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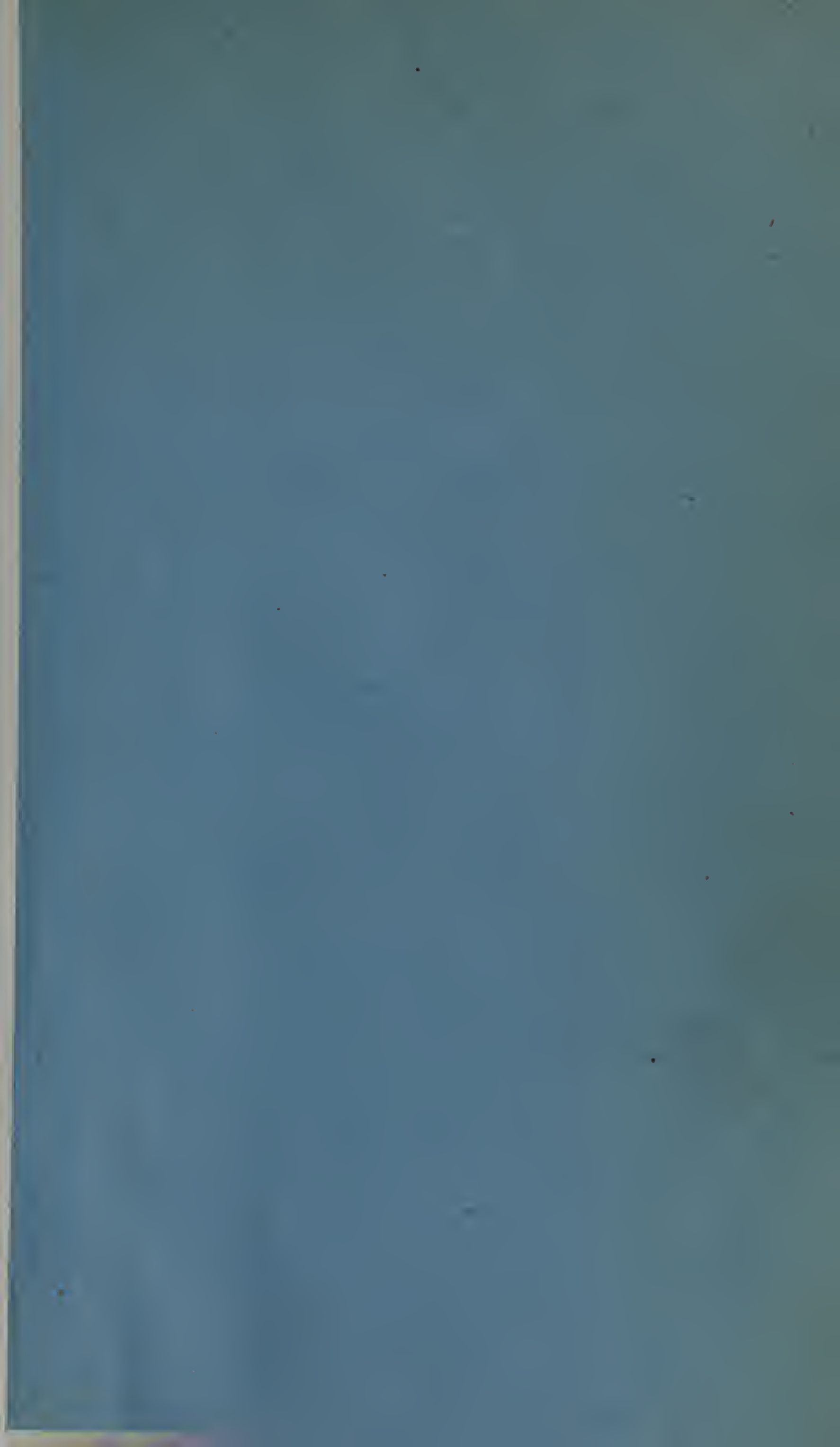

INVOLUNTARY

CONFESSIONS.

A

Monograph.

BY

FRANCIS WHARTON.

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The following pages are taken from the closing chapter of the second edition of a treatise on Medical Jurisprudence, now issuing from the press, under the editorship of Dr. Alfred Stillé and myself. They are placed in the present shape for independent distribution, as bearing on one or two branches of study distinct from that of the book in which they primarily appear.

F. W.

September 10, 1860.

INVOLUNTARY CONFESSIONS.

Mr. Rawlinson, as his motto to the Bampton Lectures of 1859, takes the following from Aristotle :—

Τῷ μὲν γὰρ ἀληθεῖ πάντα συνᾴδει τὰ ὑπάρχοντα, τῷ δε ψευδεῖ ταχὺ διαφανεῖ τἀληθές.

(FOR WITH THE TRUE ALL THINGS THAT EXIST ARE IN HARMONY ; BUT WITH THE FALSE THE TRUE AT ONCE DISAGREES.)

This conflict between the true and false arises in all cases where guilt is attempted to be screened by human contrivance. The mind involuntarily becomes its own prosecutor. It drops at each point evidence to prove its guilt. Each statement that it makes—each subterfuge to which it resorts—each pretext it suggests—is a witness that it prepares and qualifies for admission on trial. In this, and in the universality of the psychological truth that guilt cannot keep its counsel, we may find an attribute of divine justice by which crime is made involuntarily its own avenger. Man cannot conceal the topic of a great crime, either anticipated or committed. It sometimes leaps out of him convulsively in dreams; sometimes a false cunning leads him to talk about it to know what suspicions may be afloat; sometimes that sort of madness which impels people to dash themselves from a high tower, forces him to the disclosure. Even his silence tells against him; and when it does not, the tremor of the body supplies the place of the tremor of the mind. Nor can he keep peace with his associates. There is a disruptive power in a consciousness of common guilt, which produces a hatred so demonstrative, that if it does not supply the proof, it attracts the suspicion of a great wrong having been done.

In the preparation for crime the most astute fail. Poison has to be obtained somewhere. For domestic purposes it might be boldly purchased; but the poisoner, in a vast majority of cases, is impelled to a more circuitous course. He buys it to kill vermin, and then gives a false excuse—as in a case where the prisoner pointed to a mouse which he said was killed by the poison, when in fact, it turned out that the mouse was not so killed. He places a loaded pistol on his person on a pretext which he takes care to announce, but which turns out in like manner to be false. There is, in almost every kind of crime, a swelling of the upper soil which shows the subterranean road which the criminal travelled. It would seem as if it were a germinal element of guilt that it cannot work without such memorials. The most adroit hand may get witnesses away from the intended spot—the greatest caution may be shown in the purchasing, the collecting or the fashioning of

instruments—but still the traces remain, ready to increase the presumption, if not the positive material for conviction.

At the Shrewsbury races, in November, 1856, appeared two young men, each of whom had large stakes involved—in each case those of life and death. Polestar, one of the horses entered, belonged to John Parsons Cook; a sporting character and spendthrift, and not much besides. He had inherited a considerable estate, but a large portion of this had gone in dissipation, and now, the result of the race was to decide whether the remnant was to be doubled or destroyed. Watching him pretty closely, though with an off-hand familiarity which required an experienced eye to penetrate, was William Palmer, a man several years his senior, whose fortune, which had also been considerable, was now entirely gone. The "Chicken" was Palmer's horse, and on this he had ventured enormous bets. But he had a double game. Ruin, it is true, was imminent, but there was a method of escape. He was a medical man, and he had discovered the fatal properties of strychnine—how that it produced a disease scarcely to be distinguished from lock-jaw—how it could be administered without exciting the victim's attention—what was the minimum dose necessary to take life, and how, when this dose alone was administered, the poison was dispersed, leaving no traces behind. He had a book in which these points were stated, and to make himself certain, he not only turned down the book at the place, but made a memorandum giving the substance in his note-book. He was a man of the world, and he made himself, without appearing to do so, thoroughly master not only of Cook's confidence, but of his secrets. He knew that Cook had a disease which produced sores on the tongue which might be considered, if talked about in the right light, as the cause of lock-jaw, so he proceeded to tell about them in this light. He knew how to imitate hand-writing. So he wrote a paper by which Cook acknowledged himself his debtor in a sum sufficient to absorb all Cook's effects. "Polestar" won and "Chicken" was beaten. Palmer, in his careless, sporting way, borrowed Cook's winnings to pay his losses. Then everything was ready to poison Cook, and the work was done with complete coolness and success. A little preliminary sickness was induced, during which nothing could be more kind and yet less officious than Palmer's attentions. It is true the strychnine had to be bought, but this was done in a circuitous way, and under a false color. Then it had to be administered, but two medical men, of undoubted probity, were called in, and as they recommended pills, it was very easy to substitute pills of strychnine for pills of rhubarb. So Cook was killed, and this so subtly, that the attending physician gave a certificate of apoplexy. As to the *post-mortem*, Palmer knew it would not amount to much, nor did it. No strychnine was discovered, but here the nerves of Palmer gave way. He showed an undue fidgetiness while the examinations were going on. He tried to tamper with the vessels in which the parts to be examined were placed. Then, also, the note he produced to show Cook's indebtedness to him was suspected; and then Cook's betting book could not be found. This led to Palmer's arrest. The first medical authorities in England proved that Cook's death came from strychnine and nothing else. The apothecaries from whom the strychnine was bought, attracted by the discoveries,

identified Palmer. In a dark passage he had been seen to drop something into a glass for the sick man, but the passage was not so dark but that he was observed. Then his note-book turned up, showing how acquainted he was with the poison. And upon these facts, skilful as he was, and completely as he had covered up his guilt from the superficial eye, he was convicted and executed.

Intimations are to be tested by the character of the party from whom they emanate. In the present connection, they may be divided into three classes.

Direct intimations are the least frequent. The coarse old feudal baron, over whom there was no law which would interfere to make a threat defeat itself—whose importance depended upon the emphasis with which he pursued his enemies—to whose temper deceit was intolerable—threatened dashingly, and performed implacably. So the Scotch clansman followed his hereditary vengeance until the last of the tribe he hated was extinguished.

Now in these cases there was neither parsimony nor insincerity in the threat, and no reserve in the execution. What was said was meant. It is only, however, in the rudest and most lawless states of society that we now find this phase. In a community where there is a justice of the peace, to threaten life is followed by a binding over to keep the peace; and such a threat, therefore, is rarely heard except as a bluster. Civilization, it is true, has not extracted the venom from homicide, but it has silenced its rattle.

There are cases, however, where the rattle is still heard. A purpose of vengeance may be whispered in a friend's ear. Among men over whom there is no law, in the mountain slopes or prairie sweeps to which no jurisdiction except that of the vigilance committee has reached—among the hunters of the wilderness who have preceded law, or the wreckers of the coast who have defied it, or the outcasts of the city who have been rejected by it—in those cases of domestic outrage where social usage seems to permit vengeance being taken into private hands—here threats may be the precursors of deeds. Desperation, also, gives out the same warning; and in such cases the warning uttered is of real consequence.

Then again a threat which may be meant merely as bravado, may afterwards become a real and desperate purpose. Provocation—opportunity—the desire to save the character from the imputation of mere bullying—may stiffen the attempt to frighten into an attempt to destroy. Or again, a settled animosity may be produced which may lead, though circuitously, to secret mischief.

Taking out these exceptions, however, and assuming the case to be one of a man of ordinary prudence, where there is no proved settled purpose of revenge, and in a community where the usual restraints of the law are applied, it becomes very unsafe to connect threats previously uttered by such a party with a recent homicide. "The tendency of such a prediction," says Mr. Bentham, "is to obstruct its own accomplishment. By threatening a man, you put him upon his guard, and force him to have recourse to such means of protection as the force of the law, or any extra-judicial powers which he may have at command, may be capable of affording him." In the case last put, it is not likely that the one who really accomplished a deed which would lead to condign punishment, was the one who publicly threatened it.

Then, however, comes the *ambuscade* intimation. The more refined society becomes, the more likely is this kind of preparation to precede crime. It may be adopted to lull the victim. When the massacres of St. Bartholomew were planned, the Huguenot chiefs were invited to Paris on the pretence of the wedding between Henry of Navarre and Margaret of Valois. "This politeness of the Italian Queen is very suspicious," said the more wary of them; "she kisses whom she would betray." But they went, were caressed, and were massacred.

The Admiral Coligny had been wounded by an assassin under the pay of the Duke of Guise. He lay helpless on his sick-bed, when Charles IX., then a boy of only nineteen, but thoroughly schooled by his malign mother, was announced. The Huguenots were thoroughly aroused by the attack on the admiral. The preparations for crushing them, however, were not then complete. It was necessary that they should be quieted and kept together. So Charles entered into the admiral's chamber, and throwing his arms around the aged warrior, said, "Father, *you* received the wounds, but *I* the sorrow." Two or three nights afterwards, Coligny, hacked and helpless as he was, was torn from his bed and cut to pieces. Then his body was dragged through the streets, and at last his trunk was kicked about like a foot-ball in the presence and for the diversion of the young king, who had shortly before embraced it. "Had it been the mother," said the survivors, "we would have had suspicion; but it was only the boy." Here was the Medicean mask—the very luxury of artifice in which Catharine of Medicis enveloped herself when about to commit a crime; and yet, from its very excess, it was a premonition. So it is that subtle guilt, in the very degree to which its subtlety is refined, gives its own warning, and at all events invokes its own retribution. For the recoil of St. Bartholomew's night destroyed the House of Valois far more effectually than did the massacre the Huguenots. Charles IX. died only a few years after, of a disease in which nervous horror, if not remorse, was the prime agent, and so did men turn from him, even in Catholic Paris, that his body was deserted when on its way to the grave, and was followed to St. Denis by only three private gentlemen. His brother, Henry III., who succeeded him, was the last of his race.

Cowardice may work in the same way, from the fear of being struck back, if a face-to-face blow be attempted. So it was with James I.:—

"Willing to wound, and yet afraid to strike."

When he was rolling the execution of the Earl of Somerset as a sweet morsel in his mouth, he hung about the neck and slabbered over the face of that unfortunate favorite. It is not that he wanted to entrap—Somerset was caught already. Nor did he want to prevent detection, for he afterwards never shrank from the moral consequence of the deed. It was merely because he was physically afraid to face a collision.

Then come *precautionary* intimations. Of these the following may be taken as illustrations. Captain Donellan was tried in Warwick, in 1781, for poisoning Sir Theodosius Boughton, on whose estates his wife had a reversionary interest. The defendant had no doubt long formed a plan by which the deceased

was to be removed. To exclude suspicion, the idea was thrown out long in advance that the latter's health was desperate—that speedy death was certain—that his imprudence was constantly heaping up causes upon causes to produce it.

When Sir Thomas Overbury was in the Tower, and when the arrangements for his poisoning, under the direction of the Countess of Somerset, were made, the doctors, whom the countess had in pay, were careful, long before the poison took effect, to announce that the patient was very sick, and, indeed, "past all recovery." It was a trick to prevent surprise.

Then come *prophetic* intimations. Those who approach a crime under the stress, either felt or assumed, of a supernatural decree, often move with the pomp worthy of so grand a mission. The muttered forebodings of the fanatic precede the fanatic's blow. The assassinations of John of Leyden and the assassinations of Joe Smith were always ushered in by intimations, more or less obscure, that the intended victim had fallen under the divine ban. Nor can we dismiss this as mere hypocrisy. The consciousness, though only partially sincere, of a supernatural impulse, cannot be completely repressed. The Greek tragedians felt this when they made those who meditated, under such an impulse, a deed of blood, bear witness to their awful mission by their dark forebodings of misery to him they would destroy. So it was that Clytemnestra stalked over the stage, relating to the sympathetic chorus the terrors before her eyes and the fate by which she was driven, and so it was that they ejaculated back their admiring horrors. So it was with the first Napoleon, with whom this sense of the supernatural was sometimes master, sometimes creature. He knew how to use it to overreach others; but he knew not how to use it without its sometimes overreaching himself. In the very face of policy he could not always conceal within himself the decrees of destiny with which he supposed himself charged. Thus the death of the Duke d'Enghien was muttered forth by him long before the fatal arrest; and so before sovereign houses ceased to reign came the intimations of this vice-regent of destiny that the decree was about to issue. It was not mere threats—it was not ambuscade—it was the involuntary witness born against itself by crime acting under the guise of fate.

Among the vulgar these intimations are not unfrequent. Murderers, especially in the lower walks of life, are frequently found busy for some time previous to the act in throwing out dark hints, spreading rumors, or uttering prophecies relative to the impending fate of their intended victims. Susannah Holroyd was convicted at the Lancaster assizes of 1816, for the murder of her husband, her son, and the child of another person. About a month before committing the crime, the prisoner told the mother of the child that she had had her fortune read, and that, within six weeks, three funerals would go from her door, namely, that of her husband, her son, and of the child of the person whom she was then addressing. And so, on the trial of Zephon, in Philadelphia, in 1845, it was shown that the prisoner, who was a negro, had got an old fortune-teller in the neighborhood, of great authority among the blacks, to prophesy the death of the deceased.

Where there is a family or local superstition, it may be invoked for the same

purpose. Thus Miss Blandy, when her preparations for poisoning her father were in progress, threw out references to the supernatural music with which the house was pretended to be pervaded; music which, according to tradition, betokened a death in twelve months.

It is in these several classes of intimations, most of them involuntary, that we find another instance of the self-detective power of guilt.

Extraordinary affection is often simulated before a near relative is removed by poisoning. Thus, a husband is reconciled to and lives with his wife whom he intends to dispatch; and a wife, as in Mrs. Chapman's case, becomes singularly demonstrative in her public attentions to her husband. Mary Blandy, at the time her father was writhing under poisons she had herself administered, garlanded him over with caresses so inappropriate to his condition as to become the subject of suspicion then, and the items of proof afterwards. So industrious declarations of friendliness and fairness not unfrequently are thrown out prior to an assassination.

Incoherence at Crime.—"Providence," said Mr. Webster, in his speech in Knapp's case, "hath so ordained, and doth so govern things, that those who break the great law of Heaven by shedding man's blood, seldom succeed in avoiding discovery. Discovery must come, sooner or later. A thousand eyes turn at once to explore every man, everything, every circumstance, connected with the time and place; a thousand ears catch every whisper; a thousand excited minds intensely dwell on the scene, shedding all their light, and ready to kindle the slightest circumstance into a blaze of discovery."

While there is on the one hand this concentration of observation, there is an almost unlimited multiplication of points to be observed. The criminal stands in the position of a country which has a coast line of indefinite extent, compelled to meet an adversary whose powerful and vigilant fleet commands the seas. There is this distinction, however, between the cases. The coast line may be broken without ruin, but not so the line of a criminal's defence. A single false position in his plans—such, for instance, as the omission to wash off a blood-stain—the leaving a letter or a paper disclosing identity, in the room—the forgetting that snow was on the ground, by which footprints could be tracked—over-industry in setting up a sham defence—sudden forgetfulness in answering to a real and not a feigned name—is destruction. And yet this is the necessity of all who seek to cover up guilt. They are acting a part which, to be perfectly acted, requires perfect skill, perfect composure, perfect foresight, perfect powers of self-transposition. Now we all know how impossible it is for even the most consummate actor to be true to an assumed character for an hour, and this under the tension of the stage. Yet this is required of a criminal constantly, in the lassitude of home, as well as in the excitement of public observation, in his chamber as well as in the court-house.

Of all the great poisoners, the most stealthy and feline, we have been told, was the widow Zwanziger, known in history by the name of her last husband, the Privy-Councillor Ursinus, of Berlin. Madame de Brinvilliers was an enthusiast, who poisoned with a spread and dignity of circumstances which necessarily invited detection. The widow Zwanziger, on the other hand, slid softly about from house to house poisoning unobtrusively. So

quiet and home-like were her attentions to the deceased—so deep and yet so well controlled her grief—so completely her whole deportment that of a tender, sober, and yet undemonstrative friend, that when her lover, who began to be tired of her—her husband, of whom she began to be tired—her aunt, whose heir she was—successively sickened and died; she was the last who would have been suspected of having dispatched them. Yet this most experienced, self-disciplined, and wary of poisoners—this actress so consummate that to the end she played the parts of the lady of fashion, and the sentimental and pietistic poetess with a perfection that showed no flaw—was careless enough, when engaged in such common game as the poisoning, as if merely to keep her hand in, of an ordinary man-servant—to leave the arsenic open in a room where her intended victim, made curious by one or two abortive operations she had attempted on him, scented it out, carried it to a chemist, and established the fact that it was of the same character with the poison by which she had seasoned some prunes she had been giving to him for dessert.

Equally wary and artistic, though in a different line of guilt, was Fauntleroy, perhaps the most complete forger of modern times. He was subtle, reticent, accomplished, and imperturbable. In a long course of years, he perfected a system of forgery, by means of which he obtained the transfer of stocks entered in the Bank of England, in the names of various persons, to the amount of £100,000. Such was the thoroughness of the fictitious accounts and false entries by which his forgeries were covered up, that his partners and clerks, as well as the bank, were deceived, and yet, at the very time he was weaving a veil otherwise impenetrable, he took the extraordinary step—a step unaccountable except on the hypothesis of the innate inability of the mind to act out with perfection any fabricated part—of keeping a private diary of his guilt, and executing a paper, signed with his name, and carefully put away among his vouchers, in which he expressly declared that guilt.

Richard Crowninshield, of Salem, Massachusetts, was, in 1830, a young man of family and education. Of dark and reserved deportment, subtle and self-possessed, he united a depravity and malignity of heart which made crime natural and normal to him, with a courage of purpose, a temperance in sensual indulgence, and a sagacity and adroitness in the choice and in the use of means, which made crime easy. His tastes and temperament were such as to cover his tracks with almost impenetrable darkness. "Although he was often spoken of as a dangerous man, his person was known to few, for he never walked the streets by daylight. Among his few associates he was a leader and a despot."

Joseph White, a wealthy merchant, eighty-two years of age, was found murdered in his bed, in his mansion house, on the morning of the 7th of April, 1830. His servant man rose that morning at six o'clock, and on going down into the kitchen and opening the shutters of the window, saw that the back window of the east parlor was open, and that a plank was raised to the window from the back yard; he then went into the parlor, but saw no trace of any person having been there. He went to the apartment of the maid-servant, and told her, and then went into Mr. White's chamber by its back door, and saw that the door of his chamber leading into the front entry was open.

On approaching the bed he found the bedclothes turned down, and Mr. White dead; his countenance pallid, and his night-clothes and bed drenched in blood. He hastened to the neighboring houses to make known the event. He and the maid-servant were the only persons who slept in the house that night, except Mr. White himself, whose niece Mrs. Beckford, his housekeeper, was then absent on a visit to her daughter, at Wenham.

"The physicians and the coroner's jury, who were called to examine the body, found on it thirteen deep stabs, made as if by a sharp dirk or poniard, and the appearance of a heavy blow on the left temple, which had fractured the skull, but not broken the skin. The body was cold, and appeared to have been lifeless many hours. On examining the apartments of the house, it did not appear that any valuable articles had been taken, or the house ransacked for them; there was a package of doubloons in an iron chest in his chamber, and costly plate in other apartments, none of which was missing. The first clue obtained to the murder was by the arrest, at New Bedford, of a man named Hatch, who stated, when under examination for another offence, that he had heard Crowninshield mutter intimations of violence towards Mr. White. Soon another thread was found. Mr. White was childless, and left as his legal representatives Mrs. Beckford his housekeeper, the only child of a deceased sister, and four nephews and nieces, the children of a deceased brother. He had executed, as was known in the family, a will by which he left by far the larger portion of his estate to Stephen White, one of the few children of the testator's brother, reserving but a small legacy to Mrs. Beckford. A daughter of Mrs. Beckford married Joseph J. Knapp, Jr., who, with his brother, John Francis Knapp, were young shipmasters of Salem, of respectable family, the sons of Joseph J. Knapp, also a shipmaster. Shortly after the murder, the father received a letter obscurely intimating that the party writing the letter was possessed of a secret connected with the murder, for the preservation of which he demanded a 'loan' of three hundred and fifty dollars. This letter Mr. Knapp was unable to comprehend, and handed it to his son, Joseph J. Knapp, who returned it to him, saying he might hand it to a vigilance committee which had been appointed by the citizens on the subject. This the father did, and it led to the arrest of Charles Grant, the person writing the letter, who, after some delay, disclosed the following facts: He (Grant) had been an associate of R. Crowninshield, Jr., and George Crowninshield; he had spent part of the winter at Danvers and Salem, under the name of Carr, part of which time he had been their guest, concealed in their father's house in Danvers; on the 2d of April he saw from the windows of the house Frank Knapp and a young man named Allen ride up to the house; George walked away with Frank, and Richard with Allen, and on their return, George told Richard that Frank wished them to undertake to kill Mr. White, and that J. J. Knapp, Jr., would pay one thousand dollars for the job. They proposed various modes of doing it, and asked Grant to be concerned, which he declined. George said the housekeeper would be away all the time; that the object of Joseph J. Knapp, Jr., was first to destroy the will, and that he could get from the housekeeper the keys of the iron chest in which it was kept. Frank called again in the same day in a chaise, and rode away with Richard, and

on the night of the murder, Grant stayed at the Halfway House, in Lynn. In the mean time suspicion was greatly strengthened by Joseph J. Knapp, Jr., writing a pseudonymous letter to the vigilance committee, trying to throw the suspicion on Stephen White. Richard Crowninshield, George Crowninshield, Joseph J. Knapp, Jr., and John F. Knapp, were arrested and committed for murder. Richard Crowninshield made an ineffectual attempt, when in prison, to influence Grant, who was in the cell below, not to testify, and when this failed, committed suicide. John F. Knapp was then convicted as principal, and Joseph J. Knapp, Jr., as accessory before the fact. George Crowninshield proved an alibi, and was discharged."

We have here a murder coolly planned and executed by persons of consummate skill, and yet we find the whole scheme disclosed by the following incoherences:—

a. Joseph J. Knapp, Jr., instead of retaining or destroying Grant's letter, as he could readily have done, losing his presence of mind so far as to hand it to his father with directions to give it to the vigilance committee.

b. Crowninshield, ordinarily so astute and reserved, letting Grant, who was not even an accomplice, and who therefore was not pledged by fear to silence, into the secret.

c. All the parties basing the assassination on a mistake of law, they supposing that Mr. White's representatives, in case of his death intestate, would take *per stirpes*, whereas in fact they would take *per capita;* so that actually Mrs. Beckford, to increase whose estate the murder was committed, received no more by an intestacy than she would have by the will.

The Earl of Northampton, the second son of Henry Howard, Earl of Surrey, was the uncle of Lady Frances Sussex, the wife first of the Earl of Essex, and afterwards of Robert Carr, the famous Earl of Somerset. Private revenge and state policy led this beautiful and brilliant though bad woman to desire the murder of Sir Thomas Overbury, who opposed her marriage with her second husband, and who held secrets which might, if disclosed, thwart her political ambition. She procured or promoted the committal of Overbury to the Tower, where poison was administered to him under her direction. In the attempt, at least, she had as accomplices, her husband, and her uncle, Lord Northampton. The work was successful. The next effort was to conceal it. Helwysse, the Lieutenant of the Tower, was instantly to advise Lord Northampton of the result. This he did, and then came a letter, evidently meant to be confidential, from the Earl in reply:—

"NOBLE LIEUTENANT—If the knave's body be foul, bury it presently. I'll stand between you and harm: but if it will abide the view, send for Lidcote, and let him see it, to satisfy the damned crew. When you come to me, bring me this letter again yourself with you, or else burn it. NORTHAMPTON."

This was written early in the morning. So great, however, was the turmoil in Northampton's mind, lest the body should not be got out of sight, that at noon on the same day he hurries off the following:—

"WORTHY MR. LIEUTENANT—Let me entreat you to *call Lidcote and three or four friends*, if so many come to view the body, if they have not already done it; and so soon as it is viewed, without staying the coming of a

messenger from the court, in any case see him interred in the body of the chapel within the Tower instantly.

"If they have viewed, then bury it by and by; for it is time, considering the humors of the damned crew, that only desire means to move pity and raise scandal. Let no man's instance cause you to make stay in any case, and bring me these letters when I next see you.

"Fail not a jot herein, as you love yr friends: nor after Lidcote and his friends have viewed, stay one minute, but let the priest be ready; and if Lidcote be not there, send for him speedily, pretending that the body will not tarry."

This had no signature, and was evidently meant for the eye of Helwysse alone. But what would the world say if the proud and great Earl of Northampton, the "wisest among the noble, and the noblest among the wise," should seem to be silent when officially informed of the death of one with whom he and Lord Rochester (the first title of Somerset) had been on such intimate terms. So he writes to the Lieutenant the following artful letter, meant for the public eye:—

"Worthy Mr. Lieutenant—My Lord of Rochester, desiring to do the last honor to his dec'd friend, requires me to desire you to deliver the body of Sir T. Overbury to any friend of his that desires it, to do him honor at his funeral. Herein my Lord declares the constancy of his affection to the dead, and the meaning that he had in my knowledge to have given his strongest straine at this time of the King's being at Tibbald's, for his delivery. I fear no impediment to this honorable desire of my Lord's but the unsweetness of the body, because it was reputed that he had some issues, and, in that case, the keeping of him above must needs give more offence than it can do honor. My fear is, also, that the body is already buried upon that cause whereof I write; which being so, it is too late to set out solemnity.

"This, with my kindest commendations, I ende, and reste

"Your affectionate and assured friend,

"H. Northampton.

"P. S. You see my Lord's earnest desire, with my concurring care, that all respect be had to him that may be for the credit of his memory. But yet I wish, withal, that you do very discreetly inform yourself whether this grace hath been afforded formerly to close prisoners, or whether you may grant my request in this case, who speak out of the sense of my Lord's affection, though I be a counsellor, without offence or prejudice. For I would be loath to draw either you or myself into censure, now I have well thought of the matter, though it be a work of charity."(*b*)

Unfortunately for the success of the plot, both sets of letters were preserved; and their inconsistency formed one of the chief presumptions in the remarkable trials that ensued.

Convulsive confession.—"The guilty soul," said Mr. Webster, in a speech already quoted, "cannot keep its own secret. It is false to itself; or rather it feels an irresistible impulse of conscience to be true to itself. It labors

(*b*) Amos' Great Oyer, 173, &c.

under its guilty possession, and knows not what to do with it. The human heart was not made for the residence of such an inhabitant. It finds itself preyed on by a torment, which it dares not acknowledge to God or man. A vulture is devouring it, and it can ask no sympathy or assistance, either from heaven or earth. The secret which the murderer possesses soon comes to possess him; and, like the evil spirits of which we read, it overcomes him, and leads him whithersoever it will. He feels it beating at his heart, rising to his throat, and demanding disclosure. He thinks the whole world sees it in his face, reads it in his eyes, and almost hears its workings in the very silence of his thoughts. It has become his master. It betrays his discretion, it breaks down his courage, it conquers his prudence. When suspicions from without begin to embarrass him, and the net of circumstance to entangle him, the fatal secret struggles with still greater violence to burst forth. It must be confessed, it will be confessed; there is no refuge from confession but suicide, and suicide is confession."

Confessions that are voluntary are out of the range of the present discussion. Of those that are involuntary or convulsive we may take the following illustrations.

John Whitney, a wealthy farmer of Loudonville, Ohio, was robbed and murdered in November, 1856. Great but unsuccessful efforts were made to ferret out the murderer. A man named Stringfellow, who was living at Loudonville at the time, was strongly suspected of the crime, but nothing could be fastened upon him. Stringfellow soon afterwards left the neighborhood, and, after an absence of two years, settled in the village of Johnstown, Hardin County. Here he was taken sick, and in his illness became delirious. It would seem that conscience was constantly at work within him, for during his delirium he mentioned Whitney's name frequently, and divulged a number of secrets which had been long hidden in his bosom, and which left not the shadow of a doubt but that he was a blood-guilty man. After Stringfellow became convalescent, he was told of the guilty secrets he had laid bare: the murder was charged upon him, and he was placed under surveillance.

Here is murder confessed in delirium. Cases of confession in dreams are more numerous. A person who worked in a brewery at Basle, in Switzerland, quarrelled with a fellow workman, and struck him in such a manner as to produce instant death. He then took the dead body and threw it into a large fire under the boiling vat, where it was in a short time so completely consumed that no traces of its existence remained. On the following day, when the man was missed, the murderer observed that he had seen his fellow servant intoxicated, and that he had probably been drowned in crossing a bridge which lay on his way home. For seven years after no one entertained any suspicion as to the real state of the case. At the end of this time, the murderer, being again employed in the same brewery, was constantly reflecting on the singularity of the circumstance that his crime had been so long concealed. One night one of his fellow workmen, who slept with him, hearing him say in his sleep, "It is now fully seven years ago," asked him, "What was it you did seven years ago?" "I put him," he replied, still speaking in his sleep, "under the boiling vat." As the affair was not entirely forgotten, the man,

suspecting that his bed-fellow might allude to the person who was missed about that time, informed a magistrate of what he had heard. The murderer was apprehended, and though at first denying all knowledge of the matter, afterwards confessed and was executed.

That guilt takes the dreaming state as a peculiar site for the exercise of its retributive retrospections, is a familiar psychological fact. "If," said Pascal, "we dreamt every night of the same thing, it would perhaps affect us as powerfully as the objects which we perceive every day." "Dreams," was the comment of Sir W. Hamilton, "have frequently a degree of vivacity which enables them to compete with the reality." And a keen observer of the human mind—one whose keenness is not made the less remarkable by the fact that he was both the tenderest and most humorous poet of his day—has given us a vivid picture of the misery which marks this form of remorse:—

> "—Her sleep was restless and broken still ;
> For turning often and oft
> From side to side, she muttered and moaned,
> And tossed her arms aloft.
>
> "At last she started up,
> And gazed on the vacant air,
> With a look of awe, as if she saw
> Some dreadful phantom there ;
> And then in the pillow she buried her face
> From visions ill to bear.—"(c)

Now, on confessions emitted when in this troubled state, not a few criminal processes have been made to depend. One well-known case is referred to, in another relation, elsewhere. A peddler was murdered. All attempts to discover the assassin failed. At last a wayfaring man, who had been strolling about the neighborhood, dreamed that the body would be found in a particular spot, and that certain persons with whom he had lately been sleeping in a barn were the guilty parties. It turned out that this was true. But it also turned out that the dreamer had, in his own dreams, heard the convulsive confessions of one of the assassins, the latter also dreaming.

Before, however, a confession should be taken as real, it should be subjected to certain psychological tests. Delusion; a morbid desire to attract attention; a sort of epidemic which sometimes strikes down whole classes with a passionate impulse to insist upon some blood-stain on the conscience, something like the hypochondriac epidemic impulse which insists upon some personal abnormity;(*d*) weariness of life; a propensity to self-destruction through a channel which from its very tortuousness possesses its own fascination; a Lara-like desire to appear mysterious and dark, though in this case the propensity exudes in vague intimations of participation in

> "Nameless deeds of guilt"

rather than in confessions of specific offences;—the existence of such elements as these should be inquired into before a confession is received as absolute.

Delusions, either sane or insane, have produced many false confessions.

(*c*) See Hood's Lady's Dream.

(*d*) We have an illustration of the latter in a convent of nuns, near Chalons, who were stricken down with the belief that they were cats.

A very singular illustration of the first has lately been revived before the American public, and has already been more than once cited. Two brothers, named Boorn, living in Vermont, had an altercation with their brother-in-law, a man named Colvin, a partial lunatic. They left him, as they may well have supposed, in a dying state. He crawled off, however, and fled to the middle States. Several years afterwards, suspicion was excited by a dream of an uncle of the supposed murderers. In this dream he was told that Colvin had been murdered, and that his remains would be found in a spot that was pointed out. The dream was repeated three times until at last the place was searched, and some articles of clothing were found which were identified as Colvin's. Then a spaniel, connected in some way with the Colvin family, was seen snuffing uneasily about a spot close by, calling attention to it by his importunities. It, too, was examined, and a cluster of bones were drawn up by the dog's paw. That these were Colvin's, and that these almost miraculous interpositions were designed to bring the murder out, there were none in the community who doubted.

Other circumstances led to the arrest of the Boorns. They were conscious of guilt, and it is no wonder that these strange prosecutors, which after so long an interval had united by means so supernatural to ferret out their guilt, should have impressed them with a belief that it was vain to fight against what seemed to be Divine vengeance. So one of them confessed the murderous assault, and went on further to state how, in order to evade detection, the body had been partially burned, and the clothes destroyed. The first part of the story was true. The last was a fabrication, the result either of delusion, or of desperation, or of that impulse to complete a story with which the imagination is sometimes seized. That the actual death was indeed false, was shown by the subsequent appearance of Colvin himself, in time to intercept the execution of at least one of his supposed murderers.

But a still more singular confession followed. The first was in 1819. In 1860, a very old man named Boorn was arrested in Cleveland for counterfeiting. When in custody, he confessed that forty years before he had been concerned in a murder, and escaped by a false personation of the deceased. The confession led to a re-investigation of the former trial. That the second confession, as well as the first, was a delusion, was established finally. But the retention of this delusion for forty years in the criminal's breast, shows the enduring effect on the nervous system of the guilt of blood, even though that guilt was not consummated.

Perhaps the same hypothesis will explain a class of cases which have recently been revived in the public attention.(*e*) Prominent among these is what was long called the Campden Wonder. An old man, named William Harrison, steward to Lady Campden, went out on foot on the 16th of August, 1660, to collect rents. He did not return at his usual hour, and his wife sent his servant, John Perry, to inquire after him. Perry, according to his own account, wandered about during the night without finding his master. The next morning, however, a hat and comb much hacked and cut, and a band

(*e*) See Blackwood's Magazine, July, 1860, p. 54.

stained with blood, which had been worn by Harrison the evening before, were found in a wild spot, near a large furze brake, where he would have been likely to have been met by Perry. The neighborhood naturally enough jumped at the conclusion that Harrison was murdered, and that Perry was the murderer. Perry soon came to this conclusion too, and made a confession to this effect, implicating his brother and mother. The trial took place, and though there was no proof of the *corpus delicti*, the mother and the two sons were convicted and executed. Some years afterwards Harrison reappeared at Campden, stating that he had been robbed by two horsemen on the night in question, and then kidnapped beyond seas.

So much for *sane* delusions. Somewhere between sane and insane delusions, may be classed those of witches. So far as concerns the spiritual sin, they had no doubt a foundation of fact. The loosest deist will admit that there are exterior agencies, in the shape of temptations, which assault the human heart, and with which it is a sin to tamper. The Christian ascribes these temptations to the direct agency of Satan. Now let us suppose the temptation of jealousy. A rival is hated, and his death vehemently agonized for. Here is a positive sin of the heart. Let the law ascribe this—as the common law did and does—to the instigation of the devil; and let a tampering with this temptation, as a sort of commerce with the evil one, be made a specific offence, as it once was. And add to this the spites arising from the petulances of old age. Here you have a series of subjective crimes which may be confessed with truth.

But the witches did not stop here. They confessed to all sorts of consequential overt acts. Their machinations had taken effect. Infants had melted away before their evil eye, as wax before the fire. The old had withered and wrinkled as the same glance fell on them. Hearts which loved were alienated; hearts that believed were made to curdle in unbelief. Mothers dropped their untimely fruit. The warrior's courage forsook him in battle. Cattle took sick, and pains, through the witches' magic, tore and wrung the frames of those who crossed the witches' path.

Now many of these confessions were the result of mere insanity. But it would be wrong, however, not to recognize in others of them incidents of that divine economy which makes a superstitious foreboding, and sometimes a monomaniac realization of the consequences of crime, one of the results of the criminal conception. The mind that revels in intended guilt is apt, in the delirium of remorse, if it be not in the development of the imagination under the fervor of a wounded conscience, to see the consequences which that guilt would have produced. There is never an entire orphanage of the deed from the intent. There are few who cannot recall waking in an agony of terror at the picture brought before them, of the consummation of some unlawful purpose. They *dreamed* they did the thing over which they were brooding, but from which they were held back by want of opportunity, or fear of consequences.

Hawthorne thus vividly portrays this phenomenon:—

"In the depths of every heart, there is a tomb and a dungeon, though the lights, the music and revelry above may cause us to forget their existence, and

the buried ones, or prisoners whom they hide. But sometimes, and oftenest at midnight, those dark receptacles are flung wide open. In an hour like this, when the mind has a passive sensibility, but no active strength; when the imagination is a mirror, imparting vividness to all ideas, without the power of selecting or controlling them; then pray that your griefs may slumber, and the brotherhood of remorse not break their chain. It is too late! A funeral train comes gliding by your bed, in which Passion and Feeling assume bodily shape, and things of the mind become dim spectres to the eye. There is your earliest sorrow, a pale young mourner, wearing a sister's likeness to first love, sadly beautiful, with a hallowed sweetness in her melancholy features, and grace in the flow of her sable robe. Next appears a shade of ruined loveliness, with dust among her golden hair, and her bright garments all faded and defaced, stealing from your glance with drooping head, as fearful of reproach; she was your fondest Hope, but a delusive one; so call her Disappointment now. A sterner form succeeds, with a brow of wrinkles, a look and gesture of iron authority; there is no name for him unless it be Fatality, an emblem of the evil influence that rules your forture; a demon to whom you subjected yourself by some error at the outset of life, and were bound his slave forever, by once obeying him. See! those fiendish lineaments graven on the darkness, the writhed lip of scorn, the mockery of that living eye, the pointed finger touching the sore place in your heart! Do you remember any act of enormous folly, at which you would blush, even in the remotest cavern of the earth? Then recognize your Shame.

"Pass, wretched band! Well for the wakeful one, if, riotously miserable, a fiercer tribe do not surround him, the devils of a guilty heart, that holds its hell within itself. What if remorse should assume the features of an injured friend? What if the fiend should come in woman's garments, with a pale beauty amid sin and desolation, and lie down by your side? What if he should stand at your bed's foot, in the likeness of a corpse, with a bloody stain upon the shroud? Sufficient without such guilt is this nightmare of the soul; this heavy, heavy sinking of the spirits; this wintry gloom about the heart; this indistinct horror of the mind, blending itself with the darkness of the chamber."

Poets, who have observed human nature the most closely, and this not from its religious side, have recognized in mere unexecuted guilt, this retributive energy. Shakspeare makes Cardinal Beaufort, when dying, collect these phantoms of undeveloped purposes. Hood, in one of the most exquisite of his poems, a poem which has been already noticed, describes to us a lady of refinement and elegance, whose sins had been those of mere omission—who had dressed in silk and satin, and fed on the dainties of the land, and whose hardness consisted merely in a neglect to look after the poor —as writhing in a dream at the sight of the crowd of miserable outcasts whom she might have relieved but did not. It may have been that many of these vivid and awful confessions of the witches were produced, though with a greater self-deceiving power, by the same influence. A fevered conscience in both cases was at work. The witch, however, threw the phantom outward, on the canvas, as it were, of a magic lantern, until it became a reality; with

others, who were more enlightened, or who have less deliberately and persistently delighted in the conception of the crime, the phantom was thrown inwards, and was detected as a phantom, though perhaps at the same time as a rebuke. But the witch believed in the *fact*, and confessed it.

Now the policy which permitted the execution of these poor wretches, without proof of a *corpus delicti*, was no doubt barbarous and wrong. But this should not lead us to refuse to recognize as a part of the divine economy of rewards and punishments, this very self-punishing incident of that criminal purpose on which the mind has consciously and determinedly revelled. The intent brings its phantom consequences with it. Sometimes they continue phantoms, but they do not the less torture or degrade the mind they haunt. They may torture it by the presence of a tribe of avenging shades, or they may degrade it by introducing into it a progeny of foul and polluted consummations. The monastic system has brought many witnesses to this. So it was with the phantoms of sensuality of Jerome, and the phantoms of pride of Simon Stylites. Wilkie, in one of his drawings, brings before us—and no one who has studied it can forget it—a copy of a Spanish picture, where a young monk, feverish and macerated with the internal gnawings of a brood which had been hatched in his heart in the heat of mere permitted conceptions—appeals for pity and solace to an aged confessor; and the agonized expression of the suppliant, and the sad, wise, sympathy of the confessor, tell the story but too plainly. But the story is not one of the confessional alone, but of every heart which, before whatever throne, bears itself and pours forth the story of indulged conceptions. And every lunatic asylum bears witness to the same fact in the cases of imbecility in which unexecuted purposes of sin—purposes which had only been thought over, but at the same time nursed—are babbled out, and with all their coarse consequences told by the tongue of age. The muscular hand of youth kept the curtain down—and the secret though nourished sin was thus concealed. But when the power of self-restraint weakened—when the cords and rings of the curtain decayed—then the secluded contents of the heart—these unexecuted sins, now exhaling phantoms by their very exposure—rise and spread themselves in their deformity before the public gaze. Sometimes overt acts follow, and we hear of sudden falls in old and heretofore correct men—falls, however, which were not sudden, for there were back-stairs in the heart down which the culprit had been for years descending. Sometimes the act is one of imagination only, but is talked out in the gross familiarity of senility. But, however this phenomenon may exhibit itself, it is a part of that grand system of Providence, by which guilt is lodged in the *intent*, and by which, as a compensation for human law, which judges of the overt act alone, the intent incloses in itself its own retribution. The thing is patent in the history of society, and is meant to be so, as a mark of the divine purpose—as a deterrer—as an avenger—as an element to be received into consideration in adjusting the balance of human jurisprudence.

But there are cases in which these delusive confessions may be the offspring of pure mania, though in such the delusion must be proved by the mania, not the mania by the delusion. Bunyan speaks of such a case, half pityingly, half doubtingly :—

"Since you are entered upon stories, I also will tell you one, the which, though I heard it not with my own ears, yet my author I dare believe. It is concerning one old *Tod*, that was hanged about twenty years ago or more, at *Hartford*, for being a thief. The story is this: At a summer assize holden at *Hartford*, while the judge was sitting upon the bench, comes this old *Tod* into the court, clothed in a green suit, with his leathern girdle in his hand, his bosom open, and all in a dung sweat as if he had run for his life; and being come in, he spake aloud as follows: '*My lord*,' said he, '*here is the veryest rogue that breathes upon the face of the earth; I have been a thief from a child; when I was but a little one I gave myself to rob orchards, and to do other such like wicked things, and I have continued a thief ever since. My lord, there has not been a robbery committed this many years, within so many miles of this place, but I have either been at it or privy to it.*' The judge thought the fellow was mad; but after some conference with some of the justices they agreed to indict him, and so they did, of several felonious actions; to all which he heartily confessed guilty, and so was hanged with his wife at the same."

"I murdered my wife, some years ago," says the inmate of an insane asylum to a visitor. "It is necessary that I should be placed here in confinement." And then the supposed murderer goes on to relate with great equanimity and circumstantiality the details of the murder. But the wife was not murdered at all, and is still alive.

So the publication of a conspicuous homicide is apt to generate a series of pretenders to the honor of being the perpetrator. Why should there not be several Charlotte Cordays among a thousand patients, as well as several Robespierres?

Then comes the epidemic confession—the strangest of all. We have several instances of this in the German monkish chronicles of the twelfth and thirteenth centuries. True purposes, as well as feigned facts, are often thus confessed. Whole communities, acting under that singular fascination which mind in the aggregate often acquires over mind in the individual, have thus come forward in sackcloth and ashes and accused themselves sometimes falsely of the act, sometimes perhaps truly of the intent. Nor are these epidemics peculiar to a superstitious age. Dr. Southwood Smith, in his lectures on Forensic Medicine, brings an instance down to the present century. Captain Pigot, during the naval struggles between France and England under the empire, commanded the Hermione frigate. A mutiny took place, and he and a portion of his officers were murdered very barbarously. "One midshipman escaped, by whom many of the criminals, who were afterwards taken and delivered over to justice, one by one, were identified. Mr. Finlaison, the government actuary, who at that time held an official situation at the admiralty, states: 'In my own experience I have known, on separate occasions, more than six sailors who voluntarily confessed to having struck the first blow at Captain Pigot. These men detailed all the horrid circumstances of the mutiny with extreme minuteness and perfect accuracy; nevertheless not one of them had ever been in the ship, nor had so much as seen Captain Pigot in their lives. They had obtained by tradition from their mess-mates the parti-

culars of the story. When long on a foreign station, hungering and thirsting for home, their minds became enfeebled; at length they actually believed themselves guilty of the crime over which they so long brooded, and submitted with a gloomy pleasure to being sent to England in irons for judgment.' "

Then comes that morbid vanity which takes self-crimination as a way of obtaining notoriety. Hypochondria sometimes mixes with this. Persons whose temperament has become thus touched will resort to the most desperate methods to attract attention. The most innocent type that we have is that of the sentimentalist, who feigns certain mental experiences of a peculiarly poignant character; which experiences are hung out something in the way pictures are in a gallery, to excite the interest of the amateur. Of course the more lurid the coloring, and the more sad the sorrow it depicts, the more real the sympathy to be secured from an honest and kind-hearted observer, and the more profuse the ejaculations of the mere co-sentimentalist.

Next *facts* are fabricated as well as *experiences*. Thus Cherubina believes that she was changed in the cradle, and that an earl and countess are her parents, instead of the old farmer and his wife who brought her up. This big lie, of course, necessitates a myriad of minor ones, to enable it to be carried about with a proper retinue, until Cherubina's whole life becomes a fabrication. If guilt has to be confessed, to make up a consistent story, confessed guilt is.

Persecutions with such are favorite myths. Margaret Fuller, whose attitudes and surroundings, in spite of her apparent earnestness, were all pictorial and artificial, made the neglect she suffered from her father one of the favorite topics in her letters, though even her editor, laudatory as he is, is forced to tell us that all this neglect was imaginary—that a kinder or truer father did not exist. It is still doubtful whether Caspar Hauser's wounds were not self-inflicted and his dumbness self-assumed. And it is certain that the more tender the care bestowed on such cases is, and the more confiding the sympathies, the more frequent and subtle the simulation.

But if the flag by which this attention is to be roused is inscribed among the more refined with a sentiment, among the coarser it is likely to be blazoned with a crime. Lord Cockburn, in his memoirs, gives us the following instance of this:—

"On the 13th of November, 1806, a murder was committed in Edinburgh, which made a greater impression than any committed in our day, except the systematic murders of Burke. James Begbie, porter to the English Linen Company's Bank, was going down the close in which the bank then was, on the south side of the Canongate, carrying a parcel of bank-notes of the value of four or five thousand pounds, when he was struck dead by a single stab, given by a single person who had gone into the close after him, and who carried off the parcel. This was done in the heart of the city, about five in the evening, and within a few yards of a military sentinel, who was always on guard there, though not exactly at this spot, and at the moment possibly not in view of it. Yet the murderer was never heard of. The soldier saw and heard nothing. All that was observed was by some boys who were playing at hand ball in the close; and all that they saw was that two men entered the close as

if together, the one behind the other, and that the front man fell, and lay still; and they, ascribing this to his being drunk, let him lie, and played on. It was only on the entrance of another person that he was found to be dead, with a knife in his heart, and a piece of paper, through which it had been thrust, interposed between the murderer's hand and the blood. The skill, boldness, and success of the deed produced deep and universal horror. People trembled at the possibility of such a murderer being in the midst of them, and taking any life that he chose. But the wretch's own terror may be inferred from the fact that in a few months the large notes, of which most of the booty was composed, were found hidden in the grounds of Bellevue. Some persons were suspected, but none on any satisfactory ground; and, according to a strange craze or ambition not unusual in such cases, several charged themselves with the crime, who, to an absolute certainty, had nothing to do with it."

Then come confessions from very weariness of life—

> "I am foot-sore, and very weary,
> And I travel to meet a friend."

That friend is death, and the frame of mind which thus seeks it is very apt to engender phantoms of blood-guiltiness which soon appear as realities. Thus, cases have not been unfrequent where women, deserted by those in whom they trusted, and sick of living, have accused themselves, and this perhaps sincerely though falsely, of the murder of infants whom they never bore, or who died naturally. By one, who was thus life-weary, was the whole scene described with the most touching minuteness—the wailing of the young child—its piteous look—its burial in a little grave under the matted and crisp spires at the foot of a pine. Yet no one had been buried there, nor had the mother aught to do with the child's death.

Then sometimes the same weariness of life seizes upon a false confession as a congenial method of suicide. Death is sought in a way which may best correspond to the then morbid condition of the brain; in a way which involves others, though innocently on their part, in the self-murder, and makes them strike the blow. "I fling myself, not into the river, nor into the abyss, but upon the scaffold." Thus Lord Clarendon tells us of a Frenchman, named Hubert, who was convicted and executed on his confession of having occasioned the great fire in London, "although," says that sagacious jurist and historian, "neither the judges nor any one present believed him guilty, but that he was a poor, distracted wretch, weary of life, and who chose to part with it in this way."(*f*)

Before a confession be acted upon, therefore, let these tests be applied. Let it be remembered, to sum up in the words of a great civilian, that "there sometimes lurks, under the shadow of an apparent tranquillity, an insanity, which impels men readily to accuse themselves of all kinds of iniquity. Some, deluded by their imaginations, suspect themselves of crimes which they have never committed. A melancholy temperament, the *tædium vitæ*, and an unaccountable propensity to their own destruction, urge some to the most

(*f*) Continuation of Lord Clarendon's Memoirs, written by himself, p. 352.

false confessions; whilst they were extracted from others by the dread of torture, or the tedious misery of the dungeon."(*g*)

The last motive rarely exists among ourselves, but the first may be not infrequent. The first precaution is to have absolute proof of the *corpus delicti.* This, however, is not enough. There may be abundant proof that a crime was committed, and yet the confession may be false. We must exact proof that connects the supposed criminal with the actual crime. We must examine into his condition of mind, and see how far insanity, or remorse, or bravado, or weariness of life, or delusion, may have influenced him. When these tests are applied, we are ready to take the confession as impressed with its true significance. It thus becomes the most positive form of proof.(*h*)

Nervous Tremor.—The Countess of Somerset, when arrested on the charge of the murder of Sir Thomas Overbury, laughed off the possibility of guilt with that fascination which so eminently belonged to her. It was hard to believe that underneath that young and beautiful brow, so cruel and artful an assassination could have been planned. No alarm was shown, no cloud of manner by which the slightest trouble of conscience was betrayed. So she bore herself until she found she was to be taken to the Tower. There Sir Thomas Overbury, himself but a young man, and one whom she had frequently and kindly met, had just died in unspeakable torments. There she had sent, under the guise of kindness, the poisoned tarts which caused his death. One great terror grew over her—that she should be taken to his room—that she should have to pass lonely nights there, and in that bed. At

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(*g*) Hein. Ex. 18, § 6.

(*h*) "To guard against false confessions," says Jeremy Bentham, "the two following rules ought to be observed:—

"1. One is, that, to operate in the character of direct evidence, confession cannot be too particular. In respect of all material circumstances, it should be as particular, as, by dint of interrogation, it can be made to be. Why so? Because (supposing it false) the more particular it is, the more distinguishable facts it will exhibit, the truth of which (supposing them false) will be liable to be disproved by their incompatibility with any facts, the truth of which may have come to be established by other evidence. The greater the particularity required on the part of the confession, the greater is the care taken of the confessionalist—the greater the care taken to guard him against undue conviction, brought upon him by his own imbecility and imprudence.

"2. The other rule is, that, in respect of all material facts (especially the act which constitutes the physical part of the offence), it ought to comprehend a particular designation in respect of the circumstances of time and place. For what reason? For the reason already mentioned: to the end that, in the event of its proving false (a case not impossible, though in a high degree rare and improbable), facts may be found by which it may be proved to be so. 'I killed such a man' (says the confessionalist, mentioning him), 'on such a day, at such a place.' 'Impossible' (says the judge, speaking from other evidence), 'on that day neither you nor the deceased were at that place.'

"But time and place are both indefinitely divisible. To what degree of minuteness shall the division be endeavored to be carried for this purpose? A particular answer that shall suit all cases, cannot be given. The end in view, as above stated, must be considered, and compared with the particular circumstances of the case, in regard to either species of extension, ere the degree of particularity proper to be aimed at by the interrogatories can be marked out. Under the head of time, the English law, in the instrument of accusation, admits of no other latitude than what is included in the compass of a day. The nature of things did not, in this instance, render uniformity impossible; the parts into which time is divided are uniform and determinate. Place —relative space—is not equally obsequious; the house? yes; if the supposed scene of the supposed transaction be a house; the street? yes; if the scene were in a street; but a field, a road, a common, a forest, a lake, a sea, the ocean; any of these may have been the scene." (Bentham, *Rationale of Jud. Ev.* Book v. chap. vi. § 3.)

last her nerves, wrought up to their highest dissimulation, snapped asunder. She sank prostrate and wretched to the ground, and then followed her confession.

From this nervous tremor arose the old habit of requiring supposed criminals to touch the corpse of the murdered man. With this was no doubt joined a superstition that the corpse would bleed when it felt the murderer's hand. But this was but collateral to the belief that in this way the conscience of the guilty party would be exposed to a test which might, in some cases at least, prove efficacious. It is true that when the criminal has time to nerve himself for the purpose, he is able, if he has much courage of manner, to bear himself calmly and innocently. This was the case with Major Strangways, in 1657, who, on being required to take the deceased by the hand and touch his wounds, did so with a demeanor undisturbed. It is true, also, that others, by a powerful effort of nervous imagination, may fling themselves into the character of an innocent person, in the same way that Mrs. Siddons could fling herself into the character of Queen Catharine, or Talma into that of Hamlet. "You looked as if you were really metamorphosed, and not merely trying to appear so." "I *made* myself believe that the audience was divested of all flesh—mere spirits, and I a spirit speaking to them," was Talma's reply. But this leap requires some little breadth of base from which to start. The mind cannot rise up to it suddenly. The murderer who might, if a due interval be given, nerve himself to the work, often collapses if suddenly brought in contact with the deceased. The old result is reversed; for in former times it was the dead man that gave sign: now it is the living. We have an instance of this in the latest American case where the process was tried. A man named Johnson, under trial for murder in New York, in 1824, was taken out of his cell to the hospital by the high constable, and required to touch the murdered body. He did so, but the touch broke the texture of the murderer's dissimulation. He fell into a nervous tremor, which resulted in a confession. This confession, when he recovered, he sought to retract; and his counsel endeavored to exclude it in court, on the ground that it had been improperly obtained. But the judges overruled the objection, without in any way objecting to the process.(*hh*)

William Peterson, a young man of only about nineteen, but of the most extraordinary self-control, was charged, in the Memphis District, Tennessee, in 1852, with the highway robbery and murder of Thomas Merriweather. No feature, in this very remarkable case, is more remarkable, than the mastery over his nervous system which had been obtained by this young but desperate criminal. An almost girlish delicacy and fairness of skin and features covered an iron energy of muscle and nerve that was able to brace itself against any expected attack. Yet even this power gave way. Closely resembling the murdered man—so closely as to produce mistakes between the two—was his brother, William Merriweather. The prisoner, not knowing he was suspected, was lying asleep in his bed near midnight. His chamber was suddenly entered by the officers charged with his arrest. He betrayed no

(*hh*) People *v.* Johnson, 2 Wheeler's C. C. 378.

sign, though the slight trembling of the eyelids showed that his sleep was feigned. "I will go with you readily," and he got up quietly to meet the charge. But suddenly his eyes fell on a figure which may well have recalled to him the dead man, for there, darkened in the background, stood William Merriweather, pale and corpse-like, in the exhaustion and excitement of his long search for, and final discovery of, his brother's murderer. It was as if the dead and living were confronted. Then, as in former cases, the living broke down. Peterson's composure could not stand the trial. The policy of his intended defence was that he did not know the deceased; but as he looked at the brother his "head dropped upon his breast, and he sighed deeply." A partial confession and a conviction followed.

The following incident is given in Parton's Life of Burr. On a trial for murder, the prisoner was defended jointly by Colonel Burr and General Hamilton. "At first, the evidence against the prisoner seemed conclusive, and I think Burr himself thought him guilty. But as the trial proceeded, suspicions arose against the principal witness. Colonel Burr subjected him to a relentless cross-examination, and he became convinced that the guilt lay between the witness and the prisoner, with the balance of probability against the witness.

"The man's appearance and bearing were most unprepossessing. Besides being remarkably ugly, he had the mean *down* look, which is associated with the timidity of guilt. Hamilton had addressed the jury with his usual fluent eloquence, confining his remarks to the vindication of the prisoner, without alluding to the probable guilt of the witness. The prosecuting attorney replied, and it was now Burr's province to say the last word for the prisoner. But the day had worn away, and the court took a recess till candlelight. This was extremely annoying to Colonel Burr, as he meditated enacting a little scene, to the success of which a strong light was indispensable. He was not to be balked, however. Through one of his satellites, of whom he always had several revolving around him, he caused an extra number of candles to be brought into the court-room, and to be so arranged as to throw a strong light upon a certain pillar, in full view of the jury, against which the suspected witness had leaned throughout the trial. The court reassembled, the man resumed his accustomed place, and Colonel Burr rose. With the clear conciseness of which he was master, he set forth the facts which bore against the man, and then, seizing two candelabras from the table, he held them up toward him, throwing a glare of light upon his face, and exclaimed :—

"'Behold the murderer, gentlemen!'

"Every eye was turned upon the wretch's ghastly countenance, which, to the excited multitude, seemed to wear the very expression of a convicted murderer. The man reeled, as though he had been struck; then shrunk away behind the crowd, and rushed from the room. The effect of this incident was decisive. Colonel Burr concluded his speech, the judge charged, the jury gave a verdict of acquittal, and the prisoner was free."

The longer the prior tension the more sudden and complete the crash. When Dr. Webster was brought by the police to the medical college, where for so many days he had with great external composure been covering up the proofs of his guilt, his whole system, at the recurrence of the scene under

these new auspices, gave way. "He seemed," said one of the witnesses, "like a mad creature. When the water was put toward him he would snap at it with his teeth, and push it away with great violence, without drinking, as if it were offensive to him."(*ii*) "Dr. Webster appeared to be very much agitated," says another; "sweat very much, and the tears and sweat ran down his cheeks as fast as they could drop."(*j*) "The perspiration was so excessive as to wet through his clothing."(*k*)

Richard Weston was sub-keeper of the Tower at the time of the poisoning of Sir Thomas Overbury. He was the first person tried for that crime. When the bill of indictment was returned, as we learn from Mr. Amos' "Great Oyer," all eyes were turned to the bar, where the wretched prisoner was brought up. He was a man of about sixty years of age. His forehead was wrinkled with age, his hair sprinkled with gray. His countenance, though not wanting in a certain degree of comeliness, had a stern and grim expression, and was now distorted with terror. His face was deadly pale, his lips quivered, and his knees tottered as he stood at the bar while the indictment was read. It charged him with having murdered Sir Thomas Overbury in the Tower of London by administering various poisons—rosalgar, white arsenic, and mercury sublimate—on four different occasions. The prisoner was then asked, in the usual form, whether he was guilty of the murder, yea, or no. The poor wretch, instead of answering became agitated, and in his distress screamed several times, "Lord have mercy on me, Lord have mercy on me." At length he stammered out, "Not guilty." But when asked how he would be tried, instead of answering in the usual form, "By God and my country," he exclaimed he referred himself to God—he would be tried by God alone. And though the Chief Justice spent an hour in persuading him to put himself upon his country, he could get no other answer out of him than that he referred himself to God.

The Earl of Essex was the last favorite of Queen Elizabeth. Young, brilliant, of remarkable fascination both in person and mind, he held on the queen's affections, hereditary claims of which his personal graces may well have reminded her. For—except the two Careys—he was her only male relative on her mother's side, and as she looked on his handsome person, and studied his ardent though inconsistent character—bold, rather than courageous—dashing, but inconsequent—chivalric in bearing, yet not always generous in heart—she could not but recognize the defects as well as the graces of her kinsmen of the Boleyn blood. Then, besides, his father had served her at the time when her faithful servants were few, and it was one of her principles ever to be true not only to those who had been true to her, but to their children. But even Elizabeth's constancy might be overstrained. To almost more than womanly weakness in domestic life, she added more than masculine severity in matters of state. She became piqued with Essex's waywardness to her personally, and permitted herself, upon his failure in his Irish campaigns, not only to rebuke but to degrade him. The favorite was stung to the quick, and rushed into a desperate scheme to forcibly change the administration. He

(*ii*) Bemis' Report of the Webster Case, p. 60.
(*j*) Ibid. 120, 121. (*k*) Ibid. p. 193.

was tried and sentenced to be executed. Then came with her the struggle. Whatever may have been her relations to him, she loved him still too affectionately, and had, by her indulgence, given too large a margin to his excesses, to permit her to consent to his death. That he should die she never intended. But with that singular and cruel waywardness by which her Tudor blood and her woman's caprice were alike shown, her plan seemed to have been to have humbled her favorite until she brought him to her feet as a devoted suppliant, once more to be fastened to her person, as one who first could give life, and then renew prosperity. To this plan one thing was needed on Essex's part. Elizabeth had given him a ring which he was to send to her whenever he was in straits, and which, she had given him her word, should bring back from her a free pardon. The death-warrant had issued, and she passionately waited for the ring. She recalled the warrant, to give more time, but no sign was made by Essex. The sentence of his peers hung over him—he asked not to have it remitted—and at last the queen let the axe fall.

Two years passed of eminent prosperity. The Spaniards were finally repulsed; the Irish subdued; a firm alliance was secured with France, and England was placed at the head of the Protestant powers. Elizabeth had apparently deadened all recollections of Essex. But on the death-bed of the Countess of Nottingham, a scene took place which brought back the old love with all the additional power of remorse. It appeared that Essex had reserved the ring for his last extremity, and then had given it—to follow Hume's incomparable narrative—"to the Countess of Nottingham, whom he desired to hand it to the queen. The countess was prevailed on by her husband, the mortal enemy of Essex, not to execute the commission; and Elizabeth, who still expected that her favorite would make this last appeal to her tenderness, and who ascribed the neglect of it to his invincible obstinacy, was, after much delay and many internal combats, pushed by resentment and policy, to sign the warrant for his execution. The Countess of Nottingham falling into sickness, and affected with the near approach of death, was seized with remorse for her conduct; and having obtained a visit from the queen, she craved her pardon, and revealed to her the fatal secret. The queen, astonished with this incident, burst into a furious passion. She shook the dying countess in her bed; and crying to her *that God might pardon her, but she never could*, she broke from her, and thenceforth resigned herself over to the deepest and most incurable melancholy. She rejected all consolation. She even refused food and sustenance; and throwing herself on the floor, she remained sullen and immovable, feeding her thoughts on her afflictions, and declaring life and existence an insufferable burden to her. Few words she uttered, and they were all expressive of some inward grief which she cared not to reveal. But sighs and groans were the chief vent which she gave to her despondency, and which, though they discovered her sorrows, were never able to ease or assuage them. Ten days and nights she lay upon the carpet, leaning on cushions which her maids brought her; and her physicians could not persuade her to allow herself to be put to bed, much less to make trial of any remedies which they prescribed to her." And then came death.

Morbid propensity to recur to scene and topic of guilt.—There are

certain abnormal states of the nervous organism in which the propensity to commit a desperate act is almost irresistible. There are few who have not felt this when standing on a tower or on the brink of a precipice. A strange curdling runs and quivers through the veins, an impulse to break this mystery of life, and desperately to face what stands beyond. There are few great criminals who have not borne witness to the same propensity. They are ever on the precipice-brink of discovery, and often comes this convulsive impulse, to throw themselves, blood-stained and confessing, into the chasm below. And even when this is not consummated, there is a strange fascination which makes them flit over the scene and topics. The impulse is to get as near to the edge as they can without toppling over.

This impulse, working in a mind of peculiar delicacy and culture, betrayed itself in Eugene Aram's case in a series of refined and oblique allusions to acts of guilt, such as that of which he had been the perpetrator. His mind hovered and quivered over the topic, assuming and expressing itself in varied fantastic shapes, often flitting apparently away, but floating again from the same spot, as would an exhalation from some hidden pernicious mine. So showed the evidence on the trial, which is paraphrased, with extraordinary psychological delicacy, by Hood :—

The usher took six hasty strides,
As smit with sudden pain—
Six hasty strides beyond the place,
Then slowly back again;
And down he sat beside the lad,
And talked with him of Cain.

And long since then, of bloody men
Whose deeds tradition saves;
Of lonely folk, cut off unseen,
And hid in sudden graves;
Of horrid stabs in groves forlorn,
And murders done in caves!

And how the sprites of injured men
Shrieked upward from the sod—
And how the ghostly hand will point
To show the burial clod;
And unknown facts of guilty acts
Are seen in dreams from God!

He told how murderers walked the earth
Beneath the curse of Cain—
With crimson clouds before their eyes,
And flames about their brain;
For blood had left upon their souls
Its everlasting stain!

"And well," quoth he, "I know, for truth,
Their pangs must be extreme—
Wo, wo, unutterable wo—
Who spill life's sacred stream!
For why? Methought last night, I wrought
A murder in my dream!

"One that had never done me wrong,
A feeble man and old;
I led him to a lonely field,
The moon shone clear and cold;
Now here, said I, this man shall die,
And I shall have his gold!"

That very night, while gentle sleep
The urchin's eyelids kissed,
Two stern-face men set out from Lynn
Through the cold and heavy mist;
And Eugene Aram walked between,
With gyves upon his wrists.

Among coarser minds the same propensity exhibits itself in the affectation of jocularity or rude jest. Thus Robinson, who was tried for the murder of Suydam, whose body was found under the front basement floor of Robinson's house, remarked two days before the discovery, to a carpenter who found him, with a hoe, dragging the earth in the *back* basement, as if he had been getting out sand for the masons, "Here 's where I was going to poke Suydam under;" adding that "he had not time to do it." This was tossed off as a joke, and may perhaps be regarded as an artifice to divert attention. But it arose more probably from a morbid propensity impelling the murderer to dwell in language on the topic which was to him at once so perilous and so engrossing.

The same peculiarity was observable in Nancy Farrer's case. Whether or no that remarkable woman was technically responsible it is not proposed now to consider. Conceding, however, that she was insane (and to this effect went the last verdict taken in her case), she had a vein of shrewd cunning running through her which enabled her to shelter herself from suspicion during two successive groups of poisonings. There were the same precautions as taken by other criminals to deaden surprise by intimations of the ill health of her intended victims—the same assertions of constitutional tendency to these particular symptoms. And with this there was the same subsequent hovering of the mind over the scene of guilt. Thus, after the death of "Johnny," one of the children whom she was employed to nurse, and whom she had poisoned, she was found "excited and anxious if any two were talking, to get close to them, and to wish to know what they were saying." And then came one of those strange convulsive confessions such as that in Robinson's case—confessions in which the truth is thrown out as if it were too hot for the heart to hold, and yet at the same time put forth as if it were a joke, so as to relieve the mind of him that speaks from the solitude of this awful secret, and yet not too boldly proclaim guilt. Nancy told a witness, after the death of one of the children, "how lucky she was with sick folks; they all died in her hands." The witness saying, "May be you killed them;" she said, "May be I did." "She seemed to be joking—seemed to be smiling—seemed to be very careless about it."(*l*)

Permanent mental wretchedness.—We may pass the case of a tender conscience, which commits a heinous act inconsiderately, or under force of strong temptation, and then is stung by bitter and enduring remorse. These cases may be said to be exceptional. We may be told, and perhaps truly, that the majority of great crimes are committed by men whose hearts are so rigid and callous as to give no sign of a troubled conscience. The sun, on the day after the crime, shines upon a face just as hard as that on which he shone the day before. Blood cannot stain a skin already black with guilt. No man is suddenly a great criminal. He becomes so, it is argued, by long and slow processes, during which all the impressible elements of the heart are hardened, and solidified.

Now this may be all true, and yet common observation tells us that there

(*l*) Farrer *v.* State, 2 Ohio St. R. (N. S.) 64.

are certain types of character among which *a priori* we are accustomed to look for the perpetrator of some great crime. And this rigidity of heart is one of these. This, in itself, may give a faint though definite psychological presumption. But it is questionable whether there are any characters in which this type is permanent :—

> "The deepest ice that ever froze
> Can only over the surface close—
> The living stream lies quick below,
> And flows, and cannot cease to flow."

"Something was wrong with him. My suspicion was aroused by his troubled sleep." This is the frequent answer to the question as to what put the witness first on the watch. Shakspeare makes Lady Macbeth's great secret vent itself in this way, and to attract very much the same observation from by-standers. And this, in fact, is but in obedience to one of those divine sanctions by which crime is made in part its own avenger. "There are violent and convulsive movements of self-reproach," says Dr. McCosh, "which will at times break in upon the self-satisfaction of the most complacent. Man's peace is in this respect like the sultry heat of a summer's day; it is close and disagreeable at the time, and ever liable to be broken in upon by the thunders and tempests of divine indignation. Even in the case of those who are anxious to keep their attention turned away as much as possible from themselves, and as little as possible upon the state of their hearts, there will occur intervals unfilled up between the scenes that express them, and on these occasions there will be recollections called up which occasion the keenest misery. It may be after a day of selfish business, or an evening of sinful excitement, that such unwelcome visitations are paid to them to disturb their rest, while others have buried their cares in the forgetfulness of sleep. Or it may be, in the time of disease, or in the prospect of death, that the ghosts of deeds committed long ago spring up as from the grave. These gloomy fears proceeding from conscious guilt, always rise up like a ghostly apparition, never in the sunshine of prosperity, but always in the gloom of adversity, to render the darkness more horrific.

"In other cases, the troubling of the conscience is produced, we can scarcely tell how, by the state of the nervous system, or by an accidental event, recalling the deed committed to oblivion, or by a sudden flashing of some willingly forgotten scene upon the mind, revealing, like the lightning's glare at night, dreadful depths of darkness. In regard to such phenomena we may know what are the general laws; though it may be as difficult to explain the specific causes, as it is to tell the immediate cause of the raising this gust of wind, or of this cloudy atmosphere, of both of which we may know perfectly what are the general means of their production."

Extraneous circumstances may produce this involuntary remorse. The culprit may form around him his own atmosphere, which will impart for a while its tinge to his conduct. He may, by a powerful effort of imagination, create for himself fictitious wrongs and fictitious justification. Suddenly, however, comes a rude touch and dissolves the whole fabric. Heretofore he believed himself a hero, or an instrument of inexorable fate. Now he

sees himself a murderer, cruel and loathsome, and a spasmodic cry of agony escapes his lips, or insanity, or suicide, or, what may be worse than either, a dull and incurable despair, closes his life.

The independent existence of this latent consciousness of guilt is shown by the fact that it is called into action by events over which the will has no control. It is not the creation of a diseased brain. It is not the result of a morbid self-introspection. Were it either of these, the will could recall it, or perhaps again banish it. But it is produced arbitrarily and convulsively by circumstances with which the will has nothing to do. The sudden sight of a ring belonging to one whom Queen Elizabeth had loved but sacrificed, threw, as we have seen, that most proud and self-poised of women into an agony of demonstrative remorse. The Countess of Somerset, who had borne herself with such consummate self-possession and tact during the prior periods of the prosecution, screamed with terror at the prospect of being taken to sleep in the room of Sir Thomas Overbury, whom she had poisoned. Nor are these cases unfamiliar to our every-day observation. A little locket, a lock of hair, a faded rose, a ribbon, taken from the person of one who has been loved and lost, will recall a passionate torrent of long buried grief. We may have been a moment before, calm or buoyant. If we had been able to exercise our own will, we would have banished these memories finally. But now, without our agency, they burst upon us and overwhelm us.

There is a feature, however, in respect to a consciousness of guilt thus produced, that distinguishes it from a suddenly recalled grief. The latter reproduces merely a past memory, the former a present reality. The recollection of the latter is, I WAS IN TIME PAST so and so. The discovery with the former is: I AM NOW A CRIMINAL; I DID THAT DEED OF GUILT. Of this discovery there are but two or three consequences. One is confession, and the consequent relief from a comparatively unburdened conscience. Another is a continued condition of misery. A third is the stupor or hardness which is so common an attribute of old criminals. Either of these is a positive psychical condition, as much the subject of ascertainment as are the types or phases of the physical condition.

Animosity among confederates.—"He knows my secret, and I must despatch him." "Because he fears my betraying him, he will try to get rid of me." One of these feelings, and perhaps both, lurk in the breast of the confederates in almost every joint secret crime. How dangerous is the possession of a political secret in a despotic government, is evidenced to us in the many assassinations by which fell the favorites of the French and English monarchs of the seventeenth century.

But another and more subtle impulse sometimes intervenes to work out the same result. It seems almost an invariable psychological rule that passionate love, producing crime, is followed by passionate hatred. Take, for instance, the reign of James I., and go to Lord Coke's great Oyer, which has been already more than once referred to. Whether or no the Earl of Somerset was really guilty of the consummated poisoning of Sir Thomas Overbury, may perhaps be doubted. It is clear, however, that his countess caused poison to be sent to the deceased to remove or punish his opposition to her marriage, and

that her husband was at least privy to her designs. It is clear, also, that he must have known, if not participated in the nefarious plot by which his wife, as a preliminary to her marriage with himself, was divorced from the Earl of Essex. For by fraud, if not by bloodshed, as all England knew, was the first marriage dissolved and the second secured. To make this second marriage happy many outward circumstances conspired. The earl and his countess were each remarkable for their beauty and graces. They had wealth and station; they loved each other with a love which had torn asunder the most sacred barriers, and had conquered almost unsurmountable difficulties; but when they at last met, they found an invisible obstacle between them which they could not overcome. This was the consciousness of a common crime. Their love was followed by hatred so intense, and by quarrels so bitter, that quiet was only secured by separation. For years they lived in the same house with hearts so hostile, that they instinctively shrank from each other when they met. Aversion became divorce.

Poets have often dwelt upon this property of crime, but by no one has this been done with greater energy than by Robert Browning. Ottima, an Italian woman, pursues with the utmost passion an adulterous intercourse with a German, Sebald. Together they murder her husband. Then comes for a moment the passionate voluptuousness of guilty love in its full. But while they are still in the flush of delight at the removal of the obstacle to their undisturbed enjoyment, a country girl passes under the window singing a home song which brings them back to the reality of the crime they have committed. It is the ordinary reaction produced on a morbid state of the brain by a single healthy thought. Then fierce love is followed by fierce hatred, and death by death.(*m*)

Catharine of Medicis, on the death of Francis II., had still three surviving sons, Charles IX., who succeeded to the crown; Henry, Duke of Anjou, afterwards Henry III.; and Francis, Duke of Alençon. Over each she had acquired an ascendency which would give her supreme power could she make the crown autocratic. There was in the way of this, however, an insurmountable difficulty. The Huguenots were a co-ordinate power in the state, and their religion and their political principles alike made them intractable. Coligny was their leader, and besides this possessed military skill, popular influence, and inflexible integrity. Assassination was to Catharine the natural remedy, and to this she obtained the ready support of the chief of the Catholic party, the Duke of Guise, and then the reluctant assent of Charles IX. The blow was struck; Coligny murdered; and forty thousand Huguenots in one night destroyed.

Then came the reaction, and prominent in this was the disruption between the queen, her sons, and her accomplices. To exclude Henry of Navarre from the succession was one of the chief points in the confederacy; yet eight days after the massacre, Charles IX., according to Ranke, was obliged to summon Henry to him in the night to quiet the agonies by which he was

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(*m*) "Pippa Passes," by Robert Browning. Mr. Hawthorne's last work, the "Marble Faun," hinges on the same topic.

tortured. The young king was filled with dread at a wild tumult of confused voices, among which were distant shrieks and howlings, mingled with the indistinguishable raging of a furious multitude, and with groans and curses, as on the day of the massacre. So vivid was his conviction of the reality of these sounds, that he sent messengers into the city to know if a fresh tumult had broken out. But the sounds were mere delusions, which continued to torment Charles during the short remainder of his life. Thus he died, alternately cursing his mother, as the cause of his misery, and turning to her submissively, in awe of her overweening power.

So it was with her two remaining sons. Francis, Duke of Alençon, flew into open rebellion, making the massacres of which he was one of the joint agents the plea. Henry III., it is true, when he succeeded to the crown, bowing before the queen's superior genius, conceded to her for a while the supremacy. But this same restlessness under the joint load of a common guilt, this almost anguish to throw it off on her who produced it, soon severed the son from the mother. Then came a scene in the castle of Blois, where the Duke of Guise, almost at the foot of the throne, was obliged to defend himself by teeth and nails like a wild beast, for he had not time to draw his sword. He had been invited there by the king, as one of the counsel of State, and when there was thus massacred by his old co-conspirator. And underneath, on her dying bed, lay Catharine of Medicis, the wild tumult above giving her proof of this final dissolution of the strange partnership she had formed for the Huguenot massacre. The community of guilt had to them been indeed fatal. It had been followed by the bitterest recriminations and imprecations. It had been followed by massacres and cross-massacres. Charles IX. did not hesitate to ascribe to poison administered by his mother's hand, the disease which tore his vitals; and, though this may be discredited, she permitted his death-bed to be neglected, and his funeral deserted, to increase the welcome to her more favored son Henry. The Duke of Guise was massacred by Henry; Henry a short time after by an avenger of the Duke of Guise. Catharine, after having successively deserted those for whom she had risked so much, died at last deserted by each in turn.

Such are some of the ways in which psychology may be used in the detection of guilt. It shows how a crime betrays itself before its commission, in preparations, in intimations, in overacting; at the time of its commission, in incoherence; after its commission, in convulsive confessions, in remorse, in involuntarily haunting the guilty topic, and in disruption between confederates. The inquiry is an important one in legal psychology, for it not only aids in the enforcement of the law, but it leads us to those supreme sanctions on which all law rests. When we visit a city, and see a series of police officers engaged in ferreting out crime; when we see, in connection with this, courts in which the criminal is tried, and the penalties to which crime is subjected, we draw from these facts the inference of a government whose office it is to prevent wrong. In proportion to the perfection in which this police system is carried out, do our conceptions of the wisdom, the power, and the earnestness of the supreme authority increase. So it is with the agencies we have

been examining. Wherever guilt goes, they go. They dog it in all its stages. Its most secret haunts are not closed to them. Its weakness as well as its wisdom—its triumphs and its remorse—they hear and record. Nor is their function that of detection alone. They have a strange power of compelling guilt to disclose itself. They show us that whatever doubts there may be as to the *origin* of evil, there is no doubt as to its *close*. For they show it to be pursued by a most subtle and powerful penal machinery, which leaves it not until in one sense or another it is judicially punished.

There is one difference, however, between the police of the courts, and that of the conscience. The former, in order to scent out the crime, often assumes the garb of the criminal. Vidocq goes into the thieves' den to discover the thieves' secrets. He recalls memories of past crime, so as to induce a similar communicativeness in his associates; he gloats enticingly over the pleasures of guilt; he incites to fresh adventures by which the criminal may be entrapped. But it is not so with the Angels of the conscience. They warn, they appeal, they implore, and this in tones the tenderest and holiest. Their garb is that of light, telling from whence they come. While they announce beforehand who they are, and use the most touching entreaties to prevent wrong, they declare it will be theirs afterwards to avenge that wrong if done;—while they leave no secret as to their awful mission, they gently plead by all the powers that persuasion can give, that vengeance may not be theirs to inflict. The memories they recall are not of early guilt, but of early innocence—of periods when no mad or polluted comrade stood by, inciting to ruin, but some tender friend or relative, uttering counsels of love. They paint not the pleasures of guilt, but its misery, and they point to scenes of peace to which guilt cannot reach. It is not theirs to avenge until their final entreaties are exhausted; and when at last they hurry away to give their last report, he whose guilt is disclosed cannot but say: "This, your office of exposure as well as of restraint I knew beforehand. You told me this—you told me that my sin, if unchecked, would find itself out."

It is here that the presumptions from this agency rise a step higher than those from an earthly police. The latter tells of a government, comprehensive, sagacious, and just, so far as its general object of punishing crime is concerned, but of a government which at the same time deals in punishment alone, and that by instruments which are often as polluted as the evils they are to correct. The former tells of a government, austere it is true, yet very tender; moving to holiness through holiness; permeating not merely the outer life, but the secrets of the heart; everywhere warning and entreating, while everywhere judging; making punishment certain and terrible, and yet so working it up into the consequences of the criminal's voluntary act as to render it his own choice. So it is that while a police of mere detection and exposure argues an executive of mere power, a police of love argues an executive of mercy; a police that is omnipresent, an executive that is omnipresent; a police that for a time entreats, warns and dissuades, an executive that recognizes a temporary probation; a police that ultimately and irrevocably avenges, an executive that after a free probation judges definitely and finally. It is here we have brought before us the elements of that Christian Providence which

the courts invoke as the foundation of public justice. In crime itself, therefore, we find the proof of that chief magistrate who avenges crime.

So it is that while the court-house derives its sanctions from this Supreme Power, it contributes to the proof of the existence of this Power an independent share of evidence. No witness can be sworn until he declares his belief in a future state of rewards and punishments; no trial can take place without strengthening the evidence on which this state rests. Human justice falls back on divine for its support; divine justice appeals to human as its witness. The penal precepts of the common law professedly find their basis in the dictates of an enlightened Christian conscience; the divine sanction of this conscience is nowhere so fully shown as in the course of a trial at common law. The present discussion will not be without its value, if by illustrating these truths, it shows how close is the connection between the divine law and the human; and how the science of jurisprudence, while it draws down its strength from heaven to earth, may still, if rightly studied, lead its votaries from earth to heaven.