

he did know that he had done what was illegal. Dr. Scott has been kind enough to send me a note of his evidence, from which it appears, as I anticipated, that he did not make any suggestion that the prisoner was weak-minded as a result of his infantile paralysis, but Dr. Scott did say that the prisoner's crippled condition would probably tend to make him sensitive, and jealous of people more healthy and active than himself. This is very true, but it is, of course, very different from saying that infantile paralysis is associated with mental impairment. It appears from the evidence that the prisoner acted with deliberate intention, and knew what he was doing and that it was illegal. The contention that he suffered from uncontrollable impulse is entirely unsupported by the evidence. The only uncontrollable impulse, properly so called, known to alienists, is obsession, and there is not the slightest evidence of obsession in this case. Counsel for the defence is reported to have contended that the prisoner suffered from "homicidal mania." It is very doubtful whether there is any mental disorder, apart from obsession, which can rightly be called homicidal mania; and if there be, there is no evidence whatever, apart from the act itself, that the prisoner suffered from this, or from any other, mental disorder.

It does not appear in the *Times* report, but Dr. Scott informs me that the judge allowed evidence to be given of conduct of the prisoner's father, which may have indicated insanity in him, and thus have favoured the hypothesis of insanity in the prisoner. The admission of such evidence shows how willing judges are nowadays, as has been frequently pointed out in these reports, to relax the strict rules of evidence in favour of a prisoner indicted for a grave offence.

The verdict seems to me right. It would be impossible to hold a prisoner insane upon such evidence as was adduced in this case, without admitting that every crime of unusual character must be held to be the outcome of insanity. It is true that the crime was unusual, and that it was committed on a motive which seems very inadequate; but undoubtedly the prisoner had an intelligible motive, and the act was done with deliberation. The prisoner was probably not up to the normal standard of intelligence, and the jury seem to have given to this fact, and to the unusual character of the crime, the fullest possible consideration, as is shown by their strong recommendation to mercy. The convict will of course be reprieved, but if he were hanged it would be very difficult to contend that such a fate is in excess of his deserts. The case is a fresh instance of the application of the principle of limited, or impaired, or partial responsibility, which is now so frequently acted upon, although it has no formal expression in legal doctrines.

The convict has since been reprieved.

Rex v. Horton.

(We owe this case to the kindness of Dr. Cleland, who sent a very full report from Australia.)

Thomas Horton, 24, bootmaker and juggler, was indicted for the murder of his wife. They had been married three months only. The family consisted of three children of Horton's by a former wife, and one child of his wife's by another man before she was married. Deceased had left the prisoner on account of his violence towards her, and was living with her mother. On the evening of Feb. 27 she was walking in the street with two other girls, when the prisoner met them and asked

his wife to go down a lane with him, saying he had a present to give her. She refused, saying, "Yes, I know; a present of bullets." He followed them about until his wife threatened to give him in charge, and shortly after, as the three girls were walking together arm in arm, he shot his wife three times in the back with a revolver, so that she died in a few minutes. He then ran away. On the following day his brother-in-law met him and persuaded him to give himself up, but the prisoner refused and absconded, and was subsequently arrested in another part of the country. It was proved that he had purchased the revolver half an hour before the crime.

For the defence it was shown that the prisoner's father had died in Parkside Asylum; that the prisoner's mother also had been in the asylum for a few days; that she had had five children, all of whom with the exception of the prisoner had died of convulsions; that the prisoner also had had convulsions (in childhood probably). That he had had a sunstroke, and been queer in his behaviour afterwards; that he had had a severe fall, after which he was unconscious, and after which he stuttered; that he had had another blow on the head which also rendered him unconscious; that at the factory at which he worked, he was known as "Silly Tom," and "Cranky Tom," was difficult to teach, passionate, and complained that people were trying to poison him through the tap water.

Dr. Cleland, resident medical officer at Parkside Asylum, deposed that he had had there under his care the prisoner's father, who suffered from epilepsy; that the prisoner gave the following account of the crime:—He remembered nothing about the shooting. He remembered nothing until he found himself on the parade ground. He then returned to Hindley Street, in which the crime was committed, with the intention of going to his wife's home. When he was standing in the street, he heard some people referring to a woman having been shot, and then the whole thing seemed to flash across his mind, and he ran away in a fright. Dr. Cleland was inclined to think the statement of the prisoner pointed to a post-epileptic condition at the time of the crime. "In my opinion he is permanently in such a state of mind that at no time does he know the difference between right and wrong."

Dr. B. O. Morris, gaol surgeon, had frequently visited the prisoner in gaol, and always found him coherent and rational in conversation until April 8. (He was arrested on Feb. 28, the day after the crime.) Dr. Morris was of opinion that the prisoner had not for years had a properly sound mind, and for that time had not been able properly to distinguish between right and wrong. Pressed in cross-examination, Dr. Morris admitted that he had doubts as to the prisoner being insane. Further pressed, he made the damaging admission that he had not read Mercier on Insanity. "What!" exclaimed counsel for the defence, "and yet you call yourself an expert on lunacy!" (Expert witnesses, please note.)

Dr. Ramsay Smith had examined the prisoner, and found (so it is reported) no physical signs of mental or bodily unsoundness. In Dr. Smith's opinion the prisoner was sane, and able to distinguish between right and wrong; and was shamming loss of memory as to the occurrence of the crime. Dr. Smith thought it possible, but not probable, that the prisoner was suffering from epilepsy.

The judge told the jury that Dr. Cleland's opinion was entirely based on the belief that the prisoner was not malingering. If the prisoner was malingering, all Dr. Cleland's evidence would go for nothing. Dr. Cleland had said "I am inclined to think he was not feigning madness, and to the best of my judgment he was not malingering."

After an hour's deliberation, the jury found the prisoner *guilty*.

Criminal Court, Adelaide, S.A., April 14, Mr. Justice Boucaut. *Adelaide Advertiser*, April 15.

On the whole, it appears that justice was done. The prisoner undoubtedly had a shocking heredity, and a very unfortunate personal history; and there can be no doubt that he is not a normal person, nor does he possess a normal mind. But the question the jury had to determine was not whether he was a thoroughly normal person, but whether he was sufficiently aware of the turpitude of his act to make it

right to convict him for it. The premeditated character of the crime is strongly in favour of the verdict. The prisoner purchased the revolver half an hour before the crime. He tried to induce his wife to leave her friends and go alone with him into a lane. Failing in this, he shot her, not during an altercation, but after she had left him, he followed her and shot her in the back. She ran away, and left the town for another part of the country. Such a series of acts is consistent neither with epileptic furor nor with post-epileptic automatism. In the first case, there is a sudden, unpremeditated outbreak of brutal and excessive violence. In the second, there is no deliberation, no preparation, and no recollection whatever, after consciousness returns, of the automatic act. Moreover, the act done in post-epileptic automatism is always an habitual act, one that has been done many times before; and it is always a caricature of a normal act. In the case of shooting with a revolver, the post-epileptic automaton would be more likely to shoot an unoffending bystander than a person to whom he was hostile. The prisoner's own account is inconsistent with post-epileptic automatism. He said that he remembered nothing about the shooting until he came back to the scene of the crime, and then, when he heard people talking about it, the whole thing seemed to flash across his mind. If he had done the act during post-epileptic automatism, he would have been unconscious at the time, and under no circumstances thereafter would he have had the slightest recollection of it. As it was, he ran away at once, and subsequently absconded, showing that he knew quite well, both at the time and afterwards what he had done. His invitation to his wife to go alone into the lane with him is strong evidence of premeditation, as well as his purchase of the revolver; and it must not be forgotten that his wife was afraid both that he would shoot her, and that the invitation was given for this purpose. The opinion of Dr. Cleland, who saw the prisoner many times, and is a skilled and experienced alienist, is entitled to great respect; but it must not be forgotten that feigning forgetfulness of all the circumstances of the crime, forgetfulness which is disprovable in some particular, is the most frequent subterfuge of the criminal who relies upon a false plea of insanity.

It must be admitted that the prisoner was a poor creature, with about as bad an heredity as it is possible for a man to have. But heredity is not conclusive evidence, either of sanity or of insanity. The tendency is very strong for the offspring to return to the normal from which the parents have deviated. It would be dangerous, and more, it would be unjust, to argue irresponsibility from insane parentage alone. Nor was that attempted in this case. The prisoner was known among his work-mates as "Cranky Tom," and "Silly Tom," and irrational acts in his previous life were recounted at the trial. Clearly, therefore, he was far from being a normal person; but was he so insane that he ought not to have been found guilty? Upon the facts that are included in the report that is to hand, I cannot think so. He came of the stock of which come both lunatics and criminals, and he partook of the nature of both; but, as far as can be judged from the facts elicited at the trial, in him the criminal preponderated over the lunatic. If he had been tried in this country, he would almost certainly have met the same

fate; but his mental condition would have been investigated after conviction, and he would probably have been reprieved. But even if he had been hanged, I do not think that justice would have been outraged. The comment of the prisoner's counsel, upon the literary attainments essential to the expert in lunacy, has my cordial concurrence.

"PRIVATE" CARE OF THE INSANE IN BELGIUM.

Under the heading of *The very lamentable condition of the Care of the Insane in Belgium*, our excellent contemporary, the *Psychiatrisch-neurologische Wochenschrift*, draws attention to a report read by Dr. Lentz at the Royal Academy of Medicine in Brussels. Dr. Lentz, as the *Wochenschrift* reminds its readers, holds the office of *Inspecteur adjoint des asiles d'aliénés de Belgique*, and is the oldest and most experienced of Belgian alienists. His utterances are therefore of much weight, and what he says must be regarded as delivered under the gravest sense of responsibility. Our contemporary quotes his report in the original French, which may be rendered as follows:

"There is, in Belgium, a very important work—namely, the care of the insane—which has been completely given over to private enterprise [*i. e.* to the religious orders, as the German transcriber notes]. I say completely, for of the fifty establishments, if one leaves out the special divisions in St. John's Hospital, there is not one—not even of the State asylums—which is exclusively managed by public authority.

"Private enterprise, then, has been absolutely supreme; it has only been stimulated by State inspection. Well, let us see what this work, thus given up to private enterprise, is worth, above all from a medical point of view, for it is especially that which characterises and gives value to the whole organisation. Let us see if the medical organisation of these asylums answers really to the demands of modern science, and to the progress which it has effected elsewhere, and at first I shall not speak of the unflattering criticisms which have been circulated by the German, Dutch, and French physicians, who took part in the Congress for the Treatment of the Insane at Antwerp. I shall not speak of the still less flattering reflections which have appeared in a certain foreign paper, and which are far from being in praise of our mental medicine, or of our alienist physicians. I only want to quote facts, the reality and the value of which cannot be contested. The first of these facts refers to the number of physicians attached to our different asylums. While in most countries—Germany, England, and Holland especially—asylums holding 500 to 1000 patients have all five to ten medical officers, all alienists, all living in the asylum, and all working exclusively there; these same asylums in Belgium, with very nearly the same number of inmates, have only one physician, non-resident, and engaged for most of his time in private practice. There is even one place where two large asylums have only one specialist. What can one physician do?—I omit the consultant (adjoint), who is not an alienist, who does not treat mental cases, but only incidental maladies. What good can be done by one physician in charge of 500 to 900 lunatics? What can a service be worth that is thus cut down? Also look at the results. Three great progressive steps have characterised these last thirty years of psychiatric evolution—non-restraint, treatment by rest in bed with prolonged baths, and the extension of the Family Care system.

"Germany, Holland, England, and even France, often so much inclined to resist foreign innovations, have all vied zealously with each other in the application of these modes of treatment to the patients in their asylums. Belgium alone has remained inert, nay, I even say has shown itself obstructive; some Belgium alienists have offered a stubborn opposition to the progress effected in the neighbouring countries.

"For many years England, Germany, and Holland have no longer known