

Insanity and Homicide.

At the last Spring Assizes held at Kingston, a prisoner indicted for murder was acquitted on the ground of insanity. The case does not offer any extraordinary points of interest to those who have a practical knowledge of insanity, but it has some bearing on the accepted legal criterion of responsibility. It serves to show, too, how dangerous and how unfit to be at large are insane persons who have delusions of persecution. We subjoin the following report of the case:—

KINGSTON, APRIL 4.

CROWN COURT.—(Before Lord Chief Justice BOVILL.)

William Charles Minor, a middle-aged man, was indicted for the murder of one George Merritt, at Lambeth, in February.

Mr. Denman, Q.C. and Mr. J. C. Matthew, conducted the case for the prosecution; Mr. Edward Clarke defended the prisoner.

The circumstances of the case were, as detailed in evidence, these:—

The prisoner is an American, who had for some months resided in this country. He was a surgeon, and had served in that capacity during the American war. He was a man not only of professional skill, but of some accomplishments and education, and he had served with credit. But, unfortunately, in the course of service he sustained a sunstroke, and this incapacitated him either for pursuing his profession or continuing any course of study. Hence he took to drawing and painting, and he came over to this country last year with introductory letters, one of which, from a Professor at Yale College, New-haven, Connecticut, was found at his lodgings, and stated some of the facts above-mentioned, especially as to the sunstroke and its results. He resided at the time of the unhappy occurrence in question at 41, Tennyson Street, Lambeth. While there his conduct was, according to the evidence of his landlady, perfectly sensible and rational, and his habits for some time were regular. He had latterly, however, slept out several nights a week, and during this period—that is, in December and January last—he had gone to the police-station, Scotland Yard, and made wild and incoherent complaints of persecutions he sustained from the Irish, who, he said, had persecuted him in America, and had continued their persecutions in this country. The officers came to the conclusion that he was deranged, but had no idea that he was dangerous. After this, as already mentioned, he slept out more frequently than before, and early in the morning of the 17th of February, shortly after 2 o'clock in the morning, he went out, and while he was walking in the Belvedere Road, not far from his lodging,

he met the unfortunate deceased and shot him dead on the spot. As no one was present, and the prisoner made no statement as to the circumstances, nothing could be proved about them. The police heard three shots, and immediately afterwards met the prisoner and asked him who fired the shots. The prisoner answered, "I did," and added that he had just shot a man. He had at that time a pistol in his hand, and the constable seized his hand and took it from him. It was a five-chambered revolver, bearing the mark of a maker at Springfield, Massachusetts. Four of the chambers had been discharged, leaving one still loaded. The unfortunate deceased was found lying dead, and two shots—either of them fatal—had taken effect, one of them in front, the other in his back. He was a man employed at Goding's brewery, and was going to his work. As the prisoner was being taken to the station he said to the constable, "You have not searched me." The constable said he would be searched at the station. "How do you know," said the prisoner, "that I have not another pistol about me? I might shoot you." To this the constable answered that if he had another he had better keep it in his pocket. On his arrival at the station he was searched, and a knife, worn in the American way, behind, was found upon him. At the time the prisoner was arrested he was going towards his lodgings, which were only about 60 yards from the brewery. There was no evidence that the prisoner knew the deceased. When the charge was read to the prisoner at the station—a charge of wilful murder—he said nothing. His manner was cool and collected. Such were the principal facts so far as they appeared on the evidence for the prosecution.

Mr. Denman, after stating these facts for the prosecution, said that as the act was to all appearance cool, deliberate, and intentional, if the prisoner was in his right mind and responsible for his acts, there could be no doubt as to its character—that the act would be murder. The question, however, would be whether he was in his right mind at the time, and though undoubtedly the law presumed sanity, in the absence of evidence to the contrary, yet there were circumstances in the case, even on the evidence for the prosecution, which it would be wrong not to admit might fairly suggest that this was a fit question for consideration; and this, he believed, would be the question for the consideration of the jury. The mere coolness of the prisoner, and his avowal of the act, might not *per se* have been sufficient, but there were his previous acts and conduct, and also the fact, as stated in one of the letters found upon him, as to the sunstroke he had sustained. These and any other circumstances in the case which might be brought in evidence would be for the consideration of the jury. If the prisoner was, in fact, under delusions as to his being constantly attacked and persecuted by Fenians, and if while wandering about in the early morning he met the unfortunate deceased, and shot him under the influence of that delusion, then they would be warranted in holding

him not responsible for his act. Other evidence would, he believed, be adduced on the part of the defence as to the state of the prisoner's mind. The trial had been postponed in order to allow of time to produce witnesses from America on the subject, and the jury would have to form their conclusion on the whole of the evidence before them. He need not tell them that while, on the one hand, they would require to be clearly satisfied that the prisoner was not in his right mind at the time, yet, on the other hand, they would not hold him responsible for his act if they had reason to believe that it was not really the act of his mind as it was of his hand.

Formal evidence was then given of the facts above stated, and especially as to the prisoner's incoherent complaints to the police in December and January last. The police stated that they formed the impression at the time that he was under delusions, and they made an official report to the Commissioners. A letter was produced from the prisoner to the police, dated on the 15th of January, couched in incoherent terms, and making similar complaints. "My life," said the writer, "may be taken any night." "I trust your agents are not to be bought over as the American police are." This, it will be seen, was about a month before the unhappy event. In consequence of the report of the police, his friends were communicated with, but unfortunately too late to prevent mischief.

The widow of the unfortunate deceased was called, and her appearance excited much sympathy. She was merely called to state that, so far as she knew, the prisoner and her husband were strangers to each other.

No other evidence was given than as above stated, and this was the case for the prosecution.

Mr. Clarke addressed the jury on behalf of the prisoner, urging the absence of any apparent motive, and all the other circumstances of the case as showing that he was not in his right mind. That, he said, was his defence, and it was not, he observed, an afterthought; for, before the act in question an official letter had been written to the prisoner's friends as a warning to them of his condition and state of mind. He should now adduce evidence on the point, and he should show by several witnesses that the prisoner was subject to dreadful delusions. So long ago as 1867 he had actually been in a lunatic asylum at Newhaven, in America, and those delusions, or delusions of a similar character, had continued in this country, and came on at night. It was probable that early in the morning the prisoner had rushed out of the house under the influence of those delusions, and, meeting the unfortunate deceased, had, maddened by their influence, shot him dead. Even, said the counsel, if the jury had a reasonable doubt as to the sanity of the prisoner they would be reluctant to convict him, but he believed they would be satisfied beyond a reasonable doubt that he was not in a reasonable state of mind at the time he committed the act in question.

Witnesses were then called in support of the defence thus opened. Before they were called the prisoner beckoned to his attorney and made a communication to him, which was conveyed to his counsel.

The medical attendant of the gaol was first called, and stated that in his opinion the prisoner's mind was unsound, and that he was subject to delusions. In cross-examination he stated that they were of the same kind as those described by the police. On every other subject he was quite sensible, and capable of understanding what was said to him and of holding rational conversation, and capable upon matters not within the scope of his delusion of distinguishing right from wrong. The witness being pressed as to whether he thought that such a person could possibly be guilty of any crime, said he should have very great difficulty in admitting that he could be guilty of a crime, because there was such difficulty in understanding the working of an unsound mind or in distinguishing between its healthy and unhealthy action.

Mr. Denman—In the course of your conversations with the prisoner has he ever said anything to connect the act of killing Merritt with the influence of his delusions?

Witness—No. He has always declined to answer upon the subject at all. When I have asked him about it he has told me that it was not a professional question. At another time, when asked as to the annoyances he said he had sustained, the prisoner said it was a long story to go into, and said no more.

The next witness was the prisoner's brother, who stated that his brother had sustained a sunstroke, and that in 1869 and 1870 he had been confined in a lunatic asylum. After this, in April, 1871, his brother came to reside with him, and during that time he used to speak of noises he heard at night, and to complain of persons coming into his room to disturb him, all which, the witness said, were delusions. His brother told him that he had been called upon to brand a deserter, and that the deserter conceived that he had done it with unnecessary severity, and he believed that he was a marked man in consequence of it, and was pursued with persecution. Witness told him, he said, that, as these things could not be proved, it showed that his mind was unsettled, and that it was desirable he should have good treatment. His brother said he should be glad to go into an asylum if he could get rid of these annoyances. His brother left his home last September, and shortly afterwards came to Europe. He had spoken of it before, and said he desired to consult the police there.

In cross-examination the witness admitted that he regarded the delusions as entirely harmless.

The next witness was a warder of the gaol, who had been employed as an attendant on lunatics, and who had been employed to attend prisoners at the gaol at night. He had been employed to attend the prisoner, and observed, he said, that after he had been asleep he always imagined that some one had been in the room, and about two

in the morning he used to wake and look under his bed to see if any one was there. This happened many nights. The witness attended him twenty-four nights, and as he used to accuse the witness of annoying him, he got tired of it and gave it up.

Mr. Denman was cross-examining with a view to show that there was nothing at all to connect these delusions with any homicidal tendency, still less with the particular act of homicide, when

The Lord Chief Justice, at this stage of the case, addressing Mr. Denman, said—Do you propose to controvert this evidence?

Mr. Denman—No, my lord; I am not in a position to offer any further evidence.

The Lord Chief Justice then turned to the jury, and asked them if they desired to hear any further evidence.

The jury said they did not.

The Lord Chief Justice—Gentlemen,—If anyone in his right senses kills another, he is *primâ facie* guilty of murder. And, *primâ facie*, every person must be presumed to be in his right senses, and therefore to be responsible for his acts. But this applies only in the absence of evidence of unsoundness of mind; and there is evidence here that the mind is unsound. Then it is so difficult to trace the workings of a mind which is unsound that the presumption no longer applies; and if the evidence satisfies you that the prisoner at the time he committed the act was not in a state to distinguish right from wrong, and was not capable of controlling his actions, then he would not be responsible for the act he committed, and you would find a verdict of not guilty on the ground of insanity, the effect of which will be that for the future he will be properly taken care of in order to prevent danger of further mischief.

The jury said they were quite satisfied, and returned a verdict accordingly of *Not Guilty*, on the ground of insanity.

The efforts of the prosecuting counsel, Mr. Denman, were evidently directed to prove that there was no discoverable or demonstrable connection between the prisoner's delusions and the act which he committed. For if a man, knowing in other respects the difference between right and wrong, have the maddest delusion which madness can imagine, and if he do murder, and if no direct connection can be traced by others between the delusion and the murder, then, according to the dicta of English judge-made law, the man may righteously be put to death as an example to other madmen. To absolve him from responsibility the criminal act must be the "immediate unqualified offspring" of the delusion. If not, though he would be held incapable of conducting his own affairs, he would be considered answerable for the act. In fact, "the good old" rule of English law, that an insane

person may be a proper object of punishment, is as binding now on English judges as it was generations ago. The influence of the delusion upon the act must be direct and positive; for if an insane person, under a delusion that some one has inflicted an injury upon him, were to kill that person, he would unquestionably be amenable to punishment as a murderer. It is the duty and within the capacity of a madman to know that it is wrong to revenge evil by evil, and that it is right to bless those who persecute and despitefully use him; and if he knows this of a real injury, he must be assumed to know it of an injury which he is under the delusion that he has sustained. The unsound mind, being nowise incapacitated from full healthy function by the disease of which the delusion is a symptom, should entirely isolate its delusion or delusions, just as prudent persons isolate a case of small-pox or other infectious disease, and should not allow it to infect the feelings, thoughts, and acts. With this exception, however: that if the insane person makes a will or does any other civil act to the prejudice of another, under the influence of a delusion that he has been injured by him, his delusion will be assumed to have infected his conduct, and his act will be voided by law. He may make a will under the influence of bad feeling springing from a delusion, and he will suffer the penalty of having his act declared null; but if he does murder under the influence of an exactly similar feeling, springing from an exactly similar delusion, his act will be declared valid, and he will get the benefit of being hanged.

Such being the doctrine of English legal psychology, it was plainly somewhat hard upon Mr. Denman that the judge interposed so decidedly and, by putting a stop to his ingenious efforts to show that there was nothing at all in evidence to connect the prisoner's delusions with the particular act of homicide or with any homicidal tendency, prevented him from arguing that William Charles Minor ought properly to be hanged, as an example to other madmen, and to deter them from the perpetration of a like offence against law. The only medical witness examined stated distinctly that, in his interviews with the prisoner, he had never discovered "anything to connect the act of killing Merritt with the influence of his delusions." Moreover, "on every other subject he was quite sensible, and capable of understanding what was said to him, and of holding rational conversation, and capable upon matters not within the scope

of his delusion of distinguishing right from wrong." So far as the evidence went, it appears then that there was a miscarriage of law, and that the prisoner ought to have been convicted and hanged. It may be hoped, however, that the safety of society will not be much endangered by the issue of the case, more especially as the miscarriage of law was not a miscarriage of justice; on the contrary, the strict administration of the law would without doubt have been the perpetration of great injustice.

Another point to which attention may be directed is what was said by the Lord Chief Justice in his directions to the jury. "If the evidence satisfies you," he said, "that the prisoner at the time he committed the act was not in a state to distinguish right from wrong, and was not capable of controlling his actions, then he would not be responsible for the act he committed, and you would find a verdict of not guilty, on the ground of insanity." Here again we may take up an argument on behalf of law against justice. The capability or incapability of controlling actions has no part in the legal criterion of responsibility; it is not in the bond; why, then, did the Chief Justice introduce it? If the prisoner was in a state to distinguish right from wrong,—if he knew that it was unlawful to commit murder, he was legally responsible, whether he was capable of controlling his actions or not. True it is that an insane person may know right from wrong, and yet may not have the power to control his actions, but the law takes no cognizance of such a mental condition; it is a freak or blunder of nature which the law cannot recognise. To introduce the question of capability of control into the summing up in this case was, therefore, to give the jury an excuse for acquitting, on the ground of incapability of control by reason of insanity, a person who was capable of distinguishing right from wrong. The jury seem to have taken advantage of this outlet. It was evident that Minor was capable of distinguishing right from wrong, and although no direct connection was shewn between his delusion and the homicidal act, it was also evident that the latter was the uncontrolled and uncontrollable act of a madman. The legal custom of attempting to trace the working of an unsound mind and of distinguishing between its healthy and unhealthy action was more honoured in the breach than in the observance.

There was a sufficient cause of mental derangement in the sunstroke which the prisoner was said to have had, and there

was distinct evidence of such derangement furnished by the fact that he had been the inmate of a lunatic asylum, by his brother's testimony as to his delusions when he resided with him, and by the sort of communications which he made to the police. The kind of derangement was hardly perhaps that which a sunstroke alone might have been thought likely to produce, but if there was any hereditary predisposition to insanity, the latent mischief might well have been excited into activity by the cerebral shock.

If we were to draw any medical lesson from the case, it would be a lesson of caution with regard to patients who have delusions of persecution. They are often dangerous to others, and it is most necessary to impress upon their friends how great a risk is run if they are not put under some kind of supervision. "The monomaniac, who has delusions that he is watched continually, or otherwise persecuted, must always be deemed dangerous to others; for at any time he may become so impatient of his sufferings as to make a fatal attack upon his fancied persecutor." The mischief of the matter is that these patients are often so remarkably acute and sensible on all matters outside the sphere of the delusion, that it seems a pity to meddle with them, and cruel to deprive them of their liberty. Moreover, they are cunning, and if they perceive that their delusions have brought them into trouble, they will sometimes conceal and deny them, in order to get rid of supervision. After they have succeeded in getting free, they are not unlikely to bring an action against, or otherwise annoy, those who have had any part in subjecting them to restraint.

OCCASIONAL NOTES OF THE QUARTER.

Town and Country as Rival Producers of Intellect.

The last number of the "Journal of the Statistical Society" had an interesting article, by Mr. Hyde Clarke, on the "Geographical Distribution of Intellectual Qualities in England."

The writer proves, by the use of a numerical test, that the towns contribute most of the intellectual labourers of note,