

attendants and fellow-prisoners never remarked any symptoms which could be interpreted into even a semblance of epilepsy: of course it did not matter, because the epilepsy might never have manifested itself, it might have been "*veiled*;" this brings us to another assumption.

5. According to Dr. Howard, if epileptic convulsions occur in childhood, the epileptic neurosis is always developed and "can never be improved;" it influences a man's character all through life, and renders him subject to commit acts under the influence of an *uncontrollable impulse*. It does not matter though no "fits" occur in adult years; the epilepsy is still there, it is only "*veiled*." Following out Dr. Howard's theory to its logical conclusion, if it can once be proved that a criminal has had "fits" in childhood, although no epileptic attacks have occurred subsequently in adult years, the epileptic neurosis must be assumed to be firmly and indelibly implanted in that man, and to influence his character and conduct all life long. If, moreover, he happens to be addicted to drink, so much the worse for his "*veiled epilepsy*," and so much the more liable will he be to *uncontrollable impulses*. Such a man may commit theft, highway robbery or murder with impunity; the more aggravated the crime, the more likely was it to have been prompted by his constant companion, his *fidus Achates*, his *veiled epilepsy*. Were the law to admit this extraordinary theory, and allow its practical application, criminals would soon become the scourges of society; they would commit the most heinous crimes with impunity, and evade punishment on the plea of "*veiled epilepsy*," which is, according to Dr. Howard, the offspring of drink and infantile convulsions.

6. We now come to the assumption, upon which Dr. Howard first based his theory of prisoner's insanity:

"No sane man would live in the constant breach of all social and natural laws, particularly in the breach of the first natural law of self-preservation."

In other words, open shameless crime, and the gratification of violent passions, reckless of consequences, are indicative of insanity. The danger of such a doctrine is self-evident.

We will next examine Dr. Howard's theories of the murder. He testifies:

1. That the deed was committed during an epileptic fit.

When asked by Mr. Davidson what grounds he had for this opinion, Dr. Howard replied (*vide Witness*):—

"The fact of the prisoner standing still for a minute after committing the deed was evidence that he was then in a state of epilepsy."

In other words, Dr. Howard affirms that the murder was the unpremeditated, unconscious, violent act of an epileptic maniac, committed during a paroxysm of epilepsy, for which he was not accountable. Dr. Howard accepts this view, for, in commenting upon Dr. Vallée's evidence, he says:

"Hayvern's act was momentary and violent, and there was no proof whatever of motive; on the contrary, the Crown proved that deceased and prisoner were good friends."

In order to uphold this theory, Dr. Howard must assume:

(1) *Absence of motive*, in spite of the strong evidence to the contrary. Prisoner said that he would never go to Kingston, and that he had stabbed Salter because Salter wanted to send him to Kingston, and that Salter would never call him insulting names again. He planned and executed a murder, which Judge Monk styled "one of the most skilfully performed tragedies on record." And yet Dr. Howard would have us believe that the deed was motiveless, and that the prisoner and his victim were at the time good friends.

(2) He must assume an *epileptic fit* just at the moment when prisoner happened to have a murderous weapon concealed upon his person, and his good friend Salter happened to be passing along the corridor. Just at that moment his epilepsy, hitherto "*veiled*," manifested itself, and in an epileptic paroxysm he rushed out, and without motive or premeditation stabbed his friend to the heart. Epileptic maniacs do not remember the acts they have committed during the fit, after its effects have passed away. But Hayvern knew immediately what he had done, and stated why he had done it; and when the warden told him that Salter was not badly hurt, Hayvern contradicted him, and said that he had stabbed Salter with a knife, and had done for Salter. In all reason, is this like the act of an *epileptic maniac* during a *paroxysm of epilepsy*?

2. When recalled by the Court, Dr. Howard advanced the theory that the deed was the result of an *uncontrollable impulse*; this is generally understood to be different from an *epileptic mani-*