

boy, when taxed with the crime, denied that he had done it, or knew anything about it.

3. *Hypnotism*.—Continental tribunals are, it is said, already familiar with the plea that a crime was committed under the influence of post-hypnotic "suggestion," exercised by some designing person, who had induced hypnotic sleep in the offender.

The subject has been much discussed among English, American and continental jurists, but no well-authenticated case seems to have yet come before the courts either in England or the United States; some reports to the contrary have since been explained away. It is not certain as yet that "the average individual in a hypnotic state could be made to commit crimes."

It has been stated that while for a time the will and other faculties are in abeyance, they are not wholly extinguished, and if the act commanded is very repugnant to the hypnotized subject, he will not go beyond certain limits in its execution.

Medical authorities seem to agree that it is very difficult (though perhaps not impossible) to implant criminal suggestions in innocent-minded persons.

(See *Crim. Law. Mag.* XVIII. 1; *Medico-Legal Journal* XIII., 51, 239; *Juridical Review* III., 51; see *Med. Leg. Journal* XIV., 150, for the remarkable case of Czynski; *Eng. Encyc.* (2nd ed.) VI., 687.)

Cyc. states the law on the subject as follows: "Proof that the accused committed the offence charged when under the influence of hypnotism, so that he did not know what he was doing or was compelled to commit the offence would no doubt be a defence." (XII. 176.)¹

II. MALICE, CRIMINAL INTENTION, MENS REA.

"It is a principle of natural justice and of our law," says Lord Kenyon, "that the intent and the act must both concur to

¹An interesting discussion and a closer analysis of *volition* is to be found in Professor E. C. Clark's *Analysis of Criminal Liability*, pp. 24-27, where the views of Austin and Stephen are discussed. See also Mercier's *Criminal Responsibility* (p. 29, etc.) for a consideration of Stephen's views, as to which reference may be made to Stephen's *General View* (1890), p. 68, etc. Stephen's *History of the Criminal Law*, II., p. 94, etc.