

ception of the horrible guilt there would be in murder, the power of knowing that you are doing that which will destroy life and your soul, and cause sorrow and terror and every kind of frightful consequence, the power of thinking about all this, that power which every sane man possesses. That is the law, as I understand it, which by guilt implies the power of discriminating between right and wrong ; that is the test of responsibility." In another case (*Reg. v. Burt*, "Norfolk Chronicle," 10th November, 1885, and "Dictionary of Psychological Medicine," *ut sup.*), Mr. Justice Stephen charged the jury: "That if a man were in a state of passionate rage, excited by disease, which violently interfered with his actions, so that he had not a fair capacity to weigh what he was doing or to know that his act was wrong, he was not responsible." It is impossible to doubt that utterances like these, although it is wrong that legal *dicta* should have to be read in a non-natural sense,\* proceeding from the greatest criminal lawyer in his generation, and one, too, who had no sympathy with the idea that crime is only an abnormal or diseased development of virtue, have done much to consolidate and accentuate the judicial departure from the rules in *Macnaghten's case* in recent years, and to diminish the hostility of the legal towards those members of the medical profession who insisted that such a departure was necessary.

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*Lord Hannen.*

What Sir James Stephen did for the law of lunacy on its criminal Lord Hannen did for it on its civil side. In *Waring v. Waring*, *Lord Brougham*, and in *Smith v. Tebbits*, Lord Penzance, had established as an external standard the principle that the least degree of mental disease was fatal to civil capacity. In the case of *Banks v. Goodfellow*, Chief Justice Cockburn shook the supremacy of this erroneous doctrine. But in *Boughton v. Knight* and *Durham v. Durham*, Lord Hannen destroyed it ; and the question of capacity became, as that of criminal responsibility is rapidly tending to become, a question of fact.

\* Has not the time arrived for endeavouring to induce the Law Lords to reconsider the subject ?