

English law on the subject, as it appears on the Statute Books, recognizes no condition of irresponsibility in insanity. Men who have been recognized as hopelessly insane have been hanged for crimes by the same law which still adorns our Statutes. We can scarcely wonder at this, or regret it either, when we consider the alternative a hundred years ago. Then, the whip, and the rack, and the torture bed, the dark room, the chains, and all the other instruments of torment, which man's ingenuity could devise, were put into requisition in the so-called treatment of the unfortunate lunatic. Better by far a short shrift, and a broken neck, than a miserable existence eked out in such circumstances. Poor elemency that! But things have changed now, and the treatment of lunatics has a very different aspect. Therefore, if for this alone, it is worth while to rescue those whom the gods have stricken, from a punishment which they in reality do not deserve, and which may well be replaced by a merciful isolation. As time wore on, the horrid injustice of consigning the insane criminal to death, or other punishment, struck even the usually impassive administrator of the law; and judges were found here and there who actually charged the jury to acquit a prisoner if they found him of unsound mind. In 1843, in a celebrated case, an insane murderer was allowed to escape the death penalty on the plea of insanity, and the people made such a disturbance about it, that the House of Lords propounded a series of questions to the judges for authoritative answers as a guidance in such cases in the future. As far as the present purpose is concerned, the most important answers given was to questions two and three. "To establish a defence on the ground of insanity, it must be clearly proved that at the time of committing the act, the party accused was labouring under such a defect of reason from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know he was doing what was wrong." Here the whole question of responsibility rests on the intellectual capacity of the criminal, *i.e.*, his knowledge. This finding of the judge has never been placed on our Statute Book as law; but it has been regarded as a law from that time to this. We can recognize what an advance was made here; and how many really innocent lunatics must have

received the benefit of this amendment. But we hold that to-day, a much further advance is necessary. The law, or rather what stands for the law, provides a loop-hole of escape for a few; but who among us, in the habit of seeing and dealing with lunatics, fails to recognize that the intellect is often the least affected function. The most hopelessly insane is often exceptionally intellectual. I have myself, when visiting a strange assylum, mistaken an inmate for an official; and have known lunatics who could solve the abstrusest mathematical problem, and put to the blush nine-tenths of the scholarly among his visitors. Such a man is taken charge of by the state because, perhaps, he has shown some craze, which would lead him to squander his own fortune, and leave his family in poverty. He is not considered capable of managing his paternal acres; but, if the question is one of human life, he, by the above test is held, and must be held eminently responsible. Moreover, it is not the purely intellectually unstable who are the most likely to come within the clutches of criminal law. It is true, that so interdependent are the various cerebral functions, one upon the other, that in many cases, where one is involved, another is affected also; but we scarcely can recognize the jurist's pathology who makes insanity first emotional, and later intellectual; and later still, perhaps, volitional as well. In many of those very cases, where the hardships of the present law tests press most, the accused are purely emotionally insane, with a consequent loss of volition, or control over their actions; and with no appreciable intellectual defect at all. Such men are really dangerous to society; though perhaps, only at intervals; and the occurrence of these very interludes of apparent sanity is what becomes most dangerous to themselves, should they ever have occasion to stand the test for criminal responsibility.

This question of insane criminal responsibility, is not by any means a remote one. It is one in which every one of us is directly interested. Probably no man is perfectly sane at all times; and, though the diagnosis of mental unsoundness may never be made in our case, yet again it may. Sir James Stephens, one of our most eminent English judges, has recognized the narrowness and utter illogicality of the present state of matters; and has nobly striven to improve them, so far without