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Dr Christman

Mr. Samuel Hearsh

Supports the legal view  
Opposes Pinel, Esquival & Britchard  
No boundary drawn.

On Moral

Insanity.

By Samuel I. Heard

The subject of Moral insanity is one of great interest as well from the difficulty in which its consideration is involved to the conflicting opinions entertained with regard to it by men of scientific eminence; as from its important practical bearing upon the interests of the entire community, & of its individual members.

This is no mere question of theoretical interest. to be reserved for the discussion of speculative philosophers; but one which may affect the lives & happiness of thousands, & a due acquaintance with which is no less indispensable to the mind of every rational & thinking man as it is imperative upon every student of Medical Jurisprudence.

It is however to its relations with the latter science, that we would especially invite attention.

and the following pages will be chiefly devoted to the consideration, of the responsibility for their actions, & consequent liability to punishment, of persons laboring under this form of so called Insanity.

Pinel has defined Moral insanity as "Importunement maniaque sans délire" and this definition has been pretty closely followed by subsequent writers.

"It is" says Baichant "a malady consisting in a morbid perversion of the natural feelings, affections, inclinations, temper, habits, moral dispositions & natural impulses, without any remarkable disorder or defect of the intellect, or memory or reasoning faculties, & particularly without any insane illusion or hallucination."

Such would also appear to be the opinion of Mr Taylor. for although he says that "it is very doubtful if Moral Insanity ever exists in any individual, without greater or less disturbance of the intellectual faculties" yet in page 798 he advocates a different doctrine. He says "The law appears to look for a consciousness

of right & wrong & a knowledge of the consequences  
of the act." This legal test "is insufficient for the  
purpose intended it cannot in the large ma-  
jority of instances enable us to distinguish the  
insane homicide from the sane criminal . . . . .  
& full consciousness of the illegality or wrongfulness  
of the act may exist in a mens minus and  
yet the may be fairly acquitted on the grounds of  
Insanity. . . . . The true test for irresponsibility in these  
cases appears to be whether the individual had or  
had not, a sufficient power of control to govern  
his actions. If from circumstances it can be  
inferred that he had this power he should be  
made responsible & indeed liable to punishment.

If however he was led to the perpetration of the  
act by an uncontrollable impulse, whether  
accompanied by deliberation or not. Then  
he is entitled to an acquittal as an ir-  
responsible agent." — Admitting for a  
moment these definitions to be correct, let us  
pause to consider, the awful responsibility  
which devolves upon all parties engaged in the.

judicial investigation of such a question.

How deliberate & thorough must be the consideration of every particle of evidence adduced, however minute however trifling: how difficult how hopeless the attempt to probe into the dim & turbid region of the Prisoners mind, to ascertain its true condition at a given moment; to weigh the probable or possible motives which may have actuated him, & to ~~balance~~<sup>digest</sup> each particle of evidence tending to show his strength of will. "his controlling power" —

a strength which can be measured by no possible standard; yet the attempt must be made, the decision must be pronounced. — though the life & character of a human being be at stake, 12 men (however illiterate, however incapable of appreciating the nice distinctions of so delicate an investigation), are expected to distinguish between madness & crime between irresponsible insanity & responsible eccentricity.

But does the mental

disease thus is nicely defined really exist any-  
where except in the imaginations of its  
supporters? If it does how many victims of  
conscience mistakes irresponsible & therefore  
innocent victims have been heaped upon the  
altars of mistaken justice; for the law repudiates  
the doctrine. "The Law" says Mr Baron Alderson  
in changing the jury in the case of Pate tried  
at the old Bailey on the 12<sup>th</sup> July 1850 for the  
offence of striking her daughter the Queen. "The Law  
does not recognise such an impulse, if a  
person was aware that it was a wrong act he was  
about to commit, he was answerable for the  
consequences. A man might say that he picked a  
pocket from some uncontrollable impulse, and the  
law would have an uncontrollable impulse to punish  
him for it." If we admit for a moment  
such a doctrine we may justify the commission  
of any crime however dreadful. The only fact  
of a crime having been committed tending to  
prove that the impulse was irresistible.

Barth. Mawhittes murdered his victims

from an impulse of uncontrollable passion  
The very enormity of his crime showing how  
strong must have been the dynamic influence  
of the feelings herein.

Macbeth though perfectly aware of the  
atrocities of the crime which he is about to commit  
yet suffering doubtless from "a morbid  
perversion of the natural feelings, inclinations, moral  
dispositions, & natural impulses; without any  
remarkable disorder of the intellect or knowing  
& reasoning faculties" still instigated by a  
sudden & uncontrollable impulse of ambition  
conceives & executes a deadly & treacherous murder  
perfectly foreign to his original character &  
noble nature. yet to make his case stronger  
he has a powerful optical illusion & sees the  
instrument of his crime already stained with  
the blood of his sleeping victim.

What more powerful picture can we have  
of the struggle between moral principle & an  
apparently irresistible attraction to evil  
than this celebrated soliloquy.

— — — "Geo Stone in Double Trust:  
First as I am his kinsman and his subject  
Strong both against the deed; then as his host  
Who should against the murderer shut the door  
Not hear the knave himself; Besides the Durian  
Hath born his faculties so much, hath been  
So clean in his great office, that his virtues  
Will plead like angels, trumpet-tongued, against  
The deep damnation of his taking off.  
And pity like a new born babe,

Striding the blast on Heaven's cherubim, borne  
Upon the sightless currents of the air,  
Shall blow the horrid deed in every eye  
That turns shall show the wound. —

Yet we greatly fear that neither Daniel,  
Drichard, Esquith, or even Mr Taylor  
himself; would acquit Macbeth of the  
treacherous murder of his guest & sovereign  
upon the grounds of Mental Insanity

But it may be said  
in these & similar cases there was a

latent & unmistakable motive which actuates the criminal & proves that they were some responsible agents. But says Prof Taylor "It is argued that some men commit a crime without an apparent motive, and that an insane person may have a motive, or one of a delusory nature only in the perpetration of a criminal act. If this position were true, it would be very easy to distinguish a sane from an insane criminal. but the rule wholly fails in practice. In the first place the non discovery of a motive is ~~evidence~~ here taken as a proof of the nonexistence of a motive. while it is undoubted that motives may exist for many criminal acts, without our being able to discover them. --- It is not always in the power of a man untaught with crime to detect & unravel the motives which influence criminals in the perpetration of murder. ---"

On the other hand Lunatics confined in  
a Lunatic asylum have been known  
to be influenced by motives in the perpetration  
of crimes.

Let us take as an illustration the  
remarkable case of O'Connell in July  
1840 for having discharged a pistol at  
the Queen & who was acquitted upon the  
grounds of Insanity. In this case no  
assignable motive could be discovered for  
the perpetration of the criminal act.

The prisoner after discharging the pistols  
made no attempt to escape. He even  
smiled at those who arrested him.

"I did it - I gave myself up - I will  
go quietly." He had been  
practising firing at a target for some  
days previously & on purchasing the  
pistols had particularly enquired  
how far they would carry?  
At his lodgings were found some papers

appearing to be the rules of a treasonable society, which on enquiring appeared to them had no existence.

The case (so far as the sanity of the criminal attempt was concerned) was perfectly satisfactory - But the defence of insanity was set up. It was argued, that he could have had no notion for killing the Queen - That the treasonable society was the mere concoction of a lunatic's brain. His counsel endeavored to prove that the prisoner's grandfather and father were both insane: but the proof so far as the grandfather was concerned broke down - for it appeared on evidence that this eccentricities were only exhibited when he was under the influence of liquor.

His father appears to have been at least, a man of very violent & uncontrollable temper. - at least if we are to credit the evidence of the prisoner's mother

who it is very possible my name to highly  
coloured her evidence from the very natural  
motion of shielding her sex from punishment.

She said that he forced her to  
marry him by threats of self destruction if  
she should refuse, that on one occasion  
upon her refusal, he brought a large roll  
of notes in his presence he used to  
terrify her during her pregnancy by  
hideous grimaces & apish twitches in  
consequence of which her second child  
at the age of 3 years died an idiot.

While pregnant with the prisoner  
he presented a gun at her & otherwise  
terrified & tormented her. The prisoner  
and always been excessively vain &  
boastful, he wanted to go to sea where he  
was to become Admiral Sir Edward Boscawen  
&c. He was always mischievous &  
eccentric & subject to fits of involuntary  
laughing & crying. But while at  
school and in 3 different situations he had

never been treated as evidence

The evidence of a nursing maid to whom he had written an absurd letter concludes in one sentence the whole of his evidence "I consider him" said she "in a sound state of mind but very eccentric"

But now we come to the medical evidence, and in this case we seem to remark the absence of what too often is observed in a Court of justice and which (whether deservedly or not) is the source of such approbrium to the profession. we mean conflicting medical evidence. These wise men had arrived at a state of the most entire & gratifying unanimity. each seemingly only endeavored to make his assertions more positive & more dogmatical than those of his predecessors. The first Doctor was questioned by the Court as follows

"Supposing a person in the middle of the day without any suggested motive to fire a loaded pistol

disturb at her Majesty, passing along the road  
in a carriage, to remain on the spot; to  
declare he was the person who did it; to  
take pains to have it known and afterwards  
to enter freely into discussion, and answer  
any questions put to him on the subject.

would you from these facts alone, judge  
a person to be insane?"

Answer. - "I would."

The Court - "Without making any other inquiry?"

Answer - "Yes! ..... If as a physician, I was  
employed to ascertain whether a person in whom  
I found these facts were sane or insane,  
I should undoubtedly give my opinion  
that he was insane."

The Court. - "As a Physician you think any crime  
having committed to be committed  
by a madman?"

Answer - "Nothing of the sort: but a crime  
committed under all the circumstances  
of the hypothesis!"

The second Doctor & a question from the Counsel answered that the form of insanity under which the prisoner laboured was called "Lesion of the will - insanity connected with the development of the will. It means more than a loss of control over the conduct - morbid propensity, ethical inequity, as the result of that disease. Committing a crime without any apparent motive is an indication of insanity."

The third Doctor stated that the prisoner displayed "a singular insensibility as regards the affections - apparent incapacity to comprehend moral obligations - insensibility to the heinousness of his offense - appears unable to conceive anything of future responsibility"

The 4<sup>th</sup> Doctor stated the prisoner to be suffering from "Moral insanity"

All five ~~doctors~~ <sup>doctors</sup> unhesitatingly agreed that the prisoner was insane.

Whether the opinion of the Physicians were correct or not it will be at once perceived that the hypothesis proposed to them seems wholly inapplicable to the facts of the prisoners cases. In the first place it was impossible for him to have escaped being discovered by the Queens attendants. It would have been absurd of him to have denied what so many persons have witnessed & his conduct in these particular strikes us as a much greater proof of sanity than of insanity.

The whole evidence for the defence would therefore seem to rest, upon the absence of all criminal motive, (which we shall presently dispose of)

The slight previous eccentricities of the prisoners conduct. and his apparent inability to control his criminal impulses, & his consequent exemption from that criminal responsibility (which (as the

Counsel for the ~~former~~ prosecution remarked  
"Secures the very existence of society."

"If" said Sir Thomas Alder

"eccentric acts were proof of insanity  
may persons who are wounding mockers  
off doors, knocking down watchmen, and  
committing similar freaks, are keeping up  
a large stock of causes for the commis-  
sion of crimes."

And, does it not seem  
evident, that if the prisoner had committed  
some petty crime, if had shot himself  
instead of the Queen, the jury would  
have hesitated long before saying in any  
verdict of insanity.

Would not his friends have been left  
likely to have volunteered those remarks  
to numerous proofs of his eccentricity  
if they had had anything to gain (from  
his will for instance) by establishing  
the contrary, may under those  
circumstances, would not overwhelming

Proofs of his sanity have been forthcoming

But now comes the question

What possible motive could the prisoner (if sane) have had for the commission of so heinous an offence?

This question will be easily resolved if we consider the extreme sanity of the prisoner, character. He had always exhibited a great desire to be talked of, a weakness much too common to allow us to lay any stress upon it as an evidence of mental derangement. Mr Townsend, the talented author of "Modern State Trials" thus narrates the particulars of a visit which he paid to the asylum where Cripps was confined. "He (Cripps) is fond of attracting the notice of any body, & conversed about himself & his offence in the most calm & natural manner conceivable. . . . He has lost much of his hair, a circumstance which he appeared somewhat to regret. —

He is mortally tired of his confinement, & says  
he has been terribly punished for his foolish  
act. — "Foolish" (we exclaim), "is that all  
you have to say of your attempt to shoot  
Her Majesty?" — He smiled and said

"Oh no I never attempted to shoot her  
I never thought of such a thing — I aimed  
at the carriage panels only — There were  
no bullets I assure you."

"What made you do it"? — "Oh I was a  
fool, it was just to get myself tutted  
of, & pick up a crust."

"Should you have done it, if you  
thought of coming here"?

"No indeed I should not, it has been  
a severe punishment." — "It was only  
the balls of a bag, I wasn't 19 then —  
It was my idea, no doubt. It was  
a good horsewhipping I wanted."

"About the list of conspirators"?

"Entirely nonsense, it was a very  
absurd joke." He exhibits considerable

cleanness & what he does he does well  
& shows considerable tact & energy  
in setting his companions to work &  
in superintending them."

Can any doubt  
after a careful perusal of this case  
that like the man who burned the  
Temple of Diana at Ephesus, in order  
that his ~~name~~ name might descend  
to posterity, this foolish & unhappy  
young man was only actuated by  
the same morbid passion for notoriety  
which clearly may be ~~traced~~ traced  
clearly (for precisely similar motives)  
to affect an elaborate necktie  
or a discordant waistcoat.

Now let us turn to a case of  
Pinel's exhibiting another type of this  
same affection. "An only son  
of a wealthy indulgent mother  
gives himself up to the indulgence

of only caprice & passion of which an  
untamed & violent temper was susceptible.

The impetuosity of his disposition increased  
with his years. The money with which  
he was lavishly supplied, removed every  
obstacle to the indulgence of his wild desires  
Every instance of opposition or resistance  
aroused him to acts of fury. He acquitted  
himself with the audacity of a savage  
sought to reign by force & was perpetually  
involved in disputes & quarrels.

If a dog a horse or any other animal  
offended him, he instantly put it to  
death."

"His wayward youth however  
when unmoved by passion proposed  
a perfectly sound judgement.

When he became of age he  
succeeded to the possession of a large  
domain. He proved himself fully  
competent to the management of his  
estate as well as to the discharge of

its relative duties. And he was distinguished  
himself by acts of beneficence & compassion.

But an act of notoriety put  
an end to his career of violence.

Embraced with a woman who had used  
offensive language to him he threw her  
into a well. Prosecution was commenced  
against him & on the deposition of a  
great many witnesses he was condemned  
to perpetual imprisonment in the Bicêtre.

We are utterly at a

loss to conceive upon what grounds  
such a judgment could have been supported.

We learn that a young man in consequence  
of the mistaken kindness of a wealthy  
mother is permitted to give himself up  
to the gratification of his every caprice  
& passion. Can we wonder ~~that~~ when  
the man surrenders himself knowingly  
to the uncontrolled sway of his evil  
passions that those passions should become  
masters but is he therefore excusable?

We know that every evil habit (especially the habit of anger) requires strength of the conscience.

But because a man knowingly does what is wrong, we are therefore to conclude that he is incapable of doing what is right.

We are told that he capitulates to the management of intellect. — In fact he was only a wicked man. — and consequently insane.

Admit such a theory for a moment & you confuse our very idea of right & wrong.

It is a doctrine fraught with dreadful danger to Society and a paradox which should never be tolerated in a court of justice.

Doubtless it may be argued that a man may become, by the constant indulgence of any vice, at last incapable of controlling it.

No great criminal has made his first plunge into vice by committing his crowning crime.

None repents turpitudes but is an

old and a true adage. In fact  
the gradual & steady slide deeper &  
deeper into acts of sin & wickedness is a  
great distinction between the maniac  
and the criminal. In this respect  
these 2 cases afford an instructive  
contrast as typifying two very different  
& we think equally unusual phases,  
of this so called Moral Insanity.

Most of the examples  
given by Daniel are similar to that  
which we have just quoted. in  
which the principal manifestations  
of Insanity were fits of anger  
and fury. our Esquimaux & Pritchard  
are forced to confess that they are  
unhappily chosen, & make an  
unfavourable impression upon  
their minds leading them for some  
time to doubt the existence of  
Moral Insanity. Though as the case  
which I have just quoted is adduced  
by Pritchard as an example to proof of

of the disease he would seem to consider it an exceptional instance.

On a careful perusal of Prichard's cases on the contrary they would appear to us to be all more or less complicated with mania. Indeed he includes the examples of both in the same chapter. Heading it "Examples of Monomania & Moral Insanity".

In Chapter II also (where Phlegm) of the first appearance of the malady, occur some remarks worthy of notice "His temper" (the patient) & dispositions are found to have undergone a change. To be not what they were previously to a certain time. He has become an altered man and the difference has been perhaps noted; from the time when he sustained some reverse of fortune which deeply affected him or the loss of some beloved relation."

show we submit that there are  
few sane persons whose "temper &  
dispositions" would not undergo  
a change when subjected to similar  
trials. If a man were so insensible  
as to be unaffected by them we would  
be rather led to doubt his moral sanity  
than to imagine that he was of sound mind.

Again he says. "in some cases the  
alteration in temper & habits has been  
gradual, & imperceptible & it  
seems only to have consisted in an  
exaltation or increase of peculiarities  
which have been always more or less  
natural & hereditary." Will not  
his latter statement apply to the  
mental condition of almost every  
criminal, as to that of the morally  
insane. Criminal impulses  
& evil propensities do not spring up  
in full vigour in an instant  
but gradually & steadily achieve

then creep over the mind, till our  
good principle disappears after another;  
till the conscience becomes hardened  
and the feelings blunted & he who  
has made his first essay in vice  
by the commission of some petty theft  
ends by expiating, a capital offence upon  
the scaffold.

Admitting the dangerous theory  
of an uncontrollable impulse, in a  
person of otherwise sound mind,  
as Baron Rolfe justly remarks "it  
will tend to the perfect justification of  
every crime which may be committed"

We know that the strength of will  
of no two given individuals is equal  
the propensities of almost every individ-  
ual differ in intensity, & when can  
we draw the line of demarcation  
which separates the insane from the  
guilty? We admit if we admit  
it relax every bond of self restraint  
and in fact afford a premium on

the indulgence of un governable passions  
and place the innocent & virtuous, at  
the mercy of the most base & selfish  
instincts of our fallen nature.

In short we would not endorse  
the Calvinite doctrine that man is  
an irresponsible agent. Weighed  
by impulses over which he has no  
control & the sport of circumstances  
which he is powerless to direct or  
modify.