

In tort, as lawyers say, that is, in relation to civil wrongs, drunkenness is no excuse for a wrongdoer. In fact, if due to his own voluntary act, it only makes the case worse, as in crime. And as regards the plaintiff, if drunk, it may be imputed to him for contributory negligence, or give the alleged wrongdoer ground for justifying an assault or imprisonment with a view of preventing impending mischief to himself or to others. The only aspect in which the fact of being drunk may tell in a wrongdoer's favour is in regard to the question whether he did the act complained of with wrongful intent in cases where the intent is material.

As regards crimes, much the same line is taken by the law. Plowden says, in his Commentaries 19a, "If a person that is drunk kills another, this shall be felony, and he shall be hanged for it, and yet he did it through ignorance, for when he was drunk he had no understanding or memory; but inasmuch as that ignorance was occasioned by his own act and folly, and he might have avoided it, he shall not be privileged thereby." And Aristotle says that such a man deserves double punishment, because he was doubly offended, viz., "in being drunk to the evil example of others, and in committing the crime of homicide." Lord Coke, too (Co. Litt. 247a), says, "As for a drunkard, who is *voluntarius daemon*, he hath (as hath been said) no privilege thereby, but what hurt or ill soever he doth his drunkenness doth but aggravate it. *Omne crimen ebrietas et incendit et detegit.*" And, again, in 4 Rep. 125a: "Lastly, although he who is drunk is for the time *non compos mentis*, yet his drunkenness does not extenuate his act or offence, nor turn to his avail; but it is a great offence, and does not derogate from the act which he did during that time, and that as well in cases touching his life, his lands, his goods, as any other thing that concerns him." Lord Hale (1 Hale, P.C. 32) gives the following more extended explanation: "The third sort of *dementia* is that which is *dementia affectata*, namely, drunkenness. This vice doth deprive men of the use of reason, and puts many men into a perfect, but temporary phrenzy, and therefore, according to some civilians, such a person committing homicide shall not be punished simply for the crime of homicide, but shall suffer for his drunkenness, answerable to the nature of the crime occasioned thereby; so that yet the formal cause of his punishment is rather the drunkenness than the crime committed in it: but by the laws of England such a person shall have no privilege by this voluntary contracted madness, but shall have the same judgment as if he were in his right senses. But yet there seems to be two allays to be allowed in this case:—1. That if a person, by the unskilfulness of his physician, or by the contrivance of his enemies, eat or drink such a thing as causeth such a temporary or permanent phrenzy, as *aconitum* or *nux vomica*, this puts him into the same condition in reference to crimes as any other phrenzy, and equally excuseth him. 2. That although the *simplex* phrenzy occasioned immediately by drunkenness excuse not in criminals, yet if by one or more such practice an habitual or fixed phrenzy be caused, though this madness was contracted by the vice and will of the party, yet this habitual and fixed phrenzy thereby caused puts the man into the same condition in relation to crimes as if the same were contracted involuntarily at first."