

than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years. Attempts are frequently made to establish degrees of criminality. The severe punishment above specified is alleged to be condign when the mother is quick with child; and for the same offence at an antecedent period of pregnancy, no express measure of infliction has been specifically apportioned. But such a distinction, in the case of Feticide or Fœtus murder, is about as unpardonable as it would be to divide Homicide into shades of culpability according to the age of the person killed; awarding a less heavy punishment to the murderer of a boy than to the murderer of a man, because—and no better reason is given for the mitigation of sentence against abortionists before quickening—the boy was an immature man. Quickening does not shew an inception of life, but is merely a manifestation, and a late one, too, of life, late—because so long delayed as to have been forestalled by many other vital signs equally reliable. Quickening rather than being the exponent of life, is an evidence of viability, and therefore declares that the child has acquired such an amount of organic power as to have an aptitude for sustaining an extra-uterine existence or separate maintenance—and that previously this power had not sufficiently grown to produce the movements that give it character. This view is well attested by the correspondence that holds between the periods of viability and those of quickening commonly admitted. Ramsbotham, as an authority, says, quickening generally occurs “about the end of the fourth or commencement of the fifth month,” *i. e.* it now *first* supervenes; and early though this be for a personal survivorship, yet facts shew that there are instances of life-continuing children even then. There are three cases of children being born at the 5th month of utero-gestation who continued to live for some time. The first of these was seen by Dr. Montgomery of Dublin—it only lived a few minutes. The second by Mr. Smythe, and it lived for 12 hours: from peculiar circumstances it was clear that the mother of the infant was correct in respect to dates, and the case is received as authentic by Mr. Taylor, who records it in his *Manual of Medical Jurisprudence*. The third is that of Cardinal Richelieu, on account of whose early birth the Parliament of Paris decreed that the infant at 5 months possessed that capability of living to the ordinary period of human existence which the laws of France required for establishing its title to inheritance. Now, if we descend the scale of uterine longevity we arrive at the next period—between the 4th and 5th month—and even here two cases of viability appear. One, that of Fortunio Liceti, an Italian Physician, who was born between the 4th and 5th months of utero-gestation, and who attained the age of 80 years, and a case mentioned in Taylor (*Op. Cit.*) of a child born at the 4th month of pregnancy, and living.