CHAPTER 4

The Dialectic of Automatism and Free Will

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> History does not have as its subject the actual human will but our representation of it.
>
> And therefore the indecipherable secret of the unity of the two opposites of free will and necessity does not exist for history as for theology, ethics, and philosophy. History considers the presentation of the life of man in which the unity of these two opposites is already achieved.
>
> In actual life each historical event, each human deed, appears very clear and defined, without the least sense of contradiction, though every event presents itself as in part free and in part necessary.
>
> Leo Tolstoy, *War and Peace*

After dark, during the evening of June 9, 1854, Mrs. Mary Ann Brough, by all accounts a loving mother of seven children, took her husband's razor and cut the throats of her six children then sleeping at home. She then cut her own throat. All six children died, but she survived. Recovering strength, she called a neighbor. She then insisted on giving a statement to the police constable who came to the house:

> I could not rest. I could not see, and I went and got another candle, but still could not see. There was something like a cloud over my eyes. I thought I would go down, get a knife, and cut my own throat. I could not find my way down. I groped about in master's room for a razor. I could not find one. At last I found his keys, and then I found his razor. I went to Georgy and cut her first. I did not look at her … I can't tell you for some time after that till I seemed weak, and found myself on the floor. That nasty great black cloud was gone then.[1]

How were the mother's Victorian contemporaries to understand "one of the most shocking circumstances that it has even been our lot to record"?[2] Such past events also shock readers today. The circumstances,

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and their interpretation, raise many large, wide-ranging questions. I shall focus on the suggestion that just such highly public occurrences informed the Victorian intellectual, moral, and emotional imagination for automaton-like human conduct. This imagination crossed then-developing boundaries between scientific or medical expertise, philosophical or jurisprudential reflection, and public or lay narratives about individual activity.

The vocabulary of the automaton, to my knowledge, was not used at the time in reference to this or other contemporary cases. Such language, in the legal setting, emerged in criminal courts at a somewhat later date. Joel Eigen, for instance, gives the date 1876 as the first time in which there was recognition in London's Old Bailey, later the Central Criminal Court, of a verdict of "not guilty on grounds of unconsciousness."[3] This, incidentally, was the same year in which, in France, Eugène Azam presented the clinical case of Félida X and initiated the famous discussion of multiple personality.[4] There is clearly much to say about the relation between descriptions of unconscious events and descriptions of automatism, though I largely leave this to one side. The debate about automatism familiar to historians of science, however, took place in the context of public argument over evolution and physical theories of life in the late 1860s and in the 1870s.[5] Nevertheless, many of the elements of factual evidence and conceptual argument that went into the debate in the 1870s and afterwards – debate explicitly referencing automatism as a way of understanding human conduct – appear in the criminal case from the 1850s (and in other and earlier criminal cases, in other countries as well as in England). We may put such cases alongside social movements such as mesmerism, the entertainments of hypnotizers, table-turning, and spiritualism, all of which drew extensive public attention to automaticity, or purposeful activity without the apparent involvement of conscious mind, in human life.[6] As Suzy Anger notes, historians of relations between psychology and literature have sometimes been unclear about whether, in drawing out the relation, they refer to specific borrowings in literature from psychology, or whether they think psychology, developing as an academic specialty in the Victorian period, and literature shared common roots.[7] Naturally, there may have been cases of the former; but I think the latter more important. This chapter supports the argument by pointing to the way spectacular cases of "automatism," *avant la lettre*, informed the public imagination.

Nineteenth-century discussion of the existence and nature of free will was strikingly inconclusive at all levels of intellectual sophistication – as public and expert discussion of the topic continues to be. A substantial

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reason for this lay in the confusion – the interweaving – of terms appropriate for philosophical argument, the empirical terms appropriate for science, and the moral terms appropriate for a culture in which free will existed as a social, not "natural," fact. Victorian (and later) complexities in debate about free will in significant part stemmed, I argue, from lack of clarity and agreement about what sort of debate this actually was. Statements about scientific findings, propositions for or against arguments incorporating religious faith, logical and conceptual discussions of the meaning of references to free will, determinism, automatic or machine-like human deeds, moral norms and proposals for cultivation of the good life, and judgments of social responsibility and obligation all had a place.

Legal cases can be a gold mine for historians because they leave extensive records. Mrs. Brough's trial for murder, before the Assizes in Guildford, Surrey, took place within a couple of months of the crime. The newspapers reported it; medical journals weighed in; and scholars in jurisprudence had their say. Her defense lawyer called as witnesses both her local doctor and a specialist in mental diseases, Forbes Winslow, who confirmed his colleague's observations, that Mrs. Brough had had symptoms of disorders, including high blood pressure, speech impediment, and a degree of hemiplegia, or paralysis on one side, since the birth of her last child. The expert, who owned private madhouses, edited his own journal on psychological medicine, and frequently appeared in trials in which there was a question of insanity, stated: "Cases of temporary insanity resulting in a desire to commit murder or suicide are *very common*."[8] Eight years later, after Mrs. Brough had died in Bethlem Hospital's criminal lunatic wing, where she was sent after the verdict of "not guilty, on the ground of insanity," the autopsy found blood clots in the brain, and these were thought to confirm the diagnosis made at the time of the trial.[9] For one body of medically informed opinion, then, the case showed that the disordered brain, not the moral will or legally binding intent, had caused the killings. The person was, we might say, an automaton and not an agent at the actual time of the crime.

Yet the issues were by no means so clear-cut at the trial. As a consequence, the historian can use the case to illuminate the content, or burden, of emotive and moral meaning in debates about behavior that appears to be automatic. Reaction to the killings, mediated and channeled into the court case, the verdict, and commentary on the verdict, was an extended public performance to make sense of a monstrous event and dampen the fear it had generated. Each attempt at meaning-making in the terms of free will versus causal determinism then available appeared to have its

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problems. In the social performance, the controversy gave views about the nature and implications of seemingly automatic human activity an accessible, visible public presence.

Mrs. Brough killed her children not randomly but at a particular and significant moment for her. There was a history of marital conflict. She murdered on the eve of her husband's return with a legal document initiating a separation, which the wife knew had been obtained as a result of evidence confirming her adultery. She appeared to have anticipated that he would eject her from the house, deny her access to the children, and leave her without any means of support. He would have been within his legal rights. The first step in what modern writers see as the reform of English divorce laws was taken in 1858; before then, divorce was theoretically available but nearly impossible except on special occasions for the very rich; moreover married women had no property of their own.[10] Somewhat more accessible to a person of Mr. Brough's income and class – he was in royal service, as keeper of the ornamental waters and fishponds at Claremont Palace, then on loan to French royals – was the option of suing his wife's paramour for "criminal conversation" ("crim. con."), that is, for damages. This in fact he did do successfully after her trial, adding weight to an interpretation of the events that found the wife at fault: She was indeed adulterous. (Interestingly, the local paper reported that the man involved had left his home because neighbors held him responsible and threatened him for having brought about the terrible events.) Mrs. Brough bitterly expressed the view that she was not at fault in relation to her husband. She even took steps, trivial but symbolic, to try and ensure that her modest jewelry would go to her eldest daughter (working in service away from home) not to her husband.

The husband had hired a detective to have his wife followed to London where she had entered a "questionable house" with Mr. Woodhatch, the butcher from the village of Esher in which they both lived.[11] All this gave ample resources for a moralistic account of the killings: She preferred to deny the husband the children than to face the exercise of his rights and the consequences of her own failings. In addition, there was evidence that she was aware of what she was doing: She carried out the killings on the particular evening in question; she searched for the razor by first finding a key; she intended suicide; and she wrote a note to the daughter about the jewelry: "Her father is only seeking to get money from them as never injured him or done him any harm, so help me GOD."[12] Following up this judgmental line of reasoning after the trial, a London medical journal fiercely attacked both the expert evidence and the verdict:

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> As to the "black cloud," it does seem puerile in the extreme to attach any importance to that. The woman had just been deserted by her husband, for almost the only conduct base enough to warrant desertion; that bitter feeling which fills the mind of those detected in guilt, and which is felt only because they are detected, a feeling dignified by the name of remorse for the crime committed [i.e., the adultery], must have been experienced to the utmost by Ann Brough.[13]

There was reason for public debate to take the form of discussion about the responsibility of a person for the consequences of her or his actions; that is, the consequences of a person *not* being an automaton.

In legal terms, however, the question facing the court was not anything so vague or abstract as choice versus automatic movement or free will versus determinism. The issue was (and still is in Anglo-American law) whether the defendant had, as a matter of empirical fact, the state of mind at the time of the killings necessary for a jury to determine her or his guilt. The court posed the issue as a question of fact for the jury to decide, not as a philosophical conundrum. By the 1850s, it was standard practice for prosecution and defense to call medical witnesses to assist knowledge of state of mind in the particular case (often enough, it may be said, implicitly if not explicitly linked to claims about states of mind in general). The jurisprudential issue was, which states of mind exculpated, that is, prevented or destroyed the mental capacity (*mens rea*) required for a guilty verdict? Were such states present with childhood, senility, alcohol abuse, epileptic attacks, mania, being hypnotized, "the black cloud" of a brain disorder, or something else? The court operated within the framework given by precedent and by the McNaughton Rules (1843), in which the key provision concerned defendants not knowing the nature and quality of what they were doing at the time of the crime. The formal rules did not hinge on a finding about lack of control; yet, in a fair number of cases, as in Mrs. Brough's case, it is hard not to think that decisions resulted precisely from a jury thinking in terms of a defendant's loss of control, that is, acting without mental supervision, or acting automatically. As the defense lawyer summarized Mrs. Brough's case for the jury: "Was it not clear that some mysterious agency, which none of them could divine, must have been at work to have occasioned this dreadful tragedy? And was it possible for them to believe that the prisoner was mistress of her actions at the time she committed such a dreadful deed?"[14] The attribution of absence of control at this time, we should note, did not use the physiological language of automatic nervous functions (e.g., there was no reference to reflex action). Indeed, in this

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case, as often in cases involving insanity, specifically medical factors may well not have been decisive.[15]

The problem for systematic jurisprudence, and the problem for everyday understanding of how people acquire habits and how people judge them, was that what began as a matter of individual choice might end as physiological compulsion. At what point of time did a person, perhaps the worse for drink, move from being a volitional agent to being an automaton? Structurally, the same question concerned children: When, legally, were they supposed to change from irresponsible to responsible agents? For conservative moralists, people had to be held responsible for their previous choices (Mrs. Brough for her adultery); for reform-minded doctors, once a medical condition was present (brain disorder), that condition, not moral judgment, should determine the decision about what to do. As it happens, the judge in Mrs. Brough's case, Mr. Justice Erle, made a classic statement of the difficulties for reasoning in all of this:

> [The defense] appeared to be founded upon the supposition that the crime had been committed under the influence of some uncontrollable impulse, and he said he would only observe that this was a most dangerous doctrine, for undoubtedly every crime had been committed under some impulse, and the object of the law was to control impulses of that description, and thus prevent crime.[16]

Thus, the question about understanding a piece of behavior as a physiological process, and hence "automatic," could not be detached from a temporal story about how that automatic process originated. Similarly, we might ask in a moral and political context: Though an automaton may perform without agency, through what agency did this come to be?

Though it is not possible to know for certain what persuades juries in particular cases, it appears Mrs. Brough's jury agreed with the defense. I am inclined to look to the ordinary person's discourse, actually made plain in a statement by the medical expert, Winslow: He saw "the act itself bearing insanity stamped on its very face."[17] This was indeed to use ordinary language, which it is tempting to think the jury would also have used: Activity so out of the normal range and so shocking was "mad." It is also necessary to remember yet another dimension. There was a mandatory sentence for a conviction for murder: death by hanging. Though many capital sentences, most of all those involving women and children, were commuted by the Home Secretary, it was widely believed that juries took decisions influenced by their views about the appropriateness of hanging in particular cases. The emotiveness of the possible sentence certainly

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colored public debate. Winslow thus later defended himself in the medical press: "Our opponents argue, in the first place, that she was not insane at all, and ought to have been hanged; secondly, that if she were insane, her mental derangement was the result of the immoral life she had led for years, and as her insanity was *self-created*, the gallows ought to have claimed her for its victim."[18] Such language both reflected and promoted polarities – guilty/not guilty, death sentence/hospital committal, moral choice/physical determinism. Major changes were subsequently to ease this polarity: the increased professionalization or administrative standardization of pre-court determinations of fitness to plead; the removal of capital punishment for murder from the statute book; and the introduction of the plea of diminished responsibility, with the flexibility it allowed to judges in sentencing. But, for the Victorians, the polarities were pressing. In this context, the decision about the insanity verdict in a particular case was something of a focus, or metonym, for conflict between conservative and reform-oriented politics in general.

Lastly, in considering the verdict, there is the question of gender. Almost no doctor at this time thought otherwise than in terms of the susceptibility of female bodies to disorder because of their reproductive functions. Mrs. Brough's symptoms had come on and persisted since her last confinement, two years earlier. As a result of belief in female weakness, there seem to have been circumstances in which ordinary people, supported by the evidence of physicians, were reluctant to act harshly.[19] Reactions to female "madness" were highly variable and context dependent.[20]

The emotive factors and intense moral commitments embedded in decisions about how to describe human deeds significantly colored the language of free will and absence of free will, understood as social judgments about which deeds do and which deeds do not follow from choice and hence entail responsibility. This is also evident in the debate explicitly about human automatism in the 1870s, though the language then was abstract and not burned with the pathos of the particular. There was, I suggest, a deep Victorian ambivalence (much of which lasts into modern times). On the one hand, with almost no exceptions, social observers – whether conservative or reform-minded – stressed the importance of individual free will. On the other hand, observers, often the same ones, committed considerable intellectual and moral energy, whether through medical physiology or social commentary, to delineating limits to the will's power. Trials like that of Mrs. Brough recreated the ambivalence as public theater. The debate on automatism in the 1870s had the public significance and resonance it did because the issues were already embedded in

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public life, in ways that sometimes had all the qualities of a theatrical tragedy. In this setting, commentary crossed frontiers of class, occupation, and gender. Mrs. Brough's case is a rather spectacular and bloody introduction to the Victorian philosophical and practical culture of freedom of the will.

The circumstances of the case were very "Victorian," not least in contemporary macabre descriptions of charabanc loads of sightseers traveling to Esher to see the bloodsoaked bedrooms where the killings took place. The issues as they concern a language of automatic behavior, summoning up "mysterious agency" at work in human life, cropped up, however, across Europe and North America throughout the nineteenth century.[21] To make the point about the breadth of this reference, if only impressionistically, I give another example, this time from fiction and from Russia. It is from a short story by Chekov, "Ubiistvo" ("Murder"), dating from the last years of the century (1895). I choose a fictional story in order to suggest the degree to which there was public familiarity with "automatic" and/or "unconscious" violence.

The story recounted the lives of two Orthodox middle-aged brothers, Matvei and Yakov (Matthew and Jacob), living near a small town characteristic of European Russia. Matvei was lazy but pious, using his fine singing voice in the liturgy; Yakov, the elder brother, was financially cunning and hardworking, by which means he had accumulated relative wealth, though he was notably pious in his formal observances. They shared the family property, a house, which each wished to utilize in his own way. Resentment and finally hatred built up. One March day, at the end of a long, hard winter, while it snowed yet again, Yakov, interrupted in his morning prayers, denied his brother use of a horse. Instead, he started out himself, only to abort the journey in the harsh weather; he then spent a restless day increasingly conscious that he could gain no peace or pleasure from prayer. Late in the day, in the kitchen where their sister, equally resentful of Matvei, had been ironing and Matvei had been sitting doing nothing and complaining, there was an exchange of increasingly bitter insults among the three of them. When Yakov seized her brother, the sister hit Matvei with a bottle; holding his concussed brother up, Yakov then grabbed the iron and repeatedly hit Matvei with it, killing him. Before taking up the iron, Yakov pointed his finger at it, but there is no account of it in his hand, and it was only when blood flowed down his arm and a servant cried out that he became conscious of what he had done. He was not conscious of what he was doing at the moment of the violence. But he became conscious immediately afterwards, and, driven above all by the fear that the peasants would mock him as a man of prayer while being led

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away by the *gendarme*, he stupidly tried to disguise the killing by taking the body to the forest and pretending that it was the work of robbers.

Everything inevitably came out and the case quickly went to trial. There was no question of madness before the court, no discussion of medical evidence, and Yakov was summarily sentenced to twenty years convict labor in Sakhalin, in the Russian Far East. Though the author was himself a doctor, Chekov's story was firmly about the extremity of the forces at work in the human soul, not about illness. And it was about the conditions of material, family, and social life, which acted on the soul and fostered violence. Nevertheless, it is interesting to put the description of Yakov's state, his "automatism" while carrying through the killing, alongside Mrs. Brough's description of the "nasty great black cloud." Neither murderer let up until the violence had worked its course; both were in some sense not in a state of conscious awareness; "mysterious agency" drove both killings, though the linguistic rendering of that "agency" was in material terms in one case, and in nonmaterial, we might say "psychological," terms in the other.[22] Under certain conditions, it would seem, human violence could be like the violence produced by a moving machine. Chekov's description of the uncontrolled and uncontrollable moment of hatred, though framed in "psychological" terms, posited events that were as automatic as brain events. This indeed was known: People sometimes did such things. The description did not require a theory of brain action to be persuasive. We may go further and enlarge the perspective and recognize a large theme in the generally acknowledged tragedy of human life in which events, though carried out by humans, often do not occur under human control.

There was widespread or common knowledge, or belief, in a human capacity for uncontrolled, and, apparently at the time events unfolded, uncontrollable movements. In another setting and at another time, such movements appeared as purposeful action. There was nothing essentially medical or esoteric about the sources of this knowledge, or belief; to the contrary, such belief shaped nineteenth-century psychological medicine. The early and mid-Victorian literature – both fictional and nonfictional – was replete with discussion of the acquisition and training of habits and skills, moralistically prompting readers to put in place patterns of activity that would then serve to take them through the shoals of moral life. The history of reflex action theories, much discussed at this time and central to the shaping of nervous physiology, is to a significant degree a history of the re-presentation of the everyday language of the formation and control of habits, and hence individual actions, in terms of nervous structures and functions.[23] The notorious Victorian emphasis on the freedom

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of the individual will has to be understood in relation to knowledge that there were conditions of ordinary life, as well as exceptional conditions, in which there was no will. The huge public preoccupation with alcohol – in Russia, for example, as well as Britain – enacted an unbounded morality play about what was at stake.[24] Crazes for mesmerism and table-turning presented moralists with the same challenges, as they appeared to cultivate the replacement of will by automatic behavior.

All the same, the description of "mysterious agency" in the language of the disordered brain made a noteworthy contribution to the naturalization of conceptions of the human in the Victorian period. Perhaps the spread of the specific word "unconscious" (as in W. B. Carpenter's reference to "unconscious cerebration")[25] and to the closely allied word, "automatism," where there might earlier have been a phrase like "loss of will," marked a step along this road. The new words belonged to a discourse taking mechanistic operations, whether in industry or in nature, as the reference point, while older phrases leaned semantically on reference to the intentional, moral mind.

Historians have paid close attention to the public lectures and exchanges in the periodicals in the 1860s and 1870s that promoted scientific naturalism. The most outspoken opponents of this cultural shift wheeled out the accusation of "materialism," though it was widely appreciated that this denoted not so much an ontology restricting the stuff of the world to matter as determinism. The issue was confidence in Christian social practice as the basis of the moral life and social order. Prescription as to what it was right to do, it was thought, required description of a world in which human choice mattered. We may call to mind the geologist Adam Sedgwick's outburst in the 1840s in reaction to *The Vestiges of the Natural History of Creation*: "If the book be true, the labors of sober induction are in vain; religion is a lie; human law is a mass of folly, and a base injustice; morality is moonshine; our labors for the black people of Africa were the works of madmen; and man and woman are only better beasts!"[26] As Gowan Dawson argues in connection with Darwin, references to determinism and materialism created associations with working-class, even bestial, and certainly disreputable, social strata, where it was said human conduct tended more closely to resemble the working of machines. Imagery that imputed a lack of free will appeared socially damaging to whomever it was applied, not only philosophically problematic. This gave statements about automatic behavior at one and the same time a social and a philosophical context – these contexts represented a kind of reference point for statements about and defenses of freedom of the will. Thomas Huxley's simplistic

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but attention-grabbing rhetoric likening consciousness to ringing bells and whistling engines served in this way. So did W. K. Clifford's statement dismissing belief that the mind could influence matter as "nonsense."[27] All the same – it hardly needs emphasis – Huxley and Clifford were intense and powerful moralists, and their lives exemplified the exercise of the Victorian male moral will. This was John Tyndall at work, exhausted during a fearsome ascent of the Weisshorn in the Alps: "I thought of Englishmen in battle, of the qualities that had made them famous: it was mainly the quality of not knowing when to yield – of fighting for duty even after they had ceased to be animated by hope. Such thoughts helped to lift me over the rocks."[28] What was so fearful about the imputation of automatism, and its apparent enactment in particular cases, I suggest, was the implication that, even in a culture – and an empire – where the moral will prevailed, its triumph was constantly and profoundly threatened. There was, to be sure, a shifting relationship between representations of the threatening forces as the wages of sin and the workings of a disordered body. But the spread of the naturalistic temper produced no break. Indeed, it is the *continuity* of moral culture from its Christian to its naturalistic forms that is striking. In the conditions of modern times, the body recreated the conditions of the Fall. The experience and language of deterministic automatism mediated this continuity.

It is necessary to add a comment about "determinism." It was in fact substantially a new term in the 1860s; in philosophical discourse before this the common term was "necessity" or "necessitarianism" (this, e.g., was the language J. S. Mill used in his essay "On Liberty" in 1859).[29] The spread of references to "determinism" appears to have accompanied, and informed, the spread of argument over scientific naturalism. The word connoted the inescapable effect of physical causes; it connoted necessity in physical nature, as opposed to necessity in the God-given order of things; it connoted situations in which there was an absence of freedom of choice. Perhaps this also informed the spread of the actual language of automatism.

The emphatic writings of the specialist in nervous and mental diseases, Henry Maudsley, strike all historians. The language with which he expressed his mordant and pessimistic medical and social views stood out; moreover, he was widely cited as an authority across Europe and not just in the English-speaking world. (Tolstoy, e.g., referred to him.) His pessimism at times appeared to amount to a complete embrace of determinism in human affairs. He described one eight-year-old girl under his care as "a most mischievous little machine," with the patent implication that it

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needed the intervention of an expert medical mechanic like himself to mind the machine.[30] All the same, not only was Maudsley yet another moralist, but he recreated in his medical language something of the imagination for human nature, determined by original sin, which marked the Methodist religious culture of the rural life into which he was born. In certain cases, he railed against Christian idealism for, in his view, holding even the mentally ill responsible for their crimes, and he earned a living (apparently a very good one) by acting, intervening, in families so as to accommodate mental illness, substituting his *will* for the will of patients.

There was an apparent inconsistency in writers formulating statements about determinism while acting as if free will was endemic: It was not contingent but fundamental. This has to be taken into account in any attempt to place references to automatism and to understand their Victorian significance. There was no resolution of *debate* about free will, no more than there had been throughout the centuries of the Christian tradition. Mrs. Brough's case is a particular example of the way medical description – description of brain states as opposed to moral judgment – was acquiring a greater presence in social decisions. This contributed to the use and legitimacy of reference to automatic behavior. To be sure, this sometimes made a marked difference to an individual, changing the manner of ordering a moral life. Yet the pattern of human relations was not much disturbed collectively or practically, as opposed to the disturbance to the imagination, by the spectacular case. Whatever the awkwardness of statements of empirical facts, and the seeming difficulty of accounting for the utterly exceptional, or monstrous, in Mrs. Brough's case, the court, and the system of social administration for which it was the visible face, reached a viable solution. She was not hanged, but nor was she allowed to continue as a freely acting member of society. She caused a scare; but she did not threaten the social order.

It seems reasonable to reach similar conclusions in cases that were in certain ways comparable. In 1845, for example, Martha Brixey, a domestic servant, cut off the head of a child in the house where she served, which seemed to threaten the safety of every respectable "hearth" in the land. She had purposefully obtained a knife, like Brough obtaining a razor. Yet, like Brough again, she was committed to Bethlem after a verdict of insanity. She was released thirteen years later, and she was described in her case notes as "a young woman of most interesting appearance and amiable expression of countenance with great propriety of manner and a pattern of retiring, modest behavior. There is no appearance of anything approaching insanity or delusion of any kind."[31] Medical evidence in this case confirmed the presumed weaknesses of a young woman's constitution, and

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the description in the case notes and the later release disarmed the threat that she was initially said to have embodied. Once again, in Brixey's case, there was an unconscious or automatic moment of violence; but it was contained; she came to act like a model young woman. Both Brough and Brixey appeared to conform to the description of "homicidal mania" found in the contemporary literature of psychological medicine. A private asylum superintendent, J. G. Davey, wrote in 1860:

> It was a disease which came on quickly and lasted but a short time [… and] was unattended with premonitory symptoms. It lasted until the impulsive feeling was gratified, and some act was committed by the patient by which he was, so to speak, morbidly satisfied, and directly the patient was so satisfied mental health was restored.[32]

References to absence of free will and to automatic behavior have traction not so much from defining certain states, and certainly not because words like "automatism" had definitions, but from words establishing *differences* between states. It is for this reason that I refer to a dialectic. Ascriptions of free will and its opposite, whether characterized as the consequence of sin or as the consequence of brain disorder, presupposed a semantic couple – thesis and antithesis. We may thus describe the practical social arrangements that balanced free will and its absence as a synthesis. Moreover – this is important – this synthesis not only made possible the viable resolution of a special criminal case but was an everyday achievement of social relations. The synthesis was embedded in the moral culture, exemplified in the lives of scientists and doctors and their practical discourse of learning from the laws and facts of nature. The synthesis was the social order, a system with a significant degree of flexibility, both highlighting individual responsibility and sensitive to the limits of attributing responsibility. That order was threatened by seemingly automatic behavior, whether commonplace (drunkenness, bad habits) or spectacular (murder under the influence of insanity, performance under hypnosis), but also by abstract theories or language that seemed to posit determinism as the norm.

Doctors, like Winslow in Brough's case and like Davey, quoted for his description of homicidal mania, tended to slip into attributing the *cause* of horrific events to disease. Attacking the law for seeking to punish mad people with hanging, Maudsley and his coauthor referred to a situation in which "the lunatic is to be sacrificed to the vengeance of the law which not he, but his disease, has outraged."[33] Descriptions of automatic behavior of all kinds enlarged the scope of causally attributing human life to physical events. That was *re*description with normative content. But it belonged to a

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long-perpetuated, and in many respects still continuing, dialectic or negotiation of the attribution of responsibility on which social order was thought to depend. Moreover, the law, strictly speaking, was not concerned with causes but with the presence or absence of a legally defined state of mind. If physical causes were to be admitted as a reason for exculpation, then all human behavior would be without responsibility, since, after all, healthy and sane actions had physical causes as much as ill and insane ones.[34] Automatons were not the kind of being that could have responsibility.

Notes

1 In Roger Smith, "Defining Murder and Madness: An Introduction to Medico-Legal Belief in the Case of Mary Ann Brough, 1854," in R. A. Jones and H. Kuklick, eds., *Knowledge and Society: Studies in the Sociology of Culture Past and Present* (Greenwich, CT: JAI Press, 1983), 4: 173–225, pp. 191–2. For this case I draw on earlier work, which includes an introduction and reprints the principal primary sources: *Trial by Medicine: Insanity and Responsibility in Victorian Trials* (Edinburgh University Press, 1981); "Legal Frameworks for Psychiatry," in G. Berrios and H. Freeman, eds., *150 Years of British Psychiatry, 1841–1991* (London: Gaskell, for Royal College of Psychiatrists, 1991), 137–51; and especially "Defining Murder." There has of course been substantial historical work on related issues since I published. The present chapter gives the opportunity to re-present the relation of free will and determinism as a historical phenomenon.

2 In Smith, "Defining Murder," 182.

3 Joel Peter Eigen, *Unconscious Crime: Mental Absence and Criminal Responsibility in Victorian London* (Baltimore, MD: Johns Hopkins University Press, 2003), 177–95. Eigen, in three books, closely and systematically researches the continuous and detailed record of trials involving a defense of insanity at the Old Bailey between 1760 and 1913. In *Witnessing Insanity: Madness and Mad-Doctors in the English Court* (New Haven, CT: Yale University Press, 1995), he concentrates on the introduction of the medical witness and the growing use of the insanity defense; in *Unconscious Crime*, he focuses on the spread, especially from the 1870s, of references to unconscious action, replacing an earlier language of something psychic being "missing"; and in *Mad-Doctors in the Dock: Defending the Diagnosis* (Baltimore, MD: Johns Hopkins University Press, 2016), he takes a larger and more summary view. This last work is extremely helpful, especially for the recognition it gives to the legal and administrative context. It is not Eigen's interest, however, to puzzle about the historical framework of conceptual and philosophical issues (he does not, e.g., discuss scientific naturalism and automatism in the 1870s), or to provide an international or even national perspective. Both Eigen and myself found inspiration in Nigel Walker, *Crime and Insanity in England: The Historical Perspective* (Edinburgh University Press, 1968); see chapter 10 for "Automatism and Drunkenness."

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4 Jacqueline Carroy, *Les personnalités doubles et multiples: Entre science et fiction* [Double and Multiple Personality: Between Science and Fiction] (Paris: Presses Universitaires de France, 1993); Ian Hacking, *Rewriting the Soul: Multiple Personality and the Sciences of Memory* (Princeton University Press, 1995).
5 The literature is very large, interpreting the issues in the context of the culture of scientific naturalism. Recently, see, for example, *Victorian Science as Cultural Authority*, ed. Suzy Anger and James Paradis, eds. (London: Routledge, 2011); Bernard Lightman, *Evolutionary Naturalism in Victorian Britain: The "Darwinians" and Their Critics* (Farnham: Ashgate, 2009); Bernard Lightman and Michael S. Reidy, eds., *The Age of Scientific Naturalism: Tyndall and His Contemporaries* (London: Pickering & Chatto, 2014). I discuss naturalism and free will debates in Roger Smith, *Free Will and the Human Sciences in Britain, 1870–1910* (London: Pickering & Chatto, 2013).
6 Initially stimulated by the historical story pivotal to the development of psychoanalysis, there are now extensive histories of these social movements leading to the recognition of "unconscious" and therefore, in a sense, automatic patterns of conduct, for example, Adam Crabtree, *From Mesmer to Freud: Magnetic Sleep and the Roots of Psychological Healing* (New Haven, CT: Yale University Press, 1983); Rhodri Hayward, *Resisting History: Religious Transcendence and the Invention of the Unconscious* (Manchester: Manchester University Press, 2007); Andreas Mayer, *Sites of the Unconscious: Hypnotism and the Emergence of the Psychoanalytic Setting* (University of Chicago Press, 2013); Janet Oppenheim, *The Other World: Spiritualism and Psychical Research in England, 1850–1914* (Cambridge: Cambridge University Press, 1985); Alison Winter, *Mesmerized: Powers of Mind in Victorian Britain* (University of Chicago Press, 1998).
7 Suzy Anger, "The Victorian Mental Sciences," *Victorian Literature and Culture* 46, no. 1 (2018): 282–3.
8 In Smith, "Defining Murder," 196 (emphasis added).
9 Ibid., 213–14.
10 L. Holcombe, "Victorian Wives and Property: Reform of the Married Women's Property Laws, 1857–1882," in M. Vicinus, ed., *A Widening Sphere: Changing Roles of Victorian Women* (London: Methuen, 1980), 3–28; Smith, "Defining Murder," 178.
11 In Smith, "Defining Murder," 185.
12 Ibid., 192.
13 Ibid., 200.
14 Ibid., 194.
15 Both Eigen and myself, drawing on different sources, reach this general conclusion. The legal criteria for deciding insanity were emphasized in Mrs. Brough's case by James Fitzjames Stephen, in a paper to the Judicial Society in 1855, reprinted in Smith, "Defining Murder," 207–9.
16 Ibid., 197.
17 Ibid., 203.

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18 Ibid., 205.

19 Developing this point would have to bring in the special issues around infanticide – and the poverty with which it was associated. See Mark Jackson, ed., *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550–2000* (Farnham: Ashgate, 2002); Hilary Marland, *Dangerous Motherhood: Insanity and Childbirth in Victorian Britain* (London: Palgrave Macmillan, 2004); Paige Mathieson, "Bad or Mad? Infanticide: Insanity and Morality in Nineteenth-Century Britain," *Midlands Historical Review* 4 (2000), available at: www.midlandshistoricalreview.com/20200513_badormad/. Because of the age of the children, Mrs. Brough's killings did not fit this category, but they still evoked feelings about the mother–child relationship.

20 For example, Elaine Showalter, *The Female Malady: Women, Madness and English Culture, 1830–1980* (London: Virago, 1987); Helen Small, *Love's Madness: Medicine, the Novel, and Female Insanity, 1800–1865* (Oxford University Press, 1996).

21 For the secondary literature on other spectacular cases: Michel Foucault, *I, Pierre Rivière, Having Slaughtered My Mother, My Sister, and My Brother … A Case of Parricide in the 19th Century* (New York: Pantheon Books/Random House, 1975); Patrizia Guarnieri, *A Case of Child Murder: Law and Science in Nineteenth-Century Tuscany* (Cambridge: Polity Press, 1995); Ruth Harris, *Murders and Madness: Medicine, Law and Society in the Fin-de-siècle* (Oxford: Clarendon Press, 1989); Charles E. Rosenberg, *The Trial of the Assassin Guiteau: Psychiatry and Law in the Gilded Age* (University of Chicago Press, 1968); Svein Alte Skålevåg, "The Matter of Forensic Psychiatry: A Historical Enquiry," *Medical History* 50 (2006): 49–68.

22 I hesitate about the word "psychological" because it was not used in either Mrs. Brough's or Yakov's case. The more accurate historical word might be "moral," as it was used, for example, in references to "moral philosophy" and to "moral sciences," to denote not simply the study of the principles of morality but the world of human phenomena that involved relations, evaluative as well as descriptive, between cognition, feeling, action, and judgment.

23 See Kurt Danziger, "Mid-Nineteenth-Century British Psycho-Physiology: A Neglected Chapter in the History of Psychology," in W. R. Woodward and M. G. Ash, eds., *The Problematic Science: Psychology in Nineteenth-Century Thought* (Westport, CT: Praeger, 1982), 119–46; L. S. Jacyna, "Somatic Theories of Mind and the Interests of Medicine in Britain, 1850–1879," *Medical History* 26, no. 3 (1982): 233–58; Rick Rylance, *Victorian Psychology and British Culture 1850–1880* (Oxford University Press, 2000); Sally Shuttleworth, *The Mind of the Child: Child Development in Literature, Science, and Medicine, 1840–1900* (Oxford University Press, 2010); Roger Smith, *Inhibition: History and Meaning in the Sciences of Mind and Brain* (Berkeley and London University of California Press/Free Association Books, 1992); Roger Smith, "The Physiology of the Will: Mind, Body, and Psychology in the Periodical Literature, 1855–1875," in

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Geoffrey Cantor and Sally Shuttleworth, eds., *Science Serialized: Representations of the Sciences in Nineteenth-Century Periodicals* (Cambridge, MA: MIT Press, 2004), 81–110. For an anthology of texts, Jenny Bourne Taylor and Sally Shuttleworth, eds., *Embodied Selves: An Anthology of Psychological Texts 1830–1890* (Oxford: Clarendon Press, 1998).

24 For the great interest of alcohol for representations of will, see Marianna Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge: Cambridge University Press, 1998).

25 In 1853. The terms were closely tied to his theory of reflex "ideo-motor" action in the higher brain: W. B. Carpenter, *Principles of Human Physiology*, 4th ed. (London: John Churchill, 1853), 811; W. B. Carpenter, *Principles of Mental Physiology*, 2nd ed. (London: Henry S. King, 1875), 416–18.

26 Letter to Charles Lyell, 1845, quoted in Robert M. Young, *Darwin's Metaphor: Nature's Place in Victorian Culture* (Cambridge: Cambridge University Press, 1985), 6; James A. Secord, *Victorian Sensation: The Extraordinary Publication, Reception, and Secret Authorship of Vestiges of the Natural History of Creation* (Chicago: University of Chicago Press, 2000), 231–47.

27 Gowan Dawson, *Darwin, Literature and Victorian Respectability* (Cambridge: Cambridge University Press, 2007); Smith, *Free Will*, 23–9.

28 Quoted in Roger Smith, *The Sense of Movement: An Intellectual History* (London: Process Press, 2019), 270.

29 The *OED* dates "determinism" to the philosopher William Hamilton in 1846. See Ian Hacking, "Nineteenth Century Cracks in the Concept of Determinism," *Journal of the History of Ideas* 44, no. 3 (1983): 455–75; James A. Harris, *Of Liberty and Necessity: The Free Will Debate in Eighteenth-Century British Philosophy* (Oxford: Clarendon Press, 2005), 7.

30 Henry Maudsley, *The Physiology and Pathology of the Mind* (London: Macmillan, 1867), 276.

31 Bethlem Criminal Lunatic Books, quoted in Roger Smith, "Mad or Bad? Victorian Stories of the Criminally Insane," *L.S.E. Quarterly* 3 (1989): 1–20, p. 14. I did not follow up this case of "the Woolwich murderess" in detail. Disorder of menstruation was mentioned. But the defendant herself used a form of words sometimes found in other cases of child murder. Angered by an impropriety of dress, she stated that she wished to make an angel of the child. I am now inclined to look for understanding in relation to the situation of young women or girls in service, often away from home, perhaps "nostalgic" for home (as fictionally presented in Johanna Spyri's *Heidi*, first published in 1880) and vulnerable to exploitation if not abuse. We may note that if we choose now to refer to automatism in behavior in such cases, the very language detracts from consideration of the social situation. The case is mentioned in passing, under the name of Martha Brixley, killing a neighbor's child, in Eigen, *Unconscious Crime*, 1071–2.

32 Quoted in Smith, "Mad or Bad?," 2.

33 Maudsley and C. L. Robertson, 1864, quoted in ibid., 16.

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34 This understanding has become pertinent again in the light of claims sometimes made, that the neurosciences require a reordering of social and legal arrangements. For the standard, and I think persuasive, response to this, see Stephen J. Morse, "New Neuroscience, Old Problems," in Brent Garland, ed., *Neuroscience and the Law: Brain, Mind, and the Scales of Justice. A Report on an Invitational Meeting Convened by the American Association for the Advancement of Science and the Dana Foundation* (New York and Washington, DC: Dana Press/ American Association for the Advancement of Science, 2004), 157–98; Stephen J. Morse, "The Non-Problem of Free Will in Forensic Psychiatry and Psychology," *Behavioral Sciences and the Law* 25 (2007): 203–20.

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