

**INSANITY AND MENTAL
DEFICIENCY IN RELATION TO
LEGAL RESPONSIBILITY: A STUDY
IN PSYCHOLOGICAL
JURISPRUDENCE**

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Insanity and mental deficiency in relation to legal responsibility: a study in psychological jurisprudence by William G. H. Cook

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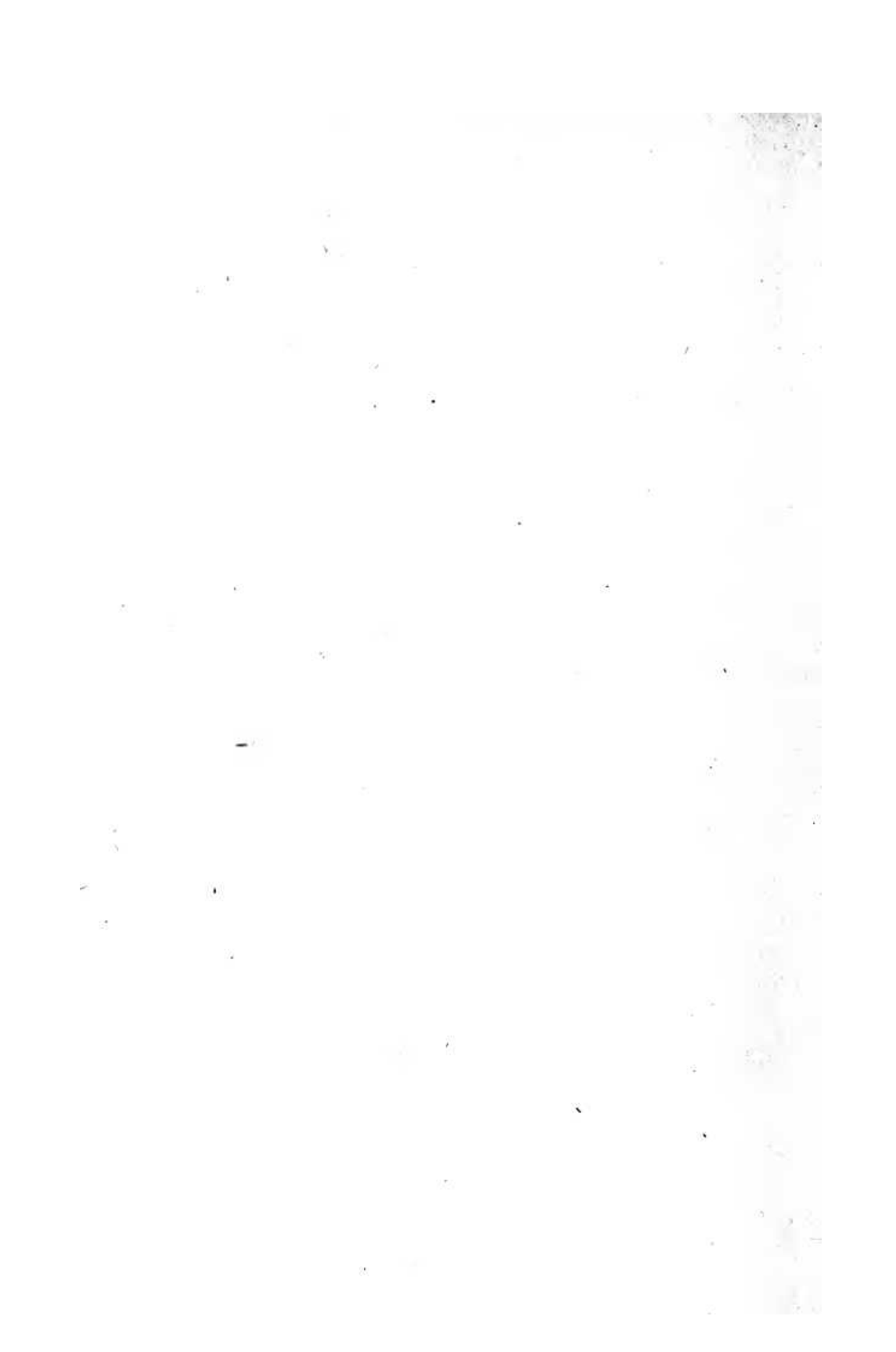
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WILLIAM G. H. COOK

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DEFICIENCY

In Relation to Legal Responsibility



INSANITY AND MENTAL DEFICIENCY

IN RELATION TO
LEGAL RESPONSIBILITY

A Study in Psychological Jurisprudence

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DEDICATED TO
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FOREWORD

By

SIR JOHN MACDONELL, K.C.B., M.A., LL.D., F.B.A., late Senior Master High Court of Justice, Emeritus Professor of Comparative Law in the University of London.

DR. COOK has the good fortune to treat of a subject rarely dealt with as a whole. There are very many decisions as to certain aspects of the civil responsibility of lunatics; their multitude and variety are perplexing. There is no want of text-books dealing with parts of this subject. But, while criminal liability has been studied as a whole, and an attempt, more or less successful, has been made by lawyers to construct a theory applicable to all offences, there has been no satisfactory attempt, so far as English law is concerned, to frame a theory of liability for torts and contracts and testamentary capacity. Dr. Cook's work, the result he tells us of an examination of upwards of two hundred leading cases and of the study of the laws of many foreign countries, is a novel and comprehensive survey much needed, and may prepare the way for a re-statement of our law in accordance with the teaching of modern psychology. It is still true, as Brett, L. J., remarked in 1879, that the law relating to civil responsibility of lunatics stands upon a very unsatisfactory footing.

It is not easy, and, indeed it may not be possible, to devise a precise common criterion of responsibility for delicts or torts and capacity for making contracts or wills. In the case of torts the essentials may be much the same as in the case of crimes; ^{negligent} *culpa* or *dolus* must be a necessary element. The chief difficulty is as to torts (if any) for which there is an