

ignored, and, moreover, even those to whom they have looked for encouragement have told them, in effect, that those who have had no training are as good as they.

We refrain from referring to any other details of this election, but feel that the sympathy of the Association is due to assistant medical officers who, having done their duty and merited reward, have been passed over partly because of a rule which might have been altered and the alteration sanctioned before the election, and partly because of certain causes which are alleged to have weighed unduly against them. (See "Notes and News.")

Judicial Eccentricities.

A case occurred lately in the Law Courts which illustrates the great uncertainty of judicial proceedings. Judges are fond of asserting that their proceedings are only in accordance with the requirements of the law, yet they differ to an important extent in the course they pursue in reference to prisoners charged with crime and suspected to be insane. A labourer, named Taylor, was indicted before Mr. Justice Day at the Leeds Assizes for the murders of Annie Taylor and Thomas Berkill (Superintendent of Police), at Otley, in November last. A jury was impanelled for the purpose of ascertaining whether the prisoner was fit to plead or not. Medical men, including Dr. Clifford Allbutt, gave evidence as to the extraordinary delusions under which the prisoner laboured. He believed that he was sent into the world with four endowments, "health, strength, knowledge, and prosperity." Another delusion was that he had a little man in him, and that he had a dual nature. He asserted that the Almighty had impelled him to commit the above acts. On another occasion he said he could not have killed his daughter and Berkill, as God had said "Thou shalt not kill." At other times he seemed to forget entirely the death of his daughter, but had some recollection of the death of Berkill.

It is by no means unusual for a judge to desire to have the opinion of a medical witness as to whether the prisoner is of sufficiently sound mind to be able to plead. Mr. Justice Day, however, would not allow the medical men to give their opinion as to the prisoner's sanity. On the contrary, he said that to do so would be, in his opinion, to usurp the

functions of the jury, and he could only allow them to state facts upon which the jury might draw their own conclusions. After an inquiry lasting over three hours, the jury found the prisoner fit to plead, and Taylor was accordingly put upon his trial.

Although we have only referred to this case in order to note the curious disregard of medical opinion on the part of the judge, we add the report of the trial from the newspaper.

“Mr. Hardy opened the case for the prosecution, and stated that the prisoner, his wife, and two children lived at Otley, and a man called Hartley lodged in the house. Hartley came home a little before midnight on November 23. Between two and three o'clock the following morning the whole household was stirring. The prisoner said he would fire a gun up the chimney to make the fire burn better. Mrs. Taylor, being alarmed, went out of the house, carrying with her one of the children. Hartley also left, and as he was going he heard the report of a gun, and on turning round saw the prisoner pointing the gun in the direction of his wife. Mrs. Taylor went to the house of a neighbour with the child, when it was discovered that it had been badly shot. It died about two hours afterwards. An alarm having been given, a policeman, called Shipham, went to the house for the purpose of arresting the prisoner, and found that he had locked himself in. The prisoner called out, ‘Come on; I am ready.’ Other constables were called to the house, and eventually Superintendent Berkill came upon the scene. Berkill rattled the latch of the door, and was attempting to open the door with a crowbar when a report of a gun was heard. Berkill fell down at once, shot in the head, and survived the terrible injuries he had received only a few hours. At the time the prisoner was seen pointing a gun from the inside in the direction of the deceased. The glass of a window was broken by the shot. Some time afterwards the prisoner was seen coming out of his house with a shovel. A constable, seizing a favourable opportunity, made a rush at Taylor and effected his arrest. The prisoner was taken to the police-station, and when charged with the murder of his child he said, ‘It’s all my eye and Betty Martin.’ In reply to the charge of murdering Superintendent Berkill he said, ‘I think I have done a bit too far with drink this time.’ At the close of his address, Mr. Hardy stated that delicate questions as to the state of the prisoner’s mind might arise; and if they were of opinion that the prisoner had shot

Berkill in the way described, they would have to consider whether or not at the time he knew the nature and quality of the act he was doing. The jury found the prisoner guilty, but that he was insane at the time he committed the acts; and the learned judge ordered him to be confined during Her Majesty's pleasure."

In another instance the course pursued by the Judge, Mr. Justice Field, is as eccentric as that of Mr. Justice Day, and is even more decided in the rejection of medical evidence. In February of this year a young man, Ernest Hitchins, aged 21, the son of a surgeon, was tried for the murder of his sister Constance at Weston-Super-Mare. He had been subject to epileptic fits, and remained at home on that account. The sister was 25, kept the house, and the prisoner had to go to her for his money. He did not like her. On the evening preceding the murder he was observed to be very restless, walking about, and he looked sullen. A servant gave evidence that he had applied to his sister for something which she could not give him. Next morning both the prisoner and his sister breakfasted in bed. Another sister, who took him his breakfast, noticed nothing unusual. In the course of the morning the report of a gun was heard in the sister's room. The door was fastened. The father forced it open and found his daughter fatally shot. Hitchins was there, rising from the ground with a wound on his face. He dashed out of the room, rushed down stairs, and threw himself against the wall as he went. He tried to throw himself into the empty grate in his father's private room. He was then put to bed, and gradually became quiet, and is said to have known what he was about. He told his father to look in the pocket of his coat and find a paper. In this he had written, "I leave everything that belongs to me to my dear mother. I have been treated so badly by that beast, my sister Constance, that I must put an end to her life by shooting; and, knowing that I shall have to die for it, I also shoot myself. Good-bye to all, hoping you will have a happy time of it. Good-bye, dear father and mother."

Prisoner afterwards said, "She was very unkind to me; she has been a bad one to me." The counsel for the prosecution urged that deliberation was shown by writing the above over-night, and further, he had gone downstairs to obtain the gun and cartridges in order to effect his purpose.

The prisoner's mother had been insane. Before his birth she attempted to commit suicide, and was placed in an

asylum. There was no other case of insanity in the family.

Now comes the extraordinary feature of the case from the judicial point of view. Mr. Justice Field, in addition to treating the medical witnesses with studious rudeness, refused to receive their opinion as to the sanity of the prisoner. When Dr. Needham had given his evidence and expressed an opinion that he was insane, his lordship said he was determined not to allow a medical gentleman, however eminent, to be substituted for the jury. Again, when the gaol surgeon was asked whether he formed any opinion as to what the prisoner was suffering from, and he replied that when first brought in he thought he was imbecile, the Judge objected "that is answering the question that I did not wish you to answer." When counsel asked whether he might inquire whether the prisoner was suffering from disease, his lordship replied, "Bodily, Yes; mentally, No." When Mr. Bucknill suggested that the opinion of a medical man regarding a prisoner's state of mind now might assist the jury in arriving at a conclusion as to his state when the act was committed, Mr Justice Field said, "I shall rule clearly not. The jury see what his conduct and appearance are and have been. I don't see that the opinion of a medical gentleman carries it a bit further. *He could no more dive into a man's state of mind than I can.*"

It will be remembered that a similar opinion was expressed by the present Lord Chancellor in one of the debates on the Lunacy Bill last session.

In summing up, the Judge said that he "was constantly obliged to tell juries that, in order to find out the mental condition of a man, his intentions, or what had passed in his mind, the only safe mode was to judge by what he did. When was a man responsible to the criminal law of the land? It was when he was in such a state of mind as to know right from wrong, to know what was the nature and quality of the act which he did. Did the prisoner in this case know the nature of the act which he committed, that it was condemned by the laws of God and man, and that, if he committed it, he would have to suffer even death for it?"

That the prisoner knew that he was committing murder, and that the punishment of murder was death, was shown by the prisoner's own remark, "Knowing that I shall have to die for it, I also shoot myself," in his letter to his parents. It is clear, therefore, that he knew the nature and quality of

the act he committed, and that he was therefore responsible in the eye of the law for it. Fortunately, however, the jury found that the prisoner was of unsound mind when he committed the act.

If it be said that there is a distinction between asking a medical witness his opinion as to the state of a prisoner's mind at the time he committed the criminal act, and the time when he is called upon to plead, it is noteworthy that, while Mr. Justice Day refused to accept the latter, Mr. Justice Field implied that he would not have rejected a medical opinion as to a prisoner's sanity had it been a question of whether the prisoner was in a condition of mind which rendered him capable of pleading. There remains, therefore, a puzzling inconsistency between the ruling of different judges on a most important question in respect to which one would have thought uniformity might have been attained, so that counsel might know what questions they are permitted to put to mental experts.

Lunacy Acts Amendment Bill.

This Bill has been once more brought in by the Government. What amendments may be introduced in its progress through Parliament we do not know. None were introduced when the Bill was read a second time in the House of Lords (March 2nd). The alterations made by the Lord Chancellor are very slight. The Bill is substantially the same as that which was introduced by Lord Selborne in 1883, by Lord Herschell in 1886, and again passed in the House of Lords by the present Lord Chancellor in 1887.

The objections made by the Medico-Psychological Association to the leading features of the Bill remain unaltered. The main modifications in the clauses of the previous Bill have reference to registered hospitals. It is greatly to be regretted that some important points to which a deputation from the Association drew the attention of the Solicitor General (Sir Edward Clarke), the objectionable character of which he did not deny, have not been recognized in the present Bill.

Very little discussion followed the introduction of the Bill into the Upper House by the Lord Chancellor. The Earl of Milltown hoped that the Bill might become law, and that no