

his utter discomfiture on the delusion theory, had he known how to avail himself of it. "It is a pity for the sake of his science that this psychologist had not, instead of rejecting the moral perversion, and appealing to intellectual disorder,\* rejected the intellectual delusions, and rested the plea of madness on moral deficiency. Then, though the plea might, and no doubt would have been without avail in the court where Townley was tried, it would, perhaps, have rested on a substratum of truth, such as the legal tribunals of the world cannot take notice of: for who shall affirm that Townley's character did not feel in some measure the effect of the hereditary taint?—who can apportion the amount of his responsibility?† But this principle must ever prevail in science and in law, that, when moral insanity is suspected and pleaded, there cannot rightly be any ground for acquittal on that plea, if the criminal act, as a symptom, cannot be logically connected by a train of other symptoms—such as change of habits, feelings, and character—with disease as its cause."

2. *Remarks on the case M'Intosh v. Smith and Lowe*: by JOHN B. TUKE, M.D., Edin., Assistant Physician to the Royal Edinburgh Asylum, Morningside.

[We are compelled, by want of space, to omit the history as drawn up by Dr. Tuke of this groundless action for false imprisonment, raised by Mr. M'Intosh against our associates Drs. Smith and Lowe, the proprietors of Saughton Hall Asylum, near Edinburgh,

\* *Dr. Winslow's Theory of Townley's Insanity*.—"Having brought forward the different forms of partial insanity, and shown how impossible it is, with a just appreciation of scientific knowledge, to refer Townley's case to any one of them, the question naturally arises, What form of insanity, then, did Dr. Winslow attribute it to? That is just the question which it is impossible to answer. Townley's insanity, as described by that psychologist, was a medley, a scientific patchwork, ingeniously constructed, boldly devised, striking in appearance, but really a scientific incoherency—a mixture of incompatibles. 'General derangement and diseased intellect,' with the ability to pass off a true belief as a delusion, 'not a sane opinion on a moral point,' 'vitiation of moral sense,' 'inability to appreciate the absurdity of the idea' that by killing Miss Goodwin he would regain possession of her, and the coherent reasoning of a necessarian—these together constitute an extreme form of insanity of some kind, perhaps a new and at present obscure form of disease, which future ages will describe as 'intelligent imbecility.' How it was that Dr. Hitchman and the governor of the gaol could doubt the existence of insanity in one so very mad passes understanding. One does not know whether to wonder more at the obtuseness of these gentlemen, who could not detect madness where Dr. Winslow discovered it in such extreme degree, or at the marvellous perception of Dr. Winslow, who could discover such extremity of insanity where these gentlemen could detect none."—*Insanity and Crime: a Medico-legal Commentary, &c., &c.*

† "We would not overlook the fact that, in the future, insanity may possibly be developed in this man of low moral powers and alleged hereditary taint now subjected to all the horrors of remorse in the solitariness of penal servitude."

where Mr. M'Intosh had been placed under treatment for a well-marked attack of acute mania following indulgence in drink. We append Dr. Tuke's sensible comments on the case.]

It is doubtful if any of the actions at law, occurring within the last few years, in which the question of lunacy has been raised, or in which professional men who have made that subject their especial study have been concerned, are so thoroughly productive of matter for serious consideration and reflection to the faculty and the general public as that of *M'Intosh v. Smith and Lowe*. To the profession it must raise the gravest doubts as to how far a man is justified to himself and family in laying himself open to actions in the mere discharge of a duty necessary to the public safety without due protection from the public itself—actions which may, as in the present instance, entail expense and anxiety for a period of twelve years—as to what symptoms it will be safe to take as criteria of insanity if the most marked and pathognomonic are to be twisted into amiable and high-minded eccentricities; and as to how far the conscientious carrying out of the provisions of the Lunacy Act afford protection to the proprietors of lunatic asylums. True, the occurrences which gave rise to these actions took place before the passing of the present act, but the forms required then were almost identical with the regulations for certificates under the existing system.

When we take into consideration the peculiarly well marked symptoms of acute mania presented in this case, the wild excited conduct, the breaking and destruction of everything which came in the patient's road, the filthy language and obscene and revolting acts which, as the learned judge remarked, "are only exhibited when reason has given way," is it not a significant fact that three out of twelve unprejudiced jurymen refused to recognise this as a case requiring seclusion and restraint? Whether carried away by the masterly address of the counsel for the plaintiff, or fearful that the extravagance of the drunkard should at any future period be mistaken for the ravings of the maniac, certain it is that one fourth of the jury held out obstinately for the sanity of the prisoner—another lesson as to the danger of entrusting such questions to men unacquainted with the subject.

To the general public this suit ought to give rise to the most anxious deliberation as to what extent it is perilling its own safety and comfort by the permission of such a series of actions. If the public calls upon the medical profession to fulfil the painful duty of expressing opinion on the sanity of a fellow-citizen, without which opinion the regulations for the general safety cannot be carried out, it is surely but fair that the protection from the consequences of a verdict afforded to the magistracy, who have to arbitrate between the public and the same dangerous classes, should be likewise extended

to that profession which alone is able to judge of the necessity for interfering with the liberty of that unhappy class dangerous from insanity. Under the present system men of high standing in the profession will, and many now actually do, refuse to sign certificates of insanity—the Royal College of Physicians of Edinburgh have met and passed a series of resolutions on the subject; and if this state of things continues, one of two things must result—either that medical men will refrain from all action in cases of lunacy, or that this important duty will devolve upon those few members of the profession who descend to the level of advertising quacks, and whom necessity compels not to refuse a guinea.

If from the fear of frivolous but costly actions the medical man who possesses public confidence refuses to take the steps necessary for public good and safety, the public has but itself to blame if it loses the advantages and security derivable from the certification of those practitioners whose mere professional position and reputation ought to serve as a guarantee against any attempt to wrongfully infringe the liberty of the subject.

And if such be the tendency with regard to the certifier, how much more likely is it to have an influence on those men to whose care and protection the lunatic is consigned. Is it likely to attract to the study of psychological medicine men of high intellect and refinement, such as those who, for the last fifty years, have been struggling for the amelioration of the condition of the insane? Is it not more likely to produce (far be it from me to say it *will* do so) a class of men known in the vulgar slang of sensation novels as “Madhouse keepers?”