AN ADDRESS

ON

THE PRESENT RELATION OF INSANITY TO THE
CRIMINAL LAW OF ENGLAND.*Delivered at the Annual Meeting of the Reading Branch of the
British Medical Association.**

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MERE depravity must be carefully distinguished from actual mental disease. The term moral insanity is, I think, better avoided in a criminal court of law. In almost all forms of insanity, as Esquirol long ago pointed out, the moral faculties become impaired, more or less ; and, in some cases, the impairment of the moral faculties is disproportionately greater than that of the intellectual faculties. Moral perversion also is sometimes the earliest noticeable symptom of the invasion of insanity ; and it is often also found, strongly marked, in some members of a family, of which other members are actually insane. In forming his diagnosis, the medical witness must then give to moral perversion its due weight as a symptom. But, unless connected with such moral perversion there be found other distinct evidence of mental impairment, it would appear to be better to speak of absence, or defect, or obliteration of the moral faculties, and not to make use of the term insanity at all. The proper mode of dealing with persons who are apparently bereft of all moral qualities forms a separate subdivision of the subject of criminal science.

Moral depravity, it has been said, cares not for law ; moral insanity cares, but cannot obey ; but then, even if this were admitted as a correct definition, it might still be urged that such inability to obey arises from defect of judgment, or of will, or of self-control, and that therein consists the insanity.

As the law now stands, however, the medical witness is usually not permitted to place his opinion before the court in the manner above described, but is required to answer a certain set of queries ; and thus, if the case be one of homicide, he will be asked probably—1. Whether the accused knew that the act of stabbing, or shooting, or whatever it may be, would produce death ; 2. Whether his state of mind was such that he did not know that it is wrong to kill ; or 3. Whether, if he be suffering from a delusion, it is a delusion of such a character that, if it were true, the act of killing would be justifiable. With regard to the first of these questions, it has already been observed that, only when raving delirium or utter dementia is present, is there real unconsciousness of the act done. Such an instance occurred lately in the case of Robert Edwards, who, whilst an inmate of the Norwich Hospital, killed three boys, who were also inmates, by striking repeated blows on their heads with a pair of tongs in the middle of the night. That man was shortly afterwards removed to Broadmoor, and he is there still, in a state of acute insanity. It is probable that, at the time of getting out of his bed at night and killing the boys, he had no distinct or clear idea of what he was doing ; but cases of this description are the exception ; and, in the majority of cases, the person knows quite well whether the act he is committing is likely to cause death or not.

The second point, namely, whether, at the time of committing the act, the person knew that it was a wrongful act, is one which is not so easily settled. We have already seen how greatly dissatisfied some of the most eminent legal dignities in the country are with this "test", as it is called ; but, as it still exists, it must be dealt with, and the medical witness must be prepared to give a definite opinion with reference to its application to the particular case under investigation. If this test be applied in its full strictness and according to the plain meaning of the words, the opinion of Lord Justice Bramwell is, as we have seen, that hardly anybody is really mad enough to come within it. If, however, the words are not taken in their strict and plain sense, it would be difficult to assign any limit to the extent to which legal ingenuity is capable of enlarging them. Indeed, the mode in which this test has been explained by some writers is such as to make the knowledge of right and wrong equivalent, to all intents and purposes in effect, to the power of

refraining from the act in question ; that is to say, to the power of controlling conduct. I do not, however, think that the knowledge that an act is wrong in the ordinary sense is by any means the same thing as the want of power in consequence of mental disease to refrain from doing it. If, upon the last occasion of being spoken to previously to the commission of the offence, and also upon the next occasion following after the offence, the accused person is believed by those who have seen him and spoken to him to have been in a state to understand the nature of the deed done by him ; as, for example, in all those cases, and they are very numerous, in which the accused himself gives information of the act done by him, it can be only a matter of speculation or inference on the part of the witness, and not a matter of fact, if he testify that, in his belief, the power of appreciating the nature of the crime was absent at the exact time of its commission. Such an opinion appears to be based upon this manner of reasoning—I believe the accused, from his history and from my examination of him, to be insane ; I know that insane persons constantly do commit acts as the result of their insanity, which, at ordinary times, they know to be wrong ; I assume that they would not commit such acts if they knew, at the moment when thought was passing into action, that the act was wrong ; and I, therefore, arrive at the conclusion that the accused did not know that the act committed by him is wrong. That is to say, instead of ascertaining as a fact, in the first place, whether the person knew right from wrong, in order from that fact to deduce the presence or absence of legal insanity, this method reverses the order of things, and ascertaining, in the first place, by some independent method, that the person is insane, it argues that, because he is insane, therefore, he cannot distinguish right from wrong in the same manner as a sane man would. Surely, it is better to abandon such an obsolete test than to apply it thus.

The next point in the existing legal tests is the presence of delusion. This is a most important symptom of insanity, and it should be searched for with the greatest perseverance and care. But the existing law expressly declares, as we have seen, that the existence of any number of delusions is not sufficient to render a person irresponsible unless they are of such a nature that, if true, they would justify the commission of the act. This legal dictum supposes that an insane man is able to think and act reasonably with respect to his delusions. What shall we say, then, of those cases where a man kills his wife and children under the insane delusion that they are likely to die from want because he believes himself to be ruined ? Even if he were absolutely ruined, that would be no justification for killing anybody, if he were sane. And yet we find, over and over again, juries returning a verdict of not guilty on the ground of insanity in such circumstances without a moment's hesitation. These cases are very common, but a marked example occurred last year. A clerk in a house of business in the city, thinking that he could improve his position, resigned his situation. His schemes failed, and he became more and more embarrassed in circumstances. He worked early and late, but he could earn little ; he became anxious and worn, his sleep became fitful, and, at last, he sank into a state of melancholia, and the idea constantly presented itself to his mind, that his only way out of his difficulties would be to kill his wife and children and then himself. For many nights, he awoke soon after midnight, after a short and troubled sleep, and this thought was always present to his mind when awaking. At last, the thought was transformed into action. He rose early one morning, first killed his wife, then one of his children aged 7, then he attempted to kill two other children, and lastly he made an unsuccessful attempt on himself. Some days previously, he commenced a letter hinting at what he had in his thoughts, and he finished it directly after he had killed his wife and child ; and this latter portion of the letter contained these words : " I would never have done it, if I had not thought to put them all in heaven before I went to hell." At his trial, the judge charged the jury in the usual terms, and finished by saying that, even at the risk of appearing to sum up against the prisoner, he must tell them that it was not enough for them to be satisfied that the prisoner was insane, but that he was so insane as not to know what he was doing, or, if he did, that he did not know he was doing a thing contrary to law. The jury, without any hesitation, found the prisoner not guilty on the ground of insanity. The man was, and is, unquestionably insane and irresponsible ; but, in the face of his letter, begun some days before the act, and finished immediately after it, in which he writes about going to hell, it is difficult to see how, in the ordinary acceptance of the words, it could be said that he was ignorant that to kill is wrong ; and assuredly, although he had other delusions, he was not under the delusion that his wife and child were going to kill him. It would be easy to multiply, almost indefinitely, instances of this description, in which juries have acquitted persons manifestly insane, yet whose insanity did not come within the strict legal definitions.

* Concluded from page 511 of last number.

The true value of the existence of delusions as a symptom of insanity is the evidence which they give of a grave defect of the reasoning faculties. If there are many delusions, and if they are of recent origin, they afford evidence that the faculty of judgment is acutely deranged; whereas, if the delusion be limited to one, or to a few closely kindred subjects, and if it be of long standing, it perhaps is possible for a person so afflicted to be capable of exercising fair judgment upon matters not immediately connected with the delusion. Still, wherever it is possible to demonstrate the connection between a known delusion and a criminal act, it is satisfactory, to the jury at any rate; and this connection can be found more frequently with time and patience than might be anticipated.

In the case of the American surgeon, who shot a man in the streets of London about four years ago, the connection between the delusion and the act was very strikingly marked, although this connection was not made out at the trial. The poor man, who was the victim, was on his way to his work at the Lion Brewery, between three and four o'clock in the morning, when he was suddenly shot dead; his assailant firing four times at him. His assailant then gave himself up quietly to the police, saying that they would soon find out that he was quite justified in what he had done. After he became an inmate of Broadmoor, he gave me a most vivid account of the matter, from his point of view. He was under a delusion that he was the victim of a conspiracy, and that his enemies had determined to slowly torture him to death by sending one of their number into his bedroom in the middle of the night to wake him out of his sleep. He provided himself in consequence with a revolver, which he took to bed with him, intending, as he said, to shoot his persecutor whilst actually in his bedroom. He woke up with a start, in the usual manner during the night, and imagined that he saw his persecutor at the foot of his bed; but, before he could lay his hand on his revolver and take aim, he thought he saw the man pass out through the bedroom door. He followed as quickly as possible, and fancied he saw the man on the staircase; but, again, before he could aim, the man had, as he thought, passed down to the next flight. He still followed, and again he thought he should have been successful in shooting his persecutor at the front door, but again he was too late. Still following the image that his delusion had conjured up, he rapidly opened the front door, and, on the opposite side of the street, he saw a man, whom he immediately shot.

In a case which was tried at Maidstone in 1875, and which obtained some notoriety in consequence of the strong summing up of the judge in favour of a conviction, but in which the jury returned a verdict that the man was insane, there was also a very close connection between the man's delusions and his act, although here again the connection was not clearly ascertained until after his trial. The man had killed a fellow workman in the Chatham Dockyard by splitting his skull with an adze. After the man became an inmate of Broadmoor, he told me that, some years before, he had received the Holy Ghost; that it had come to him like a flash; that his own eyes had been taken out and other eyes like balls of fire had been substituted. This, by the way, was doubtless a slight epileptiform seizure. He went on to say that, after this, he was able to see people when they were not there, and that he could tell whether they wanted to "make him go down to the grave". He said he often felt very ill, as if he were losing his senses, and that sometimes he could tell who it was that made him feel so, and sometimes he could not. Upon the day when he killed his fellow-workman, he suddenly felt severe pain in his head. His eyes told him that it was his mate who caused this, and he struck him dead. There was no doubt whatever that the man was quite mad, and he is now steadily going on towards a state of paralytic dementia.

In this case, had it been possible before the trial to ascertain the close connection which existed between the man's delusion and his act, and to make the point clear to the court, I cannot think that any doubt would have been felt in returning a verdict; but it must be remembered that the exact bearing of any delusion can often only be ascertained with certainty through the statements of the accused himself; and, when, either on account of increasing dementia, or from any other cause, the accused is disinclined to enter into conversation, the point must necessarily remain in the region of conjecture and probability. Still, it would appear from the case just cited and from numerous other similar cases which might be adduced if time permitted, that the absence of direct proof of the connection between any delusion and any insane act ought by no means to be interpreted as being equivalent to evidence that no such connection exists.

Turning now to another point, it must be noted that the absence of sufficient and adequate medical evidence of insanity laid before the court not infrequently leaves the judge no alternative but to pass sentence, even in opposition to his own better judgment. But happily there exists, even then, a last resource by which justice may be done,

through the intervention of the Secretary of State. As an illustration of the kind of cases in which the Home Secretary is called upon to consider the advisability of recommending the reprieve of the sentence of death, I will ask your permission to lay before you very briefly the particulars of a recent case of this nature in which I was engaged. A woman of the labouring class killed another woman who lived in an adjoining cottage by striking her on the head with a shovel. There was no evident motive. No one was near at the time, and there was no evidence, either that there had, or had not, been a quarrel. At first, the perpetrator of the act was not discovered; but the next day she accused herself. She said she had often thought of killing the old woman, her neighbour, and at last she did it. It was ascertained that there had been an alteration in her conduct for some time, but her relatives were too poor and too ignorant to take any proper steps for her defence. She lay in the gaol from January till April, when she was tried. At her trial, it was given in evidence that during this interval she had fallen into a dull lethargic state, taking little notice of anything and evincing no interest whatever in her approaching trial. The counsel assigned by the court to defend her elicited that she was forty-five years of age, and that there had been no appearance of the catamenia in gaol; but that, at intervals about a month apart, she had been unusually restless and irritable and unable to sleep. She persisted in saying that she killed her neighbour, or, as she termed it, that she "hit her", and, upon her own confession, she was convicted and sentenced to death. The judge then reported the case to the Home Office, with an expression of his opinion that a further medical examination was desirable. In conjunction with Dr. Briscoe, the medical inspector of prisons, I was instructed to visit her. We found that she was suffering from climacteric insanity of a most pronounced and decided character, and that she was wretchedly haggard, worn, and emaciated. Her weight was only eighty-eight pounds. We had no hesitation in certifying that she was unquestionably insane. She was admitted into Broadmoor Asylum a few weeks later. It was then evident that death was rapidly approaching. Shortly after her admission, she was attacked with convulsions, which lasted almost uninterruptedly for twelve hours; and, although she then rallied somewhat, her general condition gradually deteriorated. At each recurrence of the monthly period, corresponding to the time at which the catamenia would have appeared, convulsions returned; and she died a few days ago during one of these periods. Her brain is here, and it shows the lesions resulting from subacute meningeal inflammation, together with the highly congested condition of the vessels which accompanies mania occurring upon the cessation of the catamenia. In this case, there was abundant material upon which very conclusive evidence of insanity might have been founded and submitted to the court. The unfortunate woman was poor, and her friends were ignorant. Had it been otherwise, and had judicious medical aid been invoked when an alteration in her conduct was first perceived, at the time of the cessation of the catamenia, it is not a little encouraging to reflect that, in all probability, her condition would have proved amenable to remedial measures, and that thus the sad act which this poor creature committed would have been averted, as well as her own sad end. It is in instances like this that the connection between the science of medicine and those diseases of the brain and nervous system which lead on to insanity is strikingly seen. But, in all other forms of insanity whatsoever, it is equally certain that this connection exists, although it may not always be so apparent, and although the medical art may not always be equally powerful for good.

You, gentlemen, who are engaged in general practice amongst the population at large, could tell me more about the early symptoms of insanity than I can tell you. Suffice it for me to say that no diseases are more interesting than affections of the brain and nervous system, which, when unchecked, lead on to mental alienation; nor, I believe, are there any in which early and judicious medical aid, commenced, it may be, in childhood, and steadily continued through adolescence and adult life, is more fruitful of good results. To no class of diseases, indeed, are the words of Ovid more appropriate—

"Principiis obsta. Sero medicina paratur
Cum mala per longas convaluerunt moras."

HASTINGS.—Mr. Ashenden reports that during the last quarter there had not been any death registered in the town from small-pox, measles, or scarlet fever, or in the corresponding quarter of 1875. A few cases had occurred, but they had been either judiciously treated at their own homes or isolated in the sanatorium. Several houses had been inspected, and the necessary orders for cleansing, etc., been issued, all of which had been obeyed. The annual birth-rate was 28.8 and the death-rate 16.8 per 1,000 population, so that the public health of the town may be considered satisfactory.