

justly plead not guilty? A man changes his religious belief and plunges into neology or atheism; can that be a reason for judging him mad? If so, what legions of maniacs are at large! Every man and woman has had oddities and whims and fancies at one time or another, which if brought up in dire array before such would startle all of them. If every strange remark in jest or in earnest—every act of life in playfulness or in melo-drama were catalogued by friends and foes and pronounced to the world, the evidence would convince many juries that a murder, to end such a series, might bear a verdict to which might be appended a merciful recommendation, on the score of strange antics, peculiar views, and chronic blues. The *transitory mania* plea, so fashionable now-a-days, is a miserable quibble to cheat justice of its due. A culprit is sane up to the moment he perpetrates the deed. He acts from an irresistible impulse to do the fiendish act, which in his anterior sane moments he wished for, he planned, and he executed, as thus concocted. The moment the desired act is effected he comes to his usually right mind again. This formula could be applied to every atrocity under the sun, and all guilt could be reduced to sudden impulses of so called uncontrollable fury. Previous threats, plans, plots, avowed intentions, strategy, and waiting for an opportunity, seem to be left out of the consideration of such questions. A mind is supposed to suddenly lose its equilibrium. In this moment of mental aberration guilt ceases to exist, but in the swinging of the pendulum of thought, all is serene again. In the Topping case all the fractions of the unit reason, were in normal exercise except one usual motive to vicious deeds, viz. : malice. There is nothing to show that he hated any of the objects of his vengeance, and that alone takes it out of the category of "wilful" acts, yet he had a *plan* and *purpose*. He waited for the most opportune time and place—he selected the best instrument to accomplish his purpose. If the murder had been attempted in the day time, without premeditation or concealment, it is probable that several of his victims might have escaped. He takes an opportunity when they were unconscious of impending danger, and persistently perseveres in the fearful tragedy. He was conscious of what he was doing, and not like the madly insane whose instincts and will are merely

*automatic*, without regulation or self-control. He knew he was doing wrong, and the fact that he determined to kill only a certain number of his family and spare the rest, showed that his will to do or refrain was under his control. If his frenzy were under subjection so that he could spare some, there is not the least reason to doubt he could if he wished have saved all, by the moderate exercise of that volition which he showed himself possessed of. Had he attempted to kill all without distinction, a phase of unbalanced mind could have been presented, but the electing for death a part of his family showed no blind and unreasonable ferocity. It is true many crazy people present a species of low cunning, hence the phrase, "There is method in madness." This craftiness, however, is akin to that evidenced by animals in hunting for prey, or in self-preservation, and lacks the well-defined forethought, sagacity and prudential actions of subjects whose dementia, mania, or monomania does not put them beyond the pale of penal consequences. About 40 years ago a parallel case occurred in a neighbouring county. In the early morning a man of the name of Sovereign put to death, with different instruments, his wife and six children. Some were murdered in the house, and the rest in the lane and barnyard. He had no quarrel with any one of them; yet circumstances all led to show that he had premeditated the murder, and afterwards went to a neighbour's house, told of the butchery in all its details, and accused a stranger of being the actor. A child who had crept under the bed and escaped the blood-thirsty father, was a swift witness against him. He had all his lifetime been an odd acting man, but was shrewd in business—expert in any necessary calculation—kind to all; and seemed to be in full possession of all his faculties and affections. An evil hour came, he yielded when he should have resisted, and when he could have potently said: "get thee behind me Satan," his hearth was made desolate, and he became a wilful spiller of the blood of his nearest and dearest kith and kin. The insanity plea was set up, but Judge and Jury condemned him to the gallows without mercy.

It will be seen, therefore, that the affliction of insanity in its lowest forms includes moral guilt, and hence punishment commensurate with the crime. If not, society requires of law to lay down a well-defined line of demarcation, to whose