cribed would form the matter of a code of criminal procedure.

The first subject to be mentioned under this head is that of the conditions of criminal responsibility, or, as it may otherwise be called, matter of excuse. It consists of the exceptions to the general rule that every one is responsible for every crime which he may commit. The exceptions recognised by English law are age, to some extent insanity, to some extent compulsion, to some extent necessity, to some extent ignorance of fact as distinguished from ignorance of law. The effect of such a maxim as "Non est reus nisi mens sit rea" is given by including terms relating to the state of the offender's mind in the definitions of a large number, if not of most crimes. This is done by the use of such words as "wilfully," "knowingly," "fraudulently," "negligently," and, above all, "maliciously," which has much in common with the *dolus malus* of the Roman law.

There is a good deal of indistinctness in this branch of the English criminal law, the word "malice" in particular being made to bear a great variety of meanings. Thus, for instance, murder is defined as "unlawful killing with malice aforethought," and manslaughter as "unlawful killing without malice aforethought." "Malice aforethought" is here interpreted to mean any one of several states of mind, such as an intention to kill, an intention to do grievous bodily harm, an intention to resist a lawful apprehension, recklessness as to killing, etc. In order that the publication of a libel may be criminal it must be "malicious." This means that it must be done without certain specified circumstances which justify or excuse it. So, again, mischief to property is, as a rule, criminal if it is "wilful and malicious." These words seem to mean little more than "intentional and unlawful, and done without a claim of right." In popular language malice means ill-will to another, which it is discreditable to feel. Thus envy would be described as a form of malice, but no one would apply that term to honest indignation excited by a wicked action. In law the word is generally used in senses so unnatural that it would be well if it were altogether disused. It does not occur in the Criminal Code Bill of 1878, or in that of 1879.

The law as to insanity is somewhat vague, but this, I think, arises rather from the defective state of our knowledge as to the disease than from any other cause. The law as to compulsion is also in an unsatisfactory state, but the subject is one of singularly little practical importance.

Next come the definitions of crimes. The crimes known to the law of England, and, I suppose, to the laws of other countries, may be reduced to a very few leading classes, namely:—

(1.) Offences against public tranquillity.

(2.) The obstruction or corruption of public authority.

(3.) Offending against public morals.

(4.) Offences against the persons of individuals and rights annexed to their persons.

(5.) Offences against the property of individuals and rights connected with property.

The history of these branches of English law is shortly as follows. With regard to most of them, a few general names have been in common use from the most remote antiquity. These were applied to common cases of crime long before any precise definitions had been found to be needful, and the offences so named are called "offences at common law". Such words as treason, homicide, murder, rape, robbery, theft, are instances. The words were defined by different writers on legal subjects, and, as occasion required, by the decisions of courts of justice, which in England, from a very early time, were in many instances carefully recorded. Some of our reports go back as far as the thirteenth century. In some instances, also, the legislature defined expressions which were considered dangerously vague and wide. This, however, was done very seldom indeed; almost the only instance I can remember of an attempt by Parliament to define common law offences, is the famous Statute of Treason passed in 1352, and still in force. New offences, however, were from time to time, created by act of Parliament, and special forms of common law offences were subjected to special punishments. For instance, though Parliament has never defined theft, it has made special provisions for the punishment of different kinds of theft, such as theft of wills, of letters in the post office, of articles of the value of £5 in a dwelling-house, of thefts by clerks and servants of the property of their masters, and the like.

This part of the criminal law of England is thus composed of two elements, namely, common law definitions and various rules connected with them, and Parliamentary enactments which assume, though they do not state, the common law definitions and rules. Moreover, both the common law and the statute law have been illustrated and explained by a great number of judicial decisions which, as far as they go, are as binding as if they were laws. To understand these decisions properly, and to apply their principles to new combinations of facts, are amongst the most important of the duties which lawyers have to discharge. The decisions are exceedingly numerous, though I think they are less numerous on this branch of our law than on others. The statutes relating to crime are of all ages, and each particular statute has its own special history. Nearly all of them have been enacted at least three times over. The general history of this part of the subject is, in a few words, as follows. The first writer on the criminal law, whose works are in any sense of authority at the present day, was Bracton—a judge who lived in the latter part of the thirteenth century, in the reign of Henry