

civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, if such person has acted in good faith and with reasonable care." A further provision in another sub-section is: "If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or . . . doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or to a Judge thereof, be stayed upon such terms as to costs and otherwise as the Court or Judge may think fit, if the Court or Judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care."

There seems no reason in the nature of things why a protection which is freely granted to dwellers in England and Wales should be withheld from the unfortunate inhabitants of the more northern section of this island. They have been lulled into security by the fact that no such action has been brought for a period of something like forty years; and they presumed, I suppose, that the good sense and good feeling of their compatriots would shield them for ever from such actions. The case above reported shows that this presumption was carried too far, and the safeguard was never very secure; for there was always, and still remains, the possibility that some denizen of the southern country might stray across the Tweed, and find himself, as would not be unnatural in the circumstances, committed to a lunatic asylum in the country of his adoption. Such a wanderer would not be bound by the custom of the country, and there would be nothing to deter him from bringing an action on his release, beyond the inherent improbability of an Englishman getting anything out of a Scotchman. It is clear that the protection conferred by the sections of the Lunacy Act, 1890, that I have quoted, ought to be extended to Scotland.

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For an account of the following case I am indebted to Dr. Thomson of Thorpe.

*Rex v. Trollope.*

Harry Trollope, æt. 34, labourer, was indicted at the Norwich Assizes for attempting to murder Millicent Trollope, his wife,

and James Littleproud, on December 26th, also for wounding with intent to do grievous bodily harm. Prisoner pleaded guilty to the second count. Prisoner had led, up to the time of the occurrence, a blameless life. He served with credit in the army for fourteen years, attained the rank of sergeant, and went through the South African War. While in South Africa he became afflicted with a disease of the bladder, which gave him terrible pain, and "so affected his mental balance that he was almost unaccountable for what he did." He returned to his native village, married, and lived on affectionate terms with his wife. Before he married, he lived for some months with his mother, who noticed that when spasms of pain seized him he behaved very strangely, "gave vent to reasonless laughter and staring, and apparently would not know what he was doing." At Christmas, he went to his mother's house, and asked for some dinner. His wife followed him, and brought him a piece of pudding. After eating this, he went up stairs and cried in an hysterical manner. Then he burst out laughing. To his mother's question he replied, "Oh, it is only thoughts." They spent the rest of the day together on the most amicable terms, but after going to bed he behaved in an extraordinary manner, and seemed to imagine there was someone in the house. He evidently thought that Kaffirs were attacking him, and he attacked his wife and father-in-law under the impression that they were Kaffirs.

Counsel for the defence, after giving the account of the affair epitomised above, concluded by saying he did not think the evidence was strong enough to justify a plea of insanity being set up; besides which, he knew the serious consequences that would follow such a verdict. The judge said nobody could know the details of this case without surprise that a man of the prisoner's character should make so violent an attack on his wife and father-in-law. So far as he knew, nothing had been discovered to lead anybody to suspect that the prisoner's mind was affected in the slightest degree. The question was, what was the best thing to be done with the prisoner in the interests of justice? This was a very serious offence, meriting very severe punishment, and he was anxious to come to some conclusion that would be most in the interest of the prisoner. He would have to pass a very severe sentence, but he would take pains that the case should be represented to the proper quarter.

The prisoner would be carefully watched and put in a position to have the best medical attention possible. The prisoner might rely on it that everything that ought to be done for him would be done by the proper authorities, who would be backed up by him (the judge), and it might be that the sentence would be reduced. The prisoner would be sentenced to five years' penal servitude. Mr. Justice Lawrence. (*Eastern Daily Press*, n. d.)

This case is a very extraordinary one. According to the account given, the crime bears upon the face of it the stamp of unmistakable insanity. If it was proved that the prisoner attacked his wife and father-in-law under the belief that they were Kaffirs who were attacking him, his act came completely within the terms of the law, that he did not know the nature or quality of his act or that it was wrong. Nay more, it came completely under the almost prohibitive terms of the law laid down, in the case next reported, by Mr. Justice Cooper in New Zealand: "If a person suffering under an insane delusion believed that another person was going to kill him, and, therefore, to protect his own life, killed that other person, that was not murder." It is quite rare for the Courts to try a case which so completely satisfies in every respect the time-honoured test. Yet counsel for the defence "did not think the evidence was strong enough to justify the plea of insanity being set up," and the judge declared that "nothing had been discovered to lead anybody to suspect that the prisoner's mind was affected in the slightest degree"! The motive of counsel in refusing to set up the plea of insanity is clear enough. "He knew the serious consequences that would follow such a verdict" as guilty but insane. In other words, he thought he was doing his client better service by leaving him to be sentenced to a severe but determinate punishment, than by getting him committed to Broadmoor for the remainder of his life. But the dictum of the judge rests on no such foundation, and appears to be inconsistent with his subsequent assurance to the prisoner that the case should be represented in the proper quarter, and that everything that ought to be done for him would be done. It seems clear that the judge as well as counsel shrank from sending the prisoner to Broadmoor, yet it is very questionable whether it is not the proper place for him. He is by no means to be trusted not to repeat the act,

supposing—as on the evidence before us we must—that it was the outcome of temporary mental unsoundness, and that this unsoundness is recurrent.

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For the following case I am indebted to the kindness of Dr. Alexander, of Dunedin, N.Z.

*Rex v. Swan.*

Daniel Swan, labourer, was indicted for the murder of his wife, at Invercargill, New Zealand, on June 28th.

Two years before the murder, the wife had obtained a separation order against the prisoner, and for some time they lived apart; but after eighteen months' separation he returned to his wife's house as a boarder, the separation order remaining in force. They had a large family, some of the children being grown up and married. Lodging in the same house was a man named Clark, a married man, separated from his wife, and the prisoner had been jealous of Clark, had threatened him, and remonstrated with him for domineering over the deceased. On June 28th the whole family had tea together. The deceased, after tea, took a seat at the end of the table, near the fire, her back towards the prisoner, who sat by the fire. A daughter, æt. 13, was ironing at the other end of the table, while prisoner was reading and smoking and chatting in a friendly manner with his wife. The little girl put her iron on the fire to heat, and was folding up some clothes, when her father suddenly took the iron from the fire and struck her mother on the head with it. The child rushed to interfere, and the prisoner struck his wife a second time, knocking her down. When she was on the floor he repeated the blows, crying, "Would you! Would you!" The child struggled with her father, others came into the room, the father ran out into the street, and then the child stooped down and kissed her mother. She found blood on her lips. The woman's face was covered with blood, and she had a gaping wound in her neck. On a bracket under which the prisoner had been sitting was kept a razor; the razor was afterwards found on the bracket covered with blood. Prisoner ran out of the house, followed by one of his sons, who raised the alarm. Neighbours interfered and secured the prisoner, who