

to destroy his freedom of will does not displace his criminal responsibility. Now, alienists to-day wholly repudiate such a criterion, and say the proper enquiry is, "whether, in consequence of congenital defect or acquired disease, the power of self-control is absent altogether, or is so far wanting as to render the individual irresponsible. As has again and again been shown, the unconsciousness of right and wrong is one thing, and the powerlessness, through cerebral defect or disease, to do right, is another. To confound them in an asylum would have the effect of transferring a considerable number of the inmates thence to the treadmill or the gallows" (Bucknill & Tuke's Psychological Medicine, 4th ed., p. 269). A writer in 12 Criminal Law Magazine, at p. 4, says: "The rule in *McNaghten's Case* is attacked because it holds a partially insane person as responsible as if he were entirely sane, and it ignores the possibility of crime being committed under the duress of an insane delusion operating on a human mind, the integrity of which is destroyed or impaired by disease, except, perhaps, in cases where the imaginary state of facts, if real, would excuse or justify the act done under their influence." We venture to think that a purely artificial test established over fifty years ago should be revised in the light of modern scientific research.

* * * Of course we are aware that this medico-legal dogma, while having been adopted as law in some States of the American Union, has elsewhere been violently oppugned as tending to facilitate pseudo-defences to indictments for crime, and, consequently, to promote escape from legal punishment. But we think that with the exactness of diagnosis now possible to the phycopathist, the chances of successful deception on the part of the accused are extremely small; and again, no advocate of the scientific test of criminal responsibility suggests that any involuntary malefactor should be allowed to roam the community at large while there are insane asylums humanely open for his reception. Many 'mental irresponsibles' have been murdered by stare decisis in the past; let us assure ourselves, then, that we might properly take some risk on the side of greater humanity for the future.

* * * The initial volume of Dr. T. A. Walker's new "History of the Law of Nations" is not an unqualified success, if it is fairly treated by some of the critics. The most notable thing that one of the 'criticizing elves' finds in the book is a *not* attributed to