him from the influence of vicious associates, for purposes of moral regeneration. His position is now declared to be, not a *solitary*, but a *separate* one; that is, *separate* from his associates in crime, from men equally abandoned, or worse, than himself. All this seems very rational, and would be in fact so, and therefore liable to little objection, if with this separation a sufficient amount of stimulus and exercise could be afforded to the nervous system and the mental powers generally of the criminal. But these, it will be confessed, must flow to a large extent, from mingling with his fellow-beings; from participating in their thoughts and emotions, from sharing their labours, from sympathizing with their afflictions, and being made glad by their joys.

In an examination of this system, therefore, one of my particular objects was to ascertain what amount of social intercourse was afforded to those who were placed under its operation. With the advantages which I have named, it would be idle to suppose that a state of things more favourable to a liberal and sound administration of the system will be any where realized than in Philadelphia. I was exceedingly interested, therefore, to ascertain how far all these advantages permitted

the prisoner to conform to the laws of his mental being, in respect to the particulars which I have named. The largest average which was given me of the time spent by each person in social intercourse, was by the warden. He thought it might be fifteen minutes of each twenty-four hours—perhaps with a great majority not so much. Those prisoners with whom I spoke, thought seven minutes would be a large statement of the amount of time spent by them in society! A few who were peculiarly situated gave much more than this. But these were exceptions, existing under temporary and precarious causes. The periods of imprisonment range, in most countries, from one year or less to the length of the natural life. For terms of time, therefore, varying from those of short duration to the whole of the natural life, persons condemned to this system must suffer a solitude so entire, that fifteen minutes out of each twenty-four hours will include the entire time spent in the presence or communion of a fellow-being! At least such must be their condition until a state of society is found very much in advance of any now known.

Will any physiologist, will any person having even a limited knowledge of the constitution of the human mind and the laws by which it is governed, undertake to maintain that this is the most favourable state for the reform of criminals; that a condition whose broadest and most distinguishing feature is so directly at war with natural law, can exert an influence peculiarly salutary? Let me ask such, what force they can attribute to natural law while they entertain such opinions, or what credit is due to the cases reported and commented on in all physiological works, of individuals who have suffered irreparable injury to the mind and nervous systems from only partial seclusion, or from spending considerable periods in situations in which the mental faculties have been deprived of their proper and requisite stimulus!

It may be said that criminals having for the most part passed their lives in much excitement and deriving their principal enjoyment from it, require such treatment as will deprive them of it and lower the tone of their mental systems. And this is

generally true in reference to one class of faculties ; but let it be borne in mind that this method, while it lowers the action of this over-excited class, must produce, if long continued, the same effect on all the others. It is idle to assert that it does not, and point to cases that seem to corroborate this assertion. No such result would be expected to follow like treatment of any other class of persons. The mental constitution of the criminal is not changed by the commission of his crime. The predisposing causes have existed previously, and been often excited to the very verge of criminal action. But they have been checked just within the limit of safety. Yet while in this state, were he seized and placed in solitude like that to which he is afterward condemned, would not great injury to his mental nature be expected to follow, if the confinement were long continued ? Assuredly. Nor would any be found who would deny the hazard of the experiment.

It is easy to conceive that unthinking or indifferent persons may not perceive these effects. Let a man of ordinary mental strength and intelligence spend seven, ten, or fourteen years in the solitary cells of Philadelphia, and those who have him in charge, or dismiss him at the expiration of his term, would doubtless pronounce his mind uninjured, if he went away neither idiotic, demented, nor the subject of active mania. The mind is too delicate and multiplex a creation to be accurately judged of by persons who have not studied its constitution or action. Hence the reports and opinions of such should be received with much allowance for error, misjudgment, prejudice, or oversight. The single fact that such a report could be made, is sufficient evidence that those who make it are incompetent to judge in the matter. As well might it be said that the muscular wood-chopper, or sailor, who had confined himself closely to sedentary pursuits for the same length of time, should leave them with his physical energies unimpaired ;—nay, with infinitely better reason, because, unless the health of the latter had been seriously injured, their vigour might soon be restored by proper exercise and regimen ; but the resuscitation of the cerebral energies, if at all practicable after such

long disuse, would be much more difficult and slow. Nor does the influence of such treatment appear more in harmony with the laws of nature, when viewed with reference to its great object.

If the criminal is to be reformed at all, he is to be reformed for society, not solitude. It were easy enough, by shutting a man away from all association with his fellows, to prevent the possibility of offence against them. And if he were never again to sustain the social relations, this treatment, though a wrong in itself, would be such to him only. But our criminals are to be prepared to return to society. And how are years of this solitude to fit them for sustaining the various social relations; for the exercise of the justice, respect, charity, forbearance and self-denial, which the most favoured situations in life demand; every one knows how rapidly a seclusion of a few months even, unfits the mind for social duties and enjoyments; how it begets a morbid sensitiveness which makes us shrink from society and dread the trials it imposes on us. How much more increased, then, must be the effect of years!

So palpable and demonstrative are these laws, that more than a mere statement of them would be superfluous to those acquainted with them. But it is not for such that I write. Guided by Nature's light, the thinking mind will find the whole point at issue between the two systems clearly and readily explicable. The Auburn, or Silent, or Congregate System,—for by all these terms is it designated,—has suffered in its exemplifications in this country, while the Separate System has gained many advocates, by the contrast which its model prison has offered to the best conducted institution on the former plan. There is something repulsive and depressing in the sight of consociated degradation. We instinctively shrink from it, and cast about for some expedient to lessen the magnitude of its visible proportions. The Separate System does this; and though on minds highly social and sensitive, like that of Mr. Dickens, the mere solitude may produce a painful and overwrought effect, yet the mass of persons who perceive only the superficial phenomena of criminal life, will receive a less dis

agreeable impression from its silent cells, contiguous as they are and within ready call of aid and comfort, than from beholding great numbers of depraved men congregated in common apartments. It is shocking, indeed, to see a large body of persons, thus situated amid the noise and filth often inseparable from their employments, sitting under the stern guardianship of a man who does not see in the objects before him, brethren, moved by like sympathies with himself, and therefore liable to temptations, which are multiplied by every arbitrary rule he imposes, but machines, destitute of human sympathy and impulse, whose slightest aberrations, not from *Nature's* law, but *his*, are to be rigorously and harshly visited with such punishment as his own untrained passion shall dictate. But let a prison on this plan be what any prison should be—a school for the cultivation of the higher faculties—let the aim of its administration be the suppression of the propensities, not by means of physical restraint, or through fear of suffering, but by sustained and well-directed appeals to the moral and intellectual powers; let its internal arrangements admit of classifying its inmates so as to prevent the contamination of the better by the more vile and abandoned, and he who would pronounce entire separation and its consequent solitude more favourable for the preservation and improvement of the whole man than association under such influences, must do so in utter forgetfulness of the laws by which humanity is developed and made worthy of its high origin and destiny.—ED.]

## No. III.

### THE DESTRUCTIVE PROPENSITY

ON the 10th February, 1841, Mr. Fitzroy Kelly again brought in a bill for the abolition of the punishment of death in certain cases. The old arguments were repeated, and Lord John Russell renewed his declaration, that it was of paramount importance to retain this punishment in cases of persons destroying her Majesty's ships by fire, &c. It is much to be lamented, that, previously to the passage or rejection of any bill for the suppression of the undue exercise of the destructive propensity, the members of the legislature do not consult the various cases which might throw light upon the nature of its operations. If they were to pursue this course, they would soon observe that the tendency to commit destructive acts arises from the disproportionate development of a blind propensity which seeks only to destroy, and which is incapable of exercising the slightest discretion as to the objects of its attack; fire-raising, murder, suicide, &c., imparting to it indiscriminately the means of gratification. They would also remark, in confirmation of this, that, by persons labouring under a tendency to the perpetration of these acts, the prospect of death, in any shape, is usually hailed with satisfaction. The newspapers of the very day on which the above discussion took place, were teeming with evidences of this fact. The lamented death of Mr. Simpson, the Arctic discoverer, and the cases of Madame Laffarge, Mr. Pearce, a surgeon at Kensington, the Countess of Resterlitz, and others, all furnished illustrations in point. The press also of other countries afforded, at the same time, facts of a similar nature. The "Boston Mail," of

the 28th January, contained a remarkable case of " attempted murder, arson, and self-destruction ;" and the following case, showing in like manner the simultaneous adoption of these three modes of gratifying the propensity, recently appeared in the French papers :—

" A man named Rouillard, who kept an inn at St. Martin, Dordon, and who, though sixty-two years of age, is unusually strong and vigorous, is now in prison under indictment for the following extraordinary acts of violence :—

" On the 29th September, 1840, the produce of his vintage was to have been sold under an execution for debt ; but, before the hour fixed for the sale, he *set fire* to the vineyard. He then armed himself with a gun, went to the house of a person named Payen, and, levelling the piece at him, demanded 200f. Payen succeeded in escaping and hiding himself. Rouillard piled up the furniture of the house, set fire to it, and afterwards, seeing Payen in the street, *fired at him*, and lodged some small shot in his head. He next fired at Payen's wife, and several other persons, but they all escaped unhurt. Having threatened to kill a person named Delcour, and to set fire to his property, because he had bought a farm formerly belonging to him, some gendarmes were called in to protect M. Delcour. Rouillard, however, contrived to carry part of his menaces into execution, and succeeded in burning the buildings of Delcour's farm, and setting fire to a wood near it. When people came to endeavour to extinguish the flames, the incendiary shot at them. Still he remained at large, and even returned to his home on the following day. Here, being reproached by his wife, he put the muzzle of the gun to his head, as if with the intent of *killing himself*, but started up suddenly, saying that he recollected he had five more persons to shoot first. Furnishing himself with bread, brandy, powder, and shot, he took up his gun, and went out, declaring his resolution to burn down the house of a person to whom he was hostile, but in this he was foiled by those who were on the alert. He avenged his disappointment by shooting an inhabitant of the place. Again Rouillard escaped, and gained a forest of considerable extent ; where it was extremely

difficult to reach him. After a time, the gendarmes were informed by a person who inhabited a cottage in the middle of the wood, that Rouillard had been to him to ask for food, and was to come again next evening. Men were accordingly stationed in concealment; and he was at last seized and secured.' ”

This man was sentenced to death, and the “Morning Post” of the 25th of February, 1841, contains an account of his execution. I extract the following passage, which furnishes a striking commentary upon the effects of capital punishments:—

“The violent character of the man was maintained to the last: and when the preparations were making in prison, a leathern thong was found in his pocket, with which he intended to *hang himself*. The guillotine was so badly constructed, or the axe was so faulty, that it was found inadequate to sever his head from his body, and a most horrible scene ensued, the operation being renewed over and over again by three executioners before he was dead. The populace became furious at the spectacle, and *would have torn the executioner to pieces* but for the presence of a large military force.”

It will be remembered that, on the 16th March following, a man named Taylor was hung at Fisherton gaol for *murder*. Many efforts were made to obtain a commutation of his sentence, the jury having recommended him to mercy; but Lord Normanby, upon the authority of Mr. Justice Erskine and the visiting justices, declared that the state of the man's mind was perfectly healthy, and he was accordingly left for execution. After singing “Jim Crow” upon the scaffold, and recommending the populace to murder as many people as they could, he stated “hanging was *just the fun he liked*.” Some time previously he had been in custody for attempting to *burn down* his father's cottage.

Dr. Prichard, in his work on Insanity, mentions the case of a country-girl who twice attempted to set fire to a house. She was incited, as she said, by a voice which continually commanded her to *burn*, and then to *destroy herself*.

## No. IV.

### TERM OF IMPRISONMENT.

THE chapter "On the Treatment of Criminals," in Mr. Combe's "Moral Philosophy," contains the following remarks:—

"If the principles which I advocate shall ever be adopted, the sentence of the criminal judge, on conviction of a crime, would simply be one finding that the individual had committed a certain offence, and was not fit to live at large in society; and, therefore, granting warrant for his transmission to a penitentiary, to be there confined, instructed, and employed, until liberated in due course of law. The process of liberation would then become the one of the greatest importance. There should be official inspectors of penitentiaries, invested with some of the powers of a court, sitting at regular intervals, and proceeding according to fixed rules. They should be authorized to receive applications for liberation at all their sessions, and to grant the prayer of them on being satisfied that such a thorough change had been effected in the mental condition of the prisoner, that he might safely be permitted to resume his place in society. Until this conviction was produced, upon examination of his disposition, of his attainments in knowledge, of his acquired skill in some useful employment, of his habits of industry, and, in short, of his general qualifications to provide for his own support, to restrain his animal propensities from committing abuses, and to act the part of a useful citizen, he should be retained as an inmate of a prison. Perhaps some individuals, whose dispositions appeared favourable to reforma-

tion, might be liberated at an earlier period, on sufficient security, under bond, given by responsible relatives or friends, for the discharge of the same duties towards them in private which the officers of the penitentiary would discharge in public. For example, if a youth were to commit such an offence as would subject him, according to the present system of criminal legislation, to two or three months' confinement in Bridewell, he might be handed over to individuals of undoubtedly good character and substance, under a bond that they should be answerable for his proper education, employment, and reformation; and fulfilment of this obligation should be very rigidly enforced. The principle of revenge being disavowed and abandoned, there could be no harm in following any mode of treatment, whether private or public, that should be adequate to the accomplishment of the other two objects of criminal legislation—the protection of society, and the reformation of the offender. To prevent abuses of this practice, the public authorities should carefully ascertain that the natural qualities of the offender admitted of adequate improvement by private treatment; and, secondly, that private discipline was actually administered. If any offender, liberated on bond, should ever re-appear as a criminal, the penalty should be inexorably enforced, and the culprit should never again be liberated, except upon a verdict finding that his reformation had been completed by a proper system of training in a penitentiary.”

#### ART. B.

[The severity of penalties, and the exercise of the pardoning power, are questions of much difficulty in all matters of criminal jurisprudence. The great variety of characters brought under the operation of criminal law, and the consequent diversity in the degrees and nature of the influences experienced from like penalties, must always render the equal adjustment of them, by the statute, extremely difficult, if not impossible.

The law classifies crimes, but not criminals. One individual is found guilty of a larceny, and he can only suffer the extent of penalty pronounced by the law, although the crime for the commission of which he is sentenced may be only one of a series which have occupied his whole life. Another is found guilty of a like offence; and though it may be the first or second criminal act, and his general conduct may have evinced all the respect due to the rights of society, yet the most trivial circumstances will often bring down upon him as severe a penalty as can be visited upon the most hardened rogue. In most courts, little reference is had to the character of an offender belonging to the common class of criminals, except so far as it is manifested in the particular crime for which he is arraigned.

It often happens, therefore, that the penalty is painfully and ruinously disproportioned to the condition of the offender, and the object which ought to govern the court in affixing it, viz., securing his reformation.

In many instances of short sentences for the lesser crimes, the individual is but just fairly severed from the influences that have led to criminal acts, and brought into a condition to experience the benefits of the moral training and instruction which ought to constitute part of the government of every penal institution, when his term expires, and he is sent back to society neither wiser nor better than when he left it, and in very many instances, it is feared, much worse.

On the other hand, there are many cases in which it is certain that the benefits of confinement are exhausted long before the expiration of the sentences inflicting it, and its continuance can only tend to depreciate the value of the character, and destroy the prospect of usefulness and respectability in society. These, assuredly, require the intervention of some discriminating and just hand. But innumerable difficulties lie in the way to prevent the Executive from obtaining that intimate and minute knowledge of such cases, which alone can inform him whether his interposition is demanded by justice or not. Thus, much evil and injustice are always resulting from the operation of the two extremes of the law. There is always a class

who are being prematurely restored to liberty, and another who are suffering severe and ruinous oppression in being withheld from it.

In view of these facts, it would seem that the ends of justice and the good of society would be essentially served by the adoption of Mr. Combe's suggestion, or some similar measure, which should aim at the attainment of the same object. The feasibility and prudence of his plan certainly commend it very strongly to the attention of those who recognize the existence of the evils it proposes to remedy. For, lodged as it is at present, the pardoning power must always be subject to more or less abuse, either by an excessive or too stinted use of it. We must suppose, also, a man endowed with superhuman discrimination and firmness never to err either in extending or withholding it.

But there is another power subject to much greater abuse than this—that of the court in pronouncing the penalties of crime. The daily experience of prisons proves that Judges are not always enlightened and impartial in the exercise of this responsible function. Unless a man is chosen for this office with reference to his self-possession, his firmness, his integrity and purity of character, as well as his sagacity and knowledge of the law, he may well be expected to err, and frequently too, in the discharge of this duty. There is nothing in the atmosphere of the criminal court, nothing in the influences which it throws around its officers, calculated to implant or strengthen the moral faculties, unless these be originally of a superior character. On the contrary, the fatigue of body, and the trials of temper, incident to such a position, as well as the constant development of the most repulsive and disgusting attributes of the human mind, are directly calculated to harden the susceptibilities and beget suspicion and distrust, in minds the least tainted with them by nature.

If we can hardly expect even justice, therefore, to be meted out in all cases where integrity and purity of purpose dictate its apportionment, and sympathy is felt on the one hand for fallen humanity in the criminal, and a more enlarged philan-

thropy on the other for society, demanding protection against him; what have we to expect when men assume this duty who are criminal in thought and deed themselves; who waste in intemperance and debauchery the energies and sensibilities which should be held sacred to their official duties; who do not blush to practise the very vices which tend either remotely or immediately to bring humbler persons before them as criminals, and whose sensual indulgences not unfrequently bring upon their weak and less fortunate associates in crime the very penalties of the law they administer! Yet this is no imaginary picture. It is matter of notoriety that the benches of some of our largest criminal courts have been thus filled, and that at no very distant period. Nor can any thing but an enlightened correct public sentiment prevent their being thus disgraced again.

One source whence much injustice flows in the administration of criminal law is, in pronouncing penalties for offences committed after the offender has been once, or more than once, imprisoned for similar crimes. Second offenders are always regarded with severity, and esteemed worthy the heaviest penalties of the statute. It is presumed that one imprisonment should have corrected their evil tendencies, and prepared them for the proper exercise of their freedom. Yet it may be that all the influences of their confinement have been of a directly opposite character. If their better powers have received no culture or stimulus; if they have been thrown among associates more depraved than themselves; if they have taken lessons in crime from accomplished teachers; if they have been taught to look upon the honest portion of society with contempt, and upon successful rogues as the only men worthy of their admiration; if they have experienced only brutality and cruelty at the hands of their officers, and been driven to desperation and fury by frequent outrages, what is to be expected but a return to their former crimes, and the perpetration of still greater ones? Yet neither the treatment which they have received, nor the influence which their confinement was calculated to exert upon them, is taken into the account in judging of their

desert on the succeeding trial. The court assumes that the first penalty could have failed to effect the desired object only through its insufficiency; and, determined to remedy this defect, inflicts on the second offence all that the law will permit. But if the confinement be of the same character with that which preceded it, its greater length can only make it more injurious; while if it were of a different and healthier description, its object may be gained, so far at least as it can be in the prison, before half the sentence is expired.—ED.]

## No. V.

### DREAD OF BEING CONSIDERED INSANE.

SINCE the first edition of this work, public attention has been attracted to the cases of Francis and Bean; and owing to the fact that, after his apprehension, Francis confessed that he had been prompted to the attempt by a desire to share the notoriety and comfortable provision of Edward Oxford, an idea has been expressed in many quarters, that, if capital punishment had been inflicted on that individual, the subsequent attempts on the life of her Majesty would not have taken place.

A momentary impression may be entertained that, if this opinion be correct, it must greatly militate against the view expressed in the text, but a little consideration will show that the facts of the case bear a totally different construction. The confession of Francis was made long after the excitement of the criminal impulse had passed away, and there is strong reason to believe that it was originated by the suggestion of his counsel and his friends. He averred that he had no intention of injuring the Queen, but that he merely desired notoriety; and this was evidently discredited by the jury, since they found him guilty of devising her Majesty's death. If he had merely been actuated by the alleged desire, it is hardly probable that he would have discharged a *loaded* pistol, since he must have been well aware, after what passed at the trial of Oxford, that, if his attempt had terminated fatally, he would have had little chance of escaping a violent death. If a rational person—to suppose an impossibility—were to desire perpetual incarceration in a mad-house, he would see that many ways much more certain are at all times open to him. This point was well put

by the Solicitor-General: "Could any sane man have acted thus? If he had not been protected by Colonel Arbuthnot, who could tell what might have been the consequences from the indignation of the by-standers? Insanity was not set up; and yet what sane man would have taken voluntarily upon himself the character of an assassin merely for the sake of a morbid love of notoriety?" Those, therefore, who state that Francis was perfectly sane, that his attempt was merely in imitation of Oxford, and that he should therefore have been hanged, fall into the predicament of asserting that death-punishment should have been inflicted for an act which is admitted by one of the law-officers of the crown to afford indubitable evidence of insanity!

But, even supposing that his confession was correct, it cannot be held as giving any evidence against the assertion that the idea of being considered insane is universally received with horror. Oxford, it must be remembered, has, in a majority of instances, been alluded to by the press and by medical men, as a person perfectly in his right mind, and as one who had made a very good provision by means of his attempted crime. Of course these opinions, widely circulated as they have been, have had a considerable effect in stimulating those unfortunates who labour under a morbid desire for notoriety, to the supposition that, by imitating his attempt, instead of proving themselves to be madmen, they would stand forth, if not as heroes, at least as men of more than ordinary shrewdness.

The occasional reports, too, circulated by the press, of the comforts (comforts in a mad-house!) which the "sane" youth, Oxford, enjoys, must naturally tend to do away with all the dread which his fate would otherwise inspire. To the vulgar, who have no opportunities of knowing his actual condition, he has been represented rather as a State-prisoner, surrounded by distinctions and every ordinary gratification, than as a wretched being, the victim of an infirmity which must render it necessary that he should wear out the long remainder of his days in hopeless separation from the world.

The circumstance that Oxford seems perfectly comfortable in his present situation has often been cited as a proof of his sanity. The author of this work paid him a visit some months back, and had he required any further proof of unsoundness of mind than the crime which had been committed, this very contentment would have furnished it. Let the reader visit Bethlem Hospital, or any other lunatic asylum, and then say what he would think of a person who could make himself "perfectly comfortable," if doomed to continue within its walls for the remainder of his days!

In addition to the temptations afforded by the glowing representations of Oxford's state, we may notice the stimulus afforded to an insane desire for distinction by the proceedings usually adopted with criminals of this description. When we read of the examinations with which they are honoured before the Privy Council, at which "the Duke of Wellington, the Lord Chancellor, Sir Robert Peel, and others," attend with all solemnity; the rumours which dignify the culprits as agents of "secret societies," and the eager attention bestowed by the press upon their minutest actions, our chief cause of surprise will be, not that these attempts occasionally take place, but that they occur so rarely.

The consequences which might have been expected if Oxford had been condemned to death, or transportation, were indicated by the event which took place after sentence of death had been passed upon Francis. The attack of the wretched creature, Bean, can admit of no misconstruction. It is true that the attempt occurred just after the sentence of Francis had been commuted to transportation, but there is evidence that it was meditated and determined on before this commutation took place. The commutation, moreover, had been long doubtful, and was granted amidst a degree of opposition sufficient to show that, in the event of the offence being repeated, no mercy was to be expected. At all events it is quite evident that Bean could have had no idea of being "comfortably provided for;" and that, apart from the danger of the law, he ran no slight risk from the sudden vengeance of the crowd. Indeed, so

strong a feeling appears to have been entertained in some quarters that the act of shooting at her Majesty is perfectly consistent with the operations of a sound mind, and so great was the dread that future juries might be led to regard it as an irrational undertaking, that a correspondent of one of the daily newspapers felt called upon to offer a suggestion (which does not appear to have met with the slightest reproof), that, in order to avoid the possibility of so preposterous a decision, attempts of this kind should never be submitted to the judgment of a jury, but "that the by-standers, not waiting for the law's delay, should take instant and signal *vengeance* on the ruffian by sacrificing his life on the spot!"

It is worthy of remark, that when Bean was asked the cause of his absconding from home, he said "he was tired of his life." A newspaper also made a statement—regarding the correctness of which I am unable to speak—that Francis had attended the execution of Good, which took place a few days previously to his attempt, and that he had been so much excited by this exhibition that he could talk of nothing else, constantly referring to it with evident delight, and punning upon the man's name by such exclamations as "Hanging was too *good* for him." If this last statement be correct, it cannot fail to suggest misgivings as to whether this government spectacle may not either have originated, or at least in some degree stimulated, the excitement which impelled him to crime. What a satire does it present on the views of those who would have had Francis executed in order to deter persons similarly disposed from a repetition of his offence!

## No. VI.

### UNAIDED EFFORTS TO ESCAPE FROM CRIME.

IN a Report of the Surrey Society for the employment and reformation of discharged prisoners, I find the following remarks: "The Committee are repeatedly hearing [of cases of destitution and wretchedness (among prisoners, too, of whose penitence there can be little doubt), to which the state of the Society's funds prevents them from affording any relief: and the consequence is, that many of them, most probably, fall again into crime.

"A case of this kind occurred within the last few weeks. A boy was committed to the House of Correction at Brixton for a month, for some petty theft. He had lost both his parents, and had no friends or relatives except one brother, whom he did not know where to find. He was anxious to go into the 'Refuge,' but the Committee, from want of funds, were unable to send him. He was advised to apply to the Workhouse for relief; but in a few days he returned to prison, having been a second time convicted of stealing. He stated, that he had applied to the Workhouse, and was taken in for one night, but he was turned out the next morning, and, being perfectly destitute of the means of support, he had recourse to stealing. The Chaplain at Brixton states to the Committee, that he sees and converses with many of the prisoners on their discharge, on whose minds he believes a decidedly religious impression has been made; but, when urging on them the necessity of honest industry, he is frequently met with the question, 'What are we to do, sir? We would gladly work; but we have lost our character, and nobody will employ us.'"

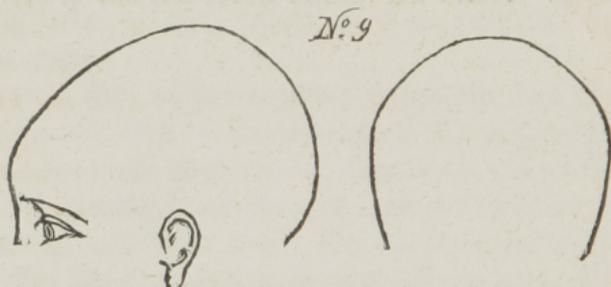
On the 10th July, 1841, Charlotte Cullum, a girl who had made a false charge against a policeman, and who had been remanded in order that an endeavour might be made to get her into some of the institutions for reclaiming girls who are inclined to become reformed, was brought before the magistrates at Guildhall. The Secretary of "The London Society for Protecting Female Servants" declined to receive her, the object of that Society being to sustain the well-disposed.

The Secretary of "The London Society for the Protection of Young Females," Mile-End, attended, and said that the case appeared to be within the limits of the Society. The rules restricted their attention to reclaiming juvenile prostitutes; but, by one rule, they might make an exception in favour of a girl above fifteen years of age, and he would submit the case to the Committee. The great difficulty was, that the number of objects seeking to be reclaimed very much exceeded the means of the Society. *It did not receive above one out of every eighty applicants!*

No. VII.

ILLUSTRATIVE DRAWINGS.

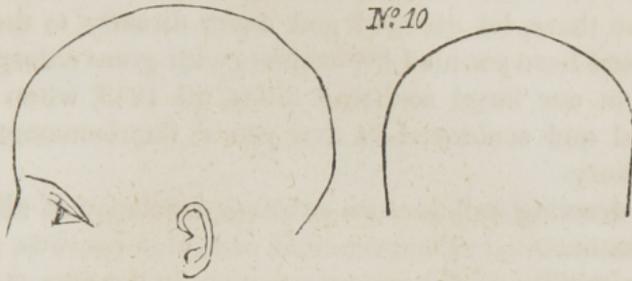
THE following drawings are presented for the purpose of further illustrating the connexion of criminal desires and acts with peculiar conformations of brain, and also with the view of adding somewhat to the mass of evidence already collected on the same question :



This is a drawing of a young female who was sent to this prison at the age of 15. She is the youngest of three girls, sentenced in Oneida county to ten years each, for the crime of arson. She has a lymphatic temperament, slightly tinctured by the sanguine. She has a scrofulous constitution, and bears all the marks of having suffered severely from this disease in her childhood. She says that her illness led to her being excessively indulged, and her organization shows that it would have been no easy matter to procure obedience to any thing but her own desires.

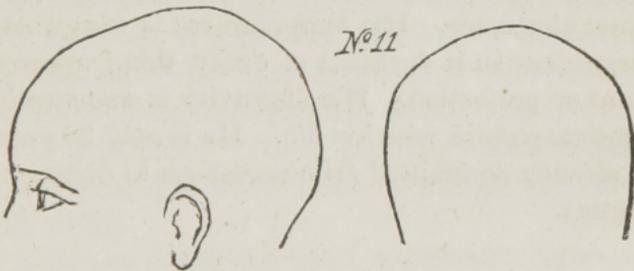
She reads with tolerable correctness, and has some memory of isolated facts, but little capacity to reason. In her degradation she was very degraded ; in her better state, she is dependent, almost entirely, on influences external to herself. She is

an adept in lying, and so much addicted to it that it is very questionable whether she is conscious that her greatest falsehoods are such.



No. 10 is an American, 35 years old, under sentence of five years for grand larceny. The drawing speaks very decidedly as to the character of the original. The great deficiency of the moral developments prepares one to expect an utter abandonment of all moral purposes. Accordingly, on inquiry, I learn that he is a professed pickpocket; that crime is his only business; that he makes no attempt to disguise it, and when arrested, endeavours to escape the law, not by denying his guilt, but by the betrayal of his accomplices.

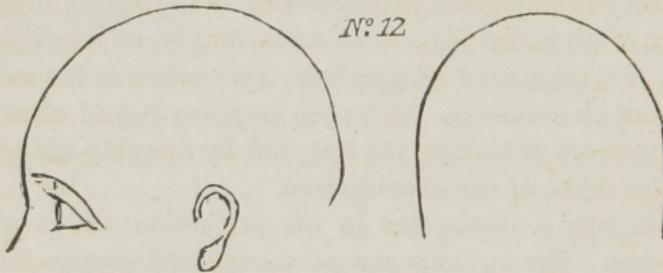
He enjoys a distinction in his profession above all other Americans. His exploits are as daring and successful as the most accomplished rogue could desire; but notwithstanding this, he is despised by his associates in crime, for his meanness and treachery. He is an uneducated man.



No. 11 is an Englishman, the son of a Newgate turnkey. He received his first lessons in crime within the precincts of that prison, whose terrors—if there were that saving virtue in

mere terrors which many claim—ought certainly to have prevented the innocent from becoming criminal. Their virtues were, however, lost on him. He is a notorious pickpocket; has been twice sentenced to Botany Bay. The last time he was sent there, he escaped and came directly to the United States, and here pursued his business with great enterprise and success in our large seaboard cities, till 1843, when he was convicted and sentenced to five years' imprisonment in our Penitentiary.

The drawing indicates an extreme deficiency of all the superior sentiments. Temperament sanguine-nervous, with extreme irritability of the nervous system, indicating a demand for intense excitement. He is also intemperate, and has no education beyond that of reading and writing.



This is the head of a very enterprising and notorious thief; the back view indicates the most imperfect development of the organ of justice, and the whole head is of an inferior, coarse, and animal character. His temperament is sanguine, and the entire organization is destitute of every thing approaching to refinement or perfection. His depravity is constitutional, and will doubtless endure with his life. He is only 30 years of age, but has already committed crimes enough to distinguish many older rogues.



No. 13 is a young white woman, about 30 years of age, a native of Long Island. She never acquired any education, though she shared the same opportunities by means of which her brothers and sisters were fitted to become respectable and useful members of society. When quite young she left her family and went to the South, where she was married to a respectable and wealthy planter. She left him and her child when the latter was about two years old, and with a dissolute man who persuaded her away, came northward. Before reaching New-York, however, he left her; she then abandoned herself to a life of open vice. After a time she reached the city, where she became a housekeeper in company with her first paramour. Being very weak and very ignorant, she was made the tool of her shrewder associates in depravity, and in September, 1844, was arrested for a larceny committed in her house, convicted, and sentenced to two years' incarceration in the State Prison.

The drawing exhibits an extremely imperfect development of the whole moral region, but particularly of firmness and conscientiousness. Her temperament is nervous-sanguine; and the whole system throughout is characterized by extreme fragility and feebleness. These qualities attach to her mental as well as corporeal powers. She is, indeed, the very impersonation of frailty.

Such a person could not more reasonably be expected to preserve her integrity and rectitude amid the trials and difficulties incident to her life, than the dwarf to exhibit the physical power of the full-grown man.



M. B.

M. B. is a negro man, under confinement for petit larceny, born in slavery; freed himself, and has lived at the north several years. He is a man of great determination and fixedness of mind and character; can scarcely be thrown off his guard, or induced to do any thing which his own mind does not deliberately consent to. He possesses great strength of purpose, strong powers of reason, and much capacity to plan, as well as energy to execute. He is esteemed by his officers an obliging, good man.

The head indicates very strongly all these characteristics. With a very powerful temperament, are combined a large brain, well developed in the intellectual region, particularly the superior faculties, large self-esteem, firmness, caution, and secretiveness. He has the capacity to be made a very useful or a very desperate and dangerous man.



S. S

S. S. is a vagrant, and inmate of what is termed the Luna House, on Blackwell's Island. He is an Irishman; was formerly a prize-fighter; was sent to the State Prison for five years for assault and battery, with intent to kill, and since his liberation, a period of some six or eight years, has spent most of his time in the city and county prisons of New-York. Before his mind became deranged, he exhibited great energy of passion and purpose, but they were all of a low character, their sole bearing being to prove his own superiority as an animal. He was both vain and selfish.

The drawing shows a broad, low head, corresponding with such a character. The moral organs are exceedingly deficient, especially benevolence, and the intellect only moderately developed. The whole organization, indeed, indicates a total want of every thing like refined and elevated sentiment. If the higher capacities and endowments of humanity were ever found coupled with such a head as this, it would be a phenomenon as inexplicable as that of seeing without the eye, or hearing without the ear.



C. P.

C. P., a half-breed Indian and negro woman, under confinement for the fourth time. She has been twice imprisoned for petit, and once for grand larceny, and once for assault and battery with a knife. During one of her terms of confinement she attacked her keeper with a carving-knife, and he was compelled to fell her with a loaded cane. When excited she exhibits the most uncontrollable fury, and is always disposed to be offensive, aggressive, and more or less violent.

In her head destructiveness is enormously developed, with large secretiveness and caution, and very defective benevolence and moral organs generally.



D. M.

D. M. has been an inmate of the county prisons of New-York, a greater part of the last seven or eight years. She is notoriously abandoned and profligate; and for the last few years has added intemperance to her other vices. She seems utterly lost to all sense of decency and to every moral tie of humanity. With all this degradation she possesses a good mind, with much shrewdness and quickness of perception.

The drawing indicates a large development of propensity with fair intellect, but a total destitution of moral endowment. The scanty development of the coronal region of her head is very striking.



T. Z.

T. Z. is a Jewess of German birth and parentage. She is under imprisonment for petit larceny. Her conduct is marked by extreme waywardness and caprice. She sometimes appears to be insane, and is generally, I believe, esteemed to be so by her fellow prisoners. She is exceedingly ingenious, displays great skill in many feminine arts, such as embroidery, drawing, &c., is passionately fond of music, in reference to which latter accomplishment she says of herself, in broken language, "I much like mooshic; I shing, play guitar, piano, and very much vistle." And she really is a wonderful whistler. She is exceedingly vain, affectionate, and impulsive, has no patience or application to any thing for which she has not a decided genius; yet can be led to do almost any thing by praise or flattery.

The drawing indicates a large development of the perceptive, the mechanical and musical powers, with excessive secretiveness and destructiveness. But the most striking feature of her head is the extreme shortness from individuality to philoprogenitiveness. Her impatience and restlessness prevented the side view from being taken. The length must be less than the average by an inch and a half or two inches. Taken in

connexion with the great width it is a most striking organization, producing so many remarkable and incongruous elements of mind and character, that the officers of the prison where she is confined set her down as inexplicable. They say that it is impossible to understand her, or to conclude whether she is sane or insane.



G. P.

G. P., a negro imprisoned for petit larceny. He is exceedingly wanting in reflection and judgment; but is possessed of strong passions, quick perceptions, and much eccentricity of mind. His observations evince much shrewdness, without any capacity to perceive the relation between cause and effect. His conversation abounds in odd sayings, humorous remarks, grave jests, &c. The drawing indicates great want of reflective power, good perception, and not a little conceit.



L. W.

L. W. is a female who has been long notorious in New-York for her depravity and abandonment of character. She has been under arrest innumerable times, and when not in prison leads a most profligate and shameless life. She is obstinate but kind withal, and very impulsive and ardent in all her emotions.

Her temperament is sanguine-nervous, highly excitable, and unrestrained. In her head benevolence is well developed, but the whole moral region beside is exceedingly small. The drawing indicates extreme narrowness and smallness of the whole coronal region.



S. R.

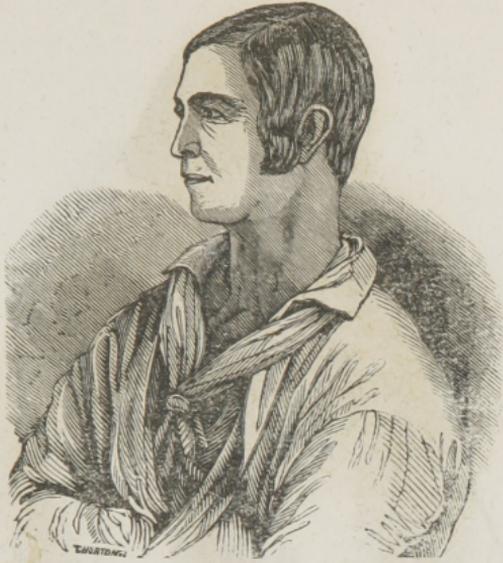
S. R. is a convict at Blackwell's Island. He has been twice imprisoned for larceny, and besides these offences, has led a very foul life. He is reported by the officers to be generally good natured and kind, but sometimes disposed to fight with his fellow-prisoners. The drawing indicates well developed intellect and large benevolence; both which are manifested in his character, with great deficiency of moral sense. He is both profligate and prodigal—a great thief, but spends what he gets in the most lavish and improvident manner.



J. B.

J. B. is an inmate of the Penitentiary on Blackwell's Island. He is reported on the books as early as 1839. His offence on that occasion does not appear. Early in 1843, he was returned to the prison on three indictments, one for assault and battery, and the other two for petit larceny. He was sentenced to six months on each. His first term had but just expired when he escaped, made a voyage to the East Indies, and in 1845 was returned on another indictment for petit larceny, under a sentence of six months. Before this sentence expired, he effected another escape, but was soon retaken.

His disposition is exceedingly determined; he is shrewd and cunning, and withal remarkably ingenious. He is exceed-



J. B.

ingly impatient, and chafes very much under confinement; is quarrelsome and much given to fighting.

The head is high in the region of self-esteem and firmness, indicating a strong sense of personal independence and love of freedom. This is one of the first facts that would strike a phrenologist; and it is remarkably verified by his frequent escapes and long voyage. Combativeness is largely developed, and although the head is tolerably high, as a whole, yet the moral region is very defective, there being but a very scanty development above cautiousness and causality.



C. B.

C. G. is a German woman, noted for her obliging, submissive disposition and the kindness of her feelings ; but exceedingly wanting in self-respect and regard for the rights of others. She is now under imprisonment for larceny.

The head shows large benevolence, with exceedingly deficient conscientiousness, self-esteem, and firmness.



G. F.

G. F. is the head of one of the most amiable, affectionate, and gentle boys among several hundred now at the Long-Island farms. He is noted among them all for his deference, his regard to the feelings and wishes of others, and his prudence and judgment. With all this excellence, he exhibits good mind, understands readily, and retains what he acquires. His head contrasts well with those of J. L., E. S., and B. M. The intellectual region is large, especially the reflective, and the whole coronal portion strikingly developed.



E. S.

E. S. is a lad about seven years of age, at the Long Island Farms. He is noted among his companions as a mischievous, stubborn, uncontrollable boy. He is exceedingly impulsive; very difficult to manage, and constantly inclined to vicious and cruel deeds.

The organization shows great development of propensity, with very deficient moral faculties, and moderate intellect.



B. M.

B. M. is an inmate of the Long Island Farms; is distinguished for a reckless, stubborn, selfish disposition; is regardless of consequences; cares nothing for the opinion of others; seeks his own gratification without reference to the comforts or rights of any one, and is altogether perverse and selfish in the extreme.

The head indicates this character very strongly. Nearly the whole development is in the basilar region. The intellectual is small, particularly in the superior portion, and the whole coronal region is extremely defective. Such a child, left to the ordinary chances and influences of a public charity, has almost as little prospect of growing up an honest and happy member of society, as one born with deformed limbs has of becoming an accomplished pedestrian.



J. L.

J. L. is an inmate of the Long Island Farms, about seven years of age, exceedingly stubborn, mischievous, and troublesome. He is distinguished for these qualities among several hundred children. The drawing indicates a large development of the basilar region, with deficient benevolence and moral faculties generally. The head bespeaks a great destitution of the gentler feelings, and a strong predominance of the selfish and aggressive tendencies.



M. H.

This lad is noted for his love of fun, and for the slyness with which he plans and executes hoaxes and other modes of teasing and annoying his associates. He possesses fair intellect, but lacks application, is exceedingly secretive, difficult to detect, but not cruel or malignant in his mischief.

The drawing indicates large mirthfulness and secretiveness, with very fair moral and intellectual endowments.



D. R.

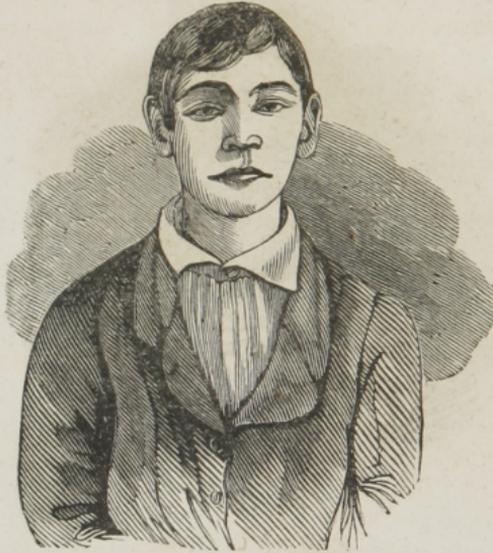
This is the portrait of an idiotic boy in the Farm School, Long Island. He is very imperfect in his physical developments and also in mental capacity; being utterly incapable of receiving instruction of any kind. The size of his brain, it will be seen, is exceedingly small, and its proportions very low. Nearly the whole development belongs to the animal faculties



R. A.

R. A., a boy some fourteen years of age, afflicted with spinal complaint, is an inmate of Long Island Farms. He is distinguished for intellectual acumen and power, is the best scholar in the institution, and is esteemed a talented and good boy.

The head and temperament fully indicate all that is known of him. The brain is large and of the best quality, being connected with a bilious-nervous-sanguine temperament. The intellectual region is finely developed. Causality is particularly prominent and active, conferring his great power of understanding and analyzing principles and resolving the relation of cause and effect. He has also a well-developed moral region. With but a tolerable opportunity of improvement would become a useful and valuable man.



B. F.

B. F. is one of the inmates of the Long Island Farms. He is partially idiotic, and the very imperfect development of the superior portion of the brain, with the small size of the whole, clearly indicates the character of his mental capacities. It affords a striking contrast to the last drawing, R. A., and is in harmony with the actual difference between the minds of the two individuals. B. F. is vicious, cruel, and apparently incapable of any elevated or humane sentiments.

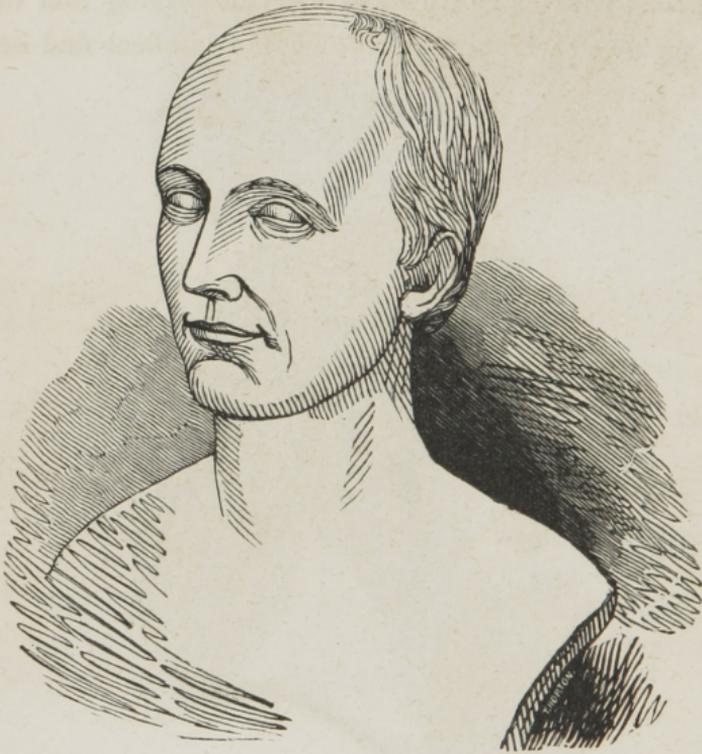
## HEADS OF PERSONS POSSESSING SUPERIOR INTELLECT.

The following drawings are introduced for the purpose of showing the striking contrast between the cerebral developments of such persons as we have been describing and those who are endowed with superior powers of intellect and sentiment.



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