

really lunatic in the eyes of science—from the hangman's hands. Why should a poverty-stricken wretch be put in a worse position than the rich criminal who is able to fee heavily some high authority in lunacy? And again, justice demands, on the other side, that criminals who have the means of paying heavy fees in order to bring witnesses with high names into court, should not thereby escape the just reward of their crimes. Justice demands that, in such cases also, an impartial Government expert should be there to counteract the evidence of the authoritative names; *i. e.*, if the evidence be guided by party considerations rather than by the actual facts of the case.—*British Medical Journal*, Sept. 2nd.

*The Legal View of Insanity.*

*To the Editor of 'The Lancet.'*

SIR,—At Winchester, on July 16th, George Broomfield was found guilty of murder. He was ably defended by Mr. Coleridge, Q.C., on the ground of insanity. It was proved in evidence that two years previously he had been shot in the head, and had since been a "changed man;" that he had delusions and suicidal impulses; and that at this moment he is half dead from the effects of a shot-wound inflicted upon himself. The counsel for the crown made no attempt to rebut the evidence of Dr. Tweed, and that of a crowd of other witnesses who deposed to the insanity of the prisoner; nevertheless the learned judge, in his summing-up, told the jury that "it was not every aberration of mind that would free the prisoner—it must be such an aberration of intellect as to disable him from distinguishing between right and wrong." Under this ruling the jury returned a verdict of "guilty," and the poor lunatic criminal, whose own only plea was, "I wish to die," is duly sentenced to be hanged.

The same eloquent counsel, before the same judge, will, on Saturday, plead in behalf of Miss Constance Kent. It is possible that in her case the defence of insanity may be set up, and may be equally justified; nevertheless it is clear that, whether insane or not, she must be condemned to death on her own confession, by making which she herself shows her full appreciation and knowledge of the difference between right and wrong. Surely there must be some grave mistake as to the value of a test that inevitably sends the possibly insane daughter of an insane mother to die upon the scaffold. That it is practically fallacious must be shown by the fact that, standing by her side, condemned in the same week by the same judge, will be found another unhappy homicide, admittedly suffering under mental disease arising from physical injury to the brain,

and yet to be executed because no one can give evidence as to his want of knowledge of the difference between the right and the wrong.

The conflicts of opinion between law and medical knowledge, and the jarring of legal dogmas with scientific truths as to the responsibility of the insane, are deeply to be deplored; but there is another aspect of the case of almost equal importance.

If Mr. Justice Keating should draw the attention of the Home Secretary, as Mr. Baron Martin did in the case of Victor Townley, to the possible existence of insanity in one or both of these criminals, their lives will be spared, otherwise the law will take its inexorable course.

It is obvious that under this form of procedure, the judge has in every case, in which a capital crime has been committed by a lunatic, the power of life or death in his own hands; he may charge the jury in such a way as to almost compel their verdict of guilty, and then privately inform the authorities at the Home Office that the convict is insane, and that his case requires further investigation.

Is it not contrary to the spirit of our law, is it not repugnant to our feelings of justice, to inflict capital punishment upon a man already suffering under the most terrible affliction that can befall humanity?

In these remarks I do not wish to reflect upon the judges, but upon the law, which, in this instance, appears to me to be altogether anomalous. The issue, one of life or death to the prisoner at the bar, should depend upon the jury; and the questions for them to decide ought to be—first, whether the prisoner alleged to be insane is guilty upon the evidence, and secondly, whether it is proved to their satisfaction that he is not of sound mind.

Under the present system the last issue is practically left with the judge, who may or may not think it expedient that lunatics should be put to death; and as on this question judges may differ, like other men, the infliction of capital punishment in any particular case of homicidal lunacy is uncertain. The sanity or insanity of the prisoner is not decided by the jury; they are directed only to try an issue which no finite mind can determine—namely, whether a lunatic at a particular moment had a mind sufficiently sound to know the difference between the right and the wrong.

The question as to the infliction of capital punishment is distinct from that of capital punishment of lunatics. If there be even a doubt as to Miss Kent's condition of mind I hope her life will be spared. As to poor Broomfield, the law may surely forego its vengeance; it can serve no purpose to strangle to death a man admitted to be the victim of a mysterious disease, which affects, more or less, the

intellect, the moral feelings, and the will, because it is imagined that so much of these remains to him that his mind can tell the difference between right and wrong. There is little doubt that he does know the difference between right and wrong. But his mind and will are diseased; he could not restrain his suicidal impulses—he could not overcome delusive impressions; and it is almost certain that mental disease led him to commit a cruel and useless homicide.

I am, Sir, your obedient servant,  
 HARRINGTON TUKE, M.D.  
*The Lancet*, July 22nd, 1865.

*Cardinal Wiseman on Hamlet.*

I REMEMBER AN anecdote of Garrick, who, in company with another performer of some eminence, was walking in the country, and about to enter a village. "Let us pass off," said the younger comedian to his more distinguished companion, "as two intoxicated fellows." They did so, apparently with perfect success, being saluted by the jeers and abuse of the inhabitants. When they came forth at the other end of the village, the younger performer asked Garrick how he had fulfilled his part. "Very well," was the reply, "except that you were not perfectly tipsy in your legs."

Now, in Shakespeare there is no danger of a similar defect. Whatever his character is intended to be, it is carried out to its very extremities. Nothing is forgotten, nothing overlooked.

Many of you, no doubt, are aware that a controversy has long existed, whether the madness of Hamlet is intended by Shakespeare to be real or simulated.

If a dramatist wished to represent one of his persons as feigning madness, that assumed condition would be naturally desired by the writer to be as like as possible to the real affliction. If the other persons associated with him could at once discover that the madness was put on, of course the entire action would be marred, and the object for which the pretended madness was designed would be defeated by the discovery. How consummate must be the poet's art, who can have so skilfully described, to the minutest symptoms, the mental malady of a great mind, as to leave it uncertain to the present day, even among learned physicians versed in such maladies, whether Hamlet's madness was real or assumed.

This controversy may be said to have been brought to a close by one of the ablest among those in England, who have every opportunity of studying the almost innumerable shades through