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CRIME AND INSANITY

By CHARLES MERCIER, M.D., F.R.C.P., F.R.C.S.

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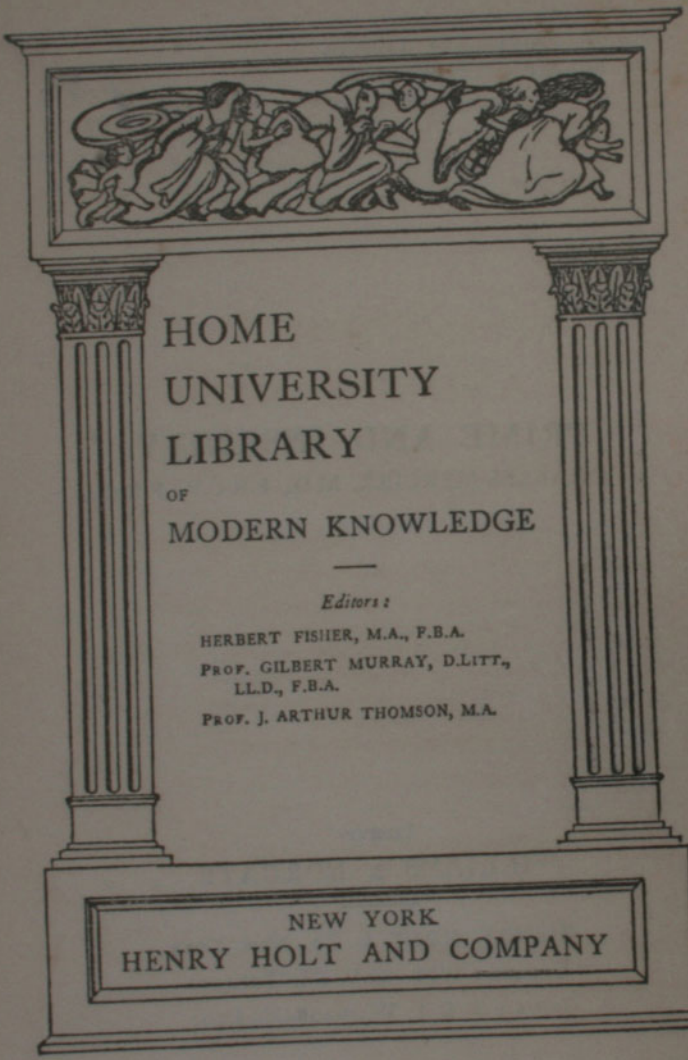

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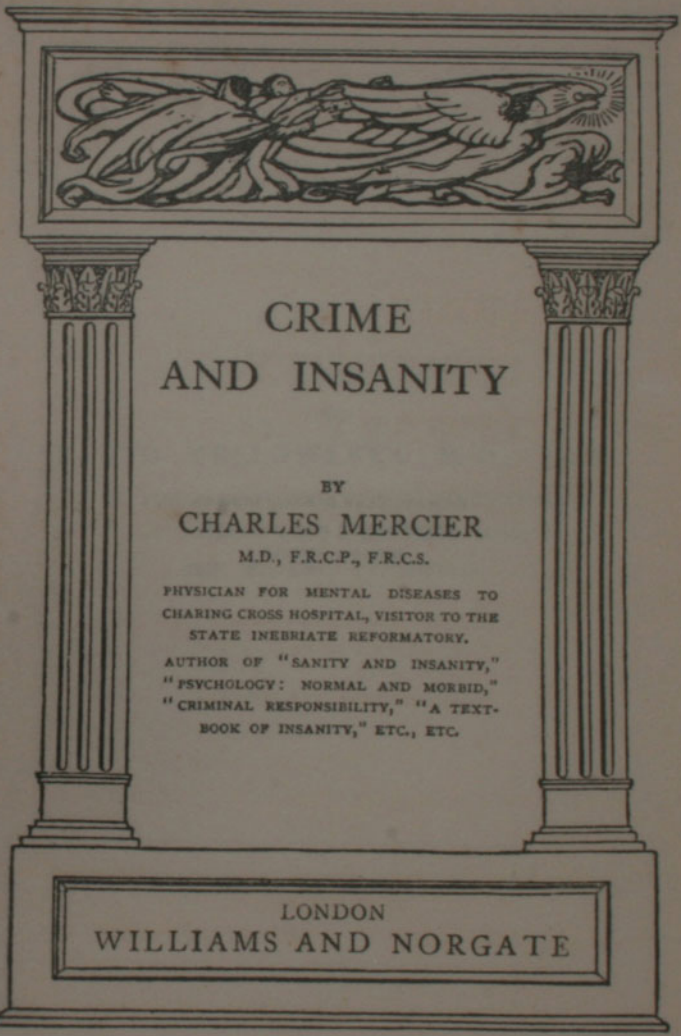

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BY

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TO

DAVID YELLOWLEES, M.D., LL.D.

IN TOKEN THAT THE WIDEST DIFFERENCES
OF OPINION ARE COMPATIBLE WITH
THE WARMEST FRIENDSHIP.

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PREFACE

Time and labour spent in systematizing knowledge are never thrown away. In this little book I have endeavoured to show in what Crime consists, what the nature of Crime is, and why certain acts, some of which need harm nobody, are regarded as Crimes. Crime is here viewed and explained from a biological standpoint, as militating, in one way or another, against the welfare of society, present or future. Considerable space has been devoted to the classification of Crimes, for it is only by classifying them, and bringing out their several relations to one another, that their true nature is brought into view. In addition, I have set forth my views as to the nature of Insanity, views that are not yet generally accepted, but that are, I think, growing in favour. Even if they are wrong, it will do no harm to present the matter in

a new aspect, and thus to stimulate thought. The extent to which Insanity contributes to each kind of crime, and the manner in which it does so, are explained, and certain suggestions are made as to the directions in which the criminal law is in need of alteration. The methods that we employ for preventing and punishing crime must depend, in the long run, on the view that we take of its nature, and therefore it is important that our notions on the subject should be carefully thought out. The whole book may be regarded as a supplement to my book on Conduct and its Disorders, since Crime is, in the aspect of it that is taken here, a disorder of conduct.

CRIME AND INSANITY

CHAPTER I

INSANITY AND CRIME

EVERY one knows that there is a certain relation or connection between insanity and crime: few have any clear notion what the relation or connection precisely is. It is common knowledge that crime is often committed by insane persons; and it is widely known that many persons convicted of crime are found, after conviction, to be feeble or disordered in mind; though this feebleness or disorder was not suspected, or was not taken into account, when they were charged and convicted of crime. There are some who regard crime as, *ipso facto*, evidence, or even proof, of insanity in the criminal; and others, without going to this extreme, yet regard some crimes, murder for instance, as conclusive proof that the criminal was insane

at the time of the crime. It is generally admitted that insanity on the part of a criminal ought to exempt him from some or all of the punishment that would be awarded to a sane person who had committed a similar crime; and it is widely held that no insane person should ever be punished, whatever he may do. Some have the notion that every insane person goes about like a roaring lion, seeking whom he may slay; and most believe in the existence of a "homicidal mania," which converts its victim into a bloodthirsty ruffian, ever intent on taking human life. In order that we may arrive at a correct judgment of the relation of insanity to crime, it is necessary that we should be quite clear as to what crime is, and what insanity is; and in order to make these discoveries we must dip deep into the constitution of human nature and human society, and must even extend our researches into the means of preservation of life in general.

The Struggle for Life is now become a household word. It is generally understood that every individual, and not only every individual animal and plant, but every race of animals and plants, maintains itself against

the competition of the rest of the organic world, and against the incidence of destructive inorganic forces, by a ceaseless struggle for survival; and for the successful pursuit of this struggle, very many devices are employed by different animals. Some owe their safety to their speed and agility in escaping pursuit; some to the strength and formidable weapons which enable them to repel; some to defensive armour which renders them invulnerable to their foes; some are protected by an appalling stench, which repels attack; others by the acrid taste of their skin or their bodies, which renders attack distasteful; many depend on concealment, many on the inaccessibility of their haunts, many on parasitism on some larger and more efficient host. Some forms of life survive by reason of their enormous and astounding fertility, which speedily supplies whatever inroads are made in their numbers; others, by reason of their high intelligence, which enables them to evade or overcome adversaries far superior in speed and strength. The tricks, devices, and stratagems that are pressed into the service of survival are endless and innumerable; but, of all methods that have been tried, none is

more successful, none is followed by so large a number of different races, or in so many diverse forms of animal life, as that of living together in communities. By this additional safeguard, the elephant and the bison supplement their size and strength; the antelope and the zebra their swiftness; the bee and the wasp their poisoned stings and their instinctive skill; the ant her minuteness; the wolf his speed and wind and courage. By the mutual help of life in common, many animals are able to survive, in spite of a conspicuous lack of any of these useful qualities. Mankind, in particular, has neither weapons of offence nor weapons of defence; neither the swiftness, the strength, nor the agility of other animals of his size; neither mimetic concealment, nor inaccessibility in his haunts; and yet he has achieved the mastery over every other organized being on the face of the earth, with the exception of certain microscopic animals and plants that are parasitic upon him; and even some of these he can render innocuous. This superior valency over every other form of life, man owes mainly to his social habit. It is the habit of living in associated numbers, in

organized societies, that renders him powerful, and enables him to give effect to the advantage of his superior intelligence. Supposing it possible for man to revert to the solitary habit, he would soon revert to the status of the gorilla. Every conquest of man over other animals, and over natural conditions, has been due to specialization of employment; and specialization is not possible except in social life. When life is lived in solitude, or in pairs, everything that is necessary for preservation and survival, must be done by each individual or each pair; and excellence is unattainable, for want of devotion to any one thing. In an organized society, functions are divided; and by the devotion of some members to one mode of action exclusively, that mode of action is better performed. When some collect food and others fight, both the collection of food and the fighting will be more efficient, than if all had to divide their time between collecting food and fighting. And there are innumerable modes of action that could never be performed at all, if leisure for some were not provided by the exertions of others. If every man had to collect his own food, protect his own family,

build his own house, make his own clothes, collect his own fuel, and make his own furniture and utensils, he would come badly off; and innumerable works of utility would remain undone. There would be no roads, bridges, houses, ships, vehicles, fortresses, wells, mills or forges; no art, no science, no commerce; no literature, no law, no medicine; nothing that makes the life we live worth living. But for his social habit, man would never have risen to the status of man. He would not even have reached the Stone Age. He would have remained an anthropoid simian, and would never have needed to concern himself about the relation of crime to insanity, for crime could not have existed, and insanity would not have been recognized.

Crime cannot be committed by a solitary; for the mark and characteristic of crime is that it is detrimental to society. Hence, in the absence of a society, there can be no crime. Abandon a man to himself in a desert; maroon him on an uninhabited island; and, whatever other disadvantages he is subjected to, he is freed from the possibility of committing crime. He cannot steal, or defraud, or murder, or maim; he cannot commit riot,

or rape, or treason, or burglary; he cannot beg, or rob, or wreck a train, or pick a pocket. As far as crime is concerned, he is condemned to a blameless life.

The main aim in life of every animal, the only aim that counts in the scheme of nature, is the continuation of the race to which it belongs; and to this end, every animal has acquired certain instinctive desires, which prompt it to those modes of action that contribute to this end—desires for courtship, exclusive possession, sexual union, parenthood, and so forth; all depending on, and contributing to, the preservation of the race. But no animal begins its career in full capability of reproducing its kind. A certain time must elapse, during which it is growing to maturity and reaching the reproductive stage. It is essential to the assumption of this stage, that the life of the individual should be preserved until the stage is reached. It is essential to the performance of the reproductive function, that the individual should live until this function is performed. Consequently, a number of other instinctive desires have been acquired, which safeguard the individual, and contribute to the pre-

servation of his life. He has appetites to eat and drink; he desires to preserve his bodily integrity, to escape death, maiming, mutilation, and injury; and these innate desires constitute a set of instincts of a separate class.

Although the reproductive instincts and the self-preservative instincts each contribute to the end sought by the other; although the self-preservative instincts owe their origin and existence to the need for propagating the race; and although reproduction could not be effected unless the life of the individual were prolonged to the reproductive age; yet between the two modes of action, and between the two sets of instincts, and their results, there is a certain antagonism, so that each demands, for its fulfilment, a certain sacrifice of the other. In many primitive animals, and in many that are considerably advanced in the evolutionary scale, reproduction requires the sacrifice of the life of the parent. In many insects, for instance, the deposition of the eggs is either itself fatal, or is speedily followed by the death of the mother. Certain male spiders, as soon as their proper function is performed, are incontinently devoured by

the female they have fertilized. Even in mankind, not only is the act of parturition exhausting; not only does it render the mother vulnerable in different ways to diseases to which she would be otherwise immune; but the duties of parenthood constitute for years a drain upon the resources of both parents, which diminishes their life-worthiness, exacts from them part of the nutriment that might otherwise go to the increase and prolongation of their lives, and so is antagonistic to self-preservation. In many cases, the preservation of the life of the offspring is attained by the sacrifice of the parent's life. In all cases it involves a sacrifice of part of the means of living, on the part of the parent.

In social animals, a third set of actions, and of instinctive desires, prompting to the actions, is added to the two sets just reviewed, and is antagonistic to both. There arises a new means of securing the preservation and propagation of the stock; a third mode of action contributing to the common end, but contributing by means that are in conflict with, as well as corroborative of, the other two, is provided. In common with other social animals, man has certain instinctive desires, which prompt

him to action directly preservative, not of his own life, or of that of the race, but of the community to which he belongs. His social instincts impel him to action conducive to the welfare of his community, and especially to abstain from action detrimental to it. From the present point of view, the latter instincts are of far more importance than the former. Social existence depends on certain abstentions. Society holds together by virtue of the inhibition, or control, or self-denial, that its members impose upon themselves, with respect to acts that are prompted by their self-preservative and reproductive instincts. The man who is marooned on a desert island, and is destitute of social environment, may rightfully appropriate to his use anything that he finds thereon. He may go where he pleases; he may impress into his service whatever animals he is able to subdue. Myrrh from the forest or gold from the mountain, pearls from the ocean or gems from the mine, are all his for the mere labour of gathering. But the same man, as a member of a society, finds his activity limited in every direction by the very fact of his membership. He may not go where he pleases, if, by so doing, he trespasses on the

privacy of others. He may not take what he chooses, if, by so doing, he invades the proprietary rights of his fellows. He may not interfere with his neighbour's manservant, nor with his maidservant, nor his ox, nor his ass, nor with anything that is his. He may take nothing to his own use that is not freely given to him, either as a gift, or in return for goods, or money, or service, rendered. And the reason is, that if every man in a society pursues without restraint his own self-regarding desires, the society falls to pieces, and, as a society, ceases to exist. Even in the mere matter of physical propinquity, if each does as seems right in his own eyes, the community is dispersed. If each individual of a flock, or a herd, or a shoal, goes off in any direction, or at any speed, different from that of the others, the flock, or the herd, or the shoal, is dispersed, and no longer exists; and if the safety or welfare of the individuals depend on the preservation of the integrity of the community, with the integrity of the community is sacrificed their welfare or their safety. And as the preservation and continuation of the race, the *ultima ratio* of the existence of every individual, depends on the preservation of the individual,

the dissipation of the community means the extirpation of the race, as far as that section of it that is embodied in that community is concerned.

Social conduct means, therefore, primarily, and before everything else, self-restraint—the limitation of the self-regarding activities whenever they are inconsistent with the good of the community. It means more than this, however. Not only must each individual in a community limit his activity, so that it does not interfere with, or limit to a greater extent, the corresponding liberty of others; but he must be prepared, in case the needs of the community demand them, to make still further sacrifices. If he is to preserve himself, he must be prepared to defend himself when attacked; and if the community is to be preserved, he must be prepared to defend it when it is attacked, and to sacrifice his life, if need be, in its defence. Unless each citizen is prepared to sacrifice his own life for the safety of the community, the existence of the community is but precarious, and, when occasion arises, will come to an end. As, in the scheme of nature, the welfare, and even the existence, of the individual count for

nothing in comparison with the preservation of the stock, so, in social animals, the welfare, and even the existence, of the individual count for nothing in comparison with the preservation of the community. "The individual withers, but the race is more and more," expresses but one half of the biological truth. It is equally true, and equally pertinent, to say that the individual withers, and the community is more and more. Thus, the self-regarding instincts and the social instincts are of necessity in frequent conflict; and it is vital for the community, and for the race also, that when this conflict takes place, the social instincts should be victorious.

There is conflict also, though the conflict is less frequent, between the social and the racial instincts. The community is founded on the family. Solitary animals, as soon as they attain an age at which their powers and faculties suffice for their own preservation, separate from their parents; with whom they subsequently compete for food and other necessaries of life. The first beginnings of social life are made when the dispersal of the offspring is delayed; and when it altogether ceases, social life is established. Society is held

together by the bonds which unite the family. The family is the social unit, and is, in the beginning, identical with the community. As, with successive generations, the family increases into the tribe, the bonds of family are enlarged and modified to include the tribe; and, with further increase in number, families become differentiated within the tribe, which then consists of a plurality of unit-families. The family is the foundation on which are built, first the tribe, and then the nation; and anything that interferes with family life, or slackens its bonds, is disintegratory to the nation also. Hence has arisen an instinct, or, rather, a set of instinctive desires, safeguarding the family. Sexual jealousy tends to keep the family intact and pure; chastity, and its auxiliary, sexual modesty, help to keep down internal strife within the community; parental and filial affection bind the family together, and also secure the upbringing of the offspring. But these racial and social-racial instincts, though in the main they strengthen the bonds that hold the community together, yet, in some of their manifestations, are disintegratory of society, and therefore conflict with social instincts. Jealousy leads to strife;

and strife is disintegratory. Sexual love, the foundation of society, may be so directed as to break up the family, and so tend to disintegrate society. Parental affection may lead in various ways to acts that are anti-social. It may lead to acts that, favouring the children, are dishonest towards others; it may lead to the withdrawal of the children from their social duties; it may prompt the parent to incite the child to elude military service, for instance; it may train the child, by over indulgence, to indifference to the rights and feelings of others; it may lead the parents themselves to shirk their social responsibilities in order to devote themselves more completely to the welfare of the children. And filial affection may produce corresponding defects in social conduct.

We find, therefore, that man possesses three sets of instinctive desires, impelling him to seek three different ends; or, more strictly, to seek one main end—the perpetuation of the race—partly directly, and partly through the intermediation of two others—the conservation of the individual self, and the conservation of society. We find that while, on the whole, the three ends harmonize, and effort towards

each is necessary to the attainment of the other two, yet there is a certain antagonism amongst them, and each can be attained only by the sacrifice of some effort in respect of the others.

Of these three ends, or aims, or purposes, of life, all are of great antiquity in the history of our race; but all are not of equal antiquity. The end of reproduction is primordial. It is the underlying reason of all life, both animal and vegetable. Self-preservation is of equal antiquity, but not of equal importance; for as soon as reproduction is effected, self-preservation ceases to have a biological value, and, in many cases, automatically ceases to operate. In the early stages of the life of more developed organisms, self-preservation furnishes the main, it may be the sole, motive to effort. When the reproductive age is reached, the reproductive instincts rush to the front, take the lead, and reduce self-preservation to a subordinate position. The social instinct is of much later origin. All the way up the long line of the evolution of living forms, from the unicellular organisms to our quadrumanous ancestors, reproductive activity divided with self-preservative activity the

energies of living beings. Only when a stage was reached which, though in comparison with the duration of a single human life, is of enormous antiquity, yet, in the long process of evolution, is of yesterday, was social life begun. Now, *ceteris paribus*, the strength of an instinctive desire is in proportion to its antiquity in the race in which it exists. Other factors enter into the determination, it is true; but other things being equal, that instinct is dominant which is of greater antiquity; and it is dominant in proportion to its antiquity. For this reason, the social instincts are, upon the whole, and in the majority of people, inferior in urgency to the reproductive and the self-preservative. When a social instinct is brought into conflict with either of these other instincts, it will, therefore, be at a disadvantage, and will give way and be overpowered, unless it is reinforced by some additional motive. Yet, although social conduct is historically of later origin than racial and self-preservative conduct, it now ranks in urgency before either of them. The preservation and continuation of the race may go on undisturbed, though individuals renounce their reproductive action, or are

deprived of it; though individuals sacrifice their lives, or are deprived of them; but, except in communities, man can no longer exist. Destroy the community, and, unless they are absorbed in some other community, all its individual members perish; and with them perishes the stock of which they are a stage. Hence, although the social instincts are, by their later origin, weaker than the other two, they are of primary importance; and, for the preservation of the majority of individuals, no less than for the continuation of the race, it is essential that, when there is conflict between social action and either racial or self-preservative action, the first should prevail.

In these conditions, the social instinct has borrowed, for its own behoof, a weapon from the armoury of one of its antagonists. It has impressed the desire for self-preservation into the service of social preservation. This is the function of the criminal law. Criminal law is founded on the recognition of the fact that the social instincts are not of themselves powerful enough to overcome, unaided, the self-regarding instincts. Our self-regarding instincts impel us to acts that are inimical to

the social state; and the social instincts alone are, in many cases, insufficient to restrain us from such acts. To add to our motives for restraining such acts, the criminal law punishes us for doing them.

Crime, in a wide sense, consists of acts that are forbidden by law; and law forbids those acts that are inimical to the cohesion of society. I do not say that acts are forbidden by law because they are perceived to have this effect; nor that all acts forbidden by law are of this nature; but that the law does, in fact, forbid those acts that would, if permitted, result in the disintegration of society. They are acts which a complete development of social instincts would prevent us from committing, because such complete development would render them abhorrent to us. Already, the social instinct is sufficiently developed, in almost all members of Western nations, to render some crimes, such as matricide, inherently so abhorrent, that they are practically extinct. Yet, in primitive communities, or some of them, matricide, so far from being regarded as a crime, is openly practised, when the mother becomes old and infirm. We see, in communities of social insects, the complete

subordination of the racial and self-regarding instincts to the social instincts. Every hive of bees, every nest of wasps or ants, is a crimeless community. It is free from crime, not because of the severity of its criminal law, or of the vigilance of its police, but because the instinctive desires of its members have been brought into complete harmony with its social welfare. As for the racial instincts, one half of them—the reproductive instincts—have been altogether lost by the workers of the community. The production of offspring is delegated to a single mother; and towards her offspring, every worker in the community acts *in loco parentis*. Except in consuming food enough to keep itself in vigorous bodily health, the whole of the energies of every member of the community are devoted to securing, not its own welfare, but that of society at large. All the property goes into a common fund. No individual appropriates to itself anything beyond the food she consumes; or hesitates for an instant to sacrifice her life, or the lives of her brothers, for the benefit of the community. At one season of the year there is, in every hive of bees, a rebellion, or a succession of rebellions; but the

rebellions are carried out without bloodshed, and the revolting section of the community merely departs and founds a new colony. Bees, ants and wasps are, in fact, perfectly socialized. Their instinctive desires are brought into complete harmony with the needs of the social state, and consequently they are crimeless; for this is the condition, and the only condition, under which crime disappears from want of motive to perpetrate it. The interested observer may notice that, in the most advanced human societies, there is a considerable section of the female population that renounces the reproductive function, and devotes a large share of its energies to working for the welfare of the community at large, in some of the multifarious ways by which the poor, especially, are benefited.

CHAPTER II

INSANITY

INSANITY is usually regarded as synonymous with mental disorder. Insanity and mental disorder are different names for the same thing. This is, in my opinion, a very erroneous view, and is, I think, no longer tenable. I have been arguing against it for many years, and my protests are at last beginning to have some effect. Insanity is much more than mental disorder; and mind is often disordered without any vestige of insanity. It is unnecessary to enumerate here all the factors that go to make up our concept of insanity; it is enough to say that it is disorder of the process of adjusting the self to the circumstances, and that it is primarily manifested in disorder, not of mind, but of conduct.

It is necessary to expand this expression in some little detail. What is characteristic of

insanity is disorder of conduct; and conduct may be strange, bizarre and extraordinary, without being disordered. Disorder of mind, if we construe this expression in a wide sense, is always present in insanity; but, in the first place, it is not necessary that this disorder of mind should be intellectual disorder; and, in the second, there is much disorder of mind that is not insane.

There is a widespread opinion that not only is disorder of mind *ipso facto* insanity, but that disorder of mind in insanity is always disorder of intellect; that is to say, that it must consist in delusion, or in faulty judgment or knowledge. It is very frequent to hear the opinion that such a person is not insane, because he has no delusion. Such a judgment is a *non sequitur*. Apart altogether from delusion, and disorder of judgment, the mind may be disordered in any of its other departments; and this disorder may or may not amount to insanity. Feeling is often disordered without any delusion. The subject of disordered feeling is depressed and miserable, or is exhilarated and joyous, out of all relation or proportion to the depressing or exhilarating nature of his circumstances; and this depression or

exhilaration is disorder of mind. But it is by no means necessarily insane; for the subject of it knows perfectly well, in very many cases, how irrational and uncalled-for his depression or elevation of feeling is; and regarding it as morbid, recognizing its morbid quality, he may seek advice to rid himself of it. The sufferer from agoraphobia or claustrophobia —fear of being in open spaces or in closed spaces respectively—is quite fully aware of the unreasoning character of his panic, and of its utter want of foundation in any real danger; but none the more is he able to surmount or to ignore it. The horror is to him only too real; and however he may assure himself of its baselessness, he cannot thereby overcome it. He suffers from a painful and distressing disorder of mind; but, as he recognizes and appreciates to the full that it is a disorder of mind, he is not insane, nor is he within measurable distance of insanity.

So, in the victims of obsession and imperative idea, the mind is disordered. Such persons feel within themselves an urgent impulsion to do things that are abhorrent to them, or are possessed by thoughts that they know to be absurd. The loving mother, as she is dress-

ing her children, feels impelled by a craving, which she regards with horror, to stick pins into them, or even to cut their throats. The religious and devout person is impelled to utter words and phrases of obscenity and blasphemy, that are utterly abhorrent to him. The minds of such persons are disordered, but as they recognize that the mental state or process is the result of disorder, they are not insane.

There is also moral disorder, which is disorder of mind, and may amount to actual insanity, but is unaccompanied by any delusion or by any discoverable disorder of intellect. In such cases, the intellect may be acute, and the reasoning powers equal to, or above, the average; but the person affected has an incurable kink in his mind, which renders him insensible to the obligations of morality.

We must recognize that there are divisions or levels of both mind and conduct; that mind and conduct may be simultaneously and concurrently disordered on any level, with or without any disorder of other levels; and that it is only when the highest level is disordered that insanity exists.

Nothing gives a clearer notion of the functions of the nervous system, and its disorder in insanity, than its comparison to the government of a country, an army, a business, or a ship. It is a comparison that I have often employed, but it is none the worse on that account. Every organ in the body has its own ganglia, or patches of nerve tissue, by which its functions are directly and immediately regulated; by which its activity is called into play or lulled into repose; by which its nutrition is regulated according to the waste that it suffers, and its other needs. On this level, there is a centre for the muscles that bend the arm, and a centre for those that straighten it; a centre for the muscles that close the eye, and a centre for those that open it; centres that regulate the activity of the liver, the stomach, and so forth. These lowest centres correspond with the non-commissioned officers in the army, with the petty officers in the navy, with inspectors in the Government service, with the station-masters in the organization of a railway; their jurisdiction is strictly local and limited. They have a certain autonomy, a plenary authority over their own small department, but they are them-

selves under the orders of higher officials, and their duties are of a routine and quasi-mechanical character. They admit of little variation, of little spontaneity or originality. Their function is mainly to obey orders and to carry out routine.

Over these is a group of officials of a higher rank, and with a more extended jurisdiction; with larger powers, and more initiative. Centres of middle rank correspond with the colonels of regiments, with the managers of departments, with the under-secretaries of state. These centres control, not merely movements, but many acts also—such acts as are done instinctively and automatically, and do not need deliberate choice to effect.

Lastly, supreme over all is the governing faculty, answering to the commander-in-chief of the army, to the Cabinet in the government of the country, to the captain of the ship, to the directors of the business. It is the function of this highest faculty to deliberate and determine questions of policy; in what directions and to what purposes the powers of the whole organism are to be turned; what to do, and how to do it. The highest faculty of mind is the ability to choose. In insanity this faculty

is not necessarily lost, though in the deeper degrees of insanity it is much impaired; but it is disordered. In order to compass a certain end, conduct is chosen which is plainly calculated to defeat that end. Such conduct and such choice are insane.

Mind and conduct go together. Their interaction on each other is close, constant, and almost inextricable; and disorder of the one always, no doubt, accompanies disorder of the other; though the two disorders are not always equally prominent, or equally recognizable. Whatever level is disordered, the disorder is manifested, both in mind and conduct, on that level; and hence, with crude disorder of mind goes crude disorder of conduct; and with elaborate disorder of mind goes elaborate disorder of conduct.

Giddiness may be taken as a very familiar example of very crude disorder of mind—of disorder of mind on the lowest level; and this disorder of mind has its expression in an equivalent disorder of conduct, which also is crude, and on the lowest level of conduct. It finds expression in the reeling, and staggering, and clutching at support, that we know accompanies giddiness. The maintenance of

equilibrium is a mode of conduct; and the disturbance of this maintenance, that occurs in giddiness, is a disorder of conduct. That it would not always, or by all, be considered a disturbance of conduct, but rather of some lower function, to which the title of conduct should scarcely be assigned, is owing to its crudity of character, and to the fact that the disorder leaves unaffected the superior levels of conduct. The clutchings at support are manifestations of disorder on a low level, but of order on a higher level. They are in themselves abnormal, the expression of an abnormal state of mind, viz. giddiness; but they express also the compensation that is designed by a higher level of mind, to correct the disorder of the lower level. The perception of the outside world as rotating, is a disorder of mind; and the reeling and swaying are conduct, the result of this disorder; but the clutching at supports is normal conduct, prompted by a higher level of mind, that is, free from disorder, and acts to counteract the effect of the disorder that exists lower down.

Similarly, on the middle level there may be disorder, counteracted and corrected, as far as counteraction and correction are possible, by

the normal working of a higher level. The claustrophobic person has horror and panic at being in a closed apartment. The agoraphobic experiences similar horror and panic at being in an open space. The horror and panic are disorder of mind; but the disorder is not on the highest level of mind. Above the level that is disordered, there is a higher level of mind, that knows and recognizes that there is disorder below, and that dictates measures to counteract and correct the disorder. The sufferer not only keeps the door or the window open in the one case, or hugs the wall or the railings in the other—manifestations of conduct that are the result of the disorder—but, recognizing the existence of disorder, he consults a physician with a view of being relieved of it, thereby evidencing the action of higher levels of mind and conduct that are undisordered.

So, too, in obsession to do unreasonable, objectionable, and even lethal acts, the disorder is on a level that is high, but is not the highest. The patient is strongly inclined and tempted to use objectionable words, and to do objectionable acts; but at the same time he loathes the very words and acts that he is

impelled to utter and to do. Often, the disorder of mind produces disorder of conduct, and he does utter the words he detests; but all the while a higher level of mind tries to restrain the utterance; and this higher level prompts him, if the act dictated by the disorder is dangerous, to put himself under restraint; to apply to the police, or to a lunatic asylum, to be locked up, and physically restrained from expressing the disorder of mind in disorderly acts.

It is only when the highest levels of mind and conduct are disordered that insanity exists; and the test of insanity is, roughly, the non-recognition of the disorder. A disorder of mind that is recognized and known to be disorder, is not insane; though the disorder of lower levels may be so tumultuous and overpowering as to be beyond the competency of the higher levels to keep it in check; and then, as in the case of the obsessed person who applies to be restrained, much the same measures must be taken as in actual insanity. In true insanity, the insane person does not recognize that either mind or conduct is disordered. He regards his feelings, his judgment and his acts as the normal response to

his surroundings; for, in him, the disorder is in the faculties of judgment and choice, and the rectifying faculties being themselves disordered, rectification is no longer possible.

This being, in the most general terms, the nature of insanity, we may now examine it a little more in detail; or rather, we may shift our point of view, and notice the several ways in which the highest faculties—the topmost level—of both mind and conduct may be disordered. We find, in experience, that disorders may affect both mind and conduct in many ways; and that, while the disorders of mind and of conduct are usually proportionate to each other, there are many exceptions, or apparent exceptions, to this rule.

In the first place, we notice a variation in the width, area, or extension of the disorder. It may be widespread, or it may be very limited. It may involve the whole of mind, in every department or faculty, even to total abolition of them all, and then the state is one of coma or unconsciousness; or it may seize upon a single faculty, or a small part of a single faculty, and affect that alone. It may, for instance, fix upon the feeling of well-being, and produce a state of misery or melancholy

affecting the whole of that one faculty, if so it may be termed; or it may be so limited as, in the field of judgment or belief, to produce but a single delusion, leaving the power of judgment as to other beliefs apparently unaffected. It may vary much in depth, and may, in one case, vitiate the highest processes only of mind, disenabling the patient from exercising a valid judgment as to the main ends that he ought to pursue, but leaving him exceptionally competent in his choice and devising of means to compass these ends; or it may involve his faculties so deeply, that he is deprived even of such simple modes of conduct as dressing and undressing; and leave him, at length, too demented even to carry his food to his mouth. In duration, it may vary from a few seconds to a lifetime. It is impossible to judge competently of the ways in which insanity may affect criminality, unless all these variations are kept in mind. The proneness to criminality that insanity produces, is independent of any one of these factors. Crime may be committed as the result of a transient insanity, lasting only a few minutes or seconds; and a person may not ever be prompted to crime during a lifelong

insanity. Crime may be the result of insanity that is widespread, and affects every mental faculty, or of a single isolated delusion. It may result from the mere blunting of the keen edge of judgment; and it may not result from a profound distortion of intellect, feeling and desire. It is in other factors in insanity that the origin of crime, when crime is committed by the insane, is to be found; and it cannot be too strongly insisted on that insanity no more necessarily leads to crime than it is a necessary ingredient in crime; that the insane are no more necessarily to be absolved, on account of their insanity, from crimes they may commit, than are the sane. Criminals are no more exempt from insanity than other people; and when an insane person commits a crime that is not the consequence of his insanity, it is no more just or proper to excuse him from punishment for that crime, than to excuse a sane person.

This being understood, we may now study the main forms of insanity that do conduce directly to crime, and observe the qualities of the insanity that render the subject of it likely to commit crime, as a consequence of the insanity. In so doing, I must guard

myself against any supposition that I am here setting forth any exhaustive or symmetrical classification of forms of insanity. I merely select, and briefly describe, those that experience shows are apt to result in crime.

The insanity that is most frequently associated with crime, and directly leads to crime in a large number of cases, is undoubtedly the insanity of drunkenness. In nine years, one and three quarters of a million of persons were sentenced, in courts of summary jurisdiction in this country, for offences committed during drunkenness, and to which the drunkenness contributed, even if it were not, in every case, the efficient cause, without which the offence would not have been committed. I have no record of the number of cases sentenced in the superior courts for graver offences, but it is undoubtedly very large; and the testimony of many judges, magistrates, police court missionaries, and other persons in a position to know, is very strong, that, upon the whole, drunkenness is the most fertile cause of crime, in the extended sense in which the term crime is here used.

No doubt, it will seem to many who come upon this statement, that to regard drunken-

ness as insanity, and the offences prompted by drunkenness as an example of the offences due to insanity, is a novel, and not altogether a justifiable, way of looking at the matter; and that the word "insanity" is used, in this connection, in somewhat of a metaphorical and illegitimate sense. This is far from being the case. It is literally and exactly true that drunkenness is insanity; that as long and as far as a man is drunk, so long and so far he is insane. Alcohol is but one of many poisons that may produce insanity. Some of these are, like alcohol, of vegetable origin; others are minerals; and others are the products of animal life; but their agency and efficacy in producing insanity are undoubted. Much insanity, of which the origin was for long unknown, is now discovered to be due to poisons; and by administering other poisons than alcohol, insanity can be experimentally produced. Not only is delirium, which is, of course, a form of insanity, a constant feature at the height of every severe case of specific fever, but it is not at all infrequent for insanity to follow specific fevers, as a result of the poisoning of the brain which they produce. Many vegetable poisons, such as

those of belladonna, opium, and Indian hemp, produce, like alcohol, a temporary delirium; and, as with alcohol, their prolonged use renders the insanity permanent. There are some cases of insanity that are not produced by alcohol, but are of a permanent character, and depend on organic disease of the brain produced by other poisons, and yet present symptoms indistinguishable, or distinguishable with difficulty, from the insanity of drunkenness; and from whatever point of view we regard drunkenness, we cannot fail to see that its nature is that of a transient and toxic insanity.

Drunkenness is insanity; and from its frequency, from the ease with which it may be experimentally produced, and from the absence of any permanent harm from an occasional bout of drunkenness, it forms a convenient subject in which insanity may be studied. When studied, we find in it the following features, which we may be sure are present, *mutatis mutandis*, in insanity due to other causes, and are characteristic of insanity throughout.

In the first place, the insanity differs with the amount of the poison taken at a dose. If a single dose of alcohol is large enough, the

consequence is the production of a state of coma, in which consciousness is altogether abolished; conduct is altogether abolished; and the drunken person lies insensible and unrousable—dead drunk, as it is called. It is important to know that a person in a state of coma, whatever the cause of the coma, is dangerously ill, and is within measurable distance of death; and the coma of drunkenness sometimes terminates, then and there, in death. As with any other poison, the dose may be increased until it is *ipso facto* fatal.

Short of the condition of coma, in which mind and conduct are both abolished, drunkenness produces confusion of mind and inefficiency of movement of various degrees, according to the magnitude of the dose taken. On the side of mind, the first effect is usually an increase of nimbleness and cleverness, together with an impairment of prudence, so that the drunkard can say and do things more clever than he can say and do when sober, but these clever things are not altogether appropriate to the circumstances in which he is. He is apt to make enemies by the causticity of his remarks; or he will do, in a clever way, something that is intrinsically foolish. On

the bodily side, he loses the accuracy and nicety of his finer movements. His handwriting loses its neatness; his articulation loses its clearness. As the drunkenness proceeds, his articulation becomes thick, and his handwriting sprawling; he can no longer pick up a pin, or undo a button, or tie a string; even his gait now becomes affected, and he reels and staggers. By this time his mind is more deeply affected, and now we find that different people display their drunkenness in very different ways; showing, beyond question, that the signs of insanity are due in part only to the agent that causes the insanity, but in part also, and, in this case, in main part, to the nature or character of the person to whom the agent is applied. Thus we find that one person in his cups is merely stupid. His mind is confused and inappreciative, and his conduct lethargic. He sits staring stupidly in front of him, and does not attend to, or appear to understand, what is said to him. Another, in the early stage of drunkenness, becomes maudlin; he tells how badly he has been treated, and weeps over his sorrows; a third becomes quarrelsome; a fourth morose; a fifth brags of his accomplishments and

achievements; and a sixth becomes acutely maniacal, strips himself naked, and smashes the furniture.

Hence we find that the offences to which drunkenness leads are multifarious in character. Besides the ordinary charges, of drunk and incapable, drunk and disorderly, drunk and resisting the police, and so forth, drunkenness is a factor in many other offences, and is the efficient cause in many. Not only does the quarrelsome drunkard commit crimes of violence, and the morose drunkard resist the police, but there are certain cyclical phases in most cases of recurrent insanity, which are exhibited punctually in the insanity of drunkenness. In recurrent insanity, it is well known that the same features characterize each successive attack in the same person; and this repetition of similar features is not a mere general resemblance, but often extends into minute details. In one case, the attack of insanity was always heralded by upsetting the morning bath; in another, the early symptoms were the purchase of pigeons and a dog; in a third, indulgence in playing the cornet was a certain indication of the oncoming insanity. The late Mr. Justice

Walton told me of a similar repetition in drunkenness. He had repeatedly tried, on circuit, a woman who always, when drunk, stole a piece of bacon. She never stole unless she was drunk; and, when drunk, she never stole anything but a piece of bacon. The attraction of bacon was then irresistible to her; and she had repeatedly suffered imprisonment for this offence.

Offences committed during the insanity of drunkenness stand on a very peculiar footing. Seeing that the offender, when he committed the offence, was insane, ought he to be punished for acts done in a state of insanity? Many persons, and many authorities on insanity, would answer the question, thus baldly put, in the negative; but it would be so dangerous to allow the plea of drunkenness in excuse for crime, that such a rule is clearly impracticable. On the other hand, it seems that if a man chooses voluntarily to drink himself into a state in which he commits offences, and becomes a danger to society, he should be punished to the full for any offence that he commits in the state to which he has reduced himself by his own self-indulgence. Yet the consequences of a strict adherence to such a

rule would be almost equally abhorrent to the sentiment of justice. Ought the woman who stole a piece of bacon whenever she was drunk, but who was strictly honest as long as she was sober, to be treated with the same severity as the ordinary habitual thief? Few people would be found to hold this opinion. Ought a man who kills another in a drunken affray, not cherishing any animosity against his victim; not knowing, in any full sense of the words, what he is doing; and not retaining, after he becomes sober, any but the haziest remembrance of what took place; to be punished with the same severity as a brawling ruffian who, in his sober senses, beats a man to death? Few people would hold so severe an opinion. It seems clear that some *via media* ought to be found, by which drunkards should be punished for acts done in drunkenness, but should not be punished with all the severity that is visited on similar acts done by the sober. English law has formulated a practical rule, which works fairly well, and on the whole secures substantial justice, though it is, I think, susceptible of improvement. The law of England lays down the maxim that drunkenness is no excuse for crime;

and thus deprives the drunkard of the plea that, at the time of committing the offence, he did not know what he was doing; a plea which would evidently render it possible for any one to commit crime with impunity, who took the precaution of getting drunk before its commission. Yet, whenever a prisoner is charged with a crime into which intention enters as a material factor, it is open to the defence to show that he was too drunk to be capable of forming an intention; and if the plea is established, the offender cannot be convicted of the particular offence to which intention is necessary, though he may be convicted of a minor offence, into which intention does not enter. These two rules, somewhat contradictory and illogical as they appear, yet, in practice, secure substantial justice in the cases that come before the courts; but it is probable that these cases might be much diminished in number.

Whenever a man is brought before a court of summary jurisdiction for his first offence of drunkenness, he should, in my opinion, receive a punishment of such severity as to make him think twice before he reduces himself again to the same state of incapacity.

The usual course, of letting him off with a trifling fine, or a few days' imprisonment, has been shown, by the experience of several generations, and of hundreds of thousands of instances, to be utterly futile and inefficacious. It has not, apparently, the slightest deterrent effect; and the same offender receives these sentences, hundreds of times repeated, without amending his conduct in the least. As will appear later on, I am of opinion that no insane person should be punished, for any offence, with the same severity that would be just in the case of a sane person; but when the offender brings about, by his own voluntary act, the state of insanity in which he is prone to commit offences, he should, in my opinion, be punished for bringing himself into this state, and punished with a severity proportionate to the danger which society incurs by his doing so. If every person charged with wilful drunkenness, or with any offence committed in a state of wilful drunkenness, were to be punished, on the first offence, with six months', or even three months', imprisonment, without the option of a fine, charges of drunkenness would be enormously diminished; the number of habitual

drunkards would be sensibly reduced; and the task, both of police and police magistrates, rendered very much easier. Drunkenness is now regarded with a very different eye, it is true, from what it was when it was considered the mark of a milksop to go sober to bed, and every one who desired to be in the fashion must, of necessity, get drunk overnight. It is now regarded as a disgrace; but it is not sufficiently regarded as an offence. It is an offence. The drunkard is as much a danger to society as a lunatic at large, which he is; and when he commits an offence in consequence of his drunkenness, he should, in my opinion, be punished, not so much in proportion to the gravity of the offence committed when drunk, as in proportion to the deliberateness of the intention with which he brought himself into this dangerous state.

The mode of insanity that, next to drunkenness, most frequently leads to crime, is feebleness of mind. It is difficult to attach to this condition any more definite name, or any more definite meaning. It is a general silliness, often accompanied, however, by reticence, born of suspicion and antagonism to constituted authorities—a reticence that

often masks the weakness of mind, so that it is not discovered unless and until the silly person is kept for some time under observation. A considerable proportion of crimes is committed by persons of this description; and the prison authorities find among their charges a considerable minority, that is variously estimated, of such persons. The number is variously estimated on account of the elusiveness of the defect. There are so many degrees of stupidity, and the simple occupations and surroundings of prison life make so little call upon the intelligence, that it is by no means easy, especially when the prisoner is suspicious, and regards all interrogation as a trap to make him commit himself, to estimate the amount or degree of defect in his intelligence. Only after prolonged observation is it possible, in many cases, to come to a definite conclusion; but in these cases it is found, after a time, that the prisoner is deficient; and, if his history can be ascertained, it is found that he has always been "soft." At school, he never attained the standard of the normal boy of his age. Since leaving school, he has been unemployed, or has had casual employment of the least

skilled character; and his lack of employment has been due partly to intellectual and partly to moral defect. He is lacking in the intelligence necessary for the acquirement of a skilled calling; and he lacks also the steady purpose that is equally necessary. Commonly, his parentage and upbringing have been such that he has lacked the opportunity also; but even when he has had the opportunity, he is unable to avail himself of it. With the intellectual obtuseness goes a moral obtuseness. Such people recognize that stealing is a practice which is frowned upon by authority, and will be punished if discovered; but it is doubtful whether they see in it anything intrinsically wrong—it is certain that they do not appreciate its wrongness to the full. Knowing no trade; having no labour of value to offer in the market—lack of intelligence depriving their labour of much of the value it would otherwise have—deficient in self-control; restrained by no definite sense of morality; such persons take easily to crime; and, as has been said, an appreciable proportion of the inhabitants of prisons belong to this class. The crimes of which they are convicted are usually petty

thefts, often repeated, and acts of violence, the results, often, of drunken squabbles; for this and the previous class overlap, and a considerable proportion of habitual drunkards, as well as of habitual criminals, belong to the feeble-minded class.

The next class of the insane who contribute to the population of prisons, are the epileptics, and the crimes they commit are almost always crimes of violence. Epileptics are by no means necessarily insane, many being of high, and even of stable intelligence; but a certain proportion of epileptics are insane, and a certain proportion of the insane are epileptic. The important aspect of epilepsy, to the criminologist, is not that some insane are epileptic, nor that some epileptics are insane; but that all epileptics are subject to lapses of consciousness, during which they do things without knowing that they do them, and without retaining thereafter any recollection whatever of what they have done. In the vast majority of cases, the things done during these lapses of consciousness are merely the performance of convulsions which do not assume the nature of acts; but in a minority of cases, acts are done, it may be

with, it may be without, previous convulsion. Even of the cases in which acts, apparently purposeful, are done by epileptics, in association with their convulsions, it is only a small minority in which the acts are criminal; but by a small proportion of epileptics, criminal acts, usually acts of violence, are done in association with the fits.

The fits of epilepsy are very striking occurrences, and appear, at first sight, to be *sui generis*, and to be like nothing else that occurs in the human body; but, upon careful study, other recurring crises are found to take place, which have at least this in common with epilepsy—that they are recurring crises. In the common epileptic fit, consciousness is lost, the patient suddenly falls senseless and powerless; and while he is thus unconscious, the muscles of the whole body are convulsed for the space of some seconds, or of a minute or two. On the cessation of the convulsion, the patient is still senseless or comatose, and this coma gradually lightens into a sleep, from which the patient at length awakes, or can be aroused. Of the time that he was senseless, of his fall, of his convulsions, he remembers nothing when he emerges from his

sleep. This is the ordinary course of events; but it is subject to many variations.

In the first place, the fit may not come on with the electric suddenness that is usual. The patient may, and in many cases does, have warning of what is about to happen. The warning felt by the patient precedes the fit by but a very short time, but the approach of a fit is often known to those about the patient by an alteration of his demeanour, which may be hours or days in duration. He may become irritable, captious, and quarrelsome; or he may become dreamy, lethargic and stupid; or show some other change in character. The amount of the convulsion varies very widely. In the type, it is universal, and implicates every voluntary muscle in the body; being powerful enough in some cases, it is said, to break the bones; but it is not always universal, or even widespread; nor is it always severe. In many cases it is represented by a temporary twitching of the fingers; by a clicking of the tongue; by a pallor and lividity even, or a mere turning of the eyes. Instead of falling, the epileptic may merely droop a little; his knees give way for a moment; his head droops; or, without these signs, he

stops still in his walk, or in whatever he may be doing; and this is all. Such are the signs of minor epilepsy, or *petit mal*. The great peculiarity of epilepsy is, however, in the occurrences that take place after the convulsion is over. When the convulsion is very severe, it is followed, as we have seen, by coma, merging into sleep, from which the patient wakes with a total blank in his memory, dating from the moment in which he was seized. He knows nothing of the fit, and is merely able to guess that he has had one, because he finds himself lying on the floor, waking from sleep, immediately, so it seems to him, after he was brushing his hair, or engaged in some other avocation. But between the period of powerlessness that follows the severe fit, or the temporary drooping or twitching that constitutes the mild fit, there is often interposed a period of action, in which the epileptic does things of which he appears to be unconscious at the time, and of which he retains afterwards no memory at all. This action is of a very curious character, and has features by which it can usually be recognized without difficulty to be unintentional. It is sometimes, however, difficult to

distinguish it from normal action, or to be sure, or even to suspect, that the patient is not fully aware of what he is doing. When the act is criminal, as it may be, it is of the last importance to determine whether it was committed in the automatic stage of epilepsy, or whether it was the deliberate act of a conscious being; and the determination is sometimes by no means easy.

Study of the phenomena of epilepsy shows that certain rules govern the occurrences that take place in and after the fits.

In the first place, all the fits, in any one case, resemble one another in the way they begin and proceed, though they may differ very widely in the extent to which they proceed. In some cases, all the fits are of the major type, though they vary to some degree in their severity. In others, all are of the minor type, and again vary, though to a less degree, in severity. In a third class, both major and minor fits occur in the same case, and these may be regarded as wide variations in severity.

As a general rule, which is, however, not constant, post-epileptic automatic action is more conspicuous and prolonged after minor

than after major fits; and action of this kind never, I think, follows fits that are extremely severe.

Another rule, which is far more constant, is that, when automatic action does take place after any one fit, it follows other fits in the same person.

Equally constant is the rule that the automatic action, if any, is always of the same type in the same case. The action is not necessarily the same, but it has the same general character.

Lastly, the action, in post-epileptic automatism, is usually the caricature of some normal action that is habitual in the actor. It is a caricature of normal action in that it is, if at all elaborate, wanting in some essential element in the normal action. The post-epileptic automaton who finds a pen in his hand, will go through the movements of writing with it; but he will neglect to dip it in the ink; or, if he goes through the movement of dipping it in the ink, will not hit the ink-pot, but dip it anywhere. The movements will be a caricature of the movements of writing, in that they will be mere meaningless scribbles, without formation of words. A

woman will go through the movements of sewing, but her needle will not be threaded; or of cutting out, but she will cut her material into useless fragments. If the action is a very simple one, such as that of walking, it may be normally performed, but the automaton will be apt to walk among traffic, so as to be run over. He may, however, avoid obstacles, and evade other pedestrians.

These rules have a very important application to the determination of responsibility for criminal acts, done in what is supposed to be post-epileptic automatism. When it is suggested that a criminal act was post-epileptic and automatic, it is important to show that the action is of an habitual character, or resembles one that is habitual in the actor; and all automatic acts of the same person are of the same general nature. One act, that is habitual with every one, is that of passing water; and in post-epileptic automatism this act may be caricatured, not only by passing water at an inappropriate place or time, as, for instance, in public; or into a hat, or other incongruous receptacle, but it may be caricatured in such a way as to lay the person open to a charge of indecent exposure. A soldier or

a sportsman who is epileptic, and finds, after a fit, a gun ready to his hand, may load and fire it, for to him this action is habitual; but a person unaccustomed to the use of firearms would never do this act in post-epileptic automatism. A woman who had a fit while cutting bread and butter for her children's tea, used the knife in such a way as to cut her child's arm, and the act was proved to have been done automatically; but in another case, in which a woman had thrown her child into the water, the suggestion, that the act was done in post-epileptic automatism, should never have been made, and could not have been sustained; for the act of throwing a child into the water, or even of throwing a bulky object away, is not habitual with any one.

If the act is one of the same character as acts that have been done, in previous post-epileptic states, by the same person, the presumption that it is automatic is strengthened. A man cut the throat of a child. It was shown that he was subject to epileptic fits, and that, in the unconscious stage following the fit, he had often done acts of violence. The act of cutting a person's throat is not habitual, it

is true, with any one, but the act of cutting is habitual with many people, and the fact that previous fits had been followed by acts of violence, established a presumption that this act of violence was done in post-epileptic automatism.

The crimes whose connection with epilepsy it is most difficult, to establish are those that are committed in the condition known as *épilepsie larvée*, or masked epilepsy. In some cases of epilepsy, the epileptic, at the time that a fit is due, may do some extraordinary and outrageous act, that may be criminal, without having any definite fit, and yet without any knowledge, or without any subsequent remembrance, of the act. For instance, a woman who is subject to recurring epileptic fits, on one occasion, when a fit was due, went down to a ferry boat and crossed the river. She had no business on the other side of the river; and though she remembered going on board the boat, she did not know why she went there. On arriving on the opposite side of the river, she did not land, but made the return voyage; and when it had recrossed the river, again she did not land, but remained on the boat, and departed on

it toward the opposite shore. When she had gained mid stream, she threw herself into the river; and of this she subsequently retained no recollection at all. The whole series of acts was irrational. She had no good reason for going on the boat at all. She had no sufficient reason for remaining in the boat for the third voyage; nor had she any desire to commit suicide. The whole course of conduct was irrational, and culminated in an outrageous act. There seems to be no doubt that in this case, the conduct took place while she was in a dazed condition, and that the culminating act was committed in a state of unconsciousness; nor does there seem any reasonable doubt that this dazed condition was the result of a morbid action of her brain, which occurred at the time an epileptic fit was due, and was owing to a transformation or modification of the epileptic fit into morbid action of an allied, but different, character. In this case, the act was detrimental to no one but herself; and though it was technically a crime, and she was charged before a magistrate with attempting to commit suicide, it is not one that is usually punished as criminal. In many cases, however, acts of the most

atrocious and brutal violence are committed in somewhat similar circumstances; and, when the offender is known to be subject to epilepsy, there is little difficulty in establishing the plea that the act was committed while he was in a state of masked epilepsy. The great practical difficulty is that, in many such cases, in which crimes of frenzied and horrible violence are committed without assignable motive, or with very inadequate motive, the occurrence of previous attacks of epilepsy in the criminal cannot be proved. Not long ago, a man was discovered by the roadside dismembering the body of a woman. He had attacked and killed the woman, who was previously unknown to him, had stripped her body of its clothes, had cut off her head, and was engaged in cutting off her arm when he was discovered. To the exclamations of horror by the man who discovered him, he replied by holding up his victim's stays and umbrella, and saying that he could get eighteenpence for them. There was, in this case, no evidence that the murderer was epileptic; but this is the kind of crime committed by persons in the state of masked epilepsy. They are usually crimes of out-

rageous and brutal violence, committed against persons with whom the criminal was not at enmity, and to whom he may have been completely unknown.

The kind of insanity that is associated with crime with the next degree of frequency, is that known as paranoia, or systematized delusion. Persons who are afflicted with this malady are possessed by the belief that they are the subjects of a plot, intended to ruin them, to torture them, to afflict them in various ways. The malady is a distinct one, and, though it varies much in detail, and also in its associations, there is always at bottom this deluded belief in a plot against them. The most constant association with the belief in a plot, is a foggy confusion of thought, which renders the person affected incapable of clear thought on the subject of the plot, and leads him into all kinds of irrational, incoherent, and even inconsistent beliefs about it. The grave consequence of the delusion, and of the confusion of thought with respect to it, is that the sufferer is very apt to take desperate measures to counteract the plot, measures that often seem to the bystander to have little connection with the

belief in the plot, and not to be calculated to counteract it, even if it existed. Because, in their belief, A is plotting against them, they will assault not only A, but B, whom they do not associate with the plot. They are particularly apt to make attacks on persons in high places, in order that the notoriety they thereby achieve may "draw attention to the case." A considerable proportion, perhaps a majority, of the murderous attempts made upon kings, rulers, and persons of high position, are made by lunatics of this description.

Another definite kind of insanity—general paralysis of the insane—is responsible for a small number of crimes. Persons affected by this malady are apt to believe that they are persons of great possessions—that they have unlimited command of money, and that they own all kinds of property, some of which exists in their imagination only, but some may be the property of other people. Considering the nature of their delusions, it is rather surprising that the offences they commit are so few; but every now and then a general paralytic is given into custody for appropriating some article to which he be-

lieved he had a valid title. Usually, together with the delusion, there goes impatience and irritability because his claims are not recognized; and this impatience and irritability extend to other matters, so that patients thus affected are apt to commit assaults; and the offences they commit are, in fact, more often of the nature of assault than of misappropriation; but the assaults are seldom serious, and by the time the patient is sufficiently disordered in mind to commit offences in consequence of his disorder, the disorder is so manifest, that he is placed under care, and no medico-legal difficulty arises.

One other matter must be treated of in this connection. We often hear of persons being afflicted with "homicidal mania"; and those who use the term, and those who hear it used, appear to think that this title indicates a definite form of insanity, characterized by a craving to take human life, and that the persons thus affected are for ever on the watch to commit murderous assaults on all and sundry. Such a malady is unknown to those who have the care of the insane, and are most intimately acquainted with

their peculiarities. Some paranoiacs may be termed, in a modified sense of the words, homicidal maniacs, since the exasperation produced in them, by the belief in a plot against their welfare, renders them prone to retaliate, even to the point of murder, upon any person whom they believe to be concerned in the plot; but even in them the inclination to homicide is only occasional, partial, and temporary. For the greater part of the time, towards most people, and except when lashed into fury by the contemplation of their undeserved sufferings, they are harmless enough.

Lastly, deep melancholy is a form of insanity that frequently contributes to crime. Persons afflicted with this distressing malady are possessed of the enduring and unalterable belief in their own wickedness, incompetence, incapacity, or poverty; and often also of a belief in the terrible future that lies before them and those who are dear to them. It seems *a priori* unlikely that such beliefs should lead to criminal acts, but in fact they very often do. The most frequent criminal consequence of melancholy is suicide; and suicide is technically a crime. But suicide

is far from being the only criminal consequence of melancholy. Often, the delusion of the melancholic is that some terrible calamity is impending over himself and those who are near and dear to him; and to save them from this calamity, he takes their lives. Never a year, and seldom a court of assize, passes without some unhappy prisoner being tried for the murder of a child, or, more usually, of several children, whom he has killed to save them from the death by starvation that he saw impending over them. Such multiple murders are usually committed by the father, but not seldom by the mother. More rarely, melancholy prompts to murder, or attempt to murder, from a more indirect motive. Hadfield, who fired a pistol at George III, attempted the murder of his sovereign from a motive curiously indirect. Hadfield was possessed with the delusion that his own wickedness was so extreme and portentous that it would produce the eternal damnation of the whole human race. To avert this stupendous calamity, he felt that he ought to die, but he was too conscientious to die by his own hand. Suicide is a sin; and by committing suicide he would be only

aggravating the burden of his wickedness. He resolved, therefore, to do an act which would bring about his death at the hands of others. For this purpose he shot at the king.

CHAPTER III

KINDS OF CRIME

Few things are so difficult as crimes to classify satisfactorily. The first step in making a classification is to determine the purpose for which it is required; for a classification that is satisfactory and suitable for one purpose may be very unsatisfactory and unsuitable for another. A classification of men into rich and poor may be very useful to the assessor of supertax, but it is not of much value to the anthropologist. What, then, is the purpose for which a classification of offences is required? It is not very easy to say, precisely. It is important to the State, and interesting to its citizens, to know the number of crimes that are committed annually; but a mere sum total of all offences, lumped together, is of very little value. If we have such a sum total placed before us, we naturally

desire to have it divided up into the different sorts of offences; for it gives us no indication of whether the offences are grave, or merely nominal; signify deep moral depravity, or conscientious scruples; mean that society is being seriously assailed, or may sleep in security. We want to know more than the total number of offences committed; we want to know what kinds of offences are committed, and in what proportions. But the moment we begin to classify them we find ourselves in serious difficulties. Of course, the aim of every classification is to class like with like, and to separate unlike from unlike. The difficulty is that so many factors or elements enter into the composition of crime, that any classification that groups together those that are alike in any important respect, will separate those that are alike in some other important respect.

The official classification of crimes devised in the Home Office, and adopted by the prison authorities, divides them primarily into those which are triable at assizes and quarter sessions, and those which are disposed of in courts of summary jurisdiction. Such a division, while roughly indicating the relative

gravity of the offences in the two classes, is of little value for any other purpose, for it is, in many cases, at the option of the prisoner whether his case shall be disposed of in the inferior court, or whether he shall be committed for trial.

Those graver offences that are triable on indictment are divided, in the official classification, into six classes, as follows :—

I. Offences against the Person.
II. Offences against Property with Violence.
III. Offences against Property without Violence.
IV. Malicious Injuries to Property.
V. Forgery and Offences against the Currency.
VI. Other Offences.

No doubt this classification serves some purpose, or it would not be in use; but, apart from the miscellaneous class, which of itself shows the absence of an adequate principle of classification, a mere inspection of the outline given above is enough to show grave imperfection. Offences against property with violence are separated from malicious injuries

to property; but it is hard to see that malicious injury to property is not an offence against property, or that it can always be inflicted without violence. We may, indeed, set a house on fire, or destroy cattle or vegetation by the use of chemicals; but maiming cattle, destroying ships and railways, and the malicious use of explosives, seem to imply necessarily the use of violence. It is difficult to understand why forgery should be taken out of the class of offences against property without violence, and should be associated, in a separate class, with coining and uttering counterfeit coin. Forgery, coining, and uttering of counterfeit coin, are all of them offences against property, in the sense that falsifying accounts and larceny are offences against property. All are crimes of dishonesty; and forgery seems more connate to fraud by falsifying accounts, and to embezzlement, than to coining.

When we look into the details of the classification we find more anomalies. The detailed classification is as follows :—

CLASS I.—Offences against the Person.

Murder.
Attempt to murder.
Threats or conspiracy to murder.
Manslaughter.
Felonious wounding.
Endangering railway passengers.
Endangering life at sea.
Malicious wounding (misdemeanours).
Assault.
Intimidation and molestation.
Cruelty to children.
Abandoning children under two years.
Child stealing.
Procuring abortion.
Concealment of birth.
Unnatural offences.
Attempts to commit unnatural offences.
Indecency with males.
Rape.
Indecent assaults on females.
Defilement of girls under 13.
Defilement of girls under 16.
Incest.
Procuration.
Abduction.
Bigamy.

CLASS II.—Offences against Property with Violence.

Sacrilege.
Burglary.
Housebreaking.
Shopbreaking.
Attempts to break into houses, shops, etc.
Entering with intent to commit felony
Possession of housebreaking tools, etc.
Robbery.
Extortion by threats to accuse.
Extortion by other threats.

CLASS III.—Offences against Property without Violence.

Larceny of horses and cattle.
Larceny from the person.
Larceny in house.
Larceny by servant.
Embezzlement.
Larceny of post letters.
Other aggravated larcencies.
Simple larceny and minor larcenies.
Obtaining by false pretences.
Frauds by agents, etc.
Falsifying accounts.
Other frauds

Receiving stolen goods
Offences in bankruptcy

Class IV.—Malicious Injuries to Property.
Arson.
Setting fire to crops, etc.
Killing and maiming cattle.
Malicious use, etc., of explosives.
Destroying ships.
Destroying railways.
Destroying trees and shrubs.
Other malicious injuries.

Class V.—Forgery and Offences against the Currency.
Forgery and uttering (felony).
Forgery (misdemeanour).
Coining.
Uttering counterfeit coin.

Class VI.—Other Offences not included in the previous classes.
Offences against the State and Public Order—
High treason.
Treason felony
Riot

Unlawful assembly.
Other offences.

Offences against Public Justice—
Extortion by officers, etc.
Bribery, etc.
Perjury.
Escape and rescue.
Other offences.

Offences against religion—
Blasphemy, etc.

Offences against the Law of Nations—
Piracy.
Slave trade.

Libel.
Poaching.
Indecent exposure.
Keeping disorderly houses.
Other nuisances.
Habitual drunkenness.
Suicide (attempting to commit).
Other misdemeanours.

It will be seen that this arrangement leads to strange collocations and separations. Murder, bigamy, concealment of birth, and abduction are all in the same class. Piracy is associated with libel; high treason with

habitual drunkenness; perjury with poaching; riot with brothel keeping; and so on. On the other hand, threats to murder are in one class, and threats, whether to murder or not, for the purpose of extortion, are in another; indecent exposure is in one class, and indecent assault is in another; fraud is in one class, and forgery in another; wounding is in one class, and robbery with violence is in another. Destroying railways is in one class, and endangering railway passengers is in another; brothel keeping is in one class, and procuration is in another. As has been said, the nature of a classification must depend on the purpose for which it is required; but it is difficult to imagine any purpose for which such collocations and separations as these would be useful.

A very cursory examination of the classification reveals the reason of its failure. The classes of the same rank are not founded on any one principle. The first three classes, and part of the fifth, are made according to the object—person, property, etc.—against which the offence is directed; the fourth class is characterized by the motive on which the offence is committed; and the sixth class is

an *omnium gatherum*, founded on no principle at all. If a classification is to be valid, it is necessary that all the primary classes shall be constituted on a single principle; and the difficulty of classifying crimes is that so many factors enter into the constitution of a crime, that the choice is large; and the importance of these several factors is, from different points of view, so nearly equal, that the difficulty of choice is great.

There are, in a crime, no fewer than five main factors, any one of which may be used as the basis of a classification of crimes.

1. We may classify crimes, as the official classification purports to classify them, according to the nature of the injury inflicted by the act; that is, according to whether the criminal act is injurious to the person, or damaging to property, or is a misappropriation of property, or is an invasion of chastity, and so forth. But the defects of such a principle are transparent, and some of them have already been indicated. A homicidal assault is an offence against the person; an attempt to violate chastity is an offence against the person; and the two are included together in the first official class. But the differences between

them are so great and so numerous that it is felt to be anomalous to class them together. A violent assault is an offence against the person; stealing is an offence against property; but how are we to classify, on this scheme, robbery with violence? The official scheme calls it an offence against property; but the victim might consider his broken head a greater injury than the loss of his watch; and there is as good reason for classing it as an offence against the person, as for classing it among offences against property. Injury to property and misappropriation of property are both of them "offences against property," but when a burglar steals an artistic silver model and melts it down, under which head are we to class the offence? According to this principle, murder is a single offence, and in English law there is but one crime of murder; though in the laws of some other countries there are two kinds of murder—murder in the first degree and murder in the second degree. But if we wish to get at the springs and sources of crime, and to view it in relation to its causes, there are many kinds of murder, distinguished by the motives from which it may be committed. It may be committed

for gain, or for lust, or for revenge, or to secure the safety of the murderer, or unintentionally, in the course of committing some other felony, or to escape from an unhappy marriage, or for the good of the victim, or from some other motive; and although, for the purpose of administering justice, it may be expedient to class all these together, yet, for the purpose of understanding the causes of crime, such a classification would be confusing and worthless. The man who would commit murder from revenge or malice might be as far from committing murder for gain as the most thoroughly moral and law-abiding citizen.

2. Yet if we take motive for the primary basis of our classification, we may fall into anomalies equally grave. We shall then, not only divide murders into several different classes, but we shall group together larceny and piracy, coining and poaching, picking pockets and forgery, burglary and offences against the Truck Acts, brothel keeping and driving a lame horse.

3. One of the most important aspects of crime that must be considered, is the degree of turpitude that is involved in it. It is this that mainly determines the reprobation with

which we regard the offence, and the punishment that is awarded. The turpitude of the offence is the primary basis of the official classification into offences triable at assizes and quarter sessions, and those which are dealt with in courts of summary jurisdiction. But turpitude is a matter of degree, admitting of no sharp distinctions, difficult to assess, and assessed very differently by different persons. We have seen lately an attempt to class infanticide among venial offences, to be punished, if at all, with trifling severity; yet it is officially regarded as one of the gravest offences known to the law. If we proceed on this principle, we may class together poaching and betting, assault and setting fire to a common, blackmail and attempting to wreck a train, bigamy and riot, and other incongruous couples. We shall separate different examples of the same offence, committed from the same motive, according to the amount of temptation offered; and we must form a special and extremely miscellaneous class of offences that imply no moral turpitude at all. Plainly, a classification on this principle is impracticable.

4. Or we might base our classification of

offences on the consideration of the object that the offence is intended to benefit. Is it committed for the benefit of the offender himself, of his family, of some other person, of the State at large, or of the race ?—for offences may be committed with any of these objects. It is clear, without giving instances, that the application of this principle would result in a hodge-podge of miscellaneous offences being collected together in each class, and in the same offence appearing again and again in different classes.

5. Lastly, we may take the object injured by the offence as the basis of our classification, and divide offences into offences against the State, offences against individuals, offences against the institution of marriage, offences against chastity, offences against religion, and so forth; and in this principle, which is utilized to a small extent, for some of its minor classes, by the official classification, we shall find the most secure basis for a natural and scientific arrangement of offences. This principle, which we shall find answers admirably as a basis for the constitution of the main groups of offences, will not suffice, however, for the minor divisions, and for them

it must be supplemented by utilizing some of the other factors herein set forth.

From this examination of the various factors in crime, it appears that no satisfactory classification can be made on any one of these principles alone, yet that each is important; and that no classification can be satisfactory that does not take them all into account, to some extent, and at some stage. The difficulty is to decide in what order to take them, on what principle to make the primary division, and what precedence is to be given to the others in making the subsequent groups.

After very careful consideration I suggest the following classification as that which satisfies the conditions with the nearest practicable approach to completeness.

Every offence is an offence against society. It is an offence because it is directly or indirectly injurious to society; and society, for its own protection and preservation, must prevent or punish it. So regarded, offences may be primarily divided into those against which all or several civilized states take common action, and those which are punished by individual states, each acting within its own jurisdiction. Thus we arrive at a primary

division of offences into international and national.

International offences are few, and nowadays are rare. They include piracy, filibustering, and the slave trade; to which it seems likely, and would be proper, that anarchy should be added. Offenders of this class are the enemies, not of this or that individual, or even of this or that particular State. They are *hostes humani generis*—enemies of humanity and civilization at large; and, as they are the common foes of all nations, all nations are interested in exterminating them.

Of national offences, some strike at the fabric itself of society, tending to break it up and destroy it, by direct or indirect means; others injure society in detail, by attacking its individual members, breaking up families, or interfering with the replenishment of society by the production of children. We may therefore divide National Offences into Public Offences and Private Offences, and subdivide Public Offences into the Direct and the Indirect, and thus lay the foundation of our classification, as follows :—

I. International Offences.

II. National Offences: Acts injurious to Society;

A. Generally: Public Offences.
Direct, by attacking the primary functions of the State.
Indirect, by attacking the binding forces of Society.

B. In detail: Private Offences.

Public Offences are those which injure the State, or society at large, either directly, by impairing its proper functions, or indirectly, by loosening the binding forces of religion and custom, which help so powerfully to hold society together. To discover the character of Direct Public Offences, which injure the State by impairing its proper functions, we must determine what these functions are.

The functions of the State are primary and secondary, or major and minor. Its major or primary functions are to defend itself from external foes, and to preserve its internal integrity. For the first purpose, it maintains its Foreign Office, its Diplomatic Service, its Army and Navy. Unless this function is efficiently performed, the State must perish by assault from without. The internal in-

tegrity of the State is preserved by keeping the Peace; and for this purpose it provides, not only officers whose duty it is to prevent and stop breaches of the Peace; officers to try offenders and punish offences; and a machinery for the prevention of crime; but also a system of administering justice between citizen and citizen, which supersedes private conflict, and provides, in its stead, a peaceful method of settling disputes. For both of these primary functions it is necessary that the State should have a revenue, wherewith to pay its officers and provide the necessary buildings and appliances. Any act, by any of its citizens, which impairs either of these primary functions of the State, is directly injurious to it, and constitutes a grave public offence. Moreover, the officers of the State are in a position of peculiar power and responsibility, having the whole authority of the State behind them; and they are under a considerable temptation to abuse this authority for their own private advantage. Such an abuse of official position is a grave injury to the State; and where it prevails extensively, is a source of weakness to the State which may easily lead, and in many cases

has led, to revolution within, to conquest from without, or to foreign interference which differs only nominally from conquest.

Thus we obtain the following classes:—

Direct Public Offences, Grave—
- Offences against the State as a whole. and against its external defences.
- Offences against the Peace.
- Offences against the Administration of Justice.
- Offences against the Revenue.
- Offences against Officers of the State as such.
- Abuse of official position by Officers of the State.

Although these are the primary and main functions of the State, functions that are necessary to its preservation, they are not its only functions. Modern States assume various minor functions, which are not necessary to the preservation of the State, but are desirable, either for the convenience of the citizens at large; or for the protection of its weaker members; or to minimize risks of injury; or in other ways to serve the public welfare. The public convenience is served

by the creation of State monopolies—the minting of coin, the Post Office, the telegraph and telephone services—to which some countries add railways, pawnbroking, and other monopolies. For the protection of its weaker members, the State provides the Poor Law, the Lunacy Law, Factory Acts, Truck Acts, Betting Acts, Gaming Acts, and many other enactments. To minimize risks of injury, innumerable statutes contribute; from Public Health Acts to Protection of Machinery Acts, Mining Acts, Merchant Shipping Acts, Motor Vehicles Acts, and so forth. Provision is made to increase the general welfare of the citizens by Education Acts, Building Acts, Town Planning Acts, and so forth.

Infringements of any of these laws are, in a technical sense, offences against the State. Prosecutions for such infringements are undertaken by the officers of the State, and are not left to private initiative. They are undertaken by public officers and on public grounds. But it is evident that these are public offences in a sense very different from that in which the Grave Public Offences are so understood. Infringements of these laws do not impair

the integrity of the State, or bring it into danger. The State existed and flourished for centuries before these laws were enacted, and if they were all repealed to-morrow, the State could get along very well without them. They are not vital to its existence. Acts by which these laws are infringed constitute a separate class of Minor Public Offences which may be thus divided:—

Direct Public Offences, Minor—
- Offences against State Monopolies.
- Offences against the Benevolent Laws.
- Offences against the Protective Laws.
- Offences against the Salutary Laws.

Within the State are various minor authorities, each administering a certain area; and as it must happen that local conditions produce special opportunities and special occasions of danger and inconvenience, these minor authorities, or municipalities, have certain limited powers of legislation delegated to them by the State, to regulate the conduct of citizens in these local respects and matters. Not only to public municipal bodies, but also to great private corporations, the State gives power to make by-laws for the regulation of

the conduct of those members of the public whom the corporations serve; and infringements of the by-laws of railway companies, dock and harbour authorities, river conservancy boards, and so forth, constitute, with infringements of municipal regulations, a distinct class of Minor Public Offences, viz.:—

Offences against Municipal Regulations and By-Laws.

Grave Public Offences directly endanger society. Minor Public Offences, and Municipal Offences, do not endanger society; but they militate against the convenience, the property, the welfare in some or other way, of its members. Society may, however, be endangered indirectly by acts which do not directly attack its fabric, its officers, or its revenue, but which weaken the binding forces which tend to maintain society as a cohesive aggregate, and to keep it from dispersion. It would take up too much space to show here how religion and custom act as binding forces in this sense; and I have dealt with the question elsewhere at length (*Conduct and Its Disorders*, Macmillan).

Here it must suffice to say that there is, in man, a natural repugnance to any attack on his religious belief, or his customary observance; that this repugnance is founded on the fact that such attacks are injurious to society; that they are felt to be of the nature of offences against public order; and they are consequently punished. As other influences grow in potency and take their place, the social importance of religion and custom decline; and they are no longer safeguarded by State punishments against innovation; but in all primitive societies, they are so punished; with us they have only recently ceased to be so punished; and one form of attack upon religion—blasphemy—is still a penal offence in this country.

The second class of National Offences consists of those acts by which society is injured, not in the gross, by interfering with its functions, but in detail, by attacks on individual persons or institutions within the State. These constitute the large class of Private Offences.

The complex social state in which civilized communities exist, is a very late product of the evolutionary process. The social state

itself is comparatively a late product, a late stage of life and development. Being of comparatively recent origin, the social instincts innate in man are not yet developed in complete harmony with the remaining instincts. Other instincts, in some respects and at some times antagonistic to the social, are of greater antiquity and of greater potency. In order to maintain the social state in spite of these antagonistic instincts, social communities of mankind have devised systems of law, as a protection against those who give way to these instincts. We have seen that the three groups of vital instincts are the Self-preservative, the Family and Racial, and the Social. Since Private Offences arise from the preponderance of one of the two former over the latter, we may divide them accordingly, and so obtain the two great classes.

Offences of the first class are prompted by some instinct of the self-preservative class. They are acts injurious to others, done for the benefit of the actor in his struggle for life; or from some self-preservative motive. They are acts by which he seeks his own greater safety, welfare, or satisfaction, by injuring his fellows. They are acts prompted by the desire for

personal security, by the desire for gain, or by malice.

Offences of the second class arise in the course of family and racial conduct.

Private Offences of the self-advantageous class may be classified in either of two ways. They may be divided according to the nature of the damage inflicted, or according to the motive with which the damage is done. On the first plan, the classes would be :—

Offences against life and safety.
Offences against liberty.
Offences against property.
Offences against reputation and feelings.

On the second plan, the division would be into

Offences committed for personal safety.
Offences for gain.
Offences for the gratification of malice.

Or the two principles may be combined, the one being used for the main division, the other for subdivision, thus :—

Private Offences—
Self-advantageous.

Offences committed for personal safety.
Against the person.
Against property.
Offences committed for the gratification of malice.
Against the person.
Against liberty.
Against property.
Against reputation.
Offences committed for gain.
Misappropriation of property.

The second class of private offences consists of those which arise out of family and racial conduct. They are acts which arise out of the relation of sex and parenthood, which are done for the gratification of the actor, and which are injurious either to individuals, or to the institution of marriage, or to the rising generation, or to the principle of racial reproduction. Accordingly they may be divided as follows :—

Private Offences—
Family and Racial.
Offences against individuals.
Offences against the family.
Offences against the race.

The first class consists mainly of offences prompted by jealousy; the second of offences against chastity and the marriage tie; the third of injury inflicted on the coming generation.

CHAPTER IV

PUBLIC OFFENCES

THE consideration of International Offences need not detain us. Piracy is confined to rare occasions in remote seas; filibustering was thought, until the occurrence of the Jameson raid, to be extinct; the slave trade still requires a few small ships for its prevention and suppression, but the offenders are never tried in English courts; and anarchism is not yet elevated to the rank of an international offence.

Public Offences we have divided into the direct and the indirect; the former attacking the fabric of society by impairing its functions, the latter by loosening the binding forces of religion and custom, which, until the social instincts become sufficiently developed to do without their aid, act powerfully in main-

taining the integrity of the commonwealth. We divided the Direct Public Offences into Major and Minor; and it is necessary now to consider each of these in more detail. It will be remembered that the Grave Public Offences are as follows:—

1. Offences against the State as a whole, and its external defences.
2. Offences against the Peace.
3. Offences against the Administration of Justice.
4. Offences against the Revenue.
5. Offences against Officers of the State as such.
6. Abuse of official position by Officers of the State.

1. The first group of Public Offences consists of those acts that impair the defences of the State against its foreign foes, actual or potential. They include that variety of treason known as aiding the king's enemies; prying and spying into the defences of the State, and into diplomatic secrets; revelation of official secrets; mutiny, and offences against the Army and Navy Acts; and damage to war material or ships, to which may be added

damage to any of the property of the State. Under mutiny may be included, not only insubordination in the naval and military services, but incitement to discontent, and subornation of soldiers or sailors to neglect or violate their duty; offences rare in this country, but a source of anxiety to some of our neighbours. Insanity does not often contribute to offences of this class; but I have had under my care as a certified lunatic, a young soldier who slapped his officer's face on parade, and could not be made to understand that he had done anything unseemly or objectionable.

2. Offences against the Peace. As the primary external function of the State is to defend itself against external foes, so its primary internal function is to keep the Peace within its borders. A State distracted by internecine strife is in course of dissolution; and the prevalence of internal strife is fatal to the existence of the State. The most important, the earliest, the primary internal function of the State, is to substitute the orderly arbitrament of law for the disorderly arbitrament of private war, in the settlement of disputes between its citizens. The first duty

of the State is to suppress internecine strife; for any occasion of such strife is the beginning of a process which, if continued unchecked, would end in the dissolution of society, and its return to barbarism and savagery. Hence it is of prime importance to suppress offences against the Peace, whether they assume the menacing form of armed rebellion, or whether they take the less important shape of riot, or unlawful assembly in numbers, or whether they are mere affrays between individuals. This is the principle on which duelling is forbidden. If two silly persons choose to aim at each other's lives, under conditions fair to both, it would seem that it is of no concern to any one but themselves; but the State rightly recognizes that if such conduct were to become general, society would lapse into barbarism; and duelling is forbidden, and the duellist punished, in order that the Peace may be kept. So important to the integrity of the State is the keeping of the Peace, that not only is it an offence to break the Peace, or to incite to breach of it, but any act calculated to lead to a breach of the Peace is *ipso facto* an offence to be punished.

Insanity weakens the self-control of those