

of facts sufficiently significant to establish an evident relation between certain functional alterations of speech, and the lesion of certain definite parts of the encephalon; in that case, all conjectural propositions, and all bold assertions, must vanish before the light of scientific truth.

It is in the spirit of the above remarks that I have endeavoured to approach this inquiry, and if in my attempt to unravel the difficulties with which this subject is surrounded, I have only succeeded in making "confusion worse confounded," I would say with Heberden—"Fateor equidem ea esse rudia, inchoata, et manca; cujus rei culpa, ut maximam partem in me recidat, partim tamen in ipsius artis conditionem erit rejicienda."

Reply to the three questions of the Committee of the English Medico-Psychological Association as to the reforms to be introduced into the examination of the Insane in Courts of Justice. By MONS. BRIERRE DE BOISMONT. Translated by DR. G. MACKENZIE BACON.

First Argument of the Committee.—On the mistake of those who think that the persistence of the reasoning power, the knowledge of good and evil, and of right and wrong in the insane, involves their responsibility for their criminal acts.

The legal criterion of the responsibility of the insane, founded on their knowledge of right and wrong, and of good and evil, is a consequence of the old dogmata of the lawyers who had no practical acquaintance with insanity. Matthew Hale, who has exercised, and still does, a great influence on the proceedings in the English and American law courts,* only admits the plea of insanity in general insanity, and declares that partial insanity is similar to the mental condition of a child of fourteen, who knows that he ought to be punished if he does wrong.

If such an opinion were adopted, three-fourths of the insane in asylums would be held responsible for their acts and convicted.

There is no longer any doubt in the present day, even with many who have no knowledge of insanity, that the insane can

* American Journal of Insanity, January, 1867. See the two causes: *Regina v. Southey*, Maidstone, Crown Court, before Justice Mellor; and *Regina v. Leigh*, Lewes, Crown Court, before Justice Erle.

reason and have correct notions on right and wrong, good and evil, though they may still remain the subjects of disease.

Legal writers who have not lived with the insane, think they have a triumphant refutation of the irresponsibility of the partially insane, because they have seen and heard some of them speak and act reasonably for several hours, often, indeed, longer, write very sensible letters, and possess a sense of right and wrong. The preservation of the power of reasoning among the insane is not more surprising than is the normal performance of the functions of the stomach and other organs in the midst of serious disease. There are, in fact, pathological states, with intervals and remissions, during which the physiological action is maintained and re-appears, although the disease may be latent and even progressive. We were present at the Hotel Dieu, in Paris (in Magendie's practice), at the autopsy of a woman who had taken her food up to the last day of her life, without any apparent disorder of the digestive functions. The stomach, however, was almost entirely reduced to a gelatiniform layer, with the exception of the pylorus, by a cancerous disease, of which the physician and clinical clerks had not the least idea. This is what Lord Erskine, since 1800, said, while pleading for Hadfield. "The insane persons, who have appeared before the court at Westminster, have not only given proof of memory, shown a knowledge of, and the most perfect recollection of their mutual relations to one another, of their acts and the events of their life, but they have still more been generally remarkable for their acuteness and *finesse*. Their reasoning has been seldom at fault. Their malady consisted in delusions, the deductions from which, derived from their mental disorder, were based on an irrepressible belief in the reality of their diseased impressions."*

The founder of legal medicine, Paul Zacchias, who had proved the persistence of reasoning power in the insane, nevertheless wrote of them in the 16th century, in his medico-legal questions. "By rights, those who are affected with melancholy delirium, (monomania) ought to be, like all the insane, deprived of the conduct of affairs which demand the integrity of the intellect, because, though not at first speaking unreasonably on a subject, they are apt to wander from time to time in matters in which they seem to conduct

* Bucknill—"Unsoundness of mind in relation to criminal acts," p. 40., London, 1854.

themselves prudently.”* This opinion was also that of the illustrious Chancellor of Aguesseau. “Let us examine, he says, “the case of those who have delusions on only one or two leading points. One is always seeing princesses, another thinks he is going to be arrested, another is transformed into an animal, another, more decidedly mad, even considers himself the Almighty. Unless questioned on these topics they appear sane, but bring them to the particular point and they betray themselves directly. Who can think that such madmen could make a will?”† (d’Aguesseau—œuvres completes). The power of reasoning then exists among the insane. How could it be otherwise, for it shows itself very early in man. The celebrated physiologist Schröder van der Kolk observed it as early as the third month. But this faculty, born with the individual, will last as long as the function preserves its own vitality.

It is because the insane retain the power of reasoning that they can distinguish right from wrong, and good from evil, since they only differ from others by their inability to control the injured part, or, if they are conscious of their delirious conceptions, by their being unable to command their will. Without reasoning power, and knowledge of good and evil, no asylum could possibly exist. This proposition is admitted by all alienists. The responsibility of those for whom the plea of insanity was raised in criminal cases was first discussed at a meeting of lawyers, after the English (Royal) Commission, formed in 1865, to consider the question of capital punishment. It could not be otherwise, for murder was often the cause of such trials, and it was imperative to hear the opinion of alienist physicians on this point. Dr. Harrington Tuke, when questioned on this subject, replied in his evidence, that 54 asylum physicians, of great experience, concerned at the English judges persisting in making the responsibility of the insane depend on their knowledge of right and wrong, had combined to combat this doctrine. They unanimously agreed on the following declaration: “The belief in the responsibility of the insane, based on their appreciation of right and wrong, is irreconcilable with facts

* Pauli Zacchias *Questionum medico-legalium*, tomi tres olim aucti a Z. Daniel Horstio nunc a Georgio Franco, med., Francofurti ad mœnum, 1688, Vide Demens, Dementia, Insania.

† A. Briere de Boismont, *Etat des facultés dans les délires partiels en monomanie*. (“*Annal d’hyg. et de Méd. Lég.* t. 50, 1853, see also t. 49, *De la Monomanie ou délire partiel au point de Vue Médico-Légal*,” p. 381, 1853.)

known to all the physicians, because it is clear that this appreciation often exists in individuals whose insanity is undoubted, and it is even observed together with insane ideas, and those of a dangerous and impulsive character."

The Committee formed by the Society of German Alienists to discuss, in 1865, at Hildersheim, questions relating to legal medicine, and composed of MM. Flemming, Roller, Solbrig, Jessen, and Laehr, came to conclusions similar to those of the 54 English physicians.

This doctrine, energetically maintained by the celebrated jurist, Mittermaier, was also put forward by Griesinger, in the second edition of his treatise on mental diseases, and we may add that it is also that of nearly the entire body of French alienists. As showing how little weight should be attached to the appreciation of right and wrong, Mittermaier relates the case of an assassin that he went to see at the asylum. This man had killed his father, and to the question of the jurist, "Do you not know that parricide is a crime that is very severely punished?" he replied, "I know it very well, but God having sent me into the world to punish great sinners, of whom my father was one, I have killed him according to the divine command."

The American Journal of Insanity, April, 1867, gives an account of a patient named McGregor, a half imbecile, who had killed his father, because, as he stated in his examination, he had planned it for a year past, in consequence of a quarrel they had had about a bottle of whiskey. "On the evening of the murder," he observed, "I lay down with all my clothes on, waiting till my father had got to sleep, because, as he was the stronger, he might have killed me, and this is the reason I ran away when he seized my hatchet. I was sorry for what I had done from a dread of going to prison and of being hung. I know that my act is a bad one, contrary to law, and forbidden by the Bible, but it was always my intention to revenge myself because of the whiskey which he accused me of drinking, and of my wood which he had burnt, when he came to the house." McGregor's weakness of intellect having been recognized, he was condemned to be detained for the rest of his life in the criminal asylum attached to the prison at Auburn.

One of our private patients who had made several attempts to do us an injury, under the idea that we were persecuting him, said to us one day: "I know that if I had killed you elsewhere it would have caused me to be transported, but here

I have been declared insane, and a madman is not responsible for his actions. If I do not effect my purpose it is because my courage fails." This patient had been placed in an asylum because he had tried to kill the farmers who, he thought, poisoned his wheat!

These three lunatics had proper notions of right and wrong, and good and evil.

A trial, which took place in North America, shows to what this erroneous opinion as to the value of the persistence of the reasoning power may lead. A certain Palton was accused of murder. After the evidence had been given, the counsel rose to plead insanity for his client, but the latter protested vehemently against this line of defence. This incident left him to himself and to the decision of the jury. The court adopted the views of the accused and found him guilty. Happily the supreme court quashed the judgment which was based on the legal presumption of the existence of reasoning power till the contrary was proved, a theory always admitted by English Judges. One of the arguments of the judgment was to the effect that this presumption could not rest on the declaration of the accused, that from the moment the defence had pleaded insanity it was impossible to remove the proof of it from the jurors, who alone could decide whether there was insanity or not. Palton was secluded as insane.* Mittermaier proves that several of these patients employ these ideas of right and wrong for their own safety and that of their fellows, by urgently demanding their admission into an asylum for fear of killing themselves or doing injury to others. There are, he says, some of these lunatics who reason so well, that it is only after a certain time that their mental affection is recognized by medical men.†

There is no doubt, then, that reasoning power, ideas of right and wrong, and good and evil exist among the insane, who none the less retain their delusions, hallucinations and impulses; with this knowledge we can neither treat nor direct them, but even then inquiry into their antecedents and daily observation of them prevents us admitting that they are responsible for their actions.

Second Argument of the Committee.—The impossibility of

* Wharton and Stillé, "Traité de jurisprudence médicale," 2nd edition, p. 27, Philadelphia, 1860.

† Mittermaier—"Nouvelles recherches et appréciations psychiatriques pour juger la question de responsabilité dans les crimes commis par des aliénés accusés." (Friedreich's Blätter für Gerichtliche Medicin.)

the jury deciding with a knowledge of the causes, either in criminal or civil cases, on the acts committed by the insane, their state being always connected with a physical and moral malady. Hence the necessity, in these cases, of a medico-legal report.

It cannot be denied, and the preceding facts go to prove, that the medical specialist is alone capable of fulfilling the functions of an expert in the case of the insane. Who, indeed, but he could discuss a malady, beginning in an insidious way, often of some duration, and whose development, more or less variable, presents intermissions, remissions, lucid intervals, appearances of delusive recovery, rapid changes in its character often extremely difficult of diagnosis, such as are seen in moral insanity or that of a temporary or epileptic nature?

Mittermaier quotes the story of the learned Dr. Jacobi, director of the Siegburg Asylum, Prussia, who, when engaged to examine Reiner Stockhausen, who was accused of theft and suspected of simulating insanity, declared, after several months' observation, that he was afraid to give an opinion; later, that the accused feigned insanity, and later still, that he was deceived himself and the accused was really mad!*

Mittermaier, who made himself acquainted with the insane by 40 years' investigation, gave his decided opinion in favour of the intervention of the alienist physician in the legal questions relating to his subject, but recommended him not to go out of his line, and to reply to all captious questions unconnected with his work.—I know nothing of that! He also lays down the rules that physicians should follow in a medico-legal inquiry. To form a correct judgment on the existence of insanity, it is necessary, he says, "1st, to search for the indications of a change in the ordinary disposition of the character of the accused; 2nd, to discover the physical and mental symptoms of the complaint; 3rd, to point out the causes which have acted on the brain; 4th, to show very carefully the manner in which the mental affection has manifested itself, either by depression or exaltation, the knowledge of one or other of these states enabling us to estimate the mental condition." The observation of the moral part of the man is too much sacrificed now-a-days to physical and chemical analyses. It is well, however, as M. A. Latouret lately remarked in one of his *causeries*, that the *homo duplex*

* "Laurent, *Étude médico-légale sur la simulation de la folie*," p. 21, 1865.

should be regarded under his two aspects. The problem of man, medically speaking, is not limited to a description of the cell; the programme of medicine is more extensive and elevated than chemists and mechanics imagine, and the part that medicine has to play is not exclusively confined to the test glass and re-agents. (Union Médicale, Feb. 8th, 1869). It is because these opinions have always been held by us, although we gave credit to the remarkable works of modern individuality, that we shall, with God's help, entitle the studies of our life the symptoms of madness. The four signs put forward by Mittermaier as proofs of insanity, enable him to show how the morbid affection has acted on the intellect, the emotions, and the will; in this manner we succeed in showing the influence which the mental derangement has exerted at the time of the perpetration of the crime and the symptoms which strengthen this opinion. It is no less important to consider the reasons which allow us to suppose that the crime was the last symptom of the malady, of the arrest which often follows its accomplishment, and of the more or less important remissions which occur, according to the nature of the malady.

We must also not disregard the influence of heredity, of predisposition, of certain morbid affections, of the continuous influence of delusions on the conversation and actions. Another equally useful consideration is this, that when society accuses a man of a crime, it must take him as he is, and not forget that the limits between health and disease are not fixed. We should also bear in mind that morbid conditions which have existed for a greater or less time may show themselves spontaneously or under the influence of certain accidents, and that the physical state may act on the mental, and produce mental disorders. (See Griesinger, 2nd edition, German, p. 61).

It will readily appear, even from this rapid enumeration, how much special knowledge a medico-legal examination requires—and we are only now concerned with well known types of insanity—but the matters in dispute have not always the same evidence. However extensive may be the experience of an alienist, great difficulties will often arise. There are patients who conceal their delusions, and protest against the mental affection attributed to them. Nothing is more common than to see lunatics profess not to believe in their false ideas, even when this very reason (*i.e.* their lunacy), would remove them from the clutches of the law.

We have already quoted the case of the American assassin, Palton, who got himself condemned by insisting that he was not mad.

M. Dagonet has related the case of an epileptic, who, when his counsel was urging for him the plea of insanity, opposed him so strongly that the judge and jury found him guilty and condemned him to several years' imprisonment. A few days after the sentence, he was obliged to be removed to the Stephansfeld Asylum, of which M. Dagonet was then chief physician, to be treated for his mental affection.*

It is not uncommon to hear lunatics accusing themselves of crimes which they have not committed. Forbes Winslow has given, in his journal, the case of a merchant who insisted that he had killed a person, and with such force that he was put in prison. There was some uncertainty as to what should be done, when some one, who had been formerly in his service, gave evidence of the weakness of the man's mind, and the impossibility of the murder; in fact the pretended victim was found to be in very good health. It is stated in the 8th edition of the complete manual of legal medicine by MM. Briand, Chaudé and Bouis, p. 55, that individuals, wishing to die without committing suicide, have been known to accuse themselves of homicide which they have never perpetrated, and call down on themselves the punishment which the law inflicts on murderers.†

Mittermaier touches on an interesting subject, viz., the case of children in whom symptoms of insanity appear early, and continue for some time without being recognized. This is often observed in cases of weak intellect, maniacal outbreaks, disposition to violence and destruction, acts regarded as faults and punished as such. Some difficulties also arise from the analogies existing between real insanity and the symptoms connected with vicious habits, bad disposition, and outbursts of passion, leading to criminal acts. There are, however, exceptions to be made: thus, drunkenness, which is often the result of a habit or a vice, may induce a moral enfeeblement and engender an overpowering want, a mental affection, against which all resistance is vain; generally the criminal acts due to these states are transient, whilst those which are the

* Dagonet—"Examen des expertises médico-légales de Mittermaier, en matière d'aliénation mentale." (*Annal Med-psych.*, 4th series, p. 207, 1865, and 1866-'67 and '68.)

† *Gazette des Tribunaux*, 1st January, 1828.

result of insanity have an appreciable duration.* Guislain has also drawn good distinctions between these analogies.†

It sometimes happens that the individual who has committed the crime, under circumstances indicative of mental disturbance, appears very reasonable when examined; no symptom of insanity can be found. We must, then, take every possible care, to be sure that the patient has not had an attack of sudden transient mania, or concealed epilepsy, as in the case of the Councillor of State, Lemke, mentioned by Casper.‡ For these reasons and others it is very needful to think of the complications, such as paralysis, epilepsy, hysteria, neuroses, heart disease, deranged menstruation, the critical period of life, &c.,§ All these influences have a marked influence on insanity, a fresh proof of the absolute competence of medical men in the investigation of mental affections. The preceding cases are all the more embarrassing inasmuch as they are, to speak the truth, not clearly defined, but those of which we now propose to speak, although having more in common with insanity, still are often difficult of diagnosis.

The impossibility of resisting these impulses has been much attacked, especially when people have wished to explain a murder, theft, or incendiarism by such impulses; but a patient inquiry has placed beyond doubt that in most cases these deplorable impulses were connected almost always with recognized insanity of which they were only a symptom. There is, however, no alienist who has not met with cases of irresistible impulse, appearing quite independently of the known forms of insanity. Sometimes it is a sudden hallucination which carries away the individual. We had for several months a man from the country under our care, he told us that, in one of the attacks which preceded his admission into our house, while working in the fields, he seized a scythe and began to cut at everything he saw before him, incited by a voice which told him to do so. After having run over a great extent of land he stopped, quite tired out, at a wall, and fell

* Dagonet - Mémoires cités.

† A. Briere de Boismont.—"Esquisses de médecine mentale." J. Guislain, sa vie et ses écrits, p. 106, 109, 110 to 112; 1867.

‡ A. B. de Boismont, Remarques médico-légales à l'occasion du traité pratique de médecine légale de Professeur Casper. (Annal. d'hyg. et de méd. lég., p. 449, 1862.)

§ *Id.*—"Responsabilité médicale des médecines en Espagne. Procès en détention arbitraire de Dôna Juana Lagrera." (Briere de Boismont rapporteur. Annal. méd.-psych., 29th February and 14th March, 1864.)

asleep. If he had met living creatures as well, what misfortunes would there not have been to deplore? Mittermaier has published the case of a distinguished man who asked to be admitted into an asylum, because he was overcome by an irresistible desire to kill his sister, and the previous evening had wished to carry out his idea. His conversation did not at all betray his mental disorder. These impulses are frequent in the different forms of insanity. The Inspector General, Girard de Cailleux, has collected 154 of such cases, among the patients of his asylum. Hadfield, one of those who attempted the life of George III., had these sudden impulses. A drunken lunatic of whom we had the care 12 years ago, and who left quite cured, recently came back to have himself taken care of in dangerous crises which came on suddenly, and he warned us to be on our guard against him. One day, without giving the least warning, he broke up a spoon in his mouth into several pieces, and it was necessary to wait till the paroxysm was over, in order to remove the pieces.

The fixed ideas of the insane may have melancholy consequences; although their origin in disease may be clear, these ideas have none the less given rise to very different results. The fifth chapter of Mittermaier, on medico-legal inquiries, tells us that two melancholics, who had killed their children, the one to deliver them from misery, the other from dishonour, were declared guilty, because the medical expert, instead of attributing their acts to an intellectual derangement, referred them to a criminal tendency. Three other melancholics, who had also killed their children, the two first from fear lest they should become as corrupt as themselves, the third that his son should escape eternal damnation, were, on the contrary, recognized as insane by the tribunals. The German jurist has shown in a lucid treatise, that the condemnation of the former was due to the faults of the expert, who relied on metaphysical arguments, whilst the acquittal of the others was due to the great experience of their medical experts who established beyond doubt the existence of insanity. Insanity of a sudden, transient, or partial kind has been much questioned, but observation has shown the reality of such cases, and the tribunals have recognized them in several instances. On the 10th of November, 1854, a youth, hardly 19 years of age, the son of one of the largest and most respectable merchants in Bordeaux, was dining with his father, of whom he was very fond, and his step-mother, to whom he had a great aversion. At dessert, he left the table, took from his

room two loaded pistols, returned to the dining-room, came up to his step-mother, and killed her. He then ran away, exclaiming: "*I am a madman, I have just killed my step-mother,*" and immediately gave himself up to the police, declared himself a prisoner, and related the circumstances attending his crime. Before and up to the time of this murder, this young man had led a regular, and it might be said, exemplary life. If the act committed by him were the result of insanity, this malady had, in his case, a rapid and sudden course, similar to an instantaneous return from madness to reason. Here was, then, a very clear instance of this sort of insanity which has been called transitory.

The Imperial Court of Pau, adopting the interpretation of the murder that the doctors, MM. Gintrac and Delafosse, (of Bordeaux), Tardieu and Devergie had suggested, considered the young accused as not having the exercise of his free will at the time of the crime, and acquitted him entirely. "How long it is," said M. Devergie, author of this work, to his colleagues of the Academy of Medicine of Paris, "from that trial to the time not far distant from ours, when M. Dupin, then an advocate, who since died a Senator and Procureur General of the Court of Cassation, wrote to the then Prefect of Police: "Monomania is a new resource of medicine, but it would be too convenient sometimes to snatch the guilty from the just severity of the law, at others to deprive a citizen arbitrarily of his liberty; when it could not be said: *he is guilty*, it would be said *he is mad*, and we should see Charenton take the place of the Bastille!" "How long it is," he added, "from the time when one of the most eminent of the magistracy said to Marc, on the occasion of a trial of the same sort as that at Pau: '*They are insane, but there are some sorts of insanity that it is necessary to cure on the scaffold!*'" *

We must never lose sight of the fact that we ought, in cases of sudden transitory insanity, to investigate with the greatest care the family history of the patients, and endeavour to go back to the morbid affections which may produce them. This is what M. J. Falret has done in his researches into the mental condition of epileptics, and also Dr. Krafft-Ebing, in a work in which he relates two cases of melancholics, whose tendencies to kill themselves and others were

* Devergie—Où finit la raison, où commence la folie, où point au vue du la criminalité de l'action dans la folie transitoire homicide. (Extrait des mémoires de l'academie impériale de médecine, t. xxii).

connected with neuralgia, causing great mental distress, and which Griesinger has classed under the name of *disthymia*.*

It is principally in moral insanity that medical men, even the most expert, meet with difficulties, sometimes quite unsurmountable. Experience shows that there are lunatics who exhibit great subtlety and a great reserve in all that concerns their mental state; they not only can conceal their malady, and pass from one subject to another in order to deceive, but they even make very bitter complaints against their relations, whom they reproach with having poisoned them, and persecuted them with the greatest injustice. They accuse the doctors of the asylum of being in league with the members of their families, whose abominable plots they aid. (See the *Irrenfreund*, No. 29, p. 180, 1862. *Ibid*, p. 6 and 7, 1863). The existence of moral insanity and the difficulty of establishing it have been recognised by the magistrates themselves. In a trial *en interdiction* of a M. Flechet, before the imperial court of Lyons, the Advocate-General, Merville, expressed himself in these terms: "Moral or lucid insanity generally does not betray itself by fury or incoherency. Medical men sometimes require several months or several years of attentive examination in order to discover it, and the study of it is the more embarrassing sometimes, as the patient can generally conceal, with a good deal of address, the intellectual infirmity from which he suffers" "further," he adds, "all the mad-doctors have established that there are lunatics who are insane in their acts but not in their words, who answer all questions very reasonably, who express themselves very clearly, and who keep up an appearance of reason even in the midst of their delusions. It is by their antecedents, rather than by their conversation, that we find they are insane The morally insane can sometimes conceal their madness better than the most dexterous and ingenious lawyer could."†

Is not this explanation of the varieties of insanity the clearest proof how impossible it is for any but a medical man

* Dr. Krafft-Ebing—*Mania Transitoria und Beiträge zur Forensischen Casuistik der Seelenstörungen*, 1867.

† A. Briere de Boismont—*De la Responsabilité légale des aliénés*. P. 41, 42, 1863.

Id. Cour impériale de Lyon (Chambres réunies), présidence de M. Gilardin; demande a fin d'interdiction (*Gazette des Tribunaux* 8, 19th Jan., 5th Feby., and 3rd April, 1863). See the pamphlet on *La folie raisonnante: de l'importance du délire des actes dans le diagnostic Medico-legal de la folie raisonnante* (*Annal d'hyg. et de med. lég.*, t. 27, p. 76, 354, 1867).

to give his opinion on medico-legal questions, either civil or criminal? Clinical study, and that pursued for a long time, can alone enable him to know the physical and moral symptoms of the disease, its causes, the force of hereditary influences, of predisposition, of nervous affections, and of delusions on the conversation and actions, of successive degenerations on the production of bad dispositions and the tendency to crime.

These practical notions, which are quite indispensable for the generally admitted forms of insanity, are equally so for those morbid manifestations which are not yet classified, and which, it is thought, can be mastered by the light of common sense, such as fixed ideas, irresistible impulses, moral insanity, or that of a sudden or transitory character. This is what we said in a paper on *the utility of the family life*, when addressing our beloved companion: "How could I have followed out, without your daily and constant observations, the different forms of mental perversion exhibited by the morally insane, really protean in their diversity, which are now beginning to be recognised; how show the formal contradiction that their acts are always giving to their words, and how prove that their peculiar symptom is the impossibility of keeping to anything while their day-dream lasts?"

Medical experience is not less necessary when criminals feign insanity, or when patients conceal their state, pretending that they are not mad and get themselves condemned, accusing themselves of crimes which they have never committed in order that they may die by the hand of the executioner instead of by suicide, so that they may have time to prepare themselves to appear before God. Again, it is the physician who can enlighten families and courts of justice on obscure cases, in which children, born with the seeds of mental disorder, are regarded and punished as bad characters, or in those difficult circumstances in which perversity, vice, and passion are hardly separated from real insanity.

We feel persuaded that every one may feel clearly convinced that the alienist, like every one else who is skilled in his profession, is the only fit person to speak of what he knows.

3rd Argument of the Committee.—The propriety of studying insanity among criminals in prison, whose reason appears doubtful, and also among convicts who have been transferred to asylums as insane, in order to thoroughly understand the

connection between crime and insanity, and to establish the proper relations of mental science to the administration of justice.

The members of the committee for the study of medico-legal psychology state in their report that it has been publicly announced by Mr. Bruce, surgeon to the General Prison for Scotland that 1 out of every 9 prisoners is more or less insane, and that 1 of every 140 is quite irresponsible. He thinks, moreover, that many crimes are committed by insane epileptics, and probably belonging to the class of masked epilepsy. According to a calculation of the English convicts in prison on the 31st of March, 1862, it appears that 1 of every 25 males was found of weak intellect, insane, or epileptic.

It appears from Dr. Guy's reports, from which these facts are taken, that these prisoners are particularly prone to incendiarism, crimes of violence, and unnatural offences, &c. The Judicial Statistics of 1867-8 also show that of 1244 criminals in prison, described as insane, 790 were so really, or had become so after conviction.

These instances, taken from numerous facts of the same kind, are sufficient to show the necessity of instituting an inquiry into this subject, in order to revise the system of criminal jurisprudence, so as to bring it into relation with the actual state of mental science.

This inquiry we have undertaken, as far as we are able, in our medico-legal study of the criminal lunatics of England, read at the Academy of Medicine of Paris (meeting of the 19th January last). Here are the results at which some of the medical men and jurists have arrived, who have occupied themselves with this question. In 1850, Ferrus, one of the two Inspectors-General who have left their mark in the study of insanity, published a very instructive work on criminals. If the divisions which he proposed had been attended to, more than one lunatic would have been saved from penal servitude and the gallows. He established in this book, in accordance with the opinions of the prison doctors, that insanity may exist: 1st, previous to conviction, and have acquired a dubious or even insidious character, which has misled the magistrates; 2nd, it may have been developed between the passing of the sentence and the final imprisonment, and owe its origin to the anxiety of the anticipation, and the fear of appearing before the court, or of the sentence; 3rd, it may have been brought

on by causes relating to the perpetration of the crime. According to the illustrious Mittermaier, the magistrates do not pay sufficient attention to the medico-legal examination of prisoners who show signs of mental affection.* M. Lelut states that undoubted lunatics had been punished by the law.

In 1852, M. Vingtrinier, chief physician to the Rouen Prisons, published a very important report on lunatics in prison and before the courts. He declared in it that, of 43,000 accused persons 260 were insane; 176 being recognised as such by the doctors, and admitted so by the magistrates, were released, and the rest were brought to trial, and convicted without the intervention of the doctors, or in spite of their opinion.†

Of six found guilty by the court of assize, one had been executed, and the other five had become insane. Of 76 tried by the *tribunaux correctionnels*, one died after the arrest, and of 19 who were consigned to the Bicêtre to undergo their sentence, the majority showed signs of mental disease. As for the 56 others, there could be no possible doubt, for a few days after their conviction they had to be sent to the Bicêtre, there to give fresh proofs of their insanity. These statements have never been questioned.‡

One of the honourable members of the Medico-Psychological Society of Paris, M. Boileau de Castlenau, chief physician to the Nîmes prisons, wrote in 1852, that the 1,200 criminals that came under his observation in 25 years, had most of them shown a remarkable amount of self-will.§

Sir Fitzroy Kelly announced in 1864, at a large meeting which he had called in London, to petition in favour of an artisan, named Wright, guilty of murder, that in the last 64 years 60 lunatics had been hung (communicated by Baron Mundy). At the same time, Dr. Madden published a paper, giving eleven cases of lunatics condemned to death, whose

* Ferrus—Des prisonniers, de l'emprisonnement et des prisons, p. 49. Paris, 1850.

† Lelut—Note médico-légale, à propos des condamnations prononcées par les tribunaux sur les individus fous, avant et pendant la mauvaise action à eux imputée et écroués dans le même état. (Annal. Med.-Psych., t. 1., p. 132. 1843.)

‡ Vingtrinier—Des aliénés dans les prisons et devant la justice. (Annal. d'hyg. et de Med. leg., t. 48, p. 369, 1853; et t. 49, p. 138, 1853.)

§ Boileau de Castlenau—De l'épilepsie dans ses rapports avec l'aliénation mentale, 1852.

insanity was clearly proved. Of these, eight had been executed, and three pardoned, but imprisoned.*

Lord Sydney Godolphin stated before the Parliamentary committee which sat in 1865, to inquire into capital punishment, as visitor of an asylum, that several lunatics had been executed. Dr. Harrington Tuke, proprietor of a large asylum, stated that in the cases in which the insane were inculpated for crimes involving hanging, the punishment of death was a mere lottery. (See Mittermaier, *Expertises Médico-Légales*). In short, and we close our quotations with Mittermaier, this illustrious jurist, who made a study of insanity for more than 40 years, being convinced when he made his inquiries into capital punishment, that there was a large proportion of insane among those accused and convicted, does not hesitate to say that the examination of these persons is not made with sufficient care, because he cannot doubt that many of them had lost their reason before, during and after their trial.† This fact had so impressed him that he drew up the four following propositions for the recognition of insanity among criminals:—

1st.—Inquire into the changes that have taken place in the ordinary habits and character of the accused.

2nd.—Ascertain the physical and psychological symptoms of the complaint.

3rd.—Point out the causes which can have influenced the brain.

4th.—Show, with the greatest care, the way in which the mental affection has manifested itself, whether by depression or excitement: the knowledge of one or other of these states enables us to form an opinion of the physical condition.

In spite of the importance of these inquiries into the existence of insanity among a large number of prisoners and of those accused, convictions in this class of patients are far from having ceased. Four new cases have been recorded in the last four years.

An artizan, of the department of Lozère, of irreproachable conduct, assassinated his wife, under the influence of illusions of sight which represented her to him, as well as a man

* Madden—On the criminal responsibility of the insane, p. 13—17. London, 1864.

† A. Briere de Boismont—Charles Mittermaier, ses études sur la peine de mort, la responsabilité et l'expertise medico-legale des aliénés dans les prisons et devant les tribunaux, p. 15, 1868.

married to a person of his own choice, continually making signs, and the latter penetrating to her bed-room in the night. He also affirmed that his brother-in-law had also deceived him. The mayor and the witnesses deposed that the crime of this poor man must be laid exclusively to his visions. No medical man was called, as an expert, to examine him. He was condemned to ten years in chains. Persuaded on reading the trial and the statements which were sent us by a lawyer, that B—— was insane, we addressed a petition to the higher authorities, and we received a reply that it had been forwarded to the Minister of Justice. We do not know what was the further course of this affair, but some time after we read in the *Journal des Debats*, that a medical commission was instituted by the Ministers of Justice and of the Interior to investigate cases of real and of feigned insanity in prisons, and have such patients placed in a special quarter.

On this occasion, we may remark, the political newspapers, who accuse the alienist physicians of never replying when they are accused of detaining people in an arbitrary manner, gave good proof that everything is fair to discomfit an enemy. We had addressed a letter on the conviction of B—— to a legal journal; its intervention in this affair could have saved the unhappy lunatic. The letter was thrown into the waste basket. It must not be thought this paper stood alone; a great review and a politico-literary paper, to which we addressed some very moderate remarks on insanity, maintained the same obstinate silence, and wrote the next day that we continued to kill the dead! The same year a law student wounded, in a music hall, a young woman whom he had known. He was seized at the very moment, and afterwards tried at the assizes and convicted. His defence was that he was drunk when he did it. But his excitement, levity, the inconsistency of his replies, and the weakness of his explanations persuaded us that he was insane. Some months after, when we met with one of the servants of a central prison, we learnt that this student, on arriving at this establishment, had shown great agitation; he protested his innocence, and wanted to write to every person of celebrity to release him. Shortly after, in the middle of the religious service, he called out as loud as he could for the assassin. Having been recognised as insane, he was sent to an asylum. We asked the chief physician of this asylum, who is one of our colleagues, about the case, and he replied that the student was the subject of a most dangerous form of insanity; he

was always saying that he was poisoned, and to prevent him doing some injury, he was very frequently obliged to be restrained.

At one of the last meetings of the Medico-Psychological Society, Dr. Morel related briefly the result of the trial of Count Chorinski, who had poisoned his wife. Our colleague, when called for the defence, had stated before the court of Munich that the Count was insane, and that he would soon give indubitable proof of it. The German newspapers of Nov. 17th last informed us that he had such a violent attack of mania, that it had been necessary to put a strait-jacket on him, and take steps to have him sent to an asylum.

On the 26th of December of the same year, we read in the *Gazette des Tribunaux*, that a young man, 22 years of age, who had, in a few days, set light to 14 incendiary fires, was condemned to death. This person gave as his reason that he had had an idea which drove him to the act, viz., the recollection of the bad treatment suffered by an individual falsely accused by him of a theft, and the regret he felt at having committed this theft himself, and robbed his mother of five francs. But this criminal had tried to hang himself once because he had seen a man commit suicide in this way, and inquiry showed that his mother had been mad.

A lady, quite competent to form an opinion on this subject, who had just been reading this trial, exclaimed before us, "But he is a miserable lunatic!"

This clinical review of the insane in prisons, and on trial, was necessary to show the narrow boundary lines which exist between insanity and crime when the latter is bequeathed by hereditary tendency, and drunkenness, and strengthened by misery, the contagion of vice, bad example in every shape, absence of moral and religious education, negligence of parents, &c.

Are we not right in asking if society is really just when it applies to these degenerate beings, as such placed in fatal conditions of physical and moral inferiority, the same hard and degrading punishments that it does to real criminals?

To place the question in this light is to submit it, on the authority of facts, to the judgment of conscience and common sense. Several times at the Assizes, where we acted on the jury, in the case of prisoners whose guilty acts could no longer be explained by ordinary motives, and whose favourable antecedents made us doubtful of their criminality, we

have explained to our colleagues the practical notions of the English on criminal lunacy, and we have almost always had the reply—If a similar institution existed in France we would send there persons of this class; but, it was added, these are dangerous characters for the public safety; they must be kept from doing harm—a prison is the only possible means—we only lessen the sentence.

In the course of our long experience we have met with persons who have shown a close affinity to dangerous lunatics, and we will give two instances. Most of those with whom we have been hitherto occupied belong to the poorer classes. They are generally the children of drunkards, criminals, the insane or debauched, and have had nothing but vice before their eyes, without anything to counter-balance their wretched tendencies. It is not of such as these that we are now going to speak.

On several occasions, indeed, we have had the misfortune to see that the children of parents who deserved everybody's respect had, from their earliest years, shown a complete absence of moral sense. Family education and instruction, given first at home, and afterwards in lay and also religious establishments, severity tempered with kindness, warnings of every sort—nothing has had any influence over these defective characters.

We have heard one of these unfortunates maintain, at 15 years of age, that he had never had any idea of what is called morality. This wretched being has only too well proved it by the baseness of his tastes, by his conduct, and by the choice he made of poverty and contempt when he might have easily had good means and position. How could we avoid thinking, with these instances before us, of the irresistible impulses of the insane? Should we be wrong in such a case, if the victim did something wrong, if we exclaimed to the judge, do not throw him into prison, but send him to the special asylum which the English have devoted to criminal lunatics, and for the erection of which we have not ceased to ask for 23 years?

Perhaps the bugbear of moral insanity may be brought forward in opposition to us; we shall be content to reply that the cases which we have given have appeared to us free from the objection of moral perversity and vicious influence, while we have found in them the elements of insanity or at least of a nervous disease.

The brother of the young man alluded to suffered from morbid excitement. Several times he had complained of

aural and visual hallucinations, and had made one attempt at suicide. There were insane relatives on the maternal side.

The other class is that of gloomy and dangerous fanatics who stick at nothing to carry out Utopian schemes which can never be realised, for to Cæsar succeeds Octavius. Concealed in a cowardly way behind any sort of ambushade, and nearly always running away after their crime, they do not hesitate to sacrifice hundreds of innocent persons in order to strike the person whom they believe to stand in the way of their projects.

It is far from our thoughts to make out all these assassins, like all the vicious, insane; there are many of them who belong entirely to the province of justice, but there are also others who are dangerous lunatics, and this opinion is not a mere assertion.

Ravaillac felt the odours of sulphur and fire exhaling from his feet. He had seen victims raise themselves in the air and settle on either side of him;* in a town he had seen the head of a negro on a statue. There is evidence to prove that Jacques Clement must be ranked amongst the insane with hallucinations.† The young German who tried to kill Napoleon I. at Schönbrunn also had visions. He perceived the genius of Germany ordering him to deliver his country. The three men who made attempts on the life of George III. were really lunatics, as Bucknill, Hood, and Haslam have shown.‡

We will only give one more instance—that of the murderer of President Lincoln. He was called Junius Brutus Booth, and had acquired a great reputation in the United States as a dramatic actor. After reading the account of him, lately published in the *American Journal of Insanity*, there can be no doubt as to his oddities, eccentricities, and the disordered state of his mind. The two following anecdotes are decisive proofs of it. He was a passenger on board the “*Neptune*,” and often spoke in a melancholy way of an actor of some repute, named Conway, who had committed suicide by throwing himself into the sea. When the vessel was near the place where this unfortunate man had perished, Booth, carried away by a delusion or hallucination, rushed out of his cabin, saying that he had a message for Conway, and jumped over-

* Bazin—*Histoire de la Fronde*.

† Pierre de l’Estoile—*Journal de Henri 3rd*. See also our *Histoire des Hallucinations*, 3rd ed., p. 606, *Medecine legale*. 1865.

‡ Sketches in *Bedlam*—London. 1823.

board. He was picked up directly out of the water, but gave no explanation of this foolish act.

On another occasion he was to appear before a large audience at the Park Theatre. When the curtain was about to rise, it was discovered that he was not on the boards, and could be found nowhere. Messengers were sent in all directions, and at last he was found before a fire in a neighbouring street, working as hard as he could at the machine. When asked what he was doing at such a time, he replied, with a childish simplicity, "I am working to save the property of the poor."*

The last few years have been marked by a larger series of crimes apparently distinct from the causes to which they are generally attributed. Regarded as strange by the public, and declared mysterious and inexplicable by the magistrates, their authors have by some jurists been said to be lunatics, whom it was needful to cure on the scaffold. They forgot the words of the celebrated Blackstone: "The execution of a madman can only be a miserable spectacle, both against law, and of extreme inhumanity and cruelty, and can be no example to others."—(Hood, *Suggestions*, p. 13). How, indeed, can the term crime, in its true sense, be applied to the act of that nurse at Geneva, who poisoned the persons she attended, without any interested motive, or vengeance, and without sometimes even knowing them, and having been always on good terms with them? She merely replied to the questions put to her in court, that she was making experiments to cure patients who always died in the doctor's hands.—(*Gazette des Tribunaux*, 1868).

Ought not the student Jeanson, who for the most absurd motives set fire to the religious establishment, and murdered one of his companions of whom he was passionately fond, to be placed in the same class? This man was condemned to penal servitude, and when asked in prison by a visitor as to the motive of his crime, he replied, in the simplest way, as though he had been analysing the conduct of some one else, "It was the fire which made me lose my head; as soon as I saw the flame and the smoke, I was no longer master of myself. I ran to the bed of my companion and cut his throat. If the match had not ignited, and the paper had not caught light, nothing of the sort would have happened, and I should have finished my days as a respectable man, whilst I am now

* Kellog—*American Journal of Insanity*; April, 1868.

nothing but a convict. Why should I rebel against the misfortune which has overwhelmed me? I have done wrong, I ought to be punished *most certainly.*”

If we now consider the facts we have just brought forward, we shall find that there are a great many insane among the criminals in prison. Such a result is the consequence of their origin. Most of these victims of justice are, indeed, born of parents who are drunken, imbecile, idiotic, insane, vicious, criminal or poor, &c.—that is to say of persons transmitting in the most ordinary way to their offspring the moral and physical elements of several generations of degenerations.* A book, which we cannot consult too often on hereditary influences, that of Dr. Prosper Lucas, a truly Benedictine labour, contains the following passages on these two sorts of transmission :—

“ In Flanders, the Nassau family ; in England, that of the Stuarts ; in France, that of the Guise, Valois, Condé, show us the same hereditary type of family in their most eminent characteristics, as in their blackest vices.

“ All the family of the Guises, Voltaire remarks, was bold, factious, full of the most insolent pride, and the most bewitching politeness. From François de Guise, to him who alone and unexpectedly placed himself at the head of the Neapolitans, all were of an appearance, courage and character above the common run of men.† St. Simon, a master hand in historical portraits, has portrayed the character of the family of Condé with an energy and certainty which give life and soul to the men of the past, and place it alongside the ancient house of the Guises. In nearly all the princes of this name, whom he evokes, St. Simon shows us a natural and ardent intrepidity ; a remarkable appreciation of the military art, brilliant powers of intellect ; but by the side of these gifts caprices akin to madness, odious vices of heart and character, malignity, baseness, rage, covetousness, and sordid avarice, thirst for plunder, tyranny, and that sort of insolence which, as he says, has made tyrants more detested than has tyranny itself.”—Memoires de St. Simon, t. iii, p. 131—140).

In these families the bad tendencies must have been com-

* Morel—*Traité des dégénérescences physiques, intellectuelles, et morales de l'esprit humaine.* 1857.

† Prosper Lucas—*Traité philosophique et physiologique de l'heredité naturelle* t. i., p. 542 ; 1847—t. ii., 1850 ; Paris.

bated by religion, education, the memory of ancestors, and, despite these aids, they could not be overcome. How shall we compare the failings of the poor with those of the great? With the former there is no good example, but the continual presence of vice, the absence of every religious and moral notion, the misconduct of relations, &c. We also read in a report on the Colony of Mettray, by M. de Bretiquières, on juvenile criminals, that there were 32 illegitimate children, 51 whose parents were in prison, and 424 whose friends, without employment, lived in the most abject poverty. The heredity of vice and crime is, then, very common in the families of the lower classes, but without any preventive measures as well.

Among the numerous examples brought forward by M. Prosper Lucas, we shall only take the following:—"In the month of February, 1845, a certain Jean Goudraud appeared at the Assizes of Nièvre, accused of assassination. The accused had spent his youth in a cavern in the midst of a family living by brigandage, to the terror of the district. His father had been pursued many times; his eldest brother had previously undergone several convictions for ill-using his wife; another of his brothers was condemned to death for the crime of issuing false money; the youngest had also been sentenced to death for having killed his wife, after having first had her half eaten by a bulldog; his mother had been condemned to five years' solitary confinement for having been an accomplice in this horrible crime. The accused himself, also condemned to death for coining false money, had found means to escape, after the sentence had been commuted; he was so singularly formed, and so supple with his limbs, that he slipped by some means through the iron bars. When free he ended by strangling his mistress, whom he had always used very ill ever since they lived together, and wounded with a knife three persons who ran to the rescue of the victim. Since his arrest the accused gave himself out as illuminated, called himself a Messiah, only spoke in the name of his father, who was in the heavens, and pretended to have revelations. This feigned insanity, in spite of the profound skill of the new prophet, did not succeed with the jury. Jean Goudraud was condemned to death and executed!"*

The influence of hereditary tendency in crime, as proved by numerous observations mentioned in Mr. Lucas' treatise, is not the less apparent in alcoholism, insanity, and imbecility, instances of which present themselves at every step of the

* Prosper Lucas—op. cit. p. 504.

alienist's career, and it is, therefore, necessary to give every consideration to these causes when there is occasion to believe that they have exercised their influence on the acts of a criminal; indeed often, in such a case, we perceive the influence not only of one, but of several of these causes. But if experience has shown that their influence is really injurious, it is very needful to recollect that the nature of the crime has changed, and that the penalties of the law are no longer applicable, since, instead of a criminal, the jury and magistrates have only a patient before them.

Ignorance of these facts leads to deplorable consequences, for it involves the condemnation of men who have lost their free will. Since the medical man is called on to give his opinion on a crime committed under these circumstances, he must place beyond doubt the diseased condition of the accused, and guard himself against all exaggeration, either to save a guilty man or defend society. From the observations of the third paragraph, we may conclude that insanity and crime are often closely related, and that the influence of the first upon the second constitutes for the individual who has done anything wrong a new condition. As soon as medico-legal inquiry has clearly shown the existence of mental disease the tribunal has only to order the transfer of the accused to an asylum. His condemnation, under such circumstances, would be, according to Blackstone, a miserable spectacle, and an outrage on the law.

If our conviction be founded on well-observed facts, we must reply in the affirmative to the questions raised in its memorial by the committee of the English Medico-Psychological Association, and we may state our opinion in the following propositions:—

1st—It is impossible, in the present state of our knowledge of insanity, to rest the condemnation of a lunatic on his notions of good and evil, right and wrong, and the persistence of reasoning power.

2nd—Specialist physicians, appointed by the Courts, can alone show the existence of mental diseases in a criminal or civil affair.

3rd—The relations of crime and vice with insanity are placed beyond doubt by the study of mental diseases in the prisons and among convicts.