The Influence of the Concept of Monomania on French Medico-Legal Psychiatry (from 1825 to 1840)

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ALTHOUGH René Sémelaigne has given us some useful monographs on the French psychiatrists of the 19th century, a history of the ideas governing the study of mental hygiene is still lacking. Gregory Zilboorg has endeavored to trace this history over a period of 25 centuries, but, whatever the merits of his book, it cannot furnish us with the needed details on any particular period, and particularly on the 19th century, which was so rich in ideas.

The concept of monomania is an interesting subject because, although clinically false, it had a great influence on medical jurisprudence. Before the work of Esquirol, individuals who had committed crimes or misdemeanors were considered mentally ill only if they were in a state of actual delirium or dementia. No effort was made, as a rule, to ascertain their condition, because in such cases judges, juries, and doctors could easily diagnose it. Matters changed when the observation of doctors and judges was brought to bear on cases of partial delirium. It is the first medico-legal discussions dealing with this subject of monomania that I intend to describe here. As a number of pamphlets bearing on the subject are very hard to find, I shall include long quotations which will allow the reader to estimate for himself the ideas of the epoch.

Before taking up the discussions, let us examine the original descriptions given by Esquirol of homicidal monomania and lypemania. Before his time and throughout the 18th century, cases of partial delirium were described by the term of melancholia. But Esquirol, like Benjamin Rush, objected to this term because it implied a biliary etiology which was erroneous. That is why he abandoned the old term and replaced it by those of monomania and lypemania.

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1 Jean Etienne Esquirol was born in Toulouse in 1772 and studied there. He completed his education at Montpellier and came to Paris in 1799. There he worked at the Salpêtrière, where he became the favorite pupil of Philippe Pinel. In 1805, he wrote a thesis on the “Passions considered as causes, symptoms and curative means in insanity.” In 1817 he introduced the first teaching of psychiatry in France. He had many and very distinguished students. In 1825 he became Director of the Asylum in Charenton, and he wrote the history of that institution. He died in 1840.
Eskirol said:

Lypemania and monomania are chronic cerebral affections, unattended by fever, and characterized by a partial lesion of the intelligence, affections or will. At one time the intellectual disorder is confined to a single object, or a limited number of objects. The patients seize upon a false principle, which they pursue without deviating from logical reasonings, and from which they deduce logical consequences which modify their affections and the acts of their will. Aside from this partial delirium they think, reason and act like other men. Illusions, hallucinations, vicious associations of ideas, false and strange convictions, are the basis of this delirium, which I would denominate Intellectual Monomania. At another time, monomanias are not deprived of the use of their reason, but their affections and dispositions are depraved. By plausible motives, by very reasonable explanations, they justify the actual condition of their sentiments and excuse the strangeness and inconsistency of their conduct. It is this which some authors have called reasoning mania, but which I would name affective monomania.

In another class of cases a lesion of the will exists. The patient is drawn away from his accustomed course to the commission of acts which neither reason nor sentiment determine, which conscience rebukes and which the will has no longer the power to control. The actions are involuntary, instinctive, irresistible. This is monomania without delirium or instinctive monomania.

Here, on the other hand, is the description which Eskirol gave of lypemania, a term which he used very seldom himself, and of which the writers of his time made small use:

In lypemania, the sensibility is painfully excited or disturbed; the sorrowful and depressive passions modify the intelligence and the will. The lypemaniac fastens upon himself all his thoughts, all his affections; is egotistical and lives within himself. In monomania, on the contrary, the sensibility is agreeably excited. The gay and expansive passions react upon the understanding and the will. The monomaniac lives without himself, and diffuses among others the excess of his emotions.

The types of monomania are named according to the subject of the delirium. Thus we have hypochondriacal monomania, religious monomania, and homicidal monomania when the monomaniac is drawn to murder.

This monomania has two distinct forms. In some cases the murder is provoked by an intimate but delirious belief, by the exaltation of the imagination, led astray by false reasoning, or by the delirious passions. The monomaniac is moved by an irrational motive, and he shows many signs of partial delirium of the intelligence or the affections. Sometimes his con-

\[1\] Etiene Eskirol, De la Monomanie (Paris 1838) 2.1.

\[2\] Ibid. 2.2.
science warns him of the horror of the act which he is about to commit, but the injured will, overcome by the violence of the impulsion, yields, and the man is deprived of moral liberty. He is the victim of a partial delirium; he is a monomaniac; he is insane.

In other cases, the homicidal monomaniac shows no alteration that is perceptible in intelligence or in the affections. He is driven on by a blind instinct, by something indescribable which urges him to kill.

All authors give examples of murders committed by monomaniacs, driven by a well-reasoned and thought-out motive, and these patients are sometimes careful to take precautions for the success of their act and even try to hide the proofs of it. Yet often they rejoice in the murder they have committed; they accuse themselves of it before the authorities, or show themselves impassive in the face of the victim.

Much more frequently than is supposed, even by the physicians, the affective faculties of the insane are perverted, indeed entirely suspended. The most moral of men possessing the mildest dispositions and the gentlest manners, and who were perfectly regular in their conduct, have confessed to me that ideas of homicide had tormented them during their delirium, particularly at the commencement of their disorder. These deplorable impulses are provoked neither by hatred nor by anger, as with furious maniacs. They are, on the contrary, spontaneous, fugacious, and foreign even to the habitual delirium. They are not produced from without, either by conversation or acts. A former magistrate has often remarked to me that nothing in the world would induce him to sit in a criminal court after what he had himself experienced during an attack of insanity.4

Such a condition is impossible, it has been said. Your monomaniac is merely a supposition; it is a convenient modern resource, whereby on the one hand the guilty may be saved from the severity of the law, and, on the other, a citizen may be arbitrarily deprived of his liberty. Everyone who is aware of his own existence can resist his own impulses, especially when they are horrible and repugnant to the feelings. Motives for resistance are to be found in religion, in social duties, in the fear of punishment, and so on. If he does not overcome the impulse, he is guilty. Man can only lose his free will by the loss of reason, and according to you these men are rational. But, I answer, if the intellect can be perverted or destroyed, the same is true of moral sensibility. Why should not the will, which completes the moral and the intellectual being, also be perverted or annihilated? Does not the will, like the understanding and the feelings, show itself subject to uncertainty, according to the circumstances of life? Do children and old men have the same amount of will power as the adult? Does not any illness weaken the will power? Do not passions soften or enhance the will? Do not education and other influences modify the use of the will? If all this is true, why is not the will subject to derangements, perturbations and morbid debilities however incomprehensible such condi-

4 Ibid. 2.102 f.
tions may appear to us? Do we understand any better those diseases where intelligence or moral faculties are deranged?

Esquirol describes three classes of homicidal monomania:

In the first, the individuals who have the desire to kill are actuated by more or less chimerical motives, more or less contrary to reason, they are recognized as insane by everybody.

In the second series, the insane homicides have no known motive, none either real or imaginary can be assigned to them, and the unhappy subjects of these observations are driven by a blind impulse which they resist, and they escape their fatal impulsions.

The facts which fall into the third category or which we might include in it are more serious. The impulse is sudden, instantaneous, unreflective, stronger than the will; the murder is committed without advantage or motive and often upon beloved persons.

Whatever the difference may be which the accomplishment of the act sets between these facts and those of other categories, we shall see that they only express in a greater degree the same disease, that they have remarkable points of resemblance, several common signs, and that they differ chiefly in the violence and the spontaneity of execution.

In all these cases the patients were incapable of killing before the sudden impulse; they were mild, honest and even religiously minded. In all of them, as in the obviously insane, a change of physical sensitivity, of character, and of way of life has been noted. In all it is easy to determine the period when the change of which we speak took place, and it is that of the outbreak of the illness.

The monomaniac immolates people who are indifferent to him or who have the misfortune to fall under his eyes at the time when he is seized with the idea of murder, but even more frequently he chooses his victims among those who are dearest to him.

When the monomaniac has accomplished his thought and has killed, the affair is over for him. The object has been attained and after the murder he is calm; he does not usually try to hide.

A student comes to believe that with two horses he could move the church of Saint Genevieve and take it elsewhere. You consider him insane because he judges falsely the relation between the resistance of the huge monument and the strength of the two horses. But do you consider as reasonable the mother who adores her child and yet plunges a dagger into its breast? Is there not in the unfortunate creature some alteration not only of sensibility but of the intelligence when, in

spite of her tenderness, in spite of the horror that her desire inspires in her, she prepares the death of her beloved child? At least we must agree that the will is perverted and overcome!\footnote{Ibid. 2.840-41.}

But this reasoning murderer is foresighted. Read descriptions of insanity, come into our insane asylums and you will find madmen who talk very earnestly, who talk very sensibly, who discuss very weighty subjects, who prepare a plot with much subtlety and perseverance, but whose acts are wholly disordered, whose affections are wholly perverted, who are dangerous to others and to themselves as soon as they are set at liberty.\footnote{Ibid. 2.841.}

From the preceding descriptions, it is easy to see that Esquirol was not describing a single clinical entity, but several different conditions such as paranoias, schizophrenias, perversions and neuroses, and even cases of general paralysis. Consequently, many of his contemporaries refused to recognize the new malady (J. P. Falret and Brière de Boismont, among others) and the lawyers might well be skeptical and protest against the attitude of the doctors who were, they said, endangering the very conception of justice. Actually, it must be recognized that Esquirol, in spite of his gift of observation, had much less clinical judgment than his master, Philippe Pinel. The latter had rightly insisted that the existence of a morbid condition could not be established from a single symptom, but must be based on the clinical evolution of the case. If Esquirol had been faithful to this principle, he would have understood that “partial delirium” was only a symptom from whose existence a morbid condition could not be postulated, and that the various cases of monomania evolved in very different ways.

His creation of the term resulted much more from his wish to give up the term melancholia, which seemed to him inappropriate, than from a desire to classify cases which did not seem to correspond to the existing psychiatric entities.

Although the theory of monomania had its opponents, it also had its defenders, among these Jean Etienne Georget (1795-1828), a faithful and devoted disciple of Esquirol. In spite of the tuberculosis which was wearing him out he spent his nights in writing, and though he died prematurely at the age of 33, he left an immortal work. Born in Vouvray, he completed his education in Paris when he was 20 years old and was one of the most active doctors at the Salpêtrière. In his first work, Treatise on Insanity (1822, p. 110), he gives to the term monomania an exaggerated significance. Under this title he describes nostalgia, fanaticism, that is to say,
the wish to make one's own religious beliefs prevail, eroticism, or the enhancement of the passion of love, and so on.

Georget was the first to examine the consequences of the new concept upon medical jurisprudence. We include some extracts from his writings of 1825 and 1826, and we will then examine the reaction which these writings had upon the jurists of that day. (See bibliography at the end of this article.)

Does partial insanity or monomania destroy the criminality of an act and remove responsibility from the insane person who has committed it? Civil and criminal law have answered this question affirmatively by making no distinction between general insanity and partial insanity. (Civil code art. 489, Penal code, art. 64.) In this the lawmakers have been entirely right. Not only is this decision of the law just in principle, but it does away with a quantity of difficulties which would otherwise be insurmountable in its application.8

Georget goes on to point out certain characteristics of monomania which might be useful in medical jurisprudence:

Insane people who seem perfectly rational in most matters have often committed all kinds of vagaries which have made their sequestration necessary, and the most skillful doctor cannot be certain that they will act in one way or another, or that they may not do things which are entirely contrary to their own interests, or highly reprehensible.9

Patients who are irrational only on a single point may also be the victims of moral disorders which influence their conduct and all their acts, even though their judgment is not seriously impaired, as we will often have occasion to prove. These sick people often behave well while they are in an asylum living among people with whom they have no connection and against whom they have no prejudice or grievance, under the rules of the institution and an unquestioned authority which dominates them. These same sick people, when they are living with their families, may become insufferable. They are irritated by the least contradiction; they insult and threaten those who make the slightest remark to them, and they may go on to other excesses.10

Commenting on the calm of Henriette Cormier at the time of her trial, a calm which some of the lawyers considered to be incompatible with insanity, he writes: "This very calm is considered by doctors as one of the characteristics of homicidal monomania. Patients of this kind feel satisfaction and become quiet when they have at last carried out their plans. Only hardened criminals, accustomed to shedding human blood, or the insane, could have committed in cold blood and without the least emotion

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8 J. E. Georget, De la Folie (Paris 1822) 2. Folie (Paris 1826) 11.
9 Georget, Discussion Médico-Légale sur la
10 Ibid. 14.
a murder as horrible as that attributed to Henriette Cormier.\textsuperscript{11} (She had killed, while in a state of depression and without apparent reason, her neighbor's seven-year-old daughter.)

Georget has a keen desire to enlighten the judges and the people of his time who still have a conventional idea of the insane. Therefore, his books are full of remarks like the following:

People who do not often come in contact with the insane have many false conceptions as to these sick persons. They do not realize that the insane whose faculties are altered only in regard to certain subjects may talk rationally and sensibly on others. Yet this is a common phenomenon in insane asylums.

To discover the delirium of these people, we need only allow them to talk, to write and act without paying any attention to them and then compare their way of living with their former condition, and we soon obtain proof of the disorder, often very deep-seated, which exists in their ideas.

The insane may then act under certain circumstances just as would normal persons. Clear reasoning and good conduct are not, then, infallible proof of the absence of insanity, whereas a single insane act, a single fixed and unreasonable idea, is enough to characterize this illness.

Henriette Cormier had protested when the doctors accused her of insanity and the Ministry of Justice thought that this protest was a proof that she was not mad. To this Georget answers:

It is well known that almost all insane people are unaware of their madness, believe that they are in perfect health, are angry if this is doubted and are conscious of their malady only when it has disappeared. The number of insane people who are conscious of their condition is very small.

In his books, Georget protests against the condemnation of many persons who were insane. Apropos of the pyromaniac, De Lepine, who had scribbled all over the written accusation which the judges had given him, he writes:

Can it be conceived that a man who was conscious of the enormity of his crime and who, under the threat of capital punishment could not be without anxiety as to the outcome of his trial, should indulge in such childishness? That he should read and, as it were, retell his crimes with complete indifference? That he should read without trembling and averting his eyes so grave an accusation? That he should consider as a source of amusement a document so serious? These scribblings, full of bizarre words, are the work of a child of five or six. They would be considered as a proof of stupidity, even of imbecility, from a boy of sixteen.\textsuperscript{12}

These small signs of incoherence, these paradoxical reactions, strike the psychiatrist who lives among the insane and knows that the lives of his

\textsuperscript{11} Ibid. 119. \textsuperscript{12} Ibid. 138.
patients are full of such acts which are valuable as symptoms. The lawyer sees in them only a peculiarity such as anyone might have, and he is little disposed to listen to the doctor. Georget takes pains to explain that his diagnosis is delicate but precise.

Although in most cases insanity has unequivocal and obvious characteristics, are there not certain varieties of the illness which are hard to recognize even for the doctors, although the disorder of the mind may be constant and incurable? How then can men who know nothing of the phenomena have a valid opinion in such cases? Moreover, in these difficult cases, where the signs of insanity are not obvious, it is usually necessary in order to form an opinion as to the state of the person in question to examine a series of acts and speeches, to hear what his friends and relatives have to say, to make a kind of inquest upon his preceding words, conduct and acts. Briefly, to judge of the present condition, the past state must be considered. 19

This explanation was really an answer to Adolphe Urbain Coste (1793– 1828), a young doctor who was Georget's contemporary and who died in the same year, but whose career was very different. He fought in all the Napoleonic wars and was carried off by pneumonia shortly after his appointment to the Hôpital des Invalides, the military hospital of Paris. He would have been unknown if it had not been for two regrettable articles which he wrote on medico-legal problems regarding insanity. In one of these he wrote:

If the law wishes doctors to be consulted on the question of insanity it is solely out of regard for custom, and the presumption that doctors have any special capacity in such matters is entirely gratuitous. The truth is that any honest man would be as competent in the matter as Mr. Pinel or Mr. Esquirol, and would have the advantage of being free from scientific prejudice. Unfortunately, the doctors have taken seriously the courtesy of the tribunals and in examining the questions brought before them, they substitute for the light of natural reason the ambitious ignorance of the schools. 20

Marc, in his book *Insanity considered in its relation to medico-legal questions* (Paris, 1940, vol. I. p. 9) says: "The conclusion to be drawn from the opinions of Dr. Urbain Coste is that the less one knows of the science on which any matter depends, the better fitted one is to judge of it. I am quite willing to leave such opinions to those who like them. 21

But Urbain Coste was not the only doctor to protest against the effects which the doctrine of monomania would have on the enforcement of law. Dr. Grand published a book in which he said: "The term homicidal mania

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19 Ibid. 102.
20 Urbain Coste, in *Journal Universel des Sciences Médicales* 43 (1826) 53.
21 Coste was also attacked in the *North American Medical Journal and Surgical Journal*, April, 1818, 457.
must be understood as a murderous fury, of which the world should be purged, and it was irreverent and wrong of Dr. Michu to blame the decision of a serious and prudent magistrate who concluded in favor of the death penalty against persons sated with human blood, whose defense Dr. Michu wishes to undertake on the pretext of an unusual physiological structure."

Another anonymous author, writing in the supplement of the Dictionary of Medical Science, says:

An insane person who shows a tendency to murder must be confined, and those who satisfy these tendencies must be punished, not so as to prevent other insane people from committing murder, but because if a crime has been committed, the person who committed it must be punished. There is crime on the part of a madman when the means of carrying out the act have been weighed and carried out in order to satisfy a desire that is contrary to the eternal moral law. If insanity is to be made an exception, the law only intended it to be in cases where no motive for murder could be found.

Among lawyers the protests against the idea of monomania and particularly against the absence of punishment for insane persons were much more violent than among doctors. Here are some examples. The lawyer Hannequin wrote in the Gazette des Tribunaux (Feb. 11, 1826):

One man plans the death of another and for him the idea soon becomes a dominant and a tyrannical one. At last the plan is carried out and blood flows. May he then invoke the idea of a criminal monomania to avoid the penalty which he has merited? Every man who is conscious of the act he commits is responsible before the law. Each is accountable to society for the use of his reason. The need to murder to satisfy passions or perhaps a system is not an illness or insanity. The doctrine of monomania tries to excuse crime by crime itself.

These lines from the pen of M. de Peyronnet, Attorney General, should also be quoted:

The Attorney General brought to examine the question of whether insanity of any kind should cause the guilty to be absolved, develops the matter with great lucidity and distinguishes between partial insanity and total insanity. He holds and demonstrates that only the latter can remove the criminal from the punishment of the law. This reasonable distinction, which can be presented by the public prosecutor, throws a great deal of light on the question of insanity, a very thorny one in medical jurisprudence, a question which certain physiologists have answered in a way as deplorable for the accusers as injurious to morality and alarming for society.

[18] These passages are taken from the brochure: Affaire de Papavine (Paris 1825). The anonymous author of this pamphlet seems to agree with M. Peyronnet as the text shows.
Georget goes on to quote the above-mentioned pamphlet:

He (M. de Peyronnet) first refutes the theories which transform into simple acts of madness all murders which fill with horror, and which would tend to disarm society by a false pity in the face of the worst criminals; according to this idea, their immunity would be all the more certain that their crime would be an enormity. By transcending the ordinary conceptions of vice, by surpassing the limits of evil, they would ask Justice to absolve them because the darkness of their minds would be in proportion to the errors of their hearts, and their madness equal to their wickedness. Such doctrines could never be admitted into the sanctuary of the laws, and the true principles in regard to these matters need only to be recalled to a jury in order to protect it against such sophistical errors. 19

The Attorney General said in the Cormier case: "Monomania, that bizarre affliction imagined by innovators, is nothing but a phantom imagined by innovators and brought into the arena. The decisions of a jury must not be based on metaphysical consideration or intellectual subtleties but on facts." 20

Dupin, another lawyer, spoke in the same way: "Monomania is a modern resource which may be convenient on the one hand to snatch the guilty from the just severity of the Law, or on the other, to deprive a citizen of his liberty. When it is impossible to say 'he is guilty,' it could be said 'he is insane,' and Charenton would soon be as full as the Bastille." 21

Georget takes pains to answer all these objections. He tries to show that the intention of the alienist is not to consider all criminals as mentally ill. A greater knowledge of psychiatry has allowed us to enlarge the boundaries of mental illness, but it has never preached impunity for crime. Here is part of his answer:

Crime is not an act of madness. He who commits a murder for his own interest, to steal or to revenge himself, is not in the same category as the man who becomes a murderer because of some disorder in his mental faculties, without any motive of interest, that much is so clear that all legislators have admitted it, and all acts of the insane are excused.

The insane are no more influenced by a condemnation or by the deprivation of their liberty than they were by the moral law or the social conventions. Imprisonment neither punishes nor amends them, but they are locked up with real criminals who may altogether corrupt them. Simple-minded, ignorant, lazy, without control over their passions, imbeciles readily become the instruments of genuine villains.

20 *Gazette des Tribunaux*, An 7, 1826.
21 Ibid. 95.
With much common sense, Georget tries to show that it would be a good thing to leave the whole matter to the judgment of experts and give no unwholesome publicity to crime.

It is not by giving publicity and importance to such unfortunate events that their recurrence can be avoided. It is not by calling down on their authors the whole severity of the Law that the homicidal hand of the madman can be held back. On the contrary, by acting in this way the Court might end by causing an epidemic of homicidal mania. What could be done in this case? The most desirable thing would be to keep such affairs quiet by obtaining reports from qualified doctors declaring the insanity of the person accused, who could then be sent to an asylum. In this way, a long drawn out public trial could be avoided.

The only objection which could be raised is that there are no laws which allow the detention of the insane in an asylum after they have been declared cured, and therefore homicidal manics would have the right to demand their liberty, and it could not be legally refused to them. If they should have a recurrence of their malady, they might then commit new crimes. It should be noted that this danger exists in regard to all insane people, that the madman whose inclination has been discovered in time to prevent a crime is just as dangerous as the one who has actually killed. He has the same illness, and might equally be subject to a recurrence of it. Why should these two men be treated differently?

These early writings of Georget, in which he defends the medical point of view against the attacks of the lawyers, show clearly how much psychiatry won from the debate. In the 18th century, doctors, even Pinel, tended to describe the symptoms of the most important types of insanity, in order to classify them as reasonably as possible. Pinel, who was far ahead of his contemporaries, added to this attempt at classification a clinical description which allowed a more efficient prognosis. Georget and the doctors of his day were faced with a more subtle problem, that of determining the limit of the normal and the pathological. In asking this question for the practical needs of the law courts, they were led to observe their patients much more closely. They tried systematically to find small signs which might be the forerunners of a more serious condition; they gave greater importance to anti-social acts which are not always associated with delirium but which do indicate incoherent and paradoxical reaction. These examinations greatly enriched the study of insanity.

The prejudices of the time were, however, hard to overcome. Society, especially at the time of the Restoration, was based far more on accepted

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Georget, op. cit. 117.
moral and religious rules than on the conclusions of sane reason, and therefore good citizens believed that a crime should be punished, even if it be committed by a madman. The ideas of Esquirol and Georget seemed revolutionary to the people of their own day.

Elias Regnault, a gifted but somewhat rash young lawyer, the temper of whose mind was legal rather than scientific, was to revive these discussions by publishing a book in which he summed up all the arguments of the lawyers and systematically attacked the new conception of medicine.

In 1828, Elias Regnault wrote a first essay entitled "Concerning the Competence of Doctors in Medico-Legal Questions relating to Insanity and the Physiological Theories of Monomania." This work was so successful that two years later Baillère published a second book of his called New Reflections on Homicidal Mania, Suicide and Moral Freedom. In that same year the two works were brought together in a single volume, from which the quotations which follow are drawn.

Regnault took up the thesis of Urbain Coste that doctors are not particularly competent to decide the degree of responsibility for insanity of people accused of crimes or misdemeanors. The idea was not new, for it had already been developed by Immanuel Kant in Germany. Regnault defended his point of view as follows: "If doctors really knew the nature and source of insanity there would be no further discussion, but there lies the question in which I am not afraid to declare against them." In a later part of the book, the author shows the contradictions which he was able to find among the alienists of the early 19th century.

Regnault's book seemed impertinent to most of the alienists of the period. It was considered almost as an insult addressed to distinguished men such as Pinel and Esquirol. Consequently, to judge his work solely by what the doctors said of him would be unfair. Many of his remarks are pertinent and show more psychological insight and logic than those of Esquirol and Georget. On the other hand, his clinical insight was poor and the criminals whom he would have punished seem to us today to have been really insane and irresponsible.

Regnault begins his attack: "A new word has been introduced into criminal law. In recent years monomania has constantly been invoked in the law courts. Lawyers have seized upon this medico-legal entity as a last hope in lost causes. Doctors have won new glory by exploiting it and the jurors have found in it a new source of uncertainty and hesitation in fulfilling a function which is already very difficult."

† Elias Regnault, Reflexions sur la Monomanie Homicide etc. (Paris 1830).
When we come to the definition that Regnault gives of insanity we can understand that the arbitrary narrowness which he attributed to the term was incompatible with the idea of monomania.

Reason can be destroyed by an affection or lesion of the organs of which it makes use, whatever these may be. In this case the incoherent desires which will appear in great quantity will all be carried into action because there is nothing to restrain them. Under these conditions insanity exists and a man is not responsible for his actions. . . . Reason may also wander because of a lack of vigilance on the part of the self. In this case the man is responsible because he failed to use the strength which he had himself to repress his desire; this neglect is the cause of all errors and all crimes.

This lack of vigilance may be due to the beginning of a mental illness of which it is a symptom, as well as to neglect on the part of the self. On this point Regnault reached his conclusion too hastily. Before criticizing him, however, let us examine the objections which he had in regard to monomania.

If we were to allow, what seems to me inadmissible, that these various feelings (nostalgia, misanthropy, etc.) are symptoms of insanity, the term monomania which is applied to them would at least have the advantage of keeping its original meaning. But in that case we would need to find some other term to designate the man who, misunderstanding the relationship between the objects of his environment, lives in continual error as to his situation and his own nature. The man who, disgusted by seeing vice always triumphant and virtue unhappy, avoids contact with man, would be a monomaniac as much as the man who believes that his head is made of glass. Obviously, there is a general confusion, in a science where such different conditions are covered by a single term. 14

It cannot be said that a man is insane because he is dominated by a single idea unless this idea is the expression of a delirium. A man is not insane unless he has lost either the consciousness of his own being or way of being, or of his social condition or of the relations of outside objects to himself and to each other. Society is like an asylum in which each person sees himself as surrounded by madmen and imagines that he is the only reasonable creature. After all, no one is entirely rational, but this does not mean that everybody is insane. Yet the doctors have acted as though every man who is vicious or even ignorant was a madman. They have been led to look upon every error as though it were a total absence of reason, whereas it may be only a partial lapse of the rational faculty. 15

Let us examine the first of these remarks. It is obvious that Regnault was right when he attacked monomania as an entity and pointed out that it contained many diverse clinical forms. On the other hand, insanity is often subtle and it is not entirely covered by the definition which the

14 Ibid. 76.
15 Ibid. 78.
author gives of it on page 78 of his book. It is because he does not know the facts that he writes: "The doctors speak as though every man who is vicious or ignorant were insane." Regnault sets this fact apart, without mentioning the other elements which go to make a diagnosis, such as incoherence, incompatibility of ideas, paradoxical reactions, and so on.

Returning to Regnault's book, we find that he vigorously criticizes Esquirol's idea that in monomania the will alone is affected. He writes:

"Let them not talk about a lesion of the will when as a matter of fact the will is modified or injured at every moment of our lives, since in no man is it the same for two days on end, since its energy varies before and after a meal. If a disease of the will is allowed to be an excuse for crime, there will be no end to those who are to be excused and I defy anyone to trace a sharp line of demarcation between the different degrees of disease of the will from their beginning to their apogee, from the bad temper caused by indigestion to the impulse toward murder.

Let us make no mistake, the law is almost never completely just. Out of 20 murderers whose punishment is the same, no two are equally guilty. The same act, Gall said, which is guilty and a just cause for punishment in one man may in another be the cause of pity. In order to evaluate the exact amount of guilt we would have to measure the influence of age, sex, state of health and moral condition, and a thousand other circumstances occurring at the moment of the illegal act.

We would, no doubt, be fortunate if we could be judged in this way. But all would then depend on the arbitrary will of the judge and this judge would have to be free of all outside influences and prejudices, and also able fearlessly to read without error the utmost depth of the human heart. Where does such a judge exist among men? It is an impossible ideal, for men are constantly mistaken as to the causes of action more readily than in the acts themselves. Thus, in the eyes of the law, it is not feelings which are guilty, but acts. When these are to be excused, it must be because opinion has been thoroughly convinced that such indulgence is just. From what has been said above, it is obvious that monomania cannot possibly be allowed as excuse unless it is accompanied by delirium. If there is no delirium there is a perception of evil, and if there is perception there is a power of choice between the idea of homicide which attracts, and that of duty which restrains. This power of choice is free. He who, placed between good and evil, can distinguish them and chooses the latter, cannot be excused on the ground of the intensity of his motive or desire."

Regnault's arguments have only the appearance of truth because he starts from the premise that anyone can be declared a monomaniac. If we read the expert testimony of that day we find that all the criminals whom Esquirol, Georget, and Marc, the three great authorities of the time, declared to be insane were really madmen, and an examination of the trials

*ibid.* 65.
of the period shows that a quantity of insane people were condemned to
death. There was, then, truth in the statements of Esquirol and Georget,
but their descriptions were still so fragmentary and often so superficial
that they were unable to convince people who had no professional knowl-
edge. Esquirol shared the mistakes of his day by separating too completely
will, intelligence, and feelings, instead of describing a change of the total
personality. Here Regnault saw more clearly and had noted that the
symptoms which were given as characteristic of a lesion of the will were
often nothing of the kind.

The same confusion which science shows in regard to the different kinds of
insanity is to be found in the variety of so-called homicidal maniacs. It is not the
act (in the case of homicide) which indicates the type of insanity, but the motive
for the act, and these two things have always been confused.27

This remark was highly judicious, although today we would take into
account not only the motive of the act but the organization of the
personality. Regnault sustains his point of view with an excellent
example.

If we look at the papers left by Bertet, we see that his madness lay in believing
that he was being poisoned. He felt sharp pain, which filled him with feelings
of anger and a desire for revenge. He discovered imaginary enemies and so created
his victims. This was not a homicidal mania but a hypochondria revealed by the
homicidal act, as it might easily have been revealed in some other way. The
homicide was not the delirium; the delirium consisted in the disproportionate
idea that Bertet had of his health and his own condition. This was so much the
case that if he had not believed that he was being poisoned he would never have
wished to kill anyone. Here, then, the symptom was taken for the disease, the
effect for the cause.28

In the case of Anne L. . . (published in the Gazette des Tribunaux of
September 9, 1827), a woman who had suddenly murdered her fellow
worker as they were coming back from labor done under a hot sun,
Regnault had approved of the verdict which condemned her to death
although the crime had absolutely no motive. He writes: "Anger alone
is never insanity. It may be and frequently is a symptom of madness, but
to constitute insanity the anger must be preceded by some other idea or
accompanied by some demented act. In itself it is not an excuse."

This remark of Regnault's proves that psychiatric problems cannot be
judged from a purely theoretical point of view. The girl in question was
not subject to violent anger; she seems to have acted under the influence of
acute pain which may have released a sudden attack of dementia praecox.

27 Ibid. 91.
28 Ibid. 98-99.
It is not only the idea of an isolated lesion of the will which Regnault attacks, but also the theory that passions can be considered as mental diseases. The alienists of 1825 were not clear on this subject; they were not able to establish that in certain morbid states the passions are exaggerated but that they do not in themselves constitute the disease. On the other hand, they were not yet able to demonstrate that in certain neuroses repressed passions were the essential portion of the mental disorder, although their intuition told them that such persons were irresponsible.

The insufficiency of nosological description was a cause of the misunderstanding between Regnault and the doctors whom he wished to confute. All that the lawyer writes is marked by good sense, but it is mistaken because he constantly puts the passions of a normal man and those of one who is mentally sick on the same footing. It is in this sense that the following remark should be read:

According to this system, all weaknesses, all whims, all vices, would be monomanias. Where is the case of the frenzy of a man who, with exaggerated fear of illness and death, takes minute care of his health, uses constant precautions, and combats imaginary illness by medication? In this I see only feebleness of mind and cowardice—not insanity. This is not the first time that weaknesses have been called mania. Marked tastes also receive this name, such as melomania, metromania, bibliomania, which are old words that have long been accepted. It is only in recent years that it has become the fashion to make a madman out of one who loves music, poetry, or books with passion. The mistake of the doctors is that they have confused the word mania as it is used in current language with the scientific term of mania.

Do we need to prove that the hypochondriac is guided by the same passion and calculation, directed by the same reasoning, as other men? Where is the man who has never showed any trace of hypochondria, caprice or melancholia? A man is responsible before the law not only for his errors but for his weaknesses. Let us not forget this principle in which lies the solution of the question that we are considering.

On the subject of the sick woman mentioned by Esquirol, who was able to keep herself from committing a crime, Regnault writes (page 53): “Say to this woman that she is mastered by crime, not by illness, and you will find that she will soon give up her claim to be called unfortunate, for fear that she might be called criminal. Show her that contempt and even the scaffold await her, and you will soon exorcise the demon which possesses her.”

In the article on insanity which Esquirol wrote for the Dictionary, he

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29 Ibid. 21.
30 Ibid. 17.
Ibid. 276.
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says: “A young man courts a young girl, the parents refuse their consent to the marriage. He is sad, morose, and some months later, hearing that the woman whom he adores is to be married to someone else, he goes to the wedding lunch and kills himself there.”

Regnault comments:

I do not yet understand how anyone can find insanity in an act so reasonable, so natural to man, so easily explicable in its every aspect. Why need I find illness where I need only question the heart of man to find the motive for such an act? Will it be said that sorrow has taken such hold of him that he was no longer free? Such an argument could be applied to every need, every desire, every passion. It would be to fall in with those who deny the freedom of man.

It can be imagined that discussions on this subject were entirely academic and could reach no conclusion so long as the doctors themselves could not distinguish between conscious and unconscious motive. An act can have very different meanings according to whether the individual has been able to think it over freely or whether he has been driven to commit it by an unconscious force against which his conscious will has struggled in vain. Almost any single act of a madman, if taken alone, could have been committed by a sane man in a moment of aberration, and that is what caused Regnault’s mistake, but the insane man differs from the sane one by the fixity, the incoherence, the irrationality of certain types of conduct. The following passage clearly shows the mistake of the man who has no professional knowledge: “People are determined to consider as insane any man who, braving use and wont, leaves the common way of those who surround him and behaves in a different manner, such as, for instance, changing or neglecting his attire. This merely proves that he prefers his own wishes and comfort to social considerations, or else that he wants to win a kind of notoriety. Diogenes was not insane, but lazy, and at the same time desirous of fame, and he made himself a new and easy variety of it.”

Although from this point of view, which is a theoretical one, we are obliged to admit that Elias Regnault was correct in a large part of his criticism, we must also recognize that in the basic question at issue, that of the incompetence of doctors, he was wrong. Most of the cases which he mentions and in which he considers that monomania was mistakenly invoked, are cases in which it is obvious to the doctor of today that acquittal would be certain on the ground of insanity. I will mention only one example here, but those who read Regnault’s book will be aware of his

lack of clinical perception, which constantly leads him into error. For instance, he mentions the case of a woman described by Hoffbauer who poisoned the two daughters whom she had had by a first husband because her second husband threatened to turn them into prostitutes. This woman was pregnant; she was passing through a period of depression, and she was certainly very unhappy with her husband.

Regnault, instead of judging the situation as a whole, writes: “What has brought about the crimes of this unhappy woman? Simply the fact that she neglects her social duties to see only her duty as a mother.” So stupid an answer shows that the young lawyer had no conception of what goes on in the hearts of human beings and no intuition of the feelings which animate an anxious mother. Starting with the idea that insanity is nothing but a lack of freedom, he writes: “Let us not forget that it has been declared to satiety that a mother who kills her children without motive is necessarily insane. This principle cannot be applied to the woman in question, who poisoned her two daughters to save them from the misfortunes which were in store for them. Where is the proof of a lack of freedom of choice?” In this case the insanity was not in the act itself, which can be rationally explained, but in the state of depression which is perfectly apparent from the description given of it by Hoffbauer.

Regnault was able to prove, as against Georget, that the homicidal impulse exists in all men, since it appears in our dreams. But he had no dynamic theory of the unconscious by which to give a genuine interpretation of the facts. This is what he said:

No desire is foreign to man’s nature. We can easily convince ourselves if we reflect on what happens in our dreams. These dreams are the result of a partial sleep, during which some feelings and desires are still awake, while the self is asleep. Then, usually a quantity of queer, inexplicable and often cruel ideas which arrive in dreams are at once carried into action, because there is nothing to counterbalance them. The moral power which chooses is powerless and, as it were, absent, and the first impulse prevails.

Because of his incomplete views, Regnault did not have the wisdom and generosity of Georget. He believed, like most lawyers, that punishment might have a moral value for the insane and that society should avenge a crime.

Who can pretend that to call ill a man who steals instead of calling him a thief will, by a mere nomenclature, prevent him from stealing? It might even be thought that he would be more apt to err if he believed that he was yielding to a

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morbid impulse rather than to a vice. I hope it will be admitted that in either case the man must be confined, whether he is ill or criminal. Does it matter whether this confinement be called treatment or punishment?25

So direct and serious an attack on medical theories and on the principal authorities in the field of legal medicine could not leave the medical corps unmoved. Three newspapers published pleasant commentaries on the remarks of Regnault. They were: the Journal du Progrès, the Journal Complémentaire, and La Bibliographie Médicale. A majority of newspapers opposed Regnault’s theses. These were the Figaro, the Mercure du 19ème Siècle, the Archives de Médecine, Le Journal Hebdomadaire, the Annales de Médecine Physiologique, Le Journal Général de Médecine, the Annales d’Hygiène et de Médecine Légale.26 Leuret reproaches Regnault, above all, for his basic theory that good sense alone is sufficient in judging the insanity of an individual, and that the doctors have no special qualifications for discussing it.

Mr. Elias likes to debate better than he likes to observe. His great mistake, a capital one, comes from the fact that he imagines that it is enough to recognize that an act is good or evil to be free to commit or not to commit it. If he could only be brought to doubt the value of his own knowledge on this subject which, I repeat, he has never studied. If he would remember that imagination often betrays us in science, he would look at the facts. . . . He declares that where consciousness exists there is freedom. This is an error which he would soon recognize. Consciousness and freedom are faculties which can exist separately. An insane person may know evil and condemn it, yet commit an evil act without being responsible. How can we believe so strange a fact? By seeing it.

This criticism brought a rather feeble answer from Regnault to which Leuret, in turn, responded. He insisted again on the fact that consciousness does not imply freedom and he mentions several cases of men who have had hydrophobia and who knew they were going to bite, but could not help doing so. Regnault writes: “How can we imagine a mania without delirium, when delirium is the one obvious characteristic of mania? How conceive a reasoning insanity, when insanity is precisely the absence of reason? This bizarre anomaly would in itself be enough to show how obscure are the ideas, how uncertain the conceptions of this branch of medicine.”27

To this Leuret answers: “He (Regnault) has formed a priori an incomplete and mistaken conception of insanity and all that does not agree with this seems to him to be false. If he had seen clear lesions of the will, in

25 Ibid. 153.
27 Ibid. 3 (1831) 234 f.
which the power of reasoning is still intact, he would not speak as he does. He would admit the possibility of such conditions, even if his imagination could not explain them. He would cease to think that plain good sense is on the same level as actual knowledge in regard to disorders of the mind, and he would not call scientific prejudice the precise result of an observation of nature."

In an article called "Observations on Suicide among the Insane," Leuret writes: "Is the belief in sorcerers and in possession insane? In our day and with the present state of our knowledge we can give no other name to such a belief. Yet it was at one time almost universal. Who was it that first called this belief by its right name? Those who in a report on sorcery said: 'Nihil a daemone, multa ficta, a morbo paucia.' Those who made this report established, in contradiction with their age, that sorcerers were insane people, and modern rationalism has fully confirmed this view."

Leuret believed that in the future the idea of the irresponsibility of monomaniacs would be fully admitted; and though Esquirol's term has been abandoned, the diseases which he designated by it are today recognized as such.

Regnault was obstinate in his argument, as the following proves: "There are points on which the law courts cannot legitimately reach a decision without consulting those who are known to be skilled in the matter under consideration, and doctors must be consulted in cases of insanity." "This reasoning," says Regnault, "would be correct if addressed to those who recognize doctors as able to decide in doubtful cases of insanity, but since that is exactly the point which is contested, the argument falls."

To this Hippolyte Royer-Collard had already answered. "We are ignorant of many of the facts, it is true, but is that any reason for saying that the average man is not a hundred times more so? The mere habit of dealing with the sick already makes a vast difference. It is, therefore, not true, in my opinion, that medicine, ignorant as it may be of the ultimate truth which it seeks, is incompetent in the matter of insanity."

Regnault continued the argument: "I maintain that the doctors do not know enough to come into the law courts to offer the help of their enlightenment."

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\[\text{Quoted by C. C. H. Marc, De la Folie etc. (Paris 1840) 1.13.}\]
\[\text{Regnault, Reflexions, 235.}\]
\[\text{\textit{Annalen d'Hygiene Publique} etc. 5 (1833) 225-238.}\]
\[\text{\textit{Journal Universel des Sciences M\é\éciales}, December and January, 1829.}\]
Time has shown that both parties to this discussion were wrong; that Regnault was mistaken in his diagnoses, but that the doctors had not yet given descriptions of insanity which were systematic enough to convince their adversaries. They often felt that a criminal was insane or driven by some irresistible force, but they could not yet establish the fact clearly. In the following years the doctors did succeed in making some precise diagnoses, yet they were often satisfied to oppose nothing better than theory to the arguments of Regnault, as the following passage from Marc proves. He answers Regnault by saying: "Insanity may consist in an aberration of all the powers of understanding in regard to one or to several subjects, or it may consist in a single lesion of the faculties, for perception, judgment, imagination, and will may be affected separately, or all together, and finally an alteration of the effective faculties of moral feeling which can be great enough to be considered as insanity, even if the intelligence is not affected." And he goes on: "If mere good sense is not enough for Mr. Regnault, who has a good deal more than mere good sense, to understand a priori that current ideas on insanity are not accurate, that they are very far from understanding the many forms of this disease, we may be sure that it will not be enough to enlighten the members of future juries for whom his book is intended, and we will have to admit that in questions of medical jurisprudence relating to this subject, we must continue to look to the experience of those who possess it, that is to say, the doctors."

Many doctors were aware that the question was not a simple one, but they believed that because of its very complexity, the use of experts, was necessary. Orfila (in a passage quoted by Bottex) says: "We are well aware of how hard it is in certain cases to form an opinion as to the existence of monomania and how dangerous it might be for society to apply injudiciously the principle that we are developing; it is, therefore, to the knowledge and probity of the doctors that the right to judge must be reserved in each case, and it is they who must give the law courts the only data on which an equitable judgment can be founded."

Royer-Collard says:

If I know nothing positive and if science can furnish us only with more or less vague conjectures, by what right do you pretend to be better informed than science itself, and declare what we would not dare either to deny or to affirm, on the sole basis of the light of reason? Doctors hesitate but lawyers decide—that is the basic error of Mr. Elias Regnault. He will not even allow that there may be a

43 Marc, La Folie i. 18.
44 In the above passage, Marc merely sums up or quotes the thought of Leuret, who an-
question as to moral freedom, and seeks merely to determine in which cases it may be considered to have been destroyed by insanity and in which there is merely a revolt born of passion. He does not see that there is a preliminary question which his adversaries have decided in a sense opposite to his own, and that from this fact springs the constant opposition of principle that divides them. Nor does he see that in the present state of the sciences of philosophy and physiology most men would allow full freedom of examination.46

This generous point of view was, on the whole, just, but it was contrary to the ideas of Regnault who always maintained that the doctors knew so little that they could decide these matters no better than the judges.

Broussais' opinion is contained in the following passage: "It is often asked whether men who in other respects reason correctly but are violently impelled to murder or suicide, although these ideas fill them with horror, can really be called insane. I do not hesitate to say yes, for rationality does not consist solely in drawing a conclusion correctly, nor is it given us only to make us able to act correctly, but also to prevent us from doing evil. Now the man who has yielded to an impulse that he himself condemns has reasoned very poorly, for he has not been restrained by foreseeing the consequences. He has reasoned poorly as to his relation with others, or rather, he has failed to reason at all, which is the same."46

An exchange of arguments unaccompanied by facts has little value but, fortunately for the advance of the study of insanity, many alienists tried to multiply their data and in this way they contributed to the better knowledge of these diseases. Let us examine some of these studies.

Leuret, in his article on erotic monomania, writes: "As to monomaniacs with delirium, there are some of these (the greater part of them, in fact) who can reason perfectly on all subjects which are unrelated to their delirium. There are others who even on the subject of their illusion keep a sense of proportion, and reason with such speciousness that even experienced persons are taken in. There are other cases where the monomaniac hides his ideas, and if he is brought back to the subject of his delirium, he avoids all discussion of it because he feels that a trap is being set for him and that all that he says on the subject will be taken for insanity. Such monomaniacs are generally intelligent and keep the greater part of their intellectual faculties. Finally, there are other cases where the monomania appears only under certain circumstances, and it will be some accident,

46 Royer-Collard, Réfutation de la Doctrine de M. Elias Regnault.
45 Broussais, De l'Irritation et de la Folie, 456.
(Quoted by Regnault, pp. 82 and 83. I have seen only the edition of 1818 of this work which has no p. 456, so that I have not been able to verify the quotation.)
some particular position or aspect of things which will bring on delirium.”

In an article by Coste we find the following passage: “I ask whether a madman who tries to hide his insanity is really insane. An understanding of one’s own advantage and well planned methods of furthering it presuppose reason and there is no real paradox in saying that the consciousness of insanity precludes insanity itself.’’

To this Georget answers:

In the first place, although most insane people are unaware of their condition and believe that they are perfectly rational, there are others . . . who are quite aware of the disorder of their minds and feelings and are distressed by their position. Others have a vague idea that they are ill, and still others are aware of it only in lucid intervals or perceive only a part of their trouble.

Secondly, insane people can be found every day who hide their delirium, even when they do not believe that they are ill. A madman who wants to kill himself will imagine all kinds of means for escaping from supervision which hinders him; he will even pretend that he has given up his fatal project in order to achieve his object. Such insane people have kept enough self-control to master their impulses before strangers and behave perfectly correctly. In insane asylums, the desire which the inmates have to meet each other either at meal times or in the salons or on the walks is often enough to induce them to control themselves.

In the third place, in certain acts committed by insane premeditation, planning, will power and great precision in the execution can be found. These are well established facts, based on specific examples which refute many of Regnault’s theories and destroy for some time at least the arguments which judges even today are apt to advance.

Georget, like his teachers Pinel and Esquirol, followed his assertions with one or two clinical cases which we have not space to include.

Leuret perceived how difficult was the problem, and took pains to describe certain cases so that the judges might better understand the complexity of what we call delirium.

By analyzing each of the insane persons whose histories I have retraced, we see that a lack of vigor in the association of ideas is the essential characteristic of their insanity and that this characteristic may co-exist with visions and hallucinations, without being influenced by them, and is also compatible with complete lucidity, that it is sometimes complicated by incoherent acts and irrational expressions, but that the contrary may also be true, that is to say, that the habits of an orderly life may persist in spite of the incoherence of ideas, and lastly, that the incoherence seems to be more evident in writing than in talk. It

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47 Annales d’Hygiène Publique etc. 2 (1830)
48 Journal Universel des Sciences Médicales
49 Ibid. 21.
50 Ibid. 24.
seems as though in these incoherent persons the insanity is exterior, whereas the inner man can still reason. Something drives them on to talk and move. It is like a stimulus which they cannot master and which often gives them extraordinary energy.\textsuperscript{61}

Without actually taking part in the arguments which sprang from the discussions of the day, J. P. Falret tried to throw light on one of the points involved:

We must now try to establish the limits which divide passion from insanity. The line is uncertain, yet it is important to trace such a demarcation between the two states, for often the cure and sometimes the very life of a person seized with partial delirium depends on the precision of this diagnosis. A mistake in such a case may result not only in retarding correct treatment and perhaps in creating an incurable condition, but also produce irritation, anger and hatred in the patient's family by causing acts and words which are due to mental illness to be attributed to perversity.

Passions have a real cause in the outside world, whereas in the case of insanity the cause may have been real in the past, but in the present it exists only in spontaneous perception, that is to say, in the nervous system and particularly in the encephalus.

In the case of the passions, however violent they may be, the disorder of feeling scarcely touches the intellectual faculties, and the association of ideas is almost too rapid and precise. In insanity, on the contrary, there is disorder of speech and thought side by side with the delirium of passion, and this disorder is often predominant. Instead of rapid association of ideas, there is more or less obvious and general incoherence.

In the case of the passions, acts are falsely interpreted and unreal motives are attributed to their authors; in insanity, people and objects are seen as other than they are, or seen when they do not exist in the sphere of sensations. With illusions of the mind as with those of the eyes there is no insanity if reason corrects the intellectual or sensory mistakes. But if the wildest conceptions and the most fantastic perceptions are considered as reality, then we are no longer in the domain of error but in that of impossibility, and insanity is certain.

Lastly, in the case of passion, the disorder of the mind, which is passing and limited to a single subject, is consciously perceived, whereas in insanity the disorder persists, is more or less widespread, and for this reason is not perceived consciously.

If a man who is usually a spendthrift acts in a way that compromises the family fortune no one will see insanity in his conduct. But if a man who is careful and almost miserly suddenly changes all his habits, beginning to spend wildly, his relatives may accuse him of being capricious or bizarre, but the outside observer will see the first signs of insanity.

Let us close the first part of this debate by quoting the wise words of Georget:

\textsuperscript{61} François Leuret, \textit{Fragments sur la Folie} (Paris 1834) 31.
It will be long before we will be able to convince the average man or the judges of the existence of certain kinds of insanity. But we must go on fighting for the truth. Time and perseverance are needed to scatter the darkness of ignorance.32

Such was the first phase of the great debate. Esquirol had given a name to a new kind of mental illness; his pupil, Georget, saw how this idea ought to be used to free certain insane criminals and their families from the humiliation of a death sentence, and, lastly, Regnault, in the name of a large group of lawyers, protested against these new conceptions which, he believed, would shake the very foundations of public morality.

We must now examine the opinions of certain other persons of the day, who took some part in the discussions. Let us look first at the ideas of two distinguished legal lights who were known widely under the Restoration—Adolph Chauveau and Faustin Hélié:

It is essential to refute a theory which appears to us to be as mistaken as it is dangerous. In the first place it is not true that passion can cause a temporary disturbance of the faculties. The annals of mental hygiene have not yet brought to light a passing insanity which is born with and disappears with a dominant passion. Passions may be the cause of permanent disorders of the mind; they are, indeed, the most frequent and powerful sources of insanity, but it is impossible to find the signs of real insanity in mental disorders however serious, however apt to obscure the intelligence, if they are purely temporary, and disappear with what has caused them.

By putting passion in the same category as insanity we would justify immorality by considering it as a misfortune, by giving impunity to its errors. The unfortunate person whose mind has been altered by illness obeys mechanically a force whose power he cannot resist. The man who acts under the dominance of a passion has begun by allowing his will to be corrupted, and it is his will which, urged on by passion, has rushed into crime. The first of these persons is subject to an irresistible power; the second might have resisted but did not wish to do so. Even in the paroxysm of the wildest passion a man continues to distinguish between good and evil and knows the nature of his acts. Love, jealousy, revenge may overcome him, and he yields to the urgency of his desires, but he might have found in himself the strength to resist them.

Penal law must, then, be construed in the sense that the justification of a crime exists only in the case of people who are demented. Of course, under this term must be included all the shades of illness of the mind which medical science has recognized as insanity, but the condition which must exist to exculpate the doer of the act is that there should be disease complete or partial of the mental faculties. A disturbance of the senses which originates not in disease but in a frenzy or a failure of the will cannot be advanced as a pretext in a manner that belongs solely to disease. There can be no exception to this principle, and by

confining it to its precise limits we give it great force when it is applied to the many varieties of partial insanity.

Yet, though the passions cannot be considered as attacks of monomania, we must recognize that they do not act upon the will, which they do not leave entirely free to oppose desire. Moral responsibility does not disappear, but it is weakened. Passions should, therefore, be considered not as the justification of a criminal act, but as lessening the penalty.58

This is an expression of the absurd theory of diminished responsibility. We discover that an individual is neurotic or insane and that, in consequence, he is more likely than a normal person to repeat the criminal act, and that imprisonment can only harm him. We will, therefore, punish him less than the normal man, but we will punish him a little none the less, instead of frankly admitting that he needs medical care and not punishment. The theory of the lesser penalty is as stupid in regard to the individual who feels impelled to repeat his crime as it is towards society, which it fails to protect.

Dr. Marc took up this question of passion and the lesion of the will, and reached a sounder conclusion than the judges whom I have quoted.

The theory which I have described as to lesions of the will is, in my opinion, quite in accordance with the facts, but I cannot hide the difficulties which its application would involve in matters of medical jurisprudence if it were to be used to enlighten the law courts as to the criminality of an act. How can a line of demarcation be established between acts resulting from lesions of the will, which should be called insanity, and acts which result from passion carried to the extreme? There can be no doubt that in many cases the intensity of certain passions may produce a genuine frenzy which temporarily destroys the power of the will.54

In contradiction with the theory of Chauveau and Hélié, Marc writes:

According to the rigid ideas of certain moralists, no passion is excusable. As a doctor we are far from accepting so absolute a thesis. We consider that innate passions are excusable in many cases, whereas acquired passions are almost never so. The former draw their strength from natural leanings, born with us and inherent in the normal organism, or from equally natural antipathies, whereas the latter spring from the vices which the necessities of social existence produce.55

A German lawyer, Hoffbauer, had a certain popularity in France, where his book was translated at this time. He defended an absurd idea which his translator, Chambeyron, understood at once. He writes: "There is no reason why a man who believes, for instance, that his feet are made of

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55 Ibid. 1.103.  
58 Marc, La Folie 1.88.
glass, but on all other points is perfectly sane, should be considered unfit
to act, or should be excused for acts which do not touch on his particular
manias, since his condition does not prevent him from practising a profes-
sion, from looking after other people’s interests, from acting as tutor,
etc.”

To this Chambeyron answers in a note on page 104: “This role might
be valid if it were possible to determine the sphere in which a dominant
idea can act and influence. But what psychologist would assert that one
idea is entirely foreign to another and may not in certain circumstances be
associated with it, even in the mind of a normal man, and even more so in
that of an insane person?”

One result of the idea of monomania on medical jurisprudence was that
the doctors came to insist on giving their opinions as to the mental condi-
tion of the accused, not only at the time of the trial, but at the time when
the act was committed. This seems perfectly natural to us today, but it
was not so at that time, as the remark of Chambeyron proves:

This principle, which is beyond discussion, seems to be misunderstood by
some of the courts which, in spite of the protests of the doctors and lawyers, will
only accept reports as to the mental condition of the accused at the time of the
trial. The law courts declare that by questioning the experts as to the condition
of the accused at that time when the act was committed, they are making them
into judges. This objection is ill founded. In a verdict, each authority has its own
separate function. The jury decides whether the accused has or has not com-
mitt ed the crime in question; the doctors decide whether the accused does or
does not belong to one of the exceptional cases foreseen by the law, and the
judge enforces the general or the exceptional law. Jury, experts, and judge have
cooperated in the verdict, and none have spoken to the exclusion of the others.
The mental condition of the accused at the time of the trial proves nothing as
to his state at the time when the act was committed. Either the court considers
itself competent to judge on the question of insanity, or it does not. If it does
consider itself competent, why does it require a report as to the mental condition
of the accused at the time of the trial? If it does not consider itself competent, why
does it insist on deciding the much harder question of the mental state of the
accused at the moment of the act?

Few works on insanity had been published before 1840 in which an echo
of these discussions can be found. The books of Dubuisson (1812), of
Matthey (1816), and Fodéré (1817), preceded the debates which concern
us, and most of the men who wrote treatises at this period discussed some
one particular subject. Some remarks on monomania can, however, be

See Médecine Légale Relative aux Aliénés et
daux Sourds Muet, by J. C. Hoffbauer, trans-
lated from the German by Chambeyron, with
notes by Esquirol and I. Card (Paris 1827).
found in a book written by the eldest son of Philippe Pinel. Scipio Pinel (1795–1859) did not possess his father's genius, and he was rather unstable. He worked in the Paris hospitals and wrote several treatises on insanity in which he defended the point of view of the organists. His *Complete Treatise on the Hygiene of the Insane* (Paris, 1836) is the work which interests us. Written not long after the debate between Regnault and Georget, it presents an interesting point of view. Pinel first recalls the text of the law and the commentary made on it by his friend Calmeil. Then he, in turn, declares that the law ought to be modified.

There is neither crime nor misdemeanor if the accused was demented at the time that the act was committed, or if he was constrained by an irresistible force.  

Calmeil, as quoted by Scipio Pinel, says:

> A man's life is at stake, perhaps that of several persons, and an illness according to which guilt or innocence must be concluded, and the law would leave us in ignorance as to the symptoms of the illness?

In asylums we see every day madmen who steal, who commit indecent acts, who try to kill the attendants, who wound or mutilate them. In every study of insanity, even in the briefest treatises on the forms of delirium, we are struck with the large number of dangerous madmen. Some persons have concluded that monomaniacs should be treated like harmful beasts of which society should be rid. Why not put on the same level the monomaniac and the frenzied person, as certain communities treated the aged and the infirm? You ask by what symptoms a lesion which chiefly affects tastes, sensations, impulses and subjective passions can be recognized? The doctors, who by their special vocation pass their lives in studying the slightest shades of moral and intellectual conduct, and in making observations, are the only persons who are fit to judge in such matters. They are the only experts who can be found to probe the sanity of an accused person.

Recently, a closer observation has caused certain mental aberrations which men long regarded as merely normal to be considered as mental diseases, and the law should, in this respect as in all others, hail with gratitude these results, which are sanctioned by experience. Of course we are referring to the reasoning insanities, those manias without delirium, those monomaniacs, homicidal or suicidal, whose existence the courts have refused to recognize.

Georget had foreseen the necessity of enlightening the judges on these little known forms of insanity, and it was the many examples of unhappy creatures who were insane but who had been executed which moved him, touched by such injustice, to bring together a large number of documents which have greatly influenced the verdicts given since that time.

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67 Article 64 of the French Penal Code.  
69 Pinel, op. cit. 215.
After recalling several cases that were famous between 1825 and 1828, Pinel adds:

We may conclude from these facts, which clearly show the difference between criminality and insanity, 1) that leanings towards murder, theft, incendiarism, and other criminal acts, do exist and that they are genuine diseases, true monomanias. It is very important, in consequence, to distinguish such leanings from crimes which are the result of reason. 2) That there are murders, thefts, etc. which are the result of temporary aberrations, a delirium of the passions in which the aberration must be considered not as a justifying cause, but as an attenuating circumstance. Consequently, in the first case a man is ill and irresponsible, but because of the dangerous nature of the illness he must be confined for life in an asylum. In the second case, on the contrary, he is responsible for his acts since he might have avoided them, but he is up to a certain point to be excused, because of the temporary aberration of his mind, and he should, in consequence, be confined for life in a prison.

There is mental disease in idiocy, imbecility, dementia, mania; there is a passing aberration in drunkenness and in passion; there is an emotional perversion in certain neuroses without perceptible deterioration of the intelligence.60

Although Pinel's conclusions are exact, he is not dogmatic. "When doctors who are in the habit of dealing with the insane do not feel that they can decide with certainty in cases of this kind, is it not astonishing to see judges and average men conclude without hesitation in one sense or another, decide with complete confidence on the question of insanity or sanity? It seems to us that in these difficult cases, where insanity is advanced as an excuse, the criminal ought to be held for some time under the observation of experienced doctors whose report might allow the judges to give a well-weighed verdict."

Two years later the first French treatise on the medical jurisprudence of the insane appeared. It was written by a contemporary of Scipio Pinel who was not a Parisian. Alexander Bottex came from the department of Ain and had studied at Lyons. He turned to the study of insanity only in 1830, and he became professor of psychiatry at Lyons where he died at a relatively early age in 1849.

Bottex was familiar with the work of Regnault. He recalls with indignation one passage of his. Regnault had said: "It cannot be denied that there are persons whose organization is such that they are liable to excessive anger. Education can get the better of this defect or organization. Anger will lead to homicide only in uneducated persons, and in that case it can be said that ignorance becomes a crime."

60 Ibid. 268.
Bottex exclaims: "Can one imagine such a statement? We may gather from such reasoning to what excess prejudice may lead an intelligent man! As though it were not unfortunate enough for a man to be uneducated, now his ignorance is to be imputed to the accused as a crime, since he might not have been guilty if he had been enlightened. Ignorance should, on the contrary, be considered as an excuse or an attenuating circumstance." 61

We find Bottex pleading for the irresponsibility of the mentally ill in various ways. Here are a few of his arguments:

Every day we see children who have been brought up in the same way but who are wholly unlike. Some of them may be so gentle and so just that evil is repulsive to them; they would suffer if they did it, and they are happy when they can do something pleasant for those about them. Others, on the contrary, show opposite tendencies from their earliest years. They are conceited, vain, foreign to all feeling of justice or kindness, and only evil seems to attract them. Some are even so ill organized that religion, education, and punishment have no effect upon them. They are incorrigible, irresistibly drawn to evil. Sometimes they have to be put into reformatories, in order to cut them off from society, of which they are the scourges. 62

Bottex also gives his opinion on the delicate question of the passions:

To confuse the passions with insanity would be immoral and dangerous, for to consider passion as a passing insanity which precludes responsibility would encourage every crime by the promise of impunity. The man who was full of anger, tormented by jealousy, or unhappy love, outraged by injustice, was often not master of himself. He was like a madman, yet he was responsible for his acts, for it was for him to make efforts all the greater to avoid wrong action because he knew that his passions were violent.

It is true that passions darken and distort our judgment, but they do not deprive us of the knowledge of the real relationship between things. A man who is dominated by his passions is not exactly insane, and the sword of the law must continue to hang over him as a further motive for restraining his evil leanings and overcoming them. Nevertheless, observation shows that there are men who, though good and just in their natural state, have no control of themselves as soon as they are angry, and in whom anger really is a kind of insanity. This may be the result of some particular sensitivity of the brain and nerves. There is, then, really a mixture of passion and insanity in their acts, as certain German jurists such as Henke and Hoffbauer have admitted.

In these cases, it is clear that moral freedom is greatly limited if it is not entirely destroyed. It is for the legal authorities to decide to what point an individual, good and honest until that time, will have committed a crime which

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61 Alexandra Bottex, Traité de Médecine Légale des Aînés (Lyon 1838) 29.
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brings him no benefit in a momentary fury or frenzy, and to judge if attenuating circumstances should be admitted.

It is strange to find that Bottex does not here insist on the necessity of medical advice and seems to leave the matter to the jury. He gives no very precise criterion by which insanity can be distinguished from passion, but from his last paragraph one might conclude that he would willingly have agreed with the ideas of J. P. Falret: “There are cases where the symptoms of insanity become evident rather in comparing the individual with his usual self than with the rest of humanity.”

Bottex shows himself scrupulous, as a doctor would be who knows that the medical study of insanity is in its beginnings and who does not wish to come to conclusions too rapidly. “There are cases where even the most experienced doctor finds it hard to decide whether a certain accused person is to be considered as sane or insane.”

Bottex then discusses the case of semi-imbeciles whose ideas of right and wrong are not clear. He considers that such beings do not usually enjoy moral freedom, and should be acquitted.

“If they are condemned to prison,” he adds, “they become more vicious through contact with perverted persons and come out of prison meaner and more tricky than they were when they entered. The best thing to do is to send them to asylums, where they should be kept busy with manual labor.”

In the case of a monomania with tendencies towards theft, the doctor must be very careful in his judgment, because there is always a direct interest in theft unless the object stolen is of very small value in proportion to the position of the accused. For a theft to be excused from the penalty of the law, we consider that the defense ought to prove positively that the accused was insane at the moment of the act. The case in homicide is not the same. It is clear that if a person who has been perfectly gentle and reasonable until then, suddenly becomes violent and kills one or more people, some of whom may perhaps be his nearest and dearest, insanity must be presumed.

The concept of monomania greatly widened the field of medical jurisprudence in regard to the insane, and forced psychiatrists to make much closer and more systematic observations of insanity. The case history method of relying on a few outstanding symptoms, covering a limited period of crisis, was widened to include information as to the heredity and the psychological past of the patients, and descriptions not only of the

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Falret, *De l’Alémentation Mentale*, extract from *Dictionnaire des Études Médicales Pratiques* (Paris 1838) 16.


Ibid. 61.

Ibid. 99.
wandering of their minds, but of their bearing and their aberrations. The fact that they were attacked gave the doctors a motive for defending themselves, and so greatly stimulated their researches.

As long as psychiatry, like psychology, was mainly interested in conscious phenomena and described the human mind in an atomic way, considering separately the will, the intelligence, the passions, it was impossible to solve the problem. Only when Freud completely revolutionized the approach to psychic phenomena could those medico-legal questions find a satisfactory answer. We may recall here that Freud, instead of stressing the importance of the conscious psychic facts, stressed the importance of the underlying unconscious reality, and, instead of studying the mental faculties, he became interested mainly in the dynamic connections between the different psychic phenomena. The forensic problem then becomes: How far was the crime motivated by conscious and controlled reasons, and how far by unconscious impulses?

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