## JURISPRUDENCE.

### INSANITY AND CRIME.

From the Lancet.

The relations between Law and Medicine, when questions of criminal responsibility require to be solved, are the reverse of satisfactory. Law appeals to precedent, Medicine to science. Law asserts that for the safety of society crime should be punished as crime in all cases where actual mania on the part of its perpetrator cannot be demonstrated. Medicine contends that there are degrees of insanity—stopping short indeed of actual mania, but nevertheless sufficiently marked to relegate its victim to the category of the insane and irresponsible. Law maintains that the ability to distinguish between right and wrong suffices to make a man amenable to jurisdiction. Medicine, on the other hand, insists that there are types of insanity in which the ability to distinguish between right and wrong does not avail to protect its victim against maniacal impulse; that there is, in short, a moral insanity which impels to crime in spite of the clearest knowledge of its consequences. The dipsomaniac, for example, while able to reason justly as to the suicidal course he is pursuing, is yet incapable of controlling himself when drink is within reach—brandy or death being the alternative, he will deliberately elect the former. And so on through the whole category of criminal acts, from stealing to murder, from kleptomania to homicidal impulse.

The collision between Law and Medicine in such cases has of late years been violent enough to set the two professions in public antagonism; and it must be admitted that counsel have betrayed a degree of jealousy and irritation when medical witnesses are called in to certify insanity which is neither fair nor dignified. Attempts have repeatedly been made to reconcile the two interests, but hitherto with small success. The rival camps have held sullenly aloof, and have received all mediary overtures with suspicion and coldness.

Professor Gairdner, of Glasgow, has recently delivered a course of lectures on the subject which is, in some respects, the most important contribution to its adjustment yet rendered. He is much less absolute than Drs. Russell Reynolds or Maudsley in advocating the medical claim. He insists that accurate definitions of insanity are impossible. The conditions of the malady are not differentiated from health or from each other so as to be susceptible of classification like the objects of natural history. The law, he maintains, is justified in declining to entertain metaphysical definitions of insanity and in coming directly to some practical point; as, for instance, "Is the person fit to be at large?" "Is he, or was he, capable of contracting a marriage, or of making a will?" These, indeed, the law to some extent regards as separate questions; so that it will often grant a power to interfere with a man's disposal of his property when it would leave his person free, or it may hold the validity of a will although the testator may have been properly confined in an asylum when he executed it. Dr. Gairdner supports English law in thinking that power to enter into a contract proves nothing whatever as to the presence or absence of that form of insanity which may render a man irresponsible for a crime. This principle should, indeed, be extended; and not only the kind of insanity, but the degree and quality of mental derangement, should be carefully considered in each case, as affecting both the existence and degree of responsibility for a crime. There is no broad line of demarcation between the wholly sane and the wholly irresponsible, as even the law admits when it takes into account the occurrence of lucid intervals.

The law, however, is too unbending; and instances are frequent in which juries, contrary to the ruling of the judge, acquit persons obviously criminals, from a lurking impression that a more lenient punishment than the law allows is sufficient for an apparently motiveless crime; while other juries have followed the ruling of the judge, and have returned a verdict against the prisoner, leaving it to the Home Secretary to modify the sentence. Public opinion will continue to be quite incoherent on the subject till it is generally admitted that it is not only expedient but just to consider even unsound minds as amenable to the law "up to the degree of their actual or ascertainable moral responsibility." Evidence should in all cases be led as to the real nature of the criminal act till the jury are satisfied as to the verdict "Not guilty by reason of insanity," or "Guilty, but of unsound mind"—the latter carrying with it a mitigation at least, in all cases, of the extreme penalty of the law. "Let," says Professor Gairdner, "a subsequent decision be come to by the judge as to the modified punishment proper to the degree of guilt, and, if necessary, let the decision be open to further appeal, if, after a period of confinement in expiation of sentence, further evidence brings into question the justice of any part of the punishment." The real and most important services of science to criminal administration are only to be secured in this way. At present they are only a delusion and a snare, from the evidence being taken and the decision made upon an essentially wrong issue—upon an extreme and unscientific view, that is to say, of the nature and consequences of mental derangement.

### DANGERS OF WELL WATER.

The dangers of bad milk are engrossing so much attention just now that there is reason to fear lest the far greater dangers of bad water should, for the time, be overlooked. We trust this serious error will not be committed. For one sample of dangerous milk a thousand of dangerous water could be obtained in almost any part of the country. Let it never be forgotten that very few rivers or wells are safe sources of water supply, and that many are as unsafe as loaded fire-arms. The shallow wells of villages are among the worst pests of the country, and it is high time that a zealous and well-organised crusade should be brought to bear upon them. It is sickening in most country places to observe the uniformity with which cesspool and well are made to stand side by side, as though each was necessary to the other; and to think of the twenty feet or so of foul, sewage-reeking soil through which the water percolates to its fetid bed. It is always possible to provide a city or town with good water, but in a village, where houses are few, money scarce, and intelligence scarcer, it is often a matter of exceeding difficulty.

### MILK-SUPPLY AND TYPHOID.

Concurrent testimony as to the connexion of milk-supply and typhoid fever is particularly interesting at the present juncture, and the evidence of Dr. Thomas Britton, of Driffield, as to the outbreak of typhoid in Brighouse, near Leeds, up to the 26th Aug., has a special value. Since the commencement of the outbreak, the total number of typhoid cases has been 68. Since the sale of milk was stopped, the number of new cases on August 17th was 6; while the deaths also at that date were 8. There have been no fresh cases since the 21st August. Out of the 68 cases of typhoid, it is important to find that 65 procured their milk from the suspected source.

### THE INVENTOR OF ANÆSTHESIA.

The question as to whom belongs the honour of having invented anæsthesia seems destined never to be settled, and the *New York Evening Post* of June 30th devotes no inconsiderable part of its space to the re-ventilation of this vexed question. There appear to be two contending parties, Mortonites and Wellsites, neither of whom seem capable of taking a perfectly just view of the matter. In 1844, Dr. Horace Wells, of Hartford, had one of his own teeth extracted during anæsthetisation produced by nitrous oxide, and, subsequently, he repeated the experiment on some of his patients, but he did not succeed in establishing the use of nitrous oxide, an honour which belongs mainly to Dr. Evans, of Paris. Wells was not the discoverer of the anæsthetic properties of nitrous oxide, for it is well known that our illustrious countryman, Sir Humphry Davy, had made known that fact nearly half a century previously. Morton, of Boston, succeeded in establishing the use of ether as an anæsthetic, his first operation during its employment having been performed in September, 1846; but Morton was not the first discoverer of the anæsthetic properties of ether vapour, an honour which belongs to the writer—possibly Faraday—of an anonymous article in the *Quarterly Journal of Science and Arts* for 1818. None of these persons can possibly lay claim to be the inventors of anæsthesia, for anæsthesia (in a very rude form, certainly) appears to be of a much older date. Dioscorides (A.D. 50) recommends that decoction of mandragora should be given to those who are to be cut or cauterised, "when, being thrown into a deep sleep, they do not feel any pain." Then again, Theodoric, a writer of the 13th century, recommends that a "spongia somnifera" impregnated with spirituous extracts of various narcotic substances, should be held to the nostrils till sleep was induced. Coming to later years, it is said that Dr. Collyer, of Louisiana, five years before Wells's experiment, performed successfully some operations with patients under the influence of alcohol in which poppy-seed and coriander had been steeped. The real facts of