IRISH DIVISION.

The Summer Meeting of the Division was held at the District Asylum, Carlow, by the kindness of Dr. Fitzgerald, on Thursday, July 6th.

The morning having been pleasantly spent in visiting the old castle of Carlow (reduced to its present ruined state in an attempt to adapt it for use as a private asylum) and some flourishing local industries, the members were taken round the asylum, and were then entertained at luncheon by Dr. Fitzgerald.

At the meeting subsequently Dr. Fitzgerald occupied the chair, and there were also present Drs. F. E. Rainsford, R. R. Leeper, C. Norman, T. Drapes, E. J. McKenna, and W. R. Dawson (Hon. Sec.), as well as Drs. L. Stokes, F. P. Colgan, and R. Lane Joynt, who were present as visitors. Letters regretting inability to attend were received from the President and Dr. Oakshott.

The minutes of the previous meeting having been read, confirmed, and signed, the Hon. Secretary reported shortly with reference to various matters connected therewith.

A letter from Dr. E. D. O'Neill was read thanking the members of the Division for the resolution of condolence passed at the last meeting.

It was decided to hold the next meeting of the Division at the Royal College of Physicians, Dublin.

It was unanimously decided to consider at the next divisional meeting the provision of regulations for the filling of vacancies amongst the officers of the Association occurring in the interval between two annual meetings.

COMMUNICATIONS.

Dr. J. J. FITZGERALD read a paper entitled "Note on Carlow Asylum."

Dr. DRAPES alluded to the close relation between Carlow and Enniscorthy Asylums, and pointed out that whereas originally £37,000 had been allocated to provide asylum accommodation for four counties, Wexford had spent £60,000 for one. All would like to admit only curable cases, but such a regulation would not be humane. Dr. White had deprecated punishment of the insane, and the principle was good, though possibly the pendulum had now swung too far in the opposite direction.

Dr. F. E. RAINSFORD read a paper on "The Necessity for State Interference on behalf of the Imbecile." This paper will appear in a future number of the JOURNAL.

Dr. CONOLLY NORMAN read a paper entitled "Multiple Lipomata in General Paralysis." This paper will appear in a future number of the JOURNAL.

A vote of thanks to Dr. Fitzgerald for his kind hospitality was passed unanimously, and he having replied, the meeting terminated.

RECENT MEDICO-LEGAL CASES.

REPORTED BY DR. MERCIER.

[The Editors request that members will oblige by sending full newspaper reports of all cases of interest as published by the local press at the time of the assizes.]

Rex v. *Clapham.*

Walter James Harry Clapham, 20, was indicted for the wilful murder of his wife, Bessie Amelia Clapham, under very peculiar circumstances, on May 15th, at the Horton Asylum, at Epsom.

It appeared that the prisoner, who was a wheelwright's assistant, was married to the woman, who was then twenty-two years of age, about four and a half years ago. Their married life had been a perfectly happy one, and they lived on extremely affectionate terms. About the time of the birth of her second child, the woman's

mind failed, and she was sent to the Camberwell Infirmary. From there she was removed on September 24th, 1904, to the Horton Asylum, at Epsom, which is the London County Council asylum for the reception of insane persons. She was extremely depressed there, and continually wrote letters to the prisoner appealing to him to come and end her dreadful suffering and torture; and in one of them she asked him to bring an "r" if possible, which, counsel suggested, meant a razor. The prisoner used to visit his wife every visiting day. On May 15th last the prisoner visited his wife, who had gone to bed because she was not well. The prisoner was sitting by her bedside, and she was crying. Soon after three o'clock the nurse left the room for a few minutes on duty, but did not go out of hearing, the door of the room being open. There was a rule that the nurses were not to go too near to visitors, so as not to interfere with their private conversation. The prisoner came out of the bedroom and said to the nurse, "Don't say anything to the other patients; she has just died." The nurse at once called another nurse, to whom the prisoner said, "Don't go near her, she has cut her throat." The nurse said, "My God, what with?" and the prisoner replied with a razor which he had given her, as he could not see her suffering, and he said that he thought he had done her a kindness. The woman was found lying on her back on the bed covered with a sheet and with her throat cut. The doctor was summoned at once, and, upon the prisoner's asking him if she was dead and being told that she was, he said "Thank God," and that he wished he had killed himself.

The principal medical officer at the asylum in his evidence said that, when the woman was admitted to the asylum, she was suffering from acute suicidal melancholia. She remained in this condition all the time. In his opinion, from the character of the wound and other circumstances, it was not a case of suicide.

When charged by the sergeant of police with the wilful murder of his wife, the prisoner said, "That is right. Yes; I am ready, Sir, if you are. I don't care where I go now as long as she has gone. I would not let a cat of mine come to this building. She begged me to bring something in to do it."

Counsel for the prisoner was proceeding to cross-examine one of the witnesses as to whether, seeing that letters were not allowed to go out of the asylum without supervision, any one at the asylum was responsible for these numerous letters from the woman to the prisoner, asking him to bring something to put an end to her life, being allowed to go out of the asylum, when the learned Judge said that they could not go into that question there. He agreed that the question as to who was to blame for allowing those letters to go out ought to be inquired into on some other occasion, but neither he nor the jury had any means of entering upon such an inquiry.

Counsel for the prisoner, in his address to the jury, contended that the evidence he would call would prove beyond all doubt that the receipt of those numerous letters from his wife gradually unhinged the prisoner's mind, though he struggled long against the request to bring something to put an end to her life, and that upon the day in question he was of unsound mind and was not responsible for his acts.

Dr. Scott, the medical officer at Brixton prison, said that, though he could not say that the prisoner was not now of sound mind, in his opinion he was not at the time in question of sound mind.

The jury found the prisoner guilty of the act charged, but that he was insane at the time he committed it; and the learned Judge ordered him to be kept in custody until His Majesty's pleasure was known. The jury said that they desired to add a recommendation that care should be taken that such letters as those written by the woman should not be allowed to go out of the asylum.

Mr. Lushington said that he was asked by the principal medical officer at the asylum to state that he knew nothing about the letters going out of the asylum, that they must have been smuggled out, and that inquiry would be made into the matter.

The learned Judge said that he was most anxious in any remarks he made not to say a word against any individual, and he was sure that the jury did not mean to cast any reflection upon any individual. The letters, however, should not have got out, and the proper authorities should make careful inquiries into the matter, and see that it did not occur again.—Guildford Assizes, July 20th (Mr. Justice Bray).—*Times*, July 22nd.

Far too much seems to have been made of the posting of the letters to the prisoner. It is quite true that the receipt of these letters does seem to have distressed the unfortunate man so terribly as to induce him to commit the crime; but rules are not to be made to deal with cases so exceptional that they cannot be foreseen. It is easy to be wise after the event, and the jury, impressed by the fact that the prisoner appears to have been prompted by the letters to commit the crime, censured the asylum authorities for allowing the letters to be posted. But, if the letters had been intercepted, it is quite as probable that circumstances might have occurred which would have induced a jury to censure the authorities for intercepting them. Suppose the woman had written to her husband imploring him to take her home, and had killed herself, leaving a statement that she did so because her husband refused her request and did not answer her appeals. In such case the jury would undoubtedly have censured the asylum authorities for refusing to forward the letters. In my opinion, it requires a very cogent reason indeed to justify the suppression of letters written by patients detained in institutions. Of course, libellous letters, obscene letters, letters addressed to foreign potentates, and other persons with whom the patient has no business to correspond, and by which he would be merely advertising to strangers his insanity, are rightly suppressed; but I see no justification for suppressing a letter from a wife to her husband, who is greatly attached to her, and who surely has a right to know from her letters in what state of mind she is. The husband might, as so often happens, have disbelieved in the seriousness of his wife's malady, and have determined to take her home, thereby precipitating her suicide; and these letters might, in such a case, have been the only means of opening his eyes to the true state of the case, and preventing him from taking a fatal step. As well might a jury, inquiring into a case of suicide by jumping out of a window, censure the builder for putting windows to a house. It is impossible to legislate for those exceptional cases, in which people act against all likelihood, and all possibility of prediction, and, if the attempt is made, it will result in restrictions that do more harm in 999 cases out of 1000 than good in the thousandth.

Rex v. *Bennett.*

Louisa Bennett, 31, laundress, was indicted for the manslaughter of her infant child, at Birkenhead, on May 11th.

The case for the prosecution was that the prisoner, who was the wife of a respectable working man, having already had nine children, was confined on the 1st of May last of a boy, a full-time, well-developed child, who was perfectly healthy. At the end of the first week after the birth of the child the prisoner was in bed, and kept sober; but after that she began to drink heavily; and on Thursday, May 11th, she appears to have begun drinking at six in the morning, and continued to do so during the day. In the afternoon her eldest daughter suggested to her mother that she should go upstairs and go to bed, and let her take care of the baby. The prisoner said that she would go up, but insisted on taking the baby with her. About five o'clock the daughter went upstairs and found her mother asleep with her arm pressing on the child's face, who was dead, having been suffocated by that cause. Several witnesses were called to prove the drunken state the prisoner was in on the day of the child's death and the previous days. The medical evidence showed that the child was a thoroughly healthy child, and that the cause of death was suffocation by the mother lying on the child in her drunken sleep.

The jury found the prisoner guilty; and a long list of convictions, some thirty in number, including three of neglecting her children, upon proceedings taken by the National Society for Prevention of Cruelty to Children, were proved against her. She was sentenced to one year and nine months' imprisonment with hard labour.—Chester Assizes, July 19th (Mr. Justice Phillimore).—*Times*, July 22nd.

In his *History of the Criminal Law*, Mr. Justice Stephen says, "For legal purposes it is enough to say that no involuntary action, whatever effects it may produce, amounts to a crime by the law of England. I don't know that it has ever been suggested that a person who, in his sleep, set fire to a house or caused the death of another would be guilty of arson or murder." In my forthcoming work on *Criminal Responsibility*, now in course of printing by the Clarendon Press, I express surprise that Mr. Justice Stephen did not adduce the case of overlying, which causes the deaths of so many children every year. Until this case occurred I have never heard that a woman has been prosecuted in this country for thus causing the death of a child; but I am told that in Germany it is a criminal offence. The case recounted above was not a simple case of overlying, but was complicated by the drunkenness of the mother. There is nothing in the account to show whether the offence was regarded as criminal negligence, or on what ground the verdict was obtained. It is quite clear, from the dictum of Sir James FitzJames Stephen, that the conviction is a very unusual one, and deserves to be placed on record. It seems to establish the principle that intention is not necessary to criminality, unless, indeed, we suppose that the jury found the woman guilty, nominally of manslaughter, but really of drunkenness. See also the following case.

Rex v. *Hancocks.*

William Alfred Hancocks, 36, described as a labourer, was charged with the wilful murder of Mary Elizabeth Hancocks, at Birkenhead, on March 23rd.

Mr. B. Francis-Williams, K.C., and Mr. Colt-Williams, instructed by the Director of Public Prosecutions, appeared for the prosecution; Mr. R. M. Montgomery, at the request of the learned Judge, defended the prisoner.

The prisoner was the father of the girl, who was fifteen years of age, in service in the town. The prisoner, with his wife and two other children, aged four and two, lodged at Birkenhead with a Mr. and Mrs. Storey (another room being let to a widow named Wyley), his occupation being that of an assistant sheriff's officer. On March 23rd Mary Elizabeth Hancocks came home, and during her mother's absence went up into her parents' room with the prisoner and the two small children. A scream for help was heard, and Mrs. Storey and Mrs. Wyley rushed in, followed by Mrs. Hancocks. They found the prisoner and his daughter lying across the bed, and the girl cried out, "I am choking," at the same time putting up her hand to her throat. The prisoner picked up a pocket-knife and threatened to kill his wife; but she ran out, followed by her daughter, into Mrs. Wyley's room. The prisoner tried to force his way in, but afterwards became more quiet, and his wife escaped out of the house. Mrs. Storey and Mrs. Wyley went downstairs; but before they went the prisoner told his daughter to go into their room and look after the children. She refused at first, but at last went, and the prisoner followed her. Later on Mrs. Storey and Mrs. Wyley heard a piercing cry from the girl, and, going up, met the prisoner rushing down the stairs, and found the girl in the act of falling between the landing and Mrs. Wyley's room, bleeding profusely from wounds in her head, arms, and hands. She was removed to the borough hospital unconscious, where she died four days afterwards, having been operated upon. The prisoner escaped and afterwards jumped into the river, from which he was rescued. There was some evidence that he had been drinking, but he appeared quite sensible

of what he was doing. The *post-mortem* examination showed that the cause of death was the result of a blow with such a pocket-knife as was found in the prisoner's room.

For the defence it was urged that these wounds might have been caused accidentally in a struggle.

No evidence was given on behalf of the prisoner; but it was submitted that there was sufficient evidence that the prisoner was in a half drunken and mad state, and that there was no evidence of intent.

The learned Judge having summed up, the jury found the prisoner guilty of murder, but recommended him to mercy on the ground of his being in a partially drunken condition when he struck the blow which caused his daughter's death.

The learned Judge said he would forward the recommendation of mercy by the jury to the proper quarter, and passed sentence of death in the usual form.—Chester Assizes, July 20th (Mr. Justice Channell).—*Times*, July 22nd.

That "drunkenness is no excuse for crime" is a well-established rule of law, but in practice it is not unusual to found an excuse on drunkenness, as was done in this case. Intention, it is said, is a condition necessary to criminality; and, if a man is so bemuddled with drink that he is unable to form an intention, then any unintentional act that he may do in that condition is not criminal. This plea has been admitted in cases that have been reported in these pages; but it will be noted that it was not admitted—it does not appear, from the report, that it was set up—in the preceding case, in which intention was certainly absent. In the case of Hancocks the jury admitted the plea to some extent: not sufficiently to acquit the prisoner; not sufficiently to reduce his crime to manslaughter; but sufficiently to found upon it a recommendation to mercy.

Rex v. *Blood.*

William Blood, 24, grocer's assistant, was charged with stealing thirteen live fowls on May 14th and June 18th. He had been charged before with the same offence. The stealing was admitted, but for the defence it was denied that it was done with felonious intent, the defence being that the accused was a kleptomaniac in so far as chickens were concerned. The defendant's employer was called, and gave the accused an excellent character. Accused had been in witness's employment for two years, and witness had found him strictly honest in every way. Accused was at times, perhaps, a bit erratic, and was of rather a nervous temperament, but witness has never had a better man. Accused had had many opportunities of robbing witness both of money and goods if he had been so disposed; but witness had never the slightest reason to suppose prisoner had done so. By being erratic witness meant that accused was inclined to exceed his position. Inspector Plant arrested the defendant, who replied "I am truly sorry for what I have done, but something seemed to come over me; I could not help it. I took them as I went by the sewage farm, and put them in the stable with my mother's chichens." Dr. G. B. Norman, of Oakham, had known the defendant and his family for some years past, and from his experience of the defendant thought that his account, that "something seemed to come over me, and I could not help it," was not an impossible theory. He saw the accused eight years ago when in trouble on a similar charge, and he saw him after the present charge had been made, and from the way he expressed to witness what had happened, it conveyed to witness's mind that defendant could not help himself, and that there was a sudden impulse to steal, which was practically irresistible and bordered on mania.

Defendant told him that the night before he could not sleep for thinking about the chickens. The year defendant was born his father very nearly died from a severe brain attack, and the defendant himself, when a child, had several fits, and this would all predispose to defective moral power.

By Mr. Phillips: He should not say that defendant, leaving Rugby by train at three o'clock in the morning, getting out at Seaton, and bicycling to Uppingham, two

miles out of his way, instead of going the direct road through Ridlington to Stoke Dry, was a sudden impulse, and it was impossible to say how long an impulse of the kind he had described would last.

By the Chairman: He had not come there for the purpose of trying to get the accused off; he would very much sooner have been at the other end of the county. He could only give them his opinion that the accused was practically insane when he committed the offences.

The Chairman: Why?

Dr. Norman: Because I can see no reason for his doing what he did at all.

The Chairman: Why should this young man come from Rugby, take a round as he did in the early morning, and steal these chickens, and take them home?

Witness: What he told me was quite reconcilable with that. He said he could not sleep for thinking of the fowls, and he got up with the intention of fetching them.

By Mr. Simpson: He did not think there was any felonious intent on defendant's part; he thought he was irresponsible for his actions.

By Mr. Phillips: He should not say kleptomania was confined to stealing a particular object.

Mr. Phillips: He might steal spoons as well as fowls?

Witness: He might do.

By Mr. Simpson: A great many people were mad on one subject, and perfectly sound on all others.

Dr. Pink, of Lyddington, said he examined the accused about a week ago, and also that day. On the first occasion he had a conversation with him, lasting for about twenty minutes, and the result of that was he was morally certain he was of weak mind. His nervous system, as a whole, was decidedly weak, and it was in subjects of that kind they got the irresistible impulse to commit any particular offence or act.

By Mr. Phillips: He had not attended accused before a week ago.

Mr. Phillips addressed the jury, and the Chairman, having summed up, the jury deliberated some time over their verdict.

The Foreman then announced that they found the accused guilty, and then stated "but with no felonious intent."

Mr. Simpson said he claimed that as a verdict in favour of the defendant, but the Clerk said the jury must return either a verdict of "Guilty" or "Not guilty."

The jury then retired, and, after an absence of about three-quarters of an hour, returned with a verdict of "Not guilty," and accused was discharged.—Rutland Quarter Sessions, June 29th.—*Grantham Journal*, July 1st.

The jury took a very merciful view of the case. The defence was based entirely upon the prisoner's own statements that he had an irresistible impulse to steal the fowls; and it certainly appears as if he did suffer from an obsession towards fowl stealing. Whether this was in fact irresistible, or merely unresisted, no one but the prisoner could know; but it was certainly not an impulse. Mr. Phillips hit this nail on the head when he asked if going two miles out of the way to get at the fowls was consistent with a sudden impulse. In any true meaning of the word, suddenness is of the essence of an impulse, and it weakens a defence of this kind to speak of an obsession, which may be prolonged and enduring, as if it were a sudden and transient affection of the mind. On the whole, it appears as if the prisoner's account was true. The fact that on at least three occasions he had stolen fowls, while, with every opportunity to do so, he had never stolen anything else, is consistent with obsession; and the medical men who examined him, and who do not appear to have been obsessed, as some medical practitioners are, by the notion that every offender must of necessity be insane, but who gave their evidence with moderation and self-restraint, were convinced that his account was true. Dr. Norman had known

the prisoner for years, and both practitioners had opportunities of examining the defendant personally and testing, to some extent, the veracity of his account, and they both believed him. It marks a very great and striking change in the intelligence of juries, and in their attitude towards accused persons, that their verdict was for the defendant. A few years ago such a verdict would have been impossible. Defences much more plausible than this, on the ground of mental aberration, have been laughed out of court in recent times; and the men of Rutland are to be congratulated on the production of a jury which, whether their verdict was right or wrong, were capable of appreciating and entertaining a defence of very unusual character. It is noteworthy that the prisoner was not found "guilty but insane," but "not guilty;" and, although the former verdict would have been the more logically correct, the latter was, of the two, the more practically just. Broadmoor is not the place for an offender of this description. If the accused is in fact subject to the obsession of stealing fowls, and is in other respects honest, he has only to confine his activities to a large town, in which fowls are not kept, to keep himself out of the danger of appearing again before the Court.

In the matter of F. M. C.

In this case, the report of which is very imperfect, a lady who had been detained under care on the authority of a magistrate's order, and for the administration of whose affairs a "receiver" had been appointed by the Master in Lunacy, apparently under Section 116 of the Lunacy Act, 1890, appealed to the Court of Appeal to disallow the expenses of the "receiver." The usual petition for a reception order had been presented to a magistrate, who visited the lady, but found that, for some reason not stated in the report, he was not qualified to make a reception order. A second magistrate, however, made an order without seeing the patient, a course he was quite entitled to take under the provisions of the Act. The lady had divorced her husband, and the petition was signed by a friend of hers, and it seems that this friend was the gentleman who was afterwards appointed receiver, and who had been staying in the lady's house, at her invitation, for some weeks previously. He acted on the advice of the lady's family solicitor. However obtained, the reception order was made, and then the petitioner made arrangements to stop the express train, as it passed near the house in which the patient was living, in order that she might be taken by it to her destination. This arrangement failed, as the lady could not be made ready in time, and, upon its failure, a special train was engaged, and she was taken in that to the institution. Subsequently the "receiver" was appointed, to administer her estate; and, on the order of the Master in Lunacy, a petition for an inquisition was presented by the "receiver." The inquisition was never tried, however, for the medical men who examined the lady were unable to satisfy themselves that she was certifiably insane, or a person who ought to be detained. About five weeks after her admission the Commissioners in Lunacy made an order for her discharge, and she was discharged and readmitted as a voluntary boarder. It was contended by counsel that, upon her discharge, the office and powers of the "receiver" lapsed, and that the Master had no power to continue them, as it appeared he had done. On the other hand it was contended that the receiver should not be deprived of his costs for acts done under the orders of the Court, even if it was held by a higher Court that those orders should not have been given.

In the result, the Court ruled that the interim receivership should be discharged, and that the receiver should pay the costs relating to the transfer of a mortgage and certain payments of household expenses, there having been no serious attempt to justify the unnecessary haste with which the lady had been hurried away by special train to an asylum.—Court of Appeal (Vaughan Williams, L.J., Romer, L.J., and Sterling, L.J., August 10th).—*Daily News*, August 11th.

It is to be regretted that no report of this case appeared in the *Times*, whose reports always set forth the essential legal factors in trials. The report in the *Daily News* is of a sensational character, and, though it extends to a column and a half, and is full of unnecessary detail, it slurs over the real points at issue and leaves the reader in doubt as to what was decided. If the report can be relied on, it appears that the contention of counsel for the appellant, that a receivership lapses and determines forthwith upon the discharge of the patient, was not sustained; for the Court is said to have made an order that the receivership should be discharged, which implies that it was then in existence. The decision of the Court, directing the receiver to pay his own costs to some extent, will not render it easier in the future to induce persons to take this unthankful task upon them. The chief interest to medical men of the judgment, is however, the ground upon which the receiver was saddled with costs. It was not on account of anything he had done or omitted to do in his capacity of receiver, but because, in his capacity of petitioner, he had shown unnecessary haste in hurrying the lady to an asylum. This must be good law, or it would certainly not have been sanctioned by three such excellent judges, but it seems extraordinary justice. The receiver is punished for the fault of the petitioner. The receiver happens to be the same person as the petitioner, it is true; but this is by no means a necessary arrangement. It happens very frequently that the receiver and the petitioner are different persons. But if it is legal to punish the receiver, by depriving him of his receiver's costs, for an act done, not in his capacity as receiver, but in an entirely different capacity, then two things are possible. Then it seems, Jones (receiver) may be deprived of his costs because Smith (petitioner) has been too hasty in removing Robinson to an asylum; and, beyond this, Jones may be deprived of his costs as receiver in *rê* Robinson, on the ground that he, Jones, has acted, in some other capacity, in a manner not illegal, but displeasing to the Court. He has spoken against the *entente cordiale;* he is a pro-Boer; he is Secretary to the League for Depriving Judges of their Wigs; he has spoken disrespectfully of the Equator; and, as his acts in these capacities are disapproved by the Court, they may deprive him of his costs in *rê* Robinson (so it seems) although, in his capacity as receiver, he has done nothing to which any exception can be taken.

Whether this be so or no, the Court has again marked its disapproval of anything in the least degree approaching unseemliness or undue haste in procuring the admission of a patient into an institution. There was no suggestion that the petitioner had acted in bad faith or without reasonable care. He acted on the advice of the family solicitor; in every step he acted strictly in accordance with law; but, for the trifling indiscretion of acting with undue precipitation, he is heavily fined. The decision should make medical practitioners cautious not to sign urgency orders except in cases of real urgency; for it is obvious that the same principle will apply, and that, although they may be acting strictly within the law, they may perchance find themselves rendered in some way liable, if ever the case comes to be reviewed in a Court of Justice.