

Though to incur responsibility by a harmful act there must be an exercise of volition, that is, the actor must will the act, yet "it is not indeed necessary that the offender should have intended to commit the particular crime which he has committed; (perhaps not even that he should have intended to commit any crime at all). In all ordinary crimes the psychological element which is thus indispensable may be fairly accurately summed up as consisting simply in 'intending to do what you know to be criminal.'"

Dr. Mercier (Criminal Responsibility, p. 153) in discussing the conditions of responsibility says: "To incur responsibility by a harmful act, the actor must *will* the act; *intend* the harm; *desire* primarily his own gratification. Furthermore, the act must be *unprovoked*, and the actor must *know* and appreciate the circumstances in which the act is done."

What is the rule in regard to criminal acts committed by somnambulists, and by persons under hypnotic influence?

2. *Somnambulism*.—In regard to somnambulists there would not seem to be any real volition, and therefore no criminal responsibility. "Can any one doubt," said Sir J. Stephen, "that a man who, though he might be perfectly sane, committed what would otherwise be a crime in a state of somnambulism, would be entitled to be acquitted? And why is this? Simply because he would not know what he was doing. . . ." (*R. v. Tolson*, 23 Q.B.D. 168, p. 187.)

"It is quite possible that acts of a highly criminal character, *per se*, might be committed in this state of the agent, which is by some thought akin to epilepsy; the practical danger to be guarded against is the ease with which it may be feigned." An instance occurred in Paris within the last few years of a mother being nearly stabbed to death by her fifteen year old son, who is believed to have committed the deed in his sleep. The mother was awakened in the night by a terrible blow on her shoulder. On starting up she saw her son bending over her with a knife in his hand. She called for help, but the youth repeatedly stabbed her and then went quietly back to his room and went to bed. The