

Rep. 386). The prisoner in a fit of drunkenness had kicked his wife to death, but knew nothing about it, and the jury, under the guidance of Clark, L.J., found it only culpable homicide. There is clearly, however, such a thing as a drunken intention, where malice exists, though the brain is besotted (*Reg v. Doherty*, 16 Cox C.C. 308), and this kind of intention makes the drunkard as guilty in the eye of the law as if he had been sober. This is much the more the common state. Delirium tremens is a disease, and recognized as such by law, but drunkenness is a voluntary species of madness. Is there much difference in point of moral responsibility between the drunkard and the Malay who maddens himself with bhang, and then runs *amok*, murdering all he meets? The law cannot afford to coquette with theories of physiological irresponsibility. And how can the blank of subsequent memory prove that intention and malice were not present when the act was done?—*Law Quarterly*.

---

VOLUNTARY CONFESSIONS.—“The general maxim that confessions ought to be voluntary is,” says Stephen, J., “the old rule that torture for the purpose of obtaining confession is (and has long been) illegal in England.” It is, in fact, a corollary from the generous principle of English criminal law, “*Nemo tenetur prodere se ipsum*.” This scrupulous fairness towards prisoners is characteristic of our law, and highly commendable; and quite consistently with it our law recognizes that there are such things as moral thumbscrews, that a man may be trapped or threatened or cajoled into criminating himself. When there is suspicion of such a thing, it leaves it to the discretion of the presiding judge to admit or exclude the alleged confession. This is not all, but from this root (that the confession must be voluntary) has grown up a highly artificial rule of evidence based, as so many of our rules of evidence unfortunately are, on a distrust of juries and their sagacity. “It would be dangerous,” it has been said, “to leave such evidence to them”; “it comes in too questionable a shape to be worthy of credit,” and so forth. The result is that what Earle, J., called “the best evidence when well proved” is too often excluded. A chairman mildly exhorts a defaulting secretary that “it will be the right thing to make a statement,” *Reg. v. Thompson* ('93, 2 Q.B. (C.C.R.) 12), and the court treats