Those who know of Stevenson’s THE STRANGE CASE OF DR. JEKYLL AND MR. HYDE from the versions circulating in popular culture will think of it as a medical or psychological case history, the story of a split personality. The book can also usefully be approached, however, as a legal case—and Stevenson hints at that possibility by using the title “The Carew Murder Case” for the chapter that describes Mr. Hyde’s most heinous crime, an unprovoked, lethal attack on Sir Danvers Carew (p.46). Because of the way in which Stevenson presents the relation between the Jekyll and Hyde personalities—and because one of the central actors in the plot is a lawyer—the novella provides an excellent vehicle for exploring questions about mens rea in criminal law.

Stevenson’s tale was first published in 1886 and many editions are available, but the Broadview edition is particularly useful, for reasons discussed at the end of this review. While the story hints cryptically at numerous crimes to be laid at Hyde’s door (see, e.g., p.54), the main events animating the plot are an assault and two deaths. The assault is described retroactively in the first chapter, in a conversation between Enfield and his old friend Utterson, who happens to be Jekyll’s lawyer. Enfield explains that he witnessed the assault on a dark night in a lonely part of London. A “little man who was stumping along” encountered “a girl of maybe eight or ten” and “calmly trampled over the child’s body and left her screaming on the ground” (p.33).

Enfield adds that he “collared” the malefactor and took him back to the scene of the crime, where a crowd had formed. The girl was more frightened than hurt, but the crowd demanded £100 compensation for her family, and the offender, one Mr. Hyde, paid part in gold and made up the difference with a cheque drawn on Dr. Jekyll’s account. (Although Hyde had been detained until the next morning, when the cheque could be cashed, there seems to have been no thought of charging him with assault.) Enfield in fact declines to mention Jekyll’s name when he recounts the story, but Utterson guesses at the connection because he has long been troubled by Jekyll’s will, which provides in the event of his own “disappearance or unexplained absence” (p.37) that all of his assets should become Hyde’s property.

The Carew murder occurs about a year later, and again is described by an eyewitness, this time a serving maid who saw the whole thing from her window. She says that she saw Hyde (whom she recognized from a previous meeting) out on another nocturnal perambulation.
When he came across Sir Danvers Carew, Hyde behaved like a “madman” and struck him with a cane. “And the next moment, with ape-like fury, [Hyde] was trampling his victim under foot and hailing down a storm of blows, under which the bones were audibly shattered” (p.46). The police undertake a search for Hyde, but he is nowhere to be found. Finally, near the tale’s close, Jekyll’s servant, Poole, becomes convinced that Hyde has done away with Jekyll and has locked himself up in Jekyll’s laboratory. Poole persuades Utterson to join him in breaking into the laboratory to confront Hyde, but as they do, Hyde commits suicide.

The lawyer finds a new will, in which Jekyll devises his assets to Utterson rather than Hyde, and a pair of manuscripts explaining how Jekyll began to study “those provinces of good and ill which drive and compound man’s dual nature” (p.76). Using a “simple crystalline salt” and a “blood-red liquor” (p.71), Jekyll learned how to enjoy the “indescribably new and . . . incredibly sweet” sensation of turning into Hyde (p.78), of taking on the body and personality of “a being inherently malign and villainous” (p.81). Another drink turned him back into Jekyll. What began as a secret indulgence became a fearful “slavery” (p.80). Then the transformation began to come on involuntarily and with increasing frequency. Jekyll’s account concludes at the point when, having consumed his supply of the salt and unable to get more, he anticipates that a final transformation in the hideous Hyde will “bring [to an end] the life of that unhappy Henry Jekyll” (p.91). Jekyll conjectures, in the last paragraph of his manuscript, that his alter ego may “die upon the scaffold” (p.91), but what about his own liability? Jekyll takes pains to distance himself from Hyde, emphatically designating him, at one point in the manuscript, in the third person: “He, I say—I cannot say I” (p.88). At other points, however, Jekyll refers to Hyde in the first person (“I was unable to conceal the alteration in my stature,” p.82), and one of the most significant clues to the mystery involves the resemblance between Jekyll’s and Hyde’s handwriting (pp.53, 87). The novella’s title, similarly, hints at the inseparability of the two figures: like the word “hide,” “case” also carried the sense of “body” or “skin.”

To what extent, then, could Jekyll be charged with the murder of Sir Danvers? In his manuscript, Jekyll seems to anticipate this question, but his answer is ambiguous. “No man morally sane could have been guilty of that crime,” he avers, in what seems to amount to a plea of not guilty because of temporary insanity (p.85). Yet he immediately adds, “But I had voluntarily stripped myself of all those balancing instincts” (p.85) that would have prevented the attack—and he compares his condition to that of a “drunkard” (p.84). (That analogy is even more explicit in Bliss 1891, which retells the story with a happy ending “to correct the shortcomings” of Stevenson’s tale, and which uses alcohol rather than drugs to explain the transformation.)

Around the time of Stevenson’s novella, English courts had begun to consider the possibility that mental conditions resulting from voluntary intoxication may negate specific intent, though not
general intent. For example, in an influential 1887 judgment, Justice Stephen explained that when “the intention of the party committing [a crime] is one of its constituent elements,” the trier of fact may look to the defendant’s drunkenness in determining “whether he formed the intention necessary to constitute the crime” (REGINA V. DOHERTY).

Under the split personality theory, Jekyll and Hyde may share the same case, but the former cannot be said to have acted voluntarily during any of his violent acts—and Stevenson emphasizes that possibility by making him turn into Hyde spontaneously in the latter phase of the story. On the other hand, the understanding of Jekyll as a kind of drug addict, voluntarily nursing his habit, would at least leave him liable for manslaughter.

The same logic would seem to apply to Hyde. If he exhibited, as the eyewitness to Carew’s murder reports, an “ape-like fury” (p.46), and if he was not “morally sane” (p.85), as Jekyll insists, then perhaps the Hyde aspect of a split personality would no more deserve to be hanged than the Jekyll aspect, but instead should be treated as insane. The answer is complicated, however, by the question of how insanity should be understood. According to the M’NAGHTEN rule, the prevailing standard when Stevenson was writing, the question is whether the accused “was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or . . . [not to] know he was doing what was wrong” (M’NAGHTEN’S CASE). Stevenson appears to track this standard when he describes Hyde’s “complete moral insensibility and insensate readiness to evil” (p.84), but Hyde’s increasingly panicked efforts to become Jekyll once again—even after the transformation has begin to occur spontaneously—seem to show that Hyde is aware of the moral status of his behavior. One of the questions that JEKYLL AND HYDE can be used to raise, then, involves the difference between the M’NAGHTEN approach and an approach that focuses more generally on the defendant’s ability to adhere to legal requirements.

To extend the question further, what if Hyde is regarded as embodying a mental condition precipitated by Jekyll’s voluntary act—and by the story’s end as a permanent mental condition that Jekyll had never imagined possible? (The Carew murder occurs while Jekyll is still able to control the transformation, but one of the hypothetical questions that can be raised when considering the story involves the liability that would attach to Hyde’s conduct if he committed a murder after the change became permanent.) In that case, Hyde begins to resemble the accused in STATE V. MAIK, in which the New Jersey Supreme Court held that insanity, rather than merely inability to form a specific intent, is the proper characterization when a party’s “psychotic state . . . continue[s] after the direct or immediate influence of [a] drug”. But Hyde’s case may not be quite the same, because the MAIK court concluded that “the underlying illness from which the psychotic episode emerged was not caused by the use of drugs”, but was already latent and had been brought to the surface by drug use.

Again, though, in reviewing his history, Jekyll insists that his research was
originally provoked by his awareness of the “two natures that contended in the field of [his own] consciousness” (p.77). Perhaps Jekyll did begin with an underlying illness, so that his voluntary ingestion of the drugs, as in Maik’s case, should be seen as a confounding detail that is to be ignored when deciding liability. The issue is further complicated, however, by Jekyll’s speculations about the “thorough and primitive duality” of humans in general (p.77). Much of the interest in Stevenson’s tale lies in its status as a moral allegory about the human character, not as an exploration of Jekyll’s uniquely conflicted psyche. If Jekyll’s “underlying illness” is universally shared, should it be taken into consideration when we ask whether Hyde’s crimes were brought about by a voluntary act? JEKYLL AND HYDE thus opens up extensive vistas for discussion of different degrees of criminal liability.

The Broadview edition helpfully includes several other documents that can also be brought to bear on these issues. Stevenson’s article, “A Chapter on Dreams” (1888), discusses how he came to write the novella, and offers further reflections on “man’s double being” (p.102). Comments by contemporaneous book reviewers also support the idea of Jekyll’s developing addiction (e.g., “a feeble but kindly nature steadily and inevitably succumbing to the sinister influences of besetting weaknesses,” p.138). Finally, in addition to cases featuring current-day disputes about the role of voluntariness in assessing liability and the meaning of insanity as it bears on that question, teachers of criminal law may find it useful to assign the 1888 decision in

STATE V. YARBOROUGH, a first-degree murder case that centers on the question of voluntary intoxication, and that devotes half a page to JEKYLL AND HYDE. In upholding the trial court’s guilty verdict, the Kansas Supreme Court asked, “Should it be said that Dr. Jekyll was not responsible, and that Mr. Hyde, after all, and Mr. Hyde alone, was the guilty one?” (STATE V. YARBOROUGH).

REFERENCE:

CASE REFERENCES:
REGINA v. DOHERTY, 16 Cox C.C. 306 (Central Criminal Court 1887).
STATE v. YARBOROUGH, 18 P. 474 (Kan.1888).

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