

THE QUEEN *against* OXFORD.

TRIAL OF EDWARD OXFORD FOR HIGH TREASON AT THE CENTRAL
CRIMINAL COURT, BEFORE LORD DENMAN, L.C.J., ALDERSON, B., AND
MAULE, J., JULY 9, 10, AND 11, 1840. (Reported in 9 C. & P. 525.)

On June 10, 1840, the Queen, whilst driving up Constitution Hill, was twice fired at by Edward Oxford, aged eighteen. Oxford was indicted for high treason. Verdict, Not guilty, he being at the time insane.(a)

Ruled by the Court per Lord Denman, L.C.J.—

Defence of Insanity.

To acquit the prisoner on the ground of insanity, the jury must be satisfied that he was labouring under such a disease as rendered him quite unaware of the nature, character, and consequences of the act he was committing; or, in other words, that he was under the influence of a diseased mind, and was really unconscious at the time he committed the act that it was a crime.

(a) It is now provided by 46 & 47 Viet. c. 38. s. 2 (1) that where in any indictment or information any act or omission is charged against any person, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible according to law for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that the prisoner did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid when he did the act or made the omission.

The trial of *Edward Oxford*, for shooting
at the Queen.(a)

AT THE CENTRAL CRIMINAL COURT.

Thursday, July 9, 1840.

Present: LORD DENMAN, L.C.J., ALDERSON, B., and MAULE, J.

The prisoner was placed at the bar, and the judges having taken their seats, the clerk of arraigns read the indictment, which was as follows:—

INDICTMENT.

Central Criminal Court } The jurors for our Lady
to wit. } the Queen upon their
oath present, that Edward Oxford, late of West-

(a) PRELIMINARY PROCEEDINGS.

In the morning of June 11, Oxford was examined before the Marquis of Normanby, Home Secretary, at the Home Office. The Privy Council met at two o'clock in the afternoon, when the depositions taken in the morning were read over in presence of the prisoner and of the witnesses, who were bound over to appear and give evidence at the trial. The prisoner was afterwards committed to Newgate by the Home Secretary under the following warrant:—

“The Right Hon. Henry Constantine, Marquis of Normanby, one of Her Majesty’s most Hon. Privy Council, and Principal Secretary of State for the Home Department, &c.

“These are in Her Majesty’s name to authorise and require you to receive the body of

minster, in the county of Middlesex, labourer, being a subject of our Lady the Queen, heretofore to wit, on the 10th of June, in the year of our Lord 1840, within the jurisdiction of the said Court, as a false traitor to our Lady the Queen, maliciously and traitorously, with force and arms, &c., did compass, imagine, and intend to bring and put our said Lady the Queen to death.

Edward Oxford, sent you for high treason, and you are to keep him safe and close until he shall be delivered by due course of law, and for so doing this shall be your warrant.

“Given under my hand and seal at Whitehall the 11th day of June 1840.

“NORMANBY.

“To the Keeper of Her Majesty’s
Gaol of Newgate.”

June 22. The prisoner was arraigned at the Central Criminal Court before Tindal, C.J., and Parke, B., and pleaded Not Guilty.

Sidney Taylor, for the prisoner, applied that the trial should be postponed to the next sessions, and read an affidavit by the prisoner’s solicitor, stating that the delay was required to procure evidence of the prisoner’s insanity, and also that the public mind had been much excited by untrue rumours and reports in the public press. The affidavit set out a letter addressed by O’Connell to the people of Ireland and published in the *Standard* of June 20, which attributed “the concoction of this horrible crime to some of the underlings of the Orange-Tory faction which naturally detests the virtues of our beloved Queen, and sighs for the protection and countenance of a monarch whom they deem

And to fulfil, perfect, and bring to effect his most evil and wicked treason, and treasonable compassing and imagination as aforesaid, he the said Edward Oxford, as such false traitor as aforesaid, to wit, on the said 10th day of June in the year of our Lord 1840 aforesaid, and within the jurisdiction of the said Court, with force and arms, maliciously and traitorously did shoot off and discharge a certain pistol, the same then and there being loaded with gunpowder and a certain bullet, and which pistol he, the said Edward Oxford, then and there had and held in one of his hands, at the person of our said Lady the Queen, with intent thereby and therewith maliciously and traitorously to shoot, assassinate, kill, and put to death our said Lady the Queen. And, further, to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imagination aforesaid, he the said Edward Oxford, as such false traitor as aforesaid, afterwards, to wit on the said 10th day of June in the year of our Lord 1840 aforesaid, and within the jurisdiction of the said Court, with force and arms maliciously and traitorously did shoot off and discharge a certain other pistol, the same then and there being loaded with gunpowder and a certain bullet, and which pistol he the said Edward Oxford then and there had and held in one of his hands, at the person of our Lady the Queen, with intent thereby and therewith maliciously and traitorously to shoot, assassinate, kill, and put to death our said Lady the Queen, and thereby then and there traitorously made a direct attempt against the life of our said Lady the Queen against the duty of the allegiance of him, the said Edward Oxford, against the form of the statute in that case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

The prisoner pleaded "Not Guilty."

The jury were called and sworn without challenge on the part of the Crown or the prisoner:—

John Palmer.
Daniel Pretty.
Richard Henry May.
John Maxden.
William Potter.
Samuel Mitchell.
Charles Arnistead.
James Moore.
Joseph Patrick.
Joseph Miller.
George William Martin.
Thomas John Peat.

to possess opinions and qualities of an opposite character."

The Attorney General stated that he refrained from opposing the application on the sole ground that it had been sworn that the necessary evidence for the defence was not yet ready. He should be extremely sorry that it should be charged against the Attorney General of the day by a future historian that he had followed the example of the Attorney General who had hurried on the trial of Bellingham for shooting

Counsel for the Crown: The *Attorney General* (Sir John Campbell), (a) the *Solicitor General* (Sir Thomas Wilde), (b) Sir Frederick Pollock, (c) Wightman, (d) Adolphus, and Gurney.

Counsel for the prisoner: *Sidney Taylor* and *Bodkin*.

Gurney opened the indictment.

SPEECH FOR THE CROWN.

Attorney General: May it please your Lordships, gentlemen of the Jury,—You have now to discharge a most important duty. We are now entering upon a most solemn investigation. Gentlemen, it is for you to do your duty between the Crown and the accused. Such confidence have the counsel on both sides in the jurors who have been summoned here this day, that there has not been one challenge on the part of the Crown or on the part of the prisoner. Gentlemen, the prisoner stands charged with the crime of High Treason, the greatest crime known to the law, and he stands charged with that offence in its most aggravated form; he is charged with having made a direct attempt on the life of the Sovereign. Gentlemen, that crime, according to the law of this country, and, indeed, of all other countries in which monarchy is the form of Government, must be considered very heinous. By an Act passed in the twenty-fifth year of the reign of King *Edward 3*, by which the law of High Treason in this country was defined, it is enacted that, if any one shall imagine and compass the death of the Sovereign, and be guilty of any overt act to show the intention of such a crime, he shall be guilty of High Treason. The offence is imagining and compassing the death of the Sovereign, and that is to be proved by some overt act. It is upon this Act, which has constituted the great safeguard of the liberties of England ever since it passed, that the prisoner is now indicted. The mode of conducting the trial is regulated by an Act passed in the 40th year of King *George 3*, (e) which provides that where in a trial for High Treason the overt act to be proved shall be a direct attempt on the life of the Sovereign, the trial shall be conducted in the same manner as in cases of murder. The object of this Act was to

Mr. Perceval, although it was stated on affidavit that conclusive evidence to prove that the prisoner was insane would be forthcoming if the trial were postponed.

(a) Afterwards Lord Campbell, L.C.

(b) „ Lord Truro, L.C.

(c) „ Lord Chief Baron.

(d) „ a Justice of the Queen's Bench.

(e) 39 & 40 Geo. 3. c. 93.

give the life of the Sovereign the same protection as is afforded to the meanest subject of the land: because, before this statute, it was necessary on an indictment for High Treason, even where the life of the Sovereign was attempted, or where that life had fallen a sacrifice to the wicked attempt, to prove the overt act by the testimony of two witnesses; and there were a number of other forms required, which are most salutary and proper, where the charge bears a political aspect, where the treason under consideration is allied to a rebellious conspiracy, where the circumstances to be considered may constitute constructive treason, or, where the case presents a supposed difficulty in bringing the charge home to the prisoner, but which the law in its wisdom has not deemed necessary when the overt act was an attempt directly at the life of the Sovereign. Gentlemen, the party now accused will have ample opportunity for his defence; on his own application his trial was postponed to afford him the best opportunity for defence, and he is now defended by my two learned friends opposite, of great ability and experience. From the affidavit which was made to found the application to the learned judge (Lord Chief Justice *Tindal*) we are informed that two questions will be submitted to your consideration. The first is whether, supposing the prisoner to be accountable for his actions, he is guilty of the offence laid to his charge; and the second will be, whether, at the time he committed the act, he was accountable for his actions. Now, gentlemen, the burden of the first issue is entirely upon the prosecution. The prisoner is still presumed to be innocent, and, unless clear and satisfactory evidence be laid before you to establish the proof of his guilt, it will be your duty to acquit him; but upon the evidence I am instructed to lay before you, if you should see no reason to disbelieve the witnesses, I cannot anticipate that any reasonable doubt can arise. The prisoner at the bar, is, as you perceive, a young man, about eighteen or nineteen years of age, although you would hardly suppose that he was that age. He was born, as I understand, at Birmingham. He came when very young to London, and was sent to school at Lambeth. He afterwards served in many public-houses in the capacity of what is called a barman—not, as has been suggested, as a potboy, but superintending the business of the bar, and when I say “suggested” it has been so stated out of doors, and I mention it to beg you to dismiss from your recollection all that you have read or heard on the subject, and to be

guided in your decision solely by the evidence that shall come before you. The prisoner, as I understand, superintended the business of the bar, at a public-house in Houndsditch, and then at one in High Street, Marylebone, and next at another in Oxford Street. It seems that he left that service about the end of April. He then went into lodgings at No. 6, West Place, West Square, Lambeth, and that lodging he made his home till the period when this offence was committed. Gentlemen, it would appear that he had formed and matured a plan to make an attempt on the life of the Sovereign. On May 4 in the present year, he bought a pair of pistols from a person named *Hayes*, living in Blackfriars Road, for the sum of 2*l.* He bought at the same time a powder-flask. It will appear by the evidence that he practised shooting in shooting galleries. He was at a shooting gallery in Leicester Square, at a gallery in the Strand, and at another at the west end of the town. On Wednesday, June 3, a week before the day laid in the indictment, he went into the shop of a person named *Gray*, and bought fifty copper caps to be used for firing. He asked *Gray* at the same time where he could buy some bullets, and 3*d.* worth of gunpowder. On the evening of June 9, he showed a loaded pistol, and when asked what he meant to do with it refused to tell, but said that he had been firing at a target.

I now come, gentlemen, to the day in question, the 10th of June. The Queen, since her union with Prince *Albert*, has been accustomed to take an airing in the parks in the afternoon or evening, without a military escort, and with the simplicity of private life—a custom well known to all her subjects. On the evening of June 10th, curiosity and loyalty had led many to the spot, expecting the approach of the Queen. About six o'clock Her Majesty, accompanied by her royal consort, left the palace in a low open carriage, with four horses and two outriders. She was seated on the left. Her carriage drove up Constitution Hill. About one hundred and twenty yards in advance, or one third of the distance between the palace and the Triumphal Arch at Hyde Park Corner, was the prisoner, *Edward Oxford*, watching their progress. He was walking backwards and forwards, with his arms under the lappels of his coat. He was on the right-hand side of the road, opposite the iron railing which divides the road from the Green Park. When the carriage approached, he turned round, nodded his head, then drew a pistol from his breast, and, as the car-

riage was nearly opposite him, he discharged the pistol. The Providence of God averted that blow from Her Majesty. The ball whizzed by on the opposite side, and, in all probability Her Majesty was quite unconscious at the moment that any attempt had been made upon her life. The carriage proceeded. The prisoner then looked back, as if to see whether any person was standing near enough to see him, and drew another pistol, but whether with his right or left hand seems uncertain. He aimed it at Her Majesty. It would appear that the Queen saw him take aim, for she stooped down. Again the Providence of God preserved her from injury. The prisoner fired. The ball was heard to whiz along, but it missed its object. The Queen immediately drove on to allay any alarm that might arise in the breast of her august mother.

There was a man named *Lowe*, whom I shall call as a witness, who immediately rushed across, seized *Oxford*, and took the pistols from him; that person at first was believed to be the offender by the parties around who said "You confounded rascal, how dare you shoot at our Queen?" On which *Oxford* said, "It was I." He was immediately taken into custody, and taken to the station house, where he voluntarily put the question, "Is the Queen hurt?" and on being told the Queen was not hurt, he was asked whether there were not bullets in the pistols, and he admitted at once there were bullets. When he had been secured, and when it had been ascertained that his lodgings were, as he had said, in West Place, West Square, a policeman was immediately despatched to search them. The prisoner occupied a room on the first pair back; the door of the room was open. The policeman found a box which undoubtedly belonged to the prisoner; the box was locked, but I shall show that he had in his pocket a key that fitted it, and that he acknowledged that it was his box, as were also the contents. The box was opened, and in it were found the following articles: a sword and scabbard, two pistol bags, some black crape, a powder flask, three ounces of powder, a bullet mould, five leaden bullets, and some percussion caps marked, and which had been bought by the prisoner from *Gray*, his schoolfellow. There was also found a pocket-book containing some papers. The box and its contents were brought to the station-house and shown to the prisoner, who stated that the papers belonged to him, and that he meant to have destroyed them in the morning before he went out. These papers I will now read. The first

bears no date: it is headed "Young England," and the rules and regulations are eleven in number:—

YOUNG ENGLAND.

RULES AND REGULATIONS.

"1. That every member shall be provided with a brace of pistols, a sword, a rifle, and a dagger; the two latter to be kept at the committee room.

"2. That every member must, on entering, take the oath of allegiance, to be true to the cause he has joined.

"3. That every member must, on entering the house, give a signal to the sentry.

"4. That every officer shall have a factitious name; his right name and address to be kept with the secretary.

"5. That every member shall, when he is ordered to meet, be armed with a brace of pistols (loaded) and a sword, to repel any attack; and also be provided with a black crape cap, to cover his face, with his marks of distinction outside.

"6. That, whenever any member wishes to introduce any new member, he must give satisfactory accounts of him to their superiors, and from thence to the council.

"7. Any member who can procure an hundred men shall be promoted to the rank of captain.

"8. Any member holding communications with any country agents must instantly forward the intelligence to the secretary.

"9. That whenever any member is ordered down the country, or abroad, he must take various disguises with him, as the labourer, the mechanic, and the gentleman; all of which he can obtain at the committee room.

"10. That any member wishing to absent himself for more than one month, must obtain leave from the commander-in-chief.

"11. That no member will be allowed to speak during any debate, nor allowed to ask more than two questions.

"All the printed rules kept at the committee room."

"List of principal members.—Factitious Names.

President.—GOWRIE.

Council.

JUSTINIAN.	ERNEST.
ALOWAN.	AUGUSTIA.
COLOMAN.	ETHELDRED.
KENNETH.	FERDINAND.
GODFREY.	NICHOLAS.
HANIBAL.	GREGORY.

Generals.

FREDENI.	OTHOE.
AUGUSTUS.	ANTHONY.

Captains.

OXONIAN.	LOUIS.
MILDON.	AMADEUS.

Lieutenants.

HERCULES.
NEPTUNE.MARS.
ALBERT.

Marks of Distinction.

Council.—A large white cockade.*President.*—A black bow.*General.*—Three red bows.*Captain.*—Two red bows.*Lieutenant.*—One red bow.

A. W. SMITH, Secretary."

There were in the same pocket-book three letters, purporting to be addressed by the same secretary, *Smith*, to *Oxford*.

" Young England,

" SIR, Dated May 16, 1839.

" OUR commander in-chief was very glad to find that you answered his questions in such a straightforward manner. You will be wanted to attend on the 21st of this month, as we expect one of the country agents to town on business of importance. Be sure and attend.

" A. W. SMITH, Secretary.

" P.S. You must not take any notice of the boy, nor ask him any questions.

" Addressed,

Mr. Oxford, at Mr. Minton's,
High Street, Marylebone."

" Young England,

" SIR, November 14, 1839.

" I AM very glad to hear that you improve so much in your speeches. Your speech the last time you were here was beautiful. There was another one introduced last night by Lieutenant Mars, a fine, tall, gentlemanly-looking fellow; and it is said that he is a military officer, but his name has not yet transpired. Soon after he was introduced we were alarmed by a violent knocking at the door. In an instant our faces were covered, we cocked our pistols, and with drawn swords stood waiting to receive the enemy. While one stood over the fire with the papers, another stood with lighted torch to fire the house. We then sent the old woman to open the door, and it proved to be some little boys who knocked at the door and ran away.

" You must attend on Wednesday next.

" A. W. SMITH, Secretary.

" Addressed,

Mr. Oxford, at Mr. Parr's,
'Hat and Feathers,' Goswell Street."

" Young England,

" SIR, 3rd of April 1840.

" YOU are requested to attend to-night, as there is an extraordinary meeting to be holden in consequence of having received some communication of an important nature from Hanover. You must attend, and if your master will not give you leave you must come in defiance of him.

" A. W. SMITH, Secretary.

" Addressed,

Mr. Oxford, at Mr. Robinson's,
'Hog-in-the-Pound,'
Oxford Street."

Under these circumstances, gentlemen, if the prisoner is responsible for his acts, it will be for you to say, if there is any reasonable doubt of his guilt. I must tell you, gentlemen, that the balls, after search had been made, could not be found. But I think nobody can entertain the slightest doubt that these pistols were loaded with ball. I understand that there were two marks on the wall discovered immediately afterwards, which some persons conceived must have been made with the balls fired from the pistols. I shall lay that evidence before you, but I acknowledge in my own mind that it is not entitled to much weight. It seems to me much more probable that the balls went over the wall, and to a distance within the gardens. The wall was only four or five feet higher than the top of the carriage. *Oxford* was an unskilful shot with pistols, and the probability is that in the flurry which he must have laboured under, and which anyone must have laboured under at such a moment, he aimed the pistols in such a manner that the balls went over the wall into the garden. But, found or not, can there be the smallest doubt that these pistols were loaded with ball? He purchased bullets: he had them at his lodgings. There was a mould for casting bullets found in his box. He had been firing at a target and practising in a shooting-gallery: and at the time, whatever he may have said since, after voluntarily inquiring whether the Queen was hurt, in answer to a question put to him he said, "that the pistols were loaded with ball."

Then will come the second question, whether the prisoner was insane at the time he did the act—whether he was unconscious of what he was doing, so that he did not know right from wrong. If he was labouring under some delusion, and did not know the consequence of what he was doing—if he was insane at the time—then he is not an accountable agent. It is said that the law of England, in ancient times, was that insanity was not a defence to the charge of attempting the life of the Sovereign, and an Act passed in the reign of King *Henry 8* seems to countenance that view of the subject^(a); but that Act is wholly repealed. Still, however, in order to excuse the prisoner, it must be shown, not only that at times there was

(a) 33 Hen 8. c. 20. rep. 1 & 2 Ph. and M. c. 10. "It was further provided by the said Act of 33 H. 8. that, if a man attainted of treason became mad, that, notwithstanding, he should be executed, which cruel and inhuman law lived not long, but was repealed."—Co. P.C. 6.

eccentricity displayed, or violence committed by him, but they must show that at the time he was unconscious he was committing an offence. It would be very dangerous if some degree of weakness of intellect, some degree of eccentricity, and even violence, at other times, should prevail as a defence, if the prisoner was not in a state of insanity at the time when the offence was committed. There must by the law of England be proof of a greater aberration of mind in criminal than in civil cases. In criminal cases the insanity must be connected with the particular act. I will call your attention to the authorities.

It has been laid down by Lord Coke in words which must not receive a strict interpretation, or we should exclude all cases except those of entire mental aberration, that—

“he that is not *compos mentis*, and totally deprived of all compassings and imaginations, cannot commit High Treason by compassing and imagining the death of the King, for *furiosus furore solo punitur*, but it must be an absolute madness and a total deprivation of memory.”(a)

The words are not to be taken literally but with great latitude, as total absence of memory is not to be found even in a furious maniac. But though I mention this I rely on Lord Hale’s opinion. He says(b) :—

“There is first a partial insanity of mind; and second, a total insanity. The former is either in respect to things, *quoad hoc vel illud insanire*; some persons that have a competent use of reason in respect of some subjects, are yet under a particular dementia in respect of some particular discourses, subjects, or applications; or else it is partial in respect of degrees, and this is the condition of very many especially melancholy persons, who, for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason; and this partial insanity seems not to excuse them in the committing of any offence for its matter capital; for, doubtless, most persons that are felons of themselves, and others, are under a degree of partial insanity when they commit these offences; it is very difficult to define the indivisible line that divides perfect and partial insanity; but it must rest on circumstances duly to be weighed and considered both by the judge and the jury.”

In Alison’s Principles of the Criminal Law of Scotland,(c)—(and there is no difference between the law of England and the law of Scotland with regard to insanity)—it is said—

“to amount to a complete bar of punishment, either at the time of committing the offence, or

of the trial, the insanity must have been of such a kind as entirely to deprive the prisoner of the use of reason, as applied to the act in question, and the knowledge that he was doing wrong in committing it. If, though somewhat deranged, he is yet able to distinguish right from wrong in his own case, and to know that he was doing wrong in the act he committed, he is liable to the full punishment of his criminal acts.”

In Arnold’s case (a) Mr. Justice Tracey observed—

“that the defence of insanity must be clearly made out; that it is not every idle or frantic humour of a man, or something unaccountable in his actions, which will show him to be such a madman as to exempt him from punishment.”

In Lord Ferrers’s case,(b) the prisoner was unanimously found guilty by the House of Peers, though many witnesses stated that they considered him insane, and it appeared that several of his relations had been confined as lunatics—it being contended on the part of the prosecution that the complete possession of reason was not necessary to render a man responsible for his acts, and that it was sufficient, if he could discriminate between good and evil. In Bowler’s case (c) Mr. Justice Le Blanc told the jury that it was for them to determine—

“whether the prisoner, when he committed the offence, was capable of distinguishing between right and wrong, or under the influence of any illusion in respect to the prosecutor, which rendered his mind at the moment insensible of the nature of the act which he was about to commit; since in that case he would not be legally responsible for his conduct. On the other hand, provided they should be of opinion that, when he committed the offence, he was capable of distinguishing right from wrong, and not under the influence of such an illusion as disabled him from discovering that he was doing a wrong act, he would be answerable to the justice of the country, and guilty in the eye of the law.”

In that case Mr. Warburton, the keeper of a lunatic asylum, said he had no doubt of the prisoner’s insanity, and a commission of lunacy was produced, dated June 17, 1812, with a finding that the prisoner had been insane from the 30th of March. When the offence was committed does not appear from the report. The jury, after considerable deliberation, pronounced the prisoner guilty.

ALDERSON, B.: Bowler was executed, I believe; and very barbarous it was.

Attorney General: I will not refer to Bellingham’s case (d) as there are some doubts as to the correctness of the mode

(a) Co. P. C. 6.

(b) 1 P.C. 30.

(c) P. 654.

(a) 16 St. Tr. 764.

(b) 19 St. Tr. 886.

(c) Collinson, 673n.

(d) *Ib.* 636-674.

in which that case was conducted; but I will refer to *Hadfield's* case.^(a) In that case the learned judge who tried the prisoner said that—

“as the prisoner was deranged immediately before the offence was committed, it was improbable that he had recovered his senses in the interim; and although, were they to run into nicety, proof might be demanded of his insanity at the precise moment when the act was committed, yet there being no reason for believing the prisoner to have been at that period a rational and accountable being, he ought to be acquitted.”

And the Attorney General of that day (as I hope the party representing the Crown at any time would do) immediately yielded to the opinion of the judge, and the jury at once acquitted the prisoner. But in that case there were very extraordinary circumstances. The law as stated by Mr. *Erskine* for the defence, and approved by the Court, and acted on ever since, is that the prisoner—

“must appear to the jury to be *non compos mentis*, in the legal acceptation of the term, and that, not at any anterior period, which can have no bearing on any case whatsoever, but at the moment when the contract was entered into or the crime committed.”^(b)

Such being the law upon the subject, it will be for you to say whether *Edward Oxford*, at the time that he shot at Her Majesty, was in a state of insanity.

For the honour of our country and our common nature, I wish it could be shown that the prisoner was beside himself when he dared to level a pistol at the head of Her Majesty, the young and gentle lady, who, seated by the side of her consort, required no guards, but placed full reliance in the loyal affection of her subjects. I wish he were insane. But I cannot shrink from the declaration of my opinion that I see no reason for that belief. He is not an idiot; on the contrary, he is of rather quick intellect. He has not received any wound. It is said that it can be shown that his father was insane. That would most likely be considered as evidence by their Lordships, and I should not object. The father's insanity will not excuse the son, unless they show that the son was, insane at the time the act was done. Suppose on that Wednesday, June 10th, the prisoner had entered into a contract, would it not have been valid? Suppose he had exercised the elective franchise on that day, would his vote have been disputed?

If the prisoner had conducted himself before a lunacy commissioner, as he did

before the Privy Council, I cannot bring myself to believe that the jury, under the direction of the judge of the commission, would do otherwise than declare that the commission of lunacy could not be supported.

[The Attorney General read *Oxford's* statement before the Privy Council.]

“A great many witnesses against me. Some say I shot with my left, others with my right. They vary as to the distance. After I fired the first pistol, Prince Albert got up, as if he would jump out of the coach, and sat down again as if he thought better of it. Then I fired the second pistol. This is all I shall say at present.

“(Signed) EDWARD OXFORD.”

This, gentlemen, may be material in two points of view—first, because at the time he did not say there were no balls in the pistol; he made no allegation of the kind, but to the contrary; and next as showing that he was then fully sensible of of the act he had committed.

Upon these circumstances it is for you to say whether at the time this act was done the prisoner was accountable for his actions. If his will would have stood good, if his contracts would have been binding, if he could have been entrusted with the management of his affairs as a reasonable being, *à fortiori* as a criminal he was responsible.

Gentlemen, I am satisfied you will come to a right conclusion upon the evidence; you will consider all the facts that are proved; but, at the same time, you will consider that you have a great duty to perform; you will form it with caution and conscientiousness; you will come to your decision upon the evidence, and of that decision the country will have no reason to complain.

EVIDENCE FOR THE CROWN.

Samuel Perks.—Examined by Sir *F. Pollock*.

[I am a builder. About six o'clock in the evening of June 10, I was standing by the column under the portico of the north wing of Buckingham Palace. I saw Her Majesty come out of the wooden gate of the north wing, the garden gate, in a low open carriage, accompanied by Prince *Albert*. The carriage turned to the left up Constitution Hill. There was a postillion and four horses. I was on the left-hand side of the carriage. There were no military in attendance on the carriage, but there were four outriders, two in advance and two behind. I saw *Oxford* on the right side of the carriage, on the footpath next the iron railing on the off side. He was walking along very slowly, with his arms folded under his

(a) Collinson, 438.

(b) 27 St. Tr. 1312.

breast, and his coat buttoned; he was in advance of the carriage. When the carriage came on, he turned round and gave a nod with his head. The singular way he nodded attracted my attention. When the carriage had advanced I ran in the direction of it, and the prisoner drew a pistol with his right hand from his left breast pocket, presented it at their Majesties, and fired. The prisoner was about five or six yards from the carriage when he discharged the pistol. The report of the pistol attracted my attention, and I had a distinct whizzing or buzzing before my eyes, between my face and the carriage. The moment he fired the pistol, he turned round as if to see if anyone was behind him; he then set himself back again, drew a second pistol with his left hand from his right breast, presented it across the one he had already fired, which he had in his right hand, and fired again, taking very deliberate aim both times. The carriage was then about three or four yards in advance of where he fired first. After the second pistol was fired, the two witnesses named *Lowe* immediately ran up; *Joshua* seized hold of the prisoner by the two arms, and *Albert Lowe* caught hold of the two pistols, and wrenched them from the hands of the prisoner. A man named *Clayton* came behind *Albert Lowe*, and seeing the pistols in his hands, thought he was the person who committed the act, and said to him, "You confounded scoundrel," and wrenched one of the pistols from *Lowe*, upon which the prisoner exclaimed, "It was me, I did it." The carriage proceeded. We took the prisoner along the road, and delivered him into the hands of two policemen.

Cross-examined by *Taylor*.

The pathway is very little elevated from the carriage road. I suppose the footpath is about the height of the centre of the road.

By the Court: Her Majesty was sitting above the line of the carriage. I suppose the line of the carriage was about the centre of her back. She could be seen by anyone behind the carriage. Prince *Albert* was nearest to the prisoner. The top of my head was about level with the top of the back of the carriage.

Joshua Lowe.—Examined by Sir *F. Pollock*.

I am a spectacle maker. I was in the park on the evening of June 10 last, and my attention was attracted by Her Majesty's carriage. She was sitting on the left side with Prince *Albert* on the right. I was running along on the left side, the side on

which the Queen sat, and heard the report of firearms. I was then about three yards from the carriage side. The noise attracted my attention, and I saw the smoke ascend. The carriage passed on a short way, and I then saw the prisoner with a pistol in his left hand; he appeared to me to point the second pistol across his right hand, and fired it towards the carriage. I said to my nephew, "Look out, *Albert*, I daresay he has some friends." The prisoner turned round and said, "You are right, I have."

Cross-examined by *Bodkin*.

There was a general rush. I was on the left-hand side. The garden wall of the palace is on that side. It is not very high, about eight feet, or more than that.]

About what distance do you judge the prisoner to have stood from the carriage at the time you saw the smoke?—About three yards—the carriage was quite open and was going at a slow pace; that three yards would be shortened, I think, about three quarters of a yard by his stretching out his arm.

Then the muzzle of the pistol would be within little more than two yards of the carriage?—I should say so.

[He appeared to take a deliberate aim. The railing is quite open, so as to afford an opportunity for a person to fire from the park side if he had chosen.]

Albert Lowe.—Examined by *Adolphus*.

[Nephew of the last witness. Confirmed the previous evidence.]

Can you tell how far the carriage had proceeded from Buckingham Palace when the first shot was fired?—I thought about thirty yards at first, but I have since been to see the place, and it is one hundred. I did not see the prisoner fire the first shot, but when he fired the last, he was about five yards from the carriage, I should think.

Elizabeth Stokely.—Examined by *Wightman*.

[I am housekeeper to Lord *Bexley*; I saw the flash of the pistol come almost immediately over the Queen's head: the Queen was crouching; she rather crouched, and the Prince stood. I think, to the best of my knowledge, the Queen first rose, and by what I observed, the Prince rather pressed her down. It was immediately before the second flash that Her Majesty crouched. It was the second flash which appeared to come over the Queen's head, and it came close past me, the flash did—it seemed that something whizzed past my ear, as I stood; it seemed like something quick passing my ear, but what, I

could not say. At the time the second pistol was fired I was very near to the Queen's carriage, within a yard. The prisoner was very near, but more behind the carriage.

William Clayton.—Examined by *Wightman*.

I am a cabinet maker. I was about twenty-eight or thirty yards in advance of the carriage when I heard a pistol fired. I ran and came abreast of the horses. I heard a second report. The horses stopped, and Her Majesty arose in the carriage and looked round, with no fear on her countenance neither. I seized *Albert Lowe*. I said, "You confounded rascal, how dare you shoot at our Queen?" I spoke in a loud voice. The prisoner said, "I did it; I give myself up; I will go quietly." I took hold of his coat; the mob rushed in, and seized me, and knocked the pistol out of my hand on the ground. The police took me to the station-house, where I was locked up in a cell and searched. When I was brought from the cell I saw the prisoner in the inspector's office; he turned round and said, "Is the Queen hurt?" I said to him, "What did you put in the barrels?" He said, "I have answered a dozen questions; there have been a dozen persons asking me questions, and I shall answer no more."

By the Court: I should say the second pistol was fired at a distance of full eight or ten yards from the carriage.

Charles Brown.—Examined by *Gurney*.

Policeman. Spoke to arresting the prisoner. On my coming up several voices said, "This is the man," and I laid hold of him. The prisoner said, "You have no occasion to use violence. I am the person; I will go quietly." I proceeded with him to the station-house. Shortly afterwards some person remarked, "Perhaps there might be more of them." The prisoner replied, "I have friends." Opposite Wellington Barracks someone said, "I wonder whether there was any ball in the pistols or no." The prisoner made answer, "If the ball had come in contact with your head, if it was between the carriage, you would have known it." I took him to the station, and searched him. I found a piece of wadding in his trousers' pocket. I looked at it, and saw the mark of the hammer on one side, and the cap on the other. I asked him what it was for. He said, "To prevent the pistol going off," as he did not wish to hurt himself. He said the other piece of wadding would be found in the park. While I was in the inspector's room several gentlemen came in, and a question was put (I cannot say whether it was to

the prisoner) whether there were any balls in the pistols. The prisoner said there were balls in the pistols. Next day I made search in the garden, on the other side of the wall, but was not able to find anything.]

Cross-examined by *Taylor*.

Now when the question was put, as to whether there were balls in the pistols, how many policemen were in the room?—I cannot say; I do not think there was anybody but the inspector and myself; there were a number of gentlemen.

Had various persons been asking the prisoner questions?—Not asking the prisoner questions, but asking one another as they came in.

Do you mean to say that questions were not put to the prisoner himself?—Not by the parties while I was there. I did not hear anyone put questions to him except the inspector. He asked him his name, and where he came from. I believe he asked him something about the pistols.

Is it the practice of the police to whom you belong to interrogate prisoners as to the fact of any crime with which they are charged?—I believe not; he was not interrogated in my presence as to where he got the pistols from; the question about the balls was not put to the prisoner; he was in custody at the time.

You say he stated there were balls in the pistols: what were his words?—As near as I can recollect, his words were, "The pistols were loaded."

He did not say there were balls in them, but the pistols were loaded?—There were balls in the pistols.

"The pistols were loaded," were those his words?—No, not exactly; he distinctly said there were balls in the pistols.

He said, "They were loaded"; were those his words?—"The pistols were loaded with balls," those were the words as near as I can judge. I will not swear to the exact words. [I cannot tell the exact height of the wall of the garden. I should say it was eighteen or twenty feet high.

By the Court: There were about twelve people in the room; they were talking as to whether there were balls. One said, "I wonder whether there was one," and he said, "There was."

William Smith and *Charles Smith*, policemen, spoke to seeing the incident from a distance.

Frederick Garrett.—Examined by *Adolphus*.

I am a salesman in the Blackfriars Road. About three weeks or a month before the Queen was fired at, I saw the prisoner in

our shop; he bought a powder-flask and a pair of pistols. These are the pistols that were parted with to the prisoner. I asked him two guineas for them. He said he wanted to know what distance they would carry. I said about twenty or thirty yards. He said if I would take two sovereigns he would have them, and I sold them to him. I gave him two bags for the pistols; I also sold him a powder-flask for 2s. These are the bags and this the flask (*produced*).

William Sampson Hayes confirmed the last witness.

John Joseph Gray.—Examined by *Gurney*.

My father keeps a shop at 10, Bridge Road, Lambeth. I remember the prisoner calling at our shop on either Tuesday or Wednesday, the 3rd of June last. He bought half a hundred of caps of me. He asked if I kept bullets. I told him no, but recommended him to a gunsmith in the Borough. He wanted to know if I had any small canisters of powder. I showed him our half pound canisters; he said they were not small enough. I had been to school with him, but for how long I cannot say. To the best of my recollection it was eight or nine years ago. When he came into the shop I feigned not to know him. He asked if my name was not *John Gray*. I told him it was. "Well," he said, "don't you remember anyone of the name of *Oxford*?" I said, "Yes, I certainly do; I went to school with a person of that name." He said, "Well, I am the same." I asked him what he had been doing with himself. He said he had lately come from Birmingham, but he had been in the public line.]

By the Court: You say you feigned not to know him when he came in; what was your reason for that?—I did not wish to make up the acquaintance again with him. I did not observe anything odd in his appearance, not the least.

Sir Henry Wheatley.—Examined by the *Attorney General*.

I am keeper of Her Majesty's privy purse. I saw the prisoner in the cell. He came forward when the door was opened, and asked me, "Is the Queen hurt?" Those were the first words that were spoken. We asked him in what situation he was. He stated he was a bar-boy, and had been out of place about ten days. That was about half-past six on the same day.

The Earl of Uxbridge.—Examined by the *Solicitor General*.

I saw the prisoner on June 10. The prisoner, from the opening of the cell-

door where I found him, addressed me by saying, "Is the Queen hurt?" I said, "How dare you ask such a question?" He said he had been shooting a great deal lately, and was a very good shot with a pistol, but a better shot with a rifle. He said the pistols had been given him on the 3rd of May, and something else also, which he went on to inform us was money, and he could have as much of it as he pleased. I then said to him, "You have now fulfilled your engagement." He replied, "No, I have not." I said, "You have, sir, as far as the attempt goes." To that he was silent.

Cross-examined by *Bodkin*.

I did not mention who I was, nor did *Sir Henry Wheatley* in my hearing. There was no reluctance whatever to answer the questions I put.

Samuel Taylor.—Examined by *Sir F. Pollock*.

I am acquainted with the prisoner. I have known him about twelve months. I recollect the rumour of the Queen being fired at. I saw the prisoner the evening before that; he showed me a pistol, and said he had been firing at a target. I asked whether it was loaded; he replied that it was loaded.

Thomas Greenwood Lawrence.—Examined by *Adolphus*.

I know the prisoner. He was bar-man to *Mr. Robinson* at a public-house in Oxford Street called the "Hog in the Pound," at the corner of South Molton Street. One evening I heard him say he had lost a half sovereign on a bet respecting the shot at the bull's-eye at the shooting gallery in Leicester Square. He showed me a flattened ball. I heard a person named *Roach* remark that he was more fit to shoot at a hay-stack than at a target.

The Hon. John Oliver Murray.—Examined by the *Attorney General*.

I was riding in Constitution Hill when the prisoner fired. I was the first person that went to the wall. I noticed a mark, which I supposed to be the mark of the bullet; it was a white mark on the dark wall as large as the palm of my hand; the mark was about five feet from the ground, and rather in a slanting direction from where the prisoner stood.]

Cross-examined by *Bodkin*.

Did you not observe any other mark on the wall?—There was a kind of angular mark on the wall, but a very old one; it was near this mark. I took notice of that to mark the spot.

Have the goodness to describe what kind of mark this was?—It was a white, round mark on the wall, such as a bullet would make. It was much larger than a bullet. It was as if a piece of the brick was knocked out by the force of the bullet. I looked about for the bullet, but found none.

Did you find any piece of brick?—I did not look for any; I was looking for the bullet.

Re-examined by the *Attorney General*.

[I have frequently seen marks made on a wall by firing a bullet against it. The first shot was fired in a slanting direction, the second shot was straight over me; the carriage never stopped; it went straight on in the direction of Grosvenor Place.

The Hon. *William Owen Stanley*.—Examined by Sir *F. Pollock*.

I was in the Park about two hundred yards from the spot when my attention was attracted by the report. I got to the wall about ten minutes afterwards as I could not get over the railings on account of the spikes. I have had frequent experience in the mark that a ball would make going against a wall. I saw a mark which in my opinion was decidedly such as might have been made by a bullet.

Cross-examined by *Taylor*.

I could see the part where the bullet had struck, and a chipped brick which had broken off about an inch and a half; where the bullet struck it appeared to be circular. I examined other parts of the wall, and there appeared to me to be another mark about fourteen yards from that, not quite a similar mark. It appeared to me to be fresh, and such a mark as might have been caused by a bullet. I looked down on the ground close to the marks, but found no bullet there: there were three little chimney sweepers there.

Re-examined by Sir *F. Pollock*.

It appeared to me to have been an angular strike. I have no doubt whatever in my own mind that the mark was produced by a bullet fired from a pistol.

J. W. Linton.—Examined by the *Solicitor General*.

I was a playmate of the prisoner's. The Monday before the Queen was shot at, the prisoner called on me. About a month before that, I had been to the Strand shooting gallery with him. He then showed me his pistols; they were very handsome; he said a friend had lent him

them. I almost think these are the pistols (*looking at the pistols produced*) but I could not swear to them. He had five or six shots at the shooting gallery in the Strand; the people at the gallery provided the ball. The Monday before the Queen was shot at he showed me the pistols, and said he had been to a much better shooting gallery than the one we first went to; he did not say where it was.

Sarah Packman.—Examined by the *Attorney General*.

The prisoner lodged with me at No. 6, West Place, West Square, and had done so for some six weeks before the Queen was shot at. The night the Queen was fired at, some police officers came to my house and took a box away from the prisoner's room.

Samuel Hughes.—Examined by the *Attorney General*.

I am an inspector of the metropolitan police. On June 10 I went to No. 6, West Place, and found in the prisoner's box this sword and scabbard (*producing them*), a black crape cap with two red bows, a powder flask containing about three ounces of gunpowder, a razor, a memorandum book containing four papers, a bullet mould, five bullets, and twelve or fourteen percussion caps (*producing these articles*). The bullets that were cast by that mould fitted the pistols. I took the box and articles to the station-house, and the prisoner said they were his. He said he intended to have destroyed them in the morning before he went out, but he had forgotten them. The papers were folded up in the pocket book as they are now; the three letters were folded up as letters.

(These documents were put in and read by the *Attorney General*.)^(a)

— *Tierney*.—Examined by the *Attorney General*.

I am a police sergeant. I have this morning measured the wall on Constitution Hill. The height from the foot of the wall is nine feet four inches; it is twenty-two yards from the wall to the railing opposite, in rather a slanting direction.

By the Court: The foot of the wall is lower than the road. It would make about a foot difference; that would be about eight feet four inches from the road. I saw a mark on the wall, that is exactly six feet from the foot of the wall, or about five above the level of the road.

(a) See above, p. 504.

James Brown.—Examined by the *Attorney General*.

I am an outrider behind the Queen's carriage. My horse's head was not a yard from the carriage, when the first shot was fired. When the last shot was fired I was close by the side of the prisoner. As I looked round from the report of the first pistol, he was just firing the next. I was close to it, within about a yard of it. Two or three men got hold of the prisoner, and I followed on with Her Majesty to the Duchess of Kent's.

Cross-examined by *Bodkin*.

Two equerries usually attend Her Majesty. On this occasion they went through the garden to join the carriage at the top of Constitution Hill. They usually ride one on each side of the carriage, close to the hind-wheel. In this small carriage Her Majesty usually sat on the left side.

Re-examined by the *Attorney General*.

In the larger carriage Her Majesty sometimes sits on the right side, usually so, I believe.

Hon. Fox Maule —Examined by the *Attorney General*.

I am Under Secretary of State for the Home Department. I was present when the prisoner was before the Privy Council and examined. When the examination closed, the Secretary of State informed him he was at liberty to make any observation he chose, but at the same time warned him that anything he said would be taken down in writing. The prisoner voluntarily made and signed the following statement. (*Statement read, as in Attorney General's speech.*)

The witnesses were examined in the prisoner's presence, and he put questions to them.

Cross-examined by *Bodkin*.

I have seen the prisoner twice in Newgate. I do not know whether I put questions to him. On one occasion, when I saw him, I was given to understand it was at his own request. He then made a statement, which the Governor of Newgate took down with his consent. I may have put several questions to him. I found no reluctance to answer any questions I put.]

SPEECH FOR THE DEFENCE.

Taylor: Gentlemen of the jury,—It now devolves upon me to address you on behalf of the prisoner who stands at the bar, and to remark on the evidence which the Crown has produced in order to sustain

the averments of the indictment; and also, if you should think that that evidence leaves no reasonable doubt on your minds that the prisoner discharged two pistols against the Queen, in order to take Her Majesty's life, it will be my duty to show you that he was not in a rational state of mind, so as to be accountable for his actions. But there is first this one important issue to be determined before the necessity arises for substituting the plea of unsound mind, there is that which in every case must be proved to your satisfaction, namely, that the prisoner has committed the crime charged against him. That crime is the highest known to the law, and involves the heaviest punishment, and you will consider every point with the most anxious care before you consign any of your fellow creatures—let alone a boy like this—to a fate so terrible. The *Attorney General*, I willingly admit, has opened the case with a calmness and moderation worthy of the high position he holds at the head of the English bar, and as the representative of Her Majesty.

Gentlemen, this is the first instance in which a British subject has stood in such peril before a British tribunal on a charge of compassing or imagining the death of the Sovereign, in which he is bereft of all the forms with which the subject was invested formerly by the wisdom of the law of England. Gentlemen, it was the proud boast of that eloquent advocate, to whom the learned *Attorney General* alluded, when exercising his splendid abilities in the defence of *Hadfield* for firing at the grandfather of the present Sovereign, it was the proud boast of Mr. *Erskine* that the prisoner stood covered under those forms of the constitution, or, as he expressed it, covered by the whole armour of the law. Gentlemen, my client has not this protection, the panoply has been removed, I will not say whether wisely or not. Lord *Erskine*, on that occasion, spoke of the wisdom of the law, and, if so, I cannot understand why it was thought necessary by the executive wisdom of the nation to repeal that law. The learned *Attorney General* stated in the course of his address that, with regard to the offences of insurrection and rebellion and constructive treason, these forms of law still remain—and so they do—but that in the case of an individual making a direct attempt upon the life of the Sovereign, they have been repealed because the Sovereign ought not be delayed in justice in such a case, or less protected than any of her subjects. This remark at first seems incontrovertible, but when we come to look at the circumstances under which the prisoner is arraigned for attempting the life of Her Majesty, does the

Attorney General mean to say that a person so charged stands in the same position as if he attempted the life of the subject? Their situations are extremely different. When the life of the Sovereign is supposed to be assailed by the hand of violence, the natural emotions of loyalty in the breasts of Englishmen, lead them to prejudge the case, and addresses pour in to the Crown, founded on the presumption that a sane assassin has deliberately attempted the life of the Sovereign. I trust the day will never come when Englishmen will not rally round the throne at the bare thought of danger, and express their loyal feelings; but these exuberant manifestations of loyalty, it must be admitted, are most prejudicial to the accused, and, therefore, I say it might have been better if the former safeguards had been preserved. I mention this that you may divest your minds of all prejudice, and of all outside influence, and not allow your minds to be swayed unconsciously by the general opinion of society.

Gentlemen, if you are not satisfied that the overt acts have been proved, you cannot convict the prisoner of the treason charged in the indictment. That the prisoner did discharge two pistols on this occasion is placed beyond all doubt, but you must consider his intention. If it was not done with the intention of taking the Queen's life, as charged in the indictment, there is an end of the case. An intention to do Her Majesty some grievous bodily harm would not suffice—it is not a direct attempt upon the life of the Queen, and would be entitled to the protection of the statutes.^(a) You must be satisfied that the pistols were pointed at the Queen, and that they were loaded with ball.

Gentlemen, it is impossible that any man in his senses could have imagined such a crime. This was a low carriage. The prisoner stood on the footway somewhat elevated above the level of the road. If he had fired at the Queen, he would not have had occasion to raise the pistol at all. In that case, the ball must have struck the opposite wall or lodged in the ground; because, the wall being fourteen or fifteen feet high, it is quite impossible that the ball could have gone over it. If there had

(a) The statute of 39 & 40 Geo. 3. c. 93. is limited to cases of high treason, "where the overt act or acts alleged in the indictment shall be the assassination of His Majesty, or any direct attempt against his life or against his person, whereby his life may be endangered or his person suffer bodily harm." 5 & 6 Vict. c. 51. s. 1. extends the provisions of the above Act to all cases where the alleged overt act or acts shall be "an attempt to injure in any manner whatsoever the person of the Queen."

been any ball it must have been found; because every exertion was made to find it, and these exertions have utterly failed. According to one witness, the man was only two yards from the carriage, another thought eight or ten yards off. If such mistakes are made as to distance, may there not be a mistake also as to the pistols being pointed at the Queen? The hypothesis of the *Attorney General*, that the balls went over the wall, is totally destroyed. If these marks on the wall were made by a ball, why has not the flattened ball been found and produced? Is it not likely that, in an idle, silly frolic, the prisoner discharged those pistols loaded with powder; unquestionably a great outrage, and perfectly indefensible, but still that is not the treason charged.

There is no direct evidence that there were any balls. In the case of *Blake v. Bernard*,^(a) tried before Lord Abinger yesterday, the declaration stated an assault with a pistol loaded with powder, ball, and shot; and the plea, as to the assault, was not guilty. Lord Abinger held that it lay on the plaintiff to show that the pistol was loaded; for, if it was not loaded, there was no assault. So, if in this case the pistols were loaded with powder and wadding only, the prisoner must be acquitted. As to the prisoner's declarations you must take into account the circumstances under which they were made in answer to questions improperly put by the police, and perhaps incorrectly remembered owing to the excitement and confusion of the time. And here I cannot help calling attention to a practice which appears to be growing up among the police of questioning prisoners who are taken into custody, thus establishing a rule equally at variance with the ancient mode of proceeding and the existing law of the land. Suppose this had been a plot against the Government, and that the prisoner had been employed as an agent to effect the murder of the Queen, and suppose that such questions had been put to him, would not the public at once say that it was done to entrap him into a Crown prosecution. Numerous questions, it appears, were asked him at the police station, and one of the constables states that the prisoner admitted that there were balls in the pistols; but on being questioned more closely in cross-examination the witness declared that he would not undertake to say that the prisoner made use of this expression, but that he believed the prisoner said so, and that he was repeating his words as nearly as he could. Setting aside any supposed attempt or desire to bear hardly

(a) 9 C. & P. 626.

on the prisoner, nothing is more likely than that a mistake may have occurred in the station-house, where it appears several persons were assembled together in a crowded room, all naturally anxious to know how the transaction occurred. Then there is another statement brought forward against the prisoner which does not appear to have arisen from any question put to him. When two of the witnesses went to the door of his cell he asked them, "Is the Queen hurt?" Now, although an inference unfavourable to the prisoner has been drawn from that fact, the question may very well have been innocently put. Suppose there was only powder and wadding in the pistols, may not the prisoner have been under a mental delusion at the time he fired them, and have afterwards asked the question in the same state of mind, believing they were loaded?

There was a somewhat similar case to the prisoner's in 1786—*Rex v. Elliot*.(a) The culprit in that case came behind a young woman whom he had known, who was then walking with another person, and discharged two pistols at her back. There were two slight contusions discovered on examination, and the prisoner, when arrested and searched, was found to have two other pistols loaded to the muzzle in his possession, with which it was supposed he intended to have killed himself after he had killed his victim. Yet, notwithstanding all this, notwithstanding that the prisoner expressed his satisfaction at the idea of his having slain the young woman, and his regret on learning her escape, the jury acquitted him of the intention to murder, on the ground that the pistols were not loaded with ball. Is not this a stronger case? Is the evidence here sufficient to show that the prisoner loaded the pistols with ball, and pointed them at the Queen to take her life?

Gentlemen, if you should be of opinion that the pistols were loaded, it then becomes my duty to present to you that defence which is principally relied upon, on the part of the prisoner, and I entreat your solemn and earnest attention to this most important part of the case. I hope to convince you that the prisoner is not a person who would wilfully and in possession of his senses be guilty of this crime; and I am sure that, if you can conscientiously come to this conclusion, you will willingly free the subjects of this realm from the imputation of having one among them who would wilfully dye his hands in the blood of the Sovereign. Gentlemen, this would not be the first instance in

which the life of the Sovereign has been attempted, but never, I rejoice to say, has such an act been done by a person possessing a sane mind.

[Counsel referred to the circumstances of *Margaret Nicholson's*(a) attempt against *George 3.* in 1786. That case exhibited all the premeditation and contrivance shown in this instance, yet turned out to be so clearly the act of a maniac, that the authorities refused to institute proceedings and sent her straight to Bedlam. The opinion of Lord *Coke* has been referred to, but if that learned person had written at a time when cases of this kind had been made the subject of medical description, he would never have put forward the doctrines that have been quoted. In 1790 Lieutenant *Firth* threw a stone at the King's carriage, and though there was a certain degree of coherency in the man, he was placed in a lunatic asylum and confined for life.(b) In 1800 *Hadfield* fired a pistol at *George 3.* in Drury Lane. There, too, there was contrivance and premeditation, yet the offender was found insane, though a motive was to be found in the supposed neglect of his services in saving the Duke of *York's* life. Here there is a great offence, and it is important to consider whether there was any motive.]

Certain papers have been found in the possession of the prisoner, but this fact, which was opened by the learned *Attorney General*, as an important feature in the case, is only an additional proof of the prisoner's insanity, and shows in him a mind diseased. That no such society ever existed may be taken for granted; because, if in truth there had been any such in existence, beyond all question its members and its proceedings would have been discovered. The prisoner must be taken to have believed that he belonged to such a society; but to show the utter absurdity of such a belief, it will be proved that the rules, as well as the letters and papers which had been found, were all in his own handwriting. This in itself is a striking and cogent proof of his insanity. Every effort has been made to trace the real existence of such a society, but in vain; and the only inference which can be drawn from the existence of these papers, is that the mind of the prisoner had been worked upon by his own absurd fancy. Then as to his assertion about being a good pistol shot, the evidence for

(a) Ann Reg. 1786, 233.

(b) 22 St. Tr. 307. Frith was brought up for trial before Lord Kenyon, C.J., who directed a jury to be impannelled to find whether the prisoner was in a fit state of mind to plead. The jury, in spite of his protests, found that he was not.

(a) Old Bailey Sessions Papers, 1786.

the Crown perfectly disproves that. He fired at the carriage, and not only was no injury sustained by the Sovereign and her illustrious consort, but no traces of injury were found in or about the carriage. With regard to the probability of his being selected to put into operation such a plan as that of the assassination of her Majesty, is it likely that any political society would have employed a boy of his years and want of discretion to complete a scheme so important and yet so horrible? How was the act itself committed? The prisoner amongst a number of other persons in the open day, depriving himself of every chance of escape, was voluntarily guilty of an offence which subjected him to condign punishment. Did he then attempt to escape? He did not; and, even when another person was taken by mistake he immediately came forward with the declaration that he was the man, as if courting publicity and apprehension. What but insanity can be inferred from these circumstances? Might he not well have dreaded his destruction by a mob inflamed and excited against the perpetrator of an attack so dreadful upon our young Queen? Yet, with a feeling which can be deemed nothing but insanity, he persisted in forcing himself into a situation in which he could hope for nothing but punishment. After his arrest, he was teased and excited, and gave answers which must not be taken into account as admissions that there were balls in the pistols. Since that time he has been the subject of great curiosity, and various statements, many of them false, have been made concerning him; but you will be forced to the conclusion, that he was of unsound mind at the time of the commission of the act; and it would be as cruel as the assassination itself to deliver him up to the same doom as a sane criminal. Evidence will be given to show the tendency of the boy's mind to insanity. His age was just that at which such a failing would be likely to develop itself. His paternal grandfather was insane, and died in a lunatic asylum. His father was guilty of acts which clearly proved that he ought not to have been permitted to be at large. In the opinion of the most eminent medical men the great proportion of cases admitted into lunatic asylums are cases of hereditary insanity; and, if you should refuse to consider the case of the prisoner in this light, you will be proving the truth of the words of a celebrated physician, that man's vengeance follows God's visitation. Bear in mind that no ill consequence has followed this attempt. Her Majesty the next day entertained a party at dinner, and went the evening after to a concert. That shows that her Majesty

feels that this must have been the act of an isolated madman and that she has nothing to fear from the machinations of any secret society. When one of the most glorious predecessors of the Queen was told by some officious courtiers that there was a plot of her subjects against her life, she exclaimed, "I will not believe that of my people a mother would not believe of her children," and such, I am convinced, are the sentiments of our present gracious Sovereign. [Counsel quoted *Esquirol*, a French physician, to show that all crimes committed without a motive might reasonably be supposed to be caused by insanity, and that this might more particularly be considered to be the case when the person committing the crime made no attempt to escape. The papers found in the prisoner's box seemed to be the commencement of the insanity, and the attempt itself the consummation of the insanity. The whole of the persons mentioned in the papers found in his box were creatures of his imagination, and the crape with the bows, the sword, and documents show that he is the victim of pitiable mental delusion and an object rather of compassion than of vengeance. There is this difference between the present case and that of Earl Ferrers—that Earl Ferrers was operated upon by a most malignant and implacable feeling of revenge which was a motive sufficient to account for the crime in a sane person.] What motive for revenge had the prisoner against the Queen? Has he ever been traced to the haunts of the disaffected, or been seen speaking at political societies? The only companion of the prisoner who has been produced is an innocent little boy. Did he look like a political leader, or one who would incite him to entertain a deadly antipathy to his sovereign? In the case of the attempt on the life of Lord Onslow, there was a political motive, but nothing of the sort is proved in the present case. You can adopt no better course than to acquit the prisoner, and I feel confident that while you thus assure the public that no one exists among us who could harbour so base a project as that suggested by this indictment, her Majesty herself will feel relieved by your decision, that in this instance the attack which has been made on her life was that of no sane assassin. The evidence which I shall lay before you on behalf of the prisoner will enable you to give to the charge, and to the national disgrace and dishonour it would entail, a refutation as lasting and imperishable as the records of history upon which hereafter your verdict shall be entered.]

Sandham Kent.—Examined by *Bodkin*.

[I am a carpenter. I was acquainted with *John Oxford*, the grandfather of the

prisoner. His wife was my sister. He was a sailor about 1799, and raving mad. I was obliged to put cords on him. He was put in Petworth Bridewell, and kept there for a fortnight. We took him to the magistrate, and he sent him there. He was very queer at times in his conduct. Once he ran after me with a spit; I had not given him any provocation. At the time he was confined he broke the windows, and smashed everything in the house. The things were not his own, but my father's. I did not see him for three years after he came out of the Bridewell. He went to sea for two years and then came home. While he was in town, he used to be always laughing and jumping about, like anybody quite gone. He was after that admitted into Greenwich Hospital. I never saw him in the infirmary.

Cross-examined by the *Attorney General*.

He used to drink a good deal. I believe it was after those drunken bouts that he displayed a violent turn. I took him before the magistrate at Petworth, for throwing down and breaking the things in the house, and threatening our lives. He was allowed to go at liberty from Bridewell on promising to go to London. I saw no more of him for some years; he continued his habit of drinking. He went about Greenwich Hospital, like any other of the pensioners, five years or more.

Sophia Oxford.—Examined by *Taylor*.

I am the widow of the prisoner's grandfather. I had been married to him thirty-five years. He was a sea-faring man and went abroad occasionally, I generally saw him when he came to England. He was generally in a very unsettled state of mind when he came to see me. He was addicted to drink. He was not so much unsettled when he had not been taking liquor as when he had. I once saw a strait waistcoat put on him, in 1821. It was necessary to have two men with him. I did not know him to be labouring under any delusion at any time while in the hospital. He had high notions, and he thought they ought to have paid him more homage. He thought they did not behave well to him. In consequence of that he broke the things. They sent him to Bridewell. He was about four years in Greenwich Hospital. For the last twelve months his intellect appeared very steady, when he kept from liquor.

Sophia Bartlett.—Examined by *Bodkin*.

I am the daughter of the last witness. I remember the strait waistcoat being put on my father. He was confined to bed for about a fortnight, and afterwards re-

covered and went to sea. I next saw him at Greenwich College. He was not altogether insane, more of an eccentric character at that time. He told me he was the Pope of Rome; and he would boist his halbert over his shoulder. His duty while on guard at Greenwich College was to open and shut the gate. He would sometimes say he was *St. Paul*; that was both when at the gate and when he came home too.

Cross-examined by *Sir F. Pollock*.

I never mentioned it to a doctor. He was perfectly harmless.

Sarah Kitchen.—Examined by *Taylor*.

Aged seventy-four, cousin to the prisoner's grandmother, confirmed the last witnesses. I also knew prisoner's father when he was a little boy at school. One time I saw him go to the top of the house, get out of the window, and hang by his hands. A person came and told me of it. His mother was sitting in the bar with me, and she and the woman went upstairs, and pulled him in. He was hanging by the sash at the bottom part of the window. I cannot say what height the window was from the ground; it was on the first floor. He was hanging over the street in that way. He was about twelve or thirteen years old.

Hannah Oxford.—Examined by *Bodkin*.

I am the prisoner's mother. I was twenty years of age when I married his father; he was also twenty. I was acquainted with him about six months before I married him. He was singular altogether, not like any other man I was acquainted with. I did not marry him with the consent of my friends. I refused to marry him a great many times: on those occasions he would pull a razor out of his side pocket, and bare his throat, and say he would cut his throat in my presence if I refused him. I have at other times seen him with pistols and poison. He would show me a paper with oxalic acid. At the time the *Princess Charlotte* was lying dead he followed me out of the house with a double-barrelled pistol loaded with slugs, and said if I refused to have him he would blow out his brains before my face, and I promised him then. We were married on the 28th of April in the following year, 1818. The day before we were married, a person had written to his master to inquire his character, and it was not satisfactory; it arrived that day. I then told him I would not be married to him. On my telling him that, he went into a violent rage, pulled out a roll of bank-notes and the licence, and burnt the

notes. I then said I would be married. The notes were entirely consumed. He lighted them, threw them on the ground, and watched them burn out. They were bank-notes of his own; a very large roll of notes. He was earning on the average, I should say, 20*l.* a week at that time. He was very skilful as a workman, and very quick. He was a gold chaser, which at that time was a very lucrative employment. He was considered the best in Birmingham. We had seven children. The prisoner was the third child. The first child is living. At the time I was pregnant of the second child, my husband's conduct was dreadful, brutal; he neglected me so that I fainted three or four times a day for want of food. He once broke a jug and threw a piece at me. I have the wound now. He annoyed me dreadfully by grimaces, while I was pregnant of my second child: and by jumping about like a baboon, and imitating their grimaces. That continued during the whole period of my pregnancy of the second child. That child was barely born alive. It was a confirmed idiot, and its countenance was precisely as the father looked when he made those grimaces. It put its tongue out like he did. It lived about two years and four months. During all that time it had not the least appearance of reason. It never spoke or walked. It was very voracious. My husband's conduct was much the same during my pregnancy of the prisoner; grimaces, and so on. He once struck a file into my breast, and the milk flew out from the wound. That was before the birth of the prisoner. He kept a horse at one time, and I have seen him bring the horse into the house. He led it in by the bridle, and he seemed, like a child with a toy, amused at his own folly. He brought it into the sitting-room, and led it about. I have frequently applied to him for money for the support of the family, which he has refused, and abused me, and he once knocked me down and fractured my head.]

Was your mind at all affected by any violence done to you by your husband?—When asleep I screamed, and I was obliged to be woke up in my dreams.

[I remember one day walking with my husband, he left me, saying he had a box to go off by to-morrow, and he must go and finish it. He left me at my mother's on telling me that. After that I went home with the servant and child and found the house locked up. It was afterwards opened, and part of the goods found to be removed, the house in confusion, and my husband gone. He was taken by the authorities of the town next morning, in the act of leaving Birmingham for

London. I had not had any quarrel with him at that time, not a word or sentence of anger. He then went to Dublin, where he stopped four months, leaving me and my children. He did not appear capable of seeing the folly and wickedness of which he was guilty. He would laugh in the most triumphant manner, and he had, I should say, an almost supernatural look with him when he had done wrong, and when I was distressed. The day I was put to bed with the first child he kicked me violently because I did not agree to something which he proposed to me to do. I have known him take poison twice. He took laudanum once, and Dr. *Birt Davis* was called in in consequence. He died on the 10th of June, 1829. The prisoner was born on the 19th of April, 1822. For the first seven years of his life he was under my care. He would burst out crying when there was no one near him, and no one speaking to him, and he was always very troublesome. It was very different to the mere waywardness of childhood. He had a great many other very singular habits. He would get into a violent rage without any cause. He would deliberately break anything, and wilfully destroy anything that he took in his hand. He once pointed a pistol at me. That was the first day he brought them home. I should have told you that my husband, during my pregnancy with the prisoner, pointed a gun at my head. The prisoner was particularly fond of fire-arms and gunpowder. I have frequently beaten him for laughing when he was much younger. I once shut him up in the cellar, when my customers complained of him. That habit was continued up to the present time. He would laugh hysterically after gloomy fits, and fits of violent passion. It was an involuntary laugh. When at home, he was in the habit of going on the roof of the house and throwing at people as they passed. He was brought home one night by a policeman, who informed me he had been taken to the station-house. He had got behind a carriage and frightened a lady who was in it by making a great noise, and she was pregnant, and her husband, who was a solicitor, was exceedingly alarmed and angry. That was stated in his presence. I went next morning to inquire after the lady's health, and apologised. He took no notice when he heard this account. I knew of his having no companion but Master *Linton*, who has been examined. He never to my knowledge belonged to any club or any meeting. He was always talking of *Macbeth*, and repeating parts of plays, from a very little boy, and we used to imitate him because he said it so badly. He wanted to

go to sea last winter. He wanted me to go to Birmingham for 50*l.* to provide him as a midshipman. I told him of the folly of his going to sea when he knew nothing about nautical affairs. He said he should have nothing to do but to walk about the deck and give orders. I said, "But you must first learn navigation." He said he would allow me half his pay, and how proud I should be of my son when I saw his name in the papers, Admiral Sir *Edward Oxford!* When he brought the pistols home, I said, "How could he think of laying his money out in such folly?" and he said, "They were not his, he was saving them for a young man." I know his handwriting. (The witness proved the papers found in the prisoner's box to be in his handwriting.)

Cross-examined by the *Solicitor General*.

Walters, I think, was his first schoolmaster's name. He next went to Mr. *Robinson's*, in the New Cut, Lambeth. Mr. *Robinson* used to come and complain of his inattention. He next went to a school at Camberwell; there was the same complaints then of inattention and wildness. Four years ago he went to his aunt's at Hounslow. He went to Mr. *Minton's* from his aunt's. He was in the same situation there, as barman; he lived there twice. He lived about four or five months with Mr. *Minton* the first time. He then came to my house for a short time, and Mr. *Minton* had him back again. He had 20*l.* a year there. His next employ was at Mr. *Parr's*, in Wilderness Row. Mr. *Parr* left the house. He then came home for a short time, and then went to Mr. *Robinson's*, in Oxford Street. He gave Mr. *Robinson* notice. Mrs. *Robinson* said he gave satisfaction in everything but laughing. I desired he would look out for another place. He said nothing was stirring, and he should rather wait till a good place offered itself than answer advertisements. I got him his first place, and he got himself the others.

Mary Sumner spoke to seeing the prisoner's father once ride into his own parlour on horseback; the general opinion was that he was out of his mind.

Charles Marklew, Mrs. *Oxford's* brother, spoke to seeing the prisoner's father once swallow a bottle of laudanum; he always considered him in a mad state.

John Birt Davis.—Examined by *Bodkin*.

A physician residing at Birmingham, a magistrate for the county and coroner for the borough. I remember attending Mrs. *Oxford's* husband on one occasion. He was labouring under symptoms of poisoning by laudanum. I heard at the time of his odd conduct to his wife. I have been in Court during this trial.]

Assuming the facts given in evidence to be true—

Attorney General: My Lords, the witness being a scientific person, I shall not object to their putting any hypothesis to him, or referring to the evidence given, but he cannot, I submit, be allowed to state inferences drawn from all he has heard.

ALDERSON, B.: It is putting him in the place of the jury. It sometimes is put, but always by permission on the other side, as a compendious mode of examining.

Bodkin: From the evidence you have heard, are you enabled to form any judgment as to the sanity of the prisoner?

Lord DENMAN, L.C.J.: That is the worst mode of putting the question. If you ask the symptoms of madness, the jury will apply their minds to the facts proved, but we cannot suppose all the facts proved, and that he is to give a verdict of sanity or insanity in place of the jury.

Bodkin: I submit I may ask the witness as a medical man what is his opinion of the prisoner's state of mind, assuming the whole of the evidence to be true?

Lord DENMAN, L.C.J.: It clearly cannot be done. I am not aware of a case in which it has been contested or permitted. I will never permit it in any case in which I am judge. It is asking the witness to find the prisoner guilty or not guilty.

ALDERSON, B.: The proper question is, If the prisoner is labouring under such and such symptoms, is that madness (a)?

Bodkin: Have you formed any opinion of the sanity or insanity of the prisoner?—I have formed an opinion.

Lord DENMAN, L.C.J.: You cannot ask the witness's opinion of the prisoner's sanity, he never having seen him.

Bodkin: Supposing a person in the middle of the day, without any suggested motive, to fire a loaded pistol at Her Majesty passing along the road in a carriage, to remain on the spot, to declare he was the person who did it—to take pains to have that known, and afterwards to enter freely into discussion, and answer any questions put to him on the subject, would you refer such conduct to a sound or unsound state of mind?—If to that hypothesis were added what I deem a proof of hallucination—

By the Court: The question is, whether upon those facts alone you should judge a person to be insane?—I should judge him to be insane upon those facts alone, but I should be stronger in that opinion if I was permitted—

Bodkin: You mean to state, upon your oath, that if you heard those facts stated, you should conclude that the party must be mad?—I do.

(a) See the answer of the judges to the fifth question in *M'Naughton's case* below p. 532

Without making any other inquiry?— Yes; taking this into consideration, the absence of motive, the absence of precaution, the deliberate owning, and the free discussion afterwards of his own conduct, criminating himself in that way immediately afterwards, with the danger staring him in the face.

Suppose, in addition to those circumstances, it was shown, that just before the transaction, the party had written these papers which you have heard read, would that conduct strengthen, or otherwise, the inference that you have already told us you draw?— It would greatly strengthen the inference.

Cross-examined by Sir F. Pollock.

You have answered some hypothetical questions put by my learned friend opposite. I beg to ask you whether you give that answer from your knowledge as a physician, or from your experience as a coroner or as a magistrate, or merely as a member of society?— I answer as a physician. I think the circumstances which have been supposed have, medically speaking, a tendency to prove insanity.

By the Court: We do not exactly understand what you mean when you say medically?— If, as a physician, I was employed to ascertain whether an individual in whom I found those facts, was sane or insane, I should undoubtedly give my opinion that he was insane.

As a physician, you think every crime that is plainly committed to be committed by a madman?— Nothing of the kind; but a crime committed under all the circumstances of the hypothesis.

What are the circumstances in the crime itself which you think show madness?— The crime is committed in open day, it being obviously of great magnitude and danger; of great atrocity; it is committed without any precaution, without any looking out for the means of escape; it is afterwards spoken of openly, so far from concealing the criminating facts— facts which might afford a chance of escape— the existence of the balls is acknowledged; the free discussion of the circumstances, the absence of motive— by the free discussion, I mean a free response to the questions put to him immediately afterwards in the cell— the questions which Lord Uxbridge stated yesterday he did put— he said, on Lord Uxbridge entering the door, "I did it."

John Wright.— Examined by Taylor.

[I am a police sergeant at Birmingham. I was articled to the prisoner's father to learn gold-chasing. He was a man having wild and mad ways with him, and a great

brute to his wife; I should think he was not right in his head half his time.

Cross-examined by the *Attorney General*.

Oxford neglected his work and gambled and drank a good deal. On one occasion he presented a gun at his wife, when in the family-way with the prisoner. I had been out shooting, and I presented Mrs. *Oxford* with some of the birds, and he took the gun up and presented it at her. I took it from him and told him it was loaded, and she was very much frightened: she was then pregnant with this boy. When I took the gun from him and said it was loaded, he began to pull faces at her.

Robert Mead gave similar evidence as to the prisoner's father.

William Henry Partridge, surgeon, spoke to attending Mrs. *Oxford* for injury to the head. It was said to be inflicted by her husband.

George Sandon.— Examined by *Bodkin*.

A tailor, with whom the prisoner lived a twelvemonth when he was eight years old, spoke to the singularity of his ways and impish tricks.

Cross-examined by the *Solicitor General*.

When he was out with other children playing, he would get nettles and beat them very severely, and make them blister on their arms, which is something more than common with children; and at other times he would get up to the room window and throw things out: at other times, he was very much addicted to laughing and crying both at a time, and when I asked him why he did it, he would say (in fact he would give me no straightforward answer) he did not know. Sometimes I would give him a box on the ear, and instead of crying he would make a very peculiar laugh. Not being a child of my own I did not like to be very harsh with him: he was always up to some singular trick, always mischievous, more than other boys generally are.

Benjamin Walters.— Examined by Taylor.

I am a schoolmaster at Birmingham. The prisoner was under my care a year and a half. His conduct was very peculiar, and different to that of other boys; I always found him very different to any boy I ever had to do with. I thought there must be something in him contrary to other boys; his behaviour was different.

Cross-examined by the *Attorney General*.

He was quick at learning when I could get him to attend. He was a mischievous boy, and idly inclined. I have punished him for mischievous tricks to other boys; and so it went on all the time he was with me.

Clarinda Powell.—Examined by *Bodkin*.

I am the prisoner's aunt. I employed him as barman at the "King's Head," Hounslow, two years, and considered him in an unsound state of mind.

Cross-examined by the *Solicitor General*.

One night in particular he put out the lights when the house was full of company at ten o'clock; the hour of closing was twelve o'clock. There were five gas lights burning. He could not account why he did so. We were likely to have a disturbance, all the company being in the dark. I was obliged, at the risk of my life, to come down stairs, being ill in bed at the time, and he was then going on violently. I was obliged to come down to soothe him. He read very much while he was at my house; generally sea voyages, that was the principal. He used to talk in a random way. I never asked why he left me. He left me of his own accord. He was treated with every kindness.

Re-examined by *Bodkin*.

He talked of becoming a great man. He used to talk of going to sea; that he should come to be very great, and things not very likely to take place.

Joseph Day.—Examined by *Taylor*.

I am a greengrocer. In 1837 I was a corporal in the Guards, and quartered at Hounslow. I frequently saw the prisoner. It was my opinion that he was of an unsound state of mind.

Cross-examined by the *Solicitor General*.

One morning I left the house to call the roll of men and I was brutally knocked down with a poker, and brought back. The following morning I was in conversation with Mrs. Powell, and the Prisoner said, "Should you know the man if you saw him? was he short, thick, thin, or a tall man?" and ran over various things—his height, age, and so on. He said nothing more about my knowing the man at that time. I thought he was unsound in that and other instances. I had occasion to go to the house a week or fortnight after, and he was still laughing and jeering, and making very curious remarks, and said, "I would rather be put to the mouth of a cannon-ball than be served as you was." It was jeering me, and he seemed pleased at the injury I received.

Mary Anne Taylor.—Examined by *Bodkin*.

I was in service at Mr. Minton's for about eighteen months when the prisoner was there. From my observation I should say he was of an unsound state of mind.

Cross-examined by the *Attorney General*.

He was only full of his laughing and nonsense, and strange ways about him. Mr. Minton gave him a good character as a man that might be trusted; he thought he might be more steady.

William Hazlewood, barman, and *Thomas Parr*, and *Newman Robinson* of the "Hog in the Pound," publican, confirmed the last witnesses.

Hazelwood said, "I have frequently observed his strange habit of laughing and crying." *Parr* said, "From my observation of him while he was with me I considered him of sound mind, but he was subject to fits of laughter which at times were uncontrollable." *Robinson* said, "If he let anything fall, or if I did, he would burst out laughing. He said he could not help it. He was very correct in his conduct in all other respects. When he took money he had just to put it into the till."

John Tedman.—Examined by *Taylor*.

I am an inspector of police. I knew the prisoner at Mr. Minton's; from my observations of his conduct I considered him unsound.

Cross-examined by the *Attorney General*.

I have gone into Mr. Minton's of a morning and found him crying very much, with his apron before his face and his hands up. I saw that frequently. I have asked him what was the matter. He said, "Nothing now, it is all over." I asked him if anyone had ill-used him. He said, "No." At other times I have found him laughing very much. I have asked him why he was laughing. He said the old women drank so much gin it would make any one laugh. I said, "There are no old women here now." I took Mr. Minton's children to see the Queen open Parliament in 1839. The prisoner complained and said, "Why did not you let me go?" I said, "I did not know you wanted to go." He said, "Oh, yes, I did; I want to see the Queen particularly, and I am determined that I will see her somehow or other." I advised his master to part with him.

Susannah Phelps.—Examined by *Taylor*.

I am the prisoner's sister. He was living in the same house with me when the circumstance occurred. There was always something extraordinary and strange in his conduct when he was living there. He was always firing pistols out of the window, and in the yard at the back, and pointing them at me. I do not know whether they were loaded. I never saw him load them. I saw no one coming to see him except *Linton*. He never received any letters.

Cross-examined by the *Solicitor General*.

I only saw one pair of pistols. He read a good deal; he used to have books from the library. Once he read the "Black Pirate," and "Jack Sheppard," and "Oliver Twist." I knew of his going to the shooting gallery. On the day he fired in the Park he left home with the intention of going to the shooting gallery. He left home about ten minutes after three o'clock that day. He told me he was going to the shooting gallery, and to buy some linen for me to make him some shirts; and he told me he would bring some tea home from Twining's, in the Strand. I never heard him talk about "Young England," or of any society that he belonged to or said he belonged to.

Emily Chittenden.—Examined by *Bodkin*.

I am a nursery-maid at the "Hog in the Pound." I was there three months with the prisoner. His conduct was very strange at times. I considered him sound but very eccentric. I have received a letter from him since he left the house. As far as I can recollect it was addressed—

"Fly postman, with this letter bound
To a public-house, the 'Hog-in-the-Pound,'
To Miss Chittenden there convey,
With *speedily* obey;
Remember, my blade,
The postage is paid."

To this was added the number of the house and name of the street; it reached me by the post.

Christopher Day spoke to seeing the prisoner fire at the Queen. He thought the prisoner fired rather up Constitution Hill.

Richard Macdonald.—Examined by *Bodkin*.

I am a corporal in the 90th Regiment. I saw the Queen fired at from about a hundred yards off. I afterwards looked at the garden wall. A gentleman on horseback pointed out the place where he thought the balls had struck the wall. I observed a mark there. In my judgment it was not a mark that had been made by a ball.

Cross-examined by the *Attorney General*.

I saw two marks—three I saw, one lower down still. Two of them seemed to have been recently made.

Re-examined by *Bodkin*.

They might have been two and a half or three yards apart.

By the Court: I also saw one about fourteen yards off. I saw three marks. I think the one fourteen yards off was also recent. It seemed to be quite newly

done. It might be by a scraping with a stick by anyone who was loitering about.

— *Hodgkin*.—Examined by *Taylor*.

[I have been a physician about fourteen years. I have been lecturer on morbid anatomy, and have written some works: lectures on pathological anatomy, and lectures on the promotion of health.

Upon all the circumstances of hereditary insanity in the family, supposing a crime is committed without a motive, that the party committing the crime is subject, in consequence of that crime (if brought home to him), to lose his life, and that on the commission of that crime, instead of attempting to escape from justice, he delivers himself up to the law and seems reckless of the consequences, are you as a medical man prepared to say whether those circumstances taken together with the commission of the crime, indicate a sane or unsound state of mind in the criminal?—By themselves I should consider they were circumstances of strong suspicion, but other facts should be sought before one could be warranted in giving a positive opinion. Those would be facts leading to a strong suspicion that the party was insane. If it should also appear that there was a previous delusion, that would certainly strengthen the case. Supposing there was inherent insanity in the family, my opinion, grounded on cases which have occurred, would be strengthened that the individual was insane; striking cases are on record.

Are there instances on record of persons becoming suddenly insane, whose conduct has been previously only eccentric?—Certainly there are. Supposing, in addition, that there was previous delusion in the mind, my opinion would be that he was unsound. Such a form of insanity exists and is recognised.

Cross-examined by *Sir F. Pollock*.

What form of insanity do you call it?—*Lesion* of the will it has been called by *Le Marc*, insanity connected with the development of the will. I should not consider a headstrong person to be under such an influence. I mention *lesion* of the will as a term under which a highly reputed writer on insanity has chosen to designate a form of insanity, in which flagitious acts, sometimes only eccentric acts, are committed. It means more than a loss of control over the conduct. It means morbid propensity. Moral irregularity is the result of that disease. I do not think I ever met with a case where the only apparent symptom was moral irregularity, where I had no medical indication of physical disease. I think that committing a crime without any apparent

motive is an indication of insanity; doing anything of any sort without any motive is not an indication of unsoundness of mind in every instance.

Re-examined by *Taylor*.

Do you not make a difference when a man has to suffer the penalty of death for the act?—Certainly. The species of insanity which *Le Marc* calls *lesion* of the will is a well-recognised species of insanity.

By the Court: Do you conceive that this is really a medical question at all which has been put to you?—I do. I think medical men have more means of forming an opinion on that subject than other persons. I am supported in that opinion by writers on the subject, by *Louisa* and *Le Marc*, whom I have alluded to, who is a particularly eminent writer. My reason for thinking so is because it is so stated by those writers.

Why could not any person form an opinion whether a person was sane or insane from the circumstances which have been referred to?—Because it seems to require a careful comparison of particular cases, more likely to be looked to by medical men, who are especially experienced in cases of unsoundness of mind.

What is the limit of responsibility a medical man would draw?—That is a very difficult point. It is scarcely a medical question. I should not be able to draw the line where soundness ends and unsoundness begins. It is very difficult to draw the line between eccentricity and insanity.

John Conolly.—Examined by *Bodkin*.

[I am physician to the Hanwell Lunatic Asylum. I have eight hundred and fifty patients under my care. I have had some experience in the treatment of disorders of the mind. I have seen and conversed with the prisoner. In my opinion he is of unsound mind.]

Cross-examined by the *Attorney General*.

When did you see him?—The day before yesterday for the first time. I saw him on that occasion, and I have been in Court the whole of yesterday and this morning. I never saw him in private more than once: that interview lasted perhaps half an hour. A person who is unsound need not, in all cases, be under the care of some person; it depends on the character of the insanity. There may be individuals who may be at large, and associate with others, and still be of unsound mind.

Do you consider there is any danger in the unsoundness you have discovered in

the prisoner?—Certainly I do. He did not exhibit any violence. He replied willingly to the questions I put to him, but his answers were very unsatisfactory. He seemed to have a very indistinct impression of the circumstances. He knew he was to be tried. When I spoke to him of his trial, wishing to see what impression it made upon him, on two occasions he said, "What trial; when?" and subsequently he seemed to know the trial was about to take place the next day, and what it was. I asked him if he was not conscious that he had committed a great offence in shooting at such a young and interesting person as the Queen. He said, "Oh, I might as well shoot at her as anybody else." I examined the prisoner's head. It appeared to me that the formation of the anterior part of the head would indicate an imperfect development of a certain portion of the brain. I frequently find that form of head in insane persons. There are many persons of that form of head who are not insane. My notes were written as soon afterwards as I could possibly write them. They are very brief. They were not made with any intention of being read. (*Reads*.)

"A deficient understanding; shape of the anterior part of the head, that which is generally seen when there has been some disease of the brain in the early period of life. An occasional appearance of acuteness, but a total inability to reason. A singular insensibility as regards the affections. An apparent incapacity to comprehend moral obligations, to distinguish right from wrong. An absolute insensibility to the heinousness of his offence, and to the peril of his situation. A total indifference to the issue of the trial; acquittal will give him no particular pleasure, and he seems unable to comprehend the alternative of his condemnation and execution; his offence, like that of other imbeciles who set fire to buildings, &c., without motive, except a vague pleasure in mischief. Appears unable to conceive anything of future responsibility."

By the Court: Of course in that conversation you had with him you were watching his manner as well as what he said?—Certainly. My judgment is formed in part by his manner as well as by what he said.

Did you try to ascertain whether he was acting a part with you or not?—I tried to ascertain it as well as I possibly could; my judgment is formed upon all the circumstances together.

—*Chowne*.—Examined by *Taylor*.

[I am a physician of Charing Cross Hospital. I have been a physician twelve or thirteen years. I am lecturer in that hospital on medical jurisprudence.]

If you heard of a person committing a crime without the ordinary inducements

to crime, either revenge or interest, and that crime exposes him to loss of life, and he seems reckless of consequences, and delivers himself into the hands of justice, and appears wholly exempt from anything like consciousness of responsibility for the act, what opinion should you form of that state of mind?—I should consider it an exceedingly strong indication of his being in an unsound state of mind; a propensity to commit acts without an apparent or adequate motive under such circumstances is recognised as a particular species of insanity called in medical jurisprudence lesion of the will. I do not know a better term. It is an old term. It has been called moral insanity. May I be allowed to give you an example? It is by no means an uncommon thing for me to have patients who complain to me that they are impelled with a strong disposition to commit suicide, of the madness of which act there can be no doubt, and yet there is no one symptom about those people indicating mental disease; there may be a slight degree of general indisposition, but no symptoms at all of any mental irregularity. These patients will say, "I have nothing to complain of, I have no unhappy news, I have no disappointment, I have no unsatisfied wish; my husband (if the case be so) is kind to me; I have nothing at all to impel me to the act but a strong impulse." I have been asked to prescribe for such cases, not in one sex only, but both in men and women.

Now, in that sort of mental disease, is it quite consistent with the person performing the functions of life and the duties of life with accuracy?—There is no doubt of it; they can perform the duties of life with accuracy; I do not say with the same facility. I saw the prisoner in Newgate the day before yesterday, by permission of the Secretary of State, in company with Dr. Conolly, Mr. Clarke, and Mr. Maule. I had some conversation with him.

Now, from the conversation you had with him, and the opportunity you had of observing him, what is your opinion as to the state of his mind?—I should consider that his state of mind is essentially unsound; there seems a mixture of insanity with imbecility. I regard the incapacity of controlling laughing and crying as proofs of imbecility, not as positive proofs in themselves, but as assisting to form my opinion.

Cross-examined by the *Solicitor General*.

This propensity to suicide in the patients you speak of, were they persons performing all the duties of social life?—They were persons proceeding with their duties of life, and in all their ordinary avoca-

tions. Despondency of mind is very often connected with disorders of the stomach, but it very often happens that the physical cause has not been obvious, and has not developed itself at all; it is not at all necessary that the physical cause should be obvious. In such cases I prescribed for disease in the stomach; I found those remedies did operate on the mind. Laughing and crying without control is connected with hysteria, and also with imbecility. Generally, when connected with hysteria, it is associated with the sensations, there must be fainting and *globus hystericus*, which arises in the throat. [The questions put to the prisoner were not numerous; some were put by one gentleman, and some by another. I endeavoured to impress upon him that he was labouring under error when he considered it was incapable of being proved there were balls in the pistols; I assured him, in a manner I thought most likely to make him believe there really were; that the fact of there being balls in the pistols would be proved against him; that his responsibility was a terrible one, and in all likelihood it would end in capital punishment, and if he knew whether that was decapitation. He said he had been decapitated in fact a week before, for he had a cast taken of his head. I endeavoured to make him understand it would be proved that there were balls in the pistols. I knew he had the impression that it could not be proved, from questions asked by myself. Something was said to that effect by him. He insisted that there were no balls there. The fact did not occur to me before. I do not remember his words, but the remark was to the effect that it was impossible. The question as to whether he was not concerned about his mother he treated with indifference, and seemed to be totally destitute of feeling, apprehension, or thought on the subject. During the whole time I was struck with a very peculiar manner. There was not an instant (though I believe it is partly habit) that he was not playing with a pencil and a piece of india-rubber, with which I found him drawing. When we went into the room he was quietly drawing, with a pencil on a piece of paper, something like a landscape. During the whole conversation he was leaning with his head on one hand, with the other flapping about with a piece of india-rubber, sometimes clapping one pencil against another; in fact, a manner entirely without acute feeling or acute consciousness; and in order to ascertain how far what I would call dulness of manner, that peculiar manner, might indicate idiocy even, I desired him to get up and walk; and if I had supposed that he was acting when

he was clapping the india-rubber about, that idea would entirely have been done away with by the manner in which he walked across the room, which he did with a great deal of lightness, liveliness, briskness, and smartness, not at all as if endeavouring to put on a peculiar manner. It occurred to me that it was perfectly natural, not as if he was acting or making the least pretence. The interview lasted, perhaps, about three quarters of an hour. I did not make any note of the conversation, either at the time or after.]

Did you form any opinion at all from the prisoner's manner during the trial?—I did. I considered that manner was a continuation of the same kind of manner, but under some restraint here. [I have no observation to make as to the form of the head. I also subjected the prisoner to what is called the arithmetical test. I infer nothing from it. I merely mention it because it did occur. He was pretty ready in casting up, but not ready in subtraction. I am not quite certain whether at the moment he was giving his attention to it; indeed, I consider it is a fallacious test.

James Fernandez Clarke.—Examined by
Bodkin.

I am a practising surgeon, and have been so between three and four years. I have had some experience in the treatment of insane persons, such as usually falls to the lot of the general practitioner, perhaps a little more, for having been so short a time in practice. I have been in the habit of attending the family of the prisoner. I have known him nearly two years. I accompanied Dr. *Conolly* and Dr. *Chowne*, in their visit to him, the day before yesterday. I have formed an opinion as to the state of his mind; not from that alone, but from other circumstances which I had had personal opportunity of seeing.]

What is the opinion you have formed as to the state of his mind?—That it is decidedly that of imbecility. I consider it more imbecility than anything. I do not like giving definitions. In my judgment he is decidedly of unsound mind. During the time I have been attending his mother and sister occasionally, I have had opportunities of seeing the prisoner, and his mother has frequently mentioned to me that she thought that there was something exceedingly peculiar about him, and asked what I thought. The chief thing that struck me was the laughing, which has been so much dwelt upon, the involuntary kind of laughing, with what perhaps we might call a kind of general hysterical tendency in him. He did not

seem to me to have that sufficient control over the emotions which we generally find in sane individuals.

Did you notice, at any time, any other symptom that is usually connected with hysteria?—My interviews with him were not prolonged, and my attention was attracted to him chiefly by the desire of his mother, who said she was afraid he was getting in the way that his father was. I did not know his father. I put one or two questions to him, when I saw him in Newgate. I heard questions put by the other medical men as well, and the answers which he gave. I watched his manner during the interview.

Did it appear to you to correspond with his manner on former occasions on which you had seen him, or to differ?—Much the same character. Great insensibility to all the impressions which were attempted to be made upon him. On one occasion, some time ago, my attention was more particularly directed to him, from a circumstance which this occurrence has brought very strongly to my recollection; I think it is about five months since I was on a visit at his mother's house. I called in my rounds to see her. She was very poorly at the time. If I recollect right, he was sitting at the fire reading a book. He took no notice of me when I entered, and seemed to be absorbed in what he was reading. His mother made some observation to him; such as, "How rude you are." "Why not take notice of Mr. *Clarke*?" "Why sit there and behave in this kind of way?" He did not seem to notice the observation of his mother at all. He seemed still to be absorbed in the book. She put the question to him again, and there was still the same apparent reverie: and when she touched him, to put him in mind that some one was there, he jumped up in a fury, such as at the moment alarmed me, and swore that he would "stick her," I think was the expression he made use of; but certainly it was such an expression that at the moment I drew back, thinking he meditated some violence. After this transaction had occurred, the mother called on me in great trouble, and made a communication to me, upon which I wished to see the prisoner, accompanying that with some opinion of my own, which I had formed. I did not see the prisoner until the day before yesterday, when the permission of the Secretary of State was obtained. I had made application at the Home Office on the Monday.

In cases of hereditary insanity is there any particular period of life at which medical writers consider it likely to break out, to appear?—In that kind of insanity particularly, which is connected with acts

of violence, *Esquirol* says, in several cases which bear great analogy to the one which we might suppose to exist at present—in six of those cases I think—that three of them took place at the age of puberty, between the ages perhaps of fourteen and twenty.

Cross-examined by Sir *F. Pollock*.

[I never prescribed for the prisoner. I did not recommend any course of treatment. I considered that the disease was mental, one of those weak minds which, under little excitement, might become overthrown. I did not alarm the mother, for she is an exceedingly nervous woman. I recommended no course of conduct, diet, or treatment whatever.]

In short, I am to understand that you never gave any advice on the subject, of any kind whatever, to his mother?—Simply in conversation; I gave my opinion rather as to his state than any advice, nothing further. I never gave any advice; I was never asked my advice. I am not aware of any medical treatment likely to be useful in cases of hereditary insanity. I was told he lived a regular life; no intemperance, no late hours. His bodily health appeared good.

This closed the case for the defence.

REPLY.

[The *Solicitor General* denied that there was any wish, on the part of the Crown, to press with undue severity on the prisoner, but the acquittal, to be satisfactory, must be founded on evidence. Violence, irregularity of conduct, nay, insanity itself, might exist without doing away with the responsibility of his conduct. I first ask, Was the Queen the object of attack? No other individual filled that station in society which could present such an object of attack as the Queen, whether to a sane or insane person. Had the prisoner aimed at anyone else, would his anxious inquiry have been about the Queen? She was the sole object of his attention; no other individual occurred to his mind.

What was the object of firing?—destruction. Can any other be suggested? One pistol was fired; and if his object had been to create alarm merely, why discharge the second? Suppose the two gentlemen were mistaken as to the marks on the wall. If you, gentlemen, have ever discharged guns or pistols and attempted to look for the balls you will know the difficulty, even in a limited space, of finding a ball. Consider the height of the wall. A very slight elevation of the muzzle would be sufficient to carry the ball over. The second pistol was fired up the road; and it was extremely difficult, of course, to

see what direction it took. It would be a very dangerous doctrine to promulgate that, when a person fires a pistol at another, he cannot be made amenable to the law because the bullet with which it was loaded happens not to be found. As to the case cited of *Blake v. Barnard*, it has no analogy with the present case because of the absence in that case of all evidence of the possession of the powder and balls. Here the pistols were discharged; and when the party who fired them off is proved to have had powder and bullets in his possession, no person can doubt the object. What was the motive for firing the pistol? The intention of the prisoner could not have been merely to excite a laugh, to create mischief, and to cause a public excitement. The firing of the second pistol shows that the intention was to produce death, and therefore that the pistols must have been loaded. The prisoner's remark, "If your head had come in contact with the ball you would have found that there was a ball in the pistol" is a direct admission that they were loaded. The question, "Is the Queen hurt?" distinctly imports that an act had been committed by which the Queen could and might have been hurt. What would be the condition of society, exposed as we all are to such attacks, and the infliction of death by such means, if, with the evidence of previous preparation of the means, the use of balls and pistols, inquiries as to the effect of their discharge, and whether the parties were hurt, coupled with admissions, incidental and direct, of the fact that balls were in the pistols—what would be the state of society if evidence like this were to leave an assassin the chance of escape, merely because the balls could not be found?

The doctrine of irresponsibility seems equally dangerous. The rule, as I understand it, is not subject to much ambiguity, and any difficulty that may arise will be in its application to the facts. Mr. *Erskine's* speech is considered by medical men as correct, and you may take the rule from what he said in defence of *Hadfield*—

"Delusion, therefore, when there is no phrenzy or raving madness, is the true character of insanity; and where it cannot be predicated of a man standing for life or death for a crime, he ought not in my opinion to be acquitted; and, if the courts of law were to be governed by any other principle, every departure from sober rational conduct would be an emancipation from criminal justice." (a)

He goes on to say:—

"The connexion between the disease and the act should be apparent; where the connexion is

(a) 27 St. Tr. 1314.

doubtful, the judgment should certainly be most indulgent from the difficulty of diving into the secret sources of a disordered mind; but I still think that, as a doctrine of law, the delusion and the act should be connected."

The true principles of the law were laid down by Lord *Lyndhurst* in *R. v. Oxford*.^(a) In summing up he said:—

"In order to acquit the prisoner you must be satisfied that he did not know when he committed the act, what the effect of it would be with regard to the crime of murder with which he is charged. The question is: Did he know that he was committing an offence against the laws both of God and man?"

The prisoner was traced at school, and from school into three distinct services, and never treated as mad. Was the prisoner capable of knowing that the consequence of his act might be the infliction of death, that he would thereby subject himself to punishment? Where can you find any delusions existing, inducing the prisoner to commit the act? Evidence of insanity where the prisoner has not been confined should always be received with caution, especially where the persons giving evidence have invariably treated the person as sane. As to the hereditary taint, the grandfather behaved with violence. They treated him as a criminal, and the magistrate sent him to Bridewell. If he were mad he should have been committed to an asylum, not to gaol; should have been soothed, not excited; and those who treated him as a criminal come here to prove him mad. How was he released? On his promise to leave the place—the promise of a madman. He was then admitted into Greenwich Hospital. Is it likely a man observing all the regulations of Greenwich Hospital for five years could be considered mad? Would he have been excused if charged with forgery or fraud, on the ground of insanity? We very frequently hear remarkable medical evidence; and if these eccentric acts were proof of insanity many persons who ride over pavements, knock down watchmen, and commit similar freaks, are laying up a large stock of excuses for the commission of crimes. I regret that the mother of the prisoner should have been called, but she spoke of the misconduct of husband and son with great firmness of nerve. Did she consent to marry a man she thought mad? Take her judgment of his sanity from the fact of marriage. The father was not treated as a madman, nor was the son. It is most important to check the evidence given, especially when the witnesses were relatives, by the conduct of the parties giving it. At school

the prisoner was corrected; his mother corrected him. Would the mother have confined her child in a cellar because he was insane? She corrected him for the very faults now put forward as proofs of insanity. On not one occasion was he treated as a lunatic, and no evidence sufficient to make void a civil contract has been given. From the fact that *Oxford* was never known to talk about his conspiracy, I draw the inference that the existence of the society of Young England was not a delusion of the brain, but that the lad knew all the time it was a foolish fabrication. *Oxford* was trusted by his employers, and did not leave one of them on account of mental incapacity. He laughed and cried frequently; but it does not appear that he laughed when he had his ears boxed or was beaten, or that he cried when he was pleased. Like other men his laughter was elicited by joy, and his tears flowed from sorrow.

The trick of laughing suddenly without cause is so common that if this were a token of imbecility the lunatic asylum would overflow with gigglers. I do not wish to introduce anything ludicrous into such a case, but I believe a letter was once directed to Sir *Frederick Pollock's* brother thus:—

"This is for David Pollock, Esquire,
For him in Elm Court enquire,
On the first floor, look no higher,
There you'll catch him;
He'll pay you twopence for this letter,
He never paid it for a better,
If he does not, like a setter,
Watch him."

Doggerel poetry in the direction of a letter is no proof of insanity; for this address was actually written on a letter to Mr. *Pollock* by a celebrated literary character of the day. The prisoner having all along displayed a morbid desire to be talked about, these letters written by him are referable to the same feeling and object. Is his making no attempt to escape an indication of an unsound mind? If he had made such an attempt it would have been a great proof of madness. He was surrounded on all sides by the multitude. He took such a reasonable view of his situation as to see that he had no chance of escape, and gave himself up quietly. There was an iron railing on one side and a wall on another, and on all sides the Queen was surrounded by her best guards, though not in red coats, her people, who, one and all, were ready to seize the assassin.

His silly letters are mere waste paper. A criminal should not be permitted to write out for himself a certificate of lunacy. They show that there was

(a) 5 C. & P. 169.

no imbecility—no idiocy, whatever may be said of insanity. The prisoner may have been influenced by a morbid desire for distinction, but that will not relieve him from responsibility. Has he ever talked to anybody of any secret society? Has he told anybody of his beautiful speech or the orders of distinction he expected to obtain? If he was under a delusion on this point, he must have done so. *Hadfield's* delusion was that he was a Redeemer commissioned by Heaven to make himself a sacrifice to public justice. He did not resort to crime for crime's sake, but he thought that he must do an act to bring himself to justice, that he might become the second saviour of the world. This is the best instance of the kind of delusion which relieves a man from responsibility; and the defence was that, though he shot in the direction of the King, yet he did not do so with an intention of killing him. Mark, therefore, the connection, as Mr. *Erskine* puts it, of the delusion with the act. If the prisoner in this case did the act, knowing it was a guilty act, for the sake of public notoriety, he is responsible and must be found guilty. It is evident that he knew that he was breaking the laws of God. Let us see whether he knew that he was liable to punishment. His answers before the Privy Council show that there was no imbecility. You will have to say whether the prisoner was under any delusion when he committed the act, which alters the character of the act. If he thought that he was doing an innocent act, and did not know that he was doing an illegal act which would subject him to criminal punishment, he must be acquitted, but otherwise not. It is no matter what delusion he laboured under, if it was not a delusion connected with the act. He was allowed the unrestrained use of fire-arms and powder, and was well acquainted with their fatal effects on human life. Would his mother have trusted a madman with them? Would she have left her mad son in the same house with her daughter? She desired him to look for another place, and he made answer that there was nothing stirring just then, that he would wait till a good place turned up, and that he preferred this to answering advertisements. Where was the imbecility or insanity there? The medical men went to Newgate predisposed and predetermined to see a madman. Suppose that the prisoner was unfeeling, violent, indifferent to his own fate, and that he preferred notoriety to any other consideration, what evidence does that supply of his being in a state of moral irresponsibility? You would not expect to find a man capable of committing such an act endowed with very fine feelings of sensibility. There is nothing to alter the quality of the act, or to show

that the prisoner was incapacitated by disease from the exercise of his judgment. Criminal responsibility secures the very existence of society, and a jury must consider truth, and not the consequence of their verdict. Mercy is a great and valuable attribute, but justice is greater and more valuable, and I conclude by saying that mercy is but the second duty of a court of justice, justice is the first.]

SUMMING UP.

Lord DENMAN, L.C.J., summed up nearly as follows: Gentlemen of the Jury, The prisoner at the bar, *Edward Oxford*, stands before you charged with the crime of high treason, and this is sought to be proved by two overt acts on the part of the individual, of two direct attacks made by him on the life of Her Majesty, and both are stated to be by firing at her a pistol loaded with a bullet. The questions, therefore, for you to determine are whether the prisoner did fire the pistols or either of them at Her Majesty, and whether the pistols, both or either of them, were loaded with a bullet. Supposing, gentlemen, that you should come to a satisfactory conclusion that the pistols, or either of them, were loaded, then you will likewise have to consider whether the prisoner at the time he committed the act was in the possession of his reason so as to be responsible for his actions.

[The learned judge proceeded to read the evidence. As to whether the pistols were loaded, the prisoner's question to *Clayton*, "Is the Queen hurt?" would be strong evidence, if asked by a person of sane mind, but the jury must consider the prisoner's condition. It was further suggested that he thought the wadding might have hurt the Queen. A most improper course was pursued in asking the prisoner, "What did you put in the pistols?" It was not to enable them to find the bullets, but to get evidence; and such a question would rather tend to defeat than to forward public justice. The first clear admission that the pistols were loaded was made to *Brown*, but though *Brown* stated that other persons were present, no one else had been called who heard the prisoner make this exact statement. The bullets certainly were not found, and it was left very much in doubt whether there were any bullet marks upon the wall. Two witnesses stated, no doubt, their honest conviction, that there was such a mark, but a third witness thought it was made by a stick.]

Then as to whether the prisoner, owing to the state of his mind at the time, was exempt from criminal punishment, every man is *primâ facie* taken to be responsible for his acts until the con-

trary is proved, but a man's state of mind may make him irresponsible for an act in its nature the most criminal. If he was in that state of mind that you cannot say he was a free agent, but that some controlling disease was the acting power which he could not resist, he would not be guilty, and would be entitled to be acquitted. In cases where insanity is pleaded, it is difficult to decide upon the mark between occasional eccentricity and the delusion which leads to the commission of an offence. It is not more important than difficult to lay down the rule by which you are to be governed. Many cases have been referred to upon the subject, but it is a sort of matter in which you cannot expect any precedent to apply strictly. Every case must stand on its own circumstances. The question is as to the rule and principle on which you are to judge, and here it is the duty of the Court to lay down the rule of English law on the subject of exemption from responsibility by reason of a] disordered mind. Even that is not without its difficulty, because in every particular case the Court is disposed to lay down no more propositions than are necessary to it, and therefore what may have been said even by great and learned judges, or by learned men in writing their text-books, will only be often a description of the rule of law laid down without pretending to define the rule by which facts are to be judged by a jury. The same remark may be made with still more force regarding the observations of counsel, however eloquent, acute, and sagacious. In *Hadfield's* case especially Mr. *Erskine* would lose nothing by laying down a very wide rule of responsibility, because, if ever any human creature could be exempted from responsibility by a diseased mind, it was that unfortunate. When it was quite clear that on the day before committing the act for which he was tried he was a raving maniac, endeavouring to destroy the child he loved, no one could suppose him to be of sound mind. However well the machinery for effecting his crime might be contrived, there was obviously an insane mind, and nobody can say when disease takes possession of the mind—there is no means of saying—to what extent it may affect the conduct; and no man can hold an individual responsible for an act, though deliberate and calmly done, who a few hours before was in a hopeless state of miserable delusion, which left him without any moral control over his actions.

The ancient law on this subject is laid down in Latin words which have become very familiar to us. That man charged as a criminal is not responsible for the act, who, in the language of our law, is

non compos mentis, or not able to distinguish between right and wrong. The meaning of it is that he, from a diseased state of mind, is wholly unconscious that it is wrong in him to do the act charged upon him. That is the law; and you will have to compare the evidence in this case with what was laid down by the authorities on this subject, as they have been fully stated in the course of the trial. Many observations have been made as to what is to be wished, and what might be desired in deciding upon this matter. No doubt the most satisfactory end to the case would be to find that the prisoner was wholly deprived of reason, and not responsible for what he did. It is to be desired that there should be no man in this country capable of committing such a crime. It is also true that, if Her Majesty were in Court herself, she would be anxious to place the prisoner in a situation where mercy might be extended to him. But we have a most important duty to perform; we are laying down the rule by which the lives of all men in future times must be protected, and your verdict will be an example, which, like former verdicts and proceedings, may be quoted in Courts of Justice as defining the rule by which future cases are to be governed. It is, therefore, your duty to look minutely at the extraordinary circumstances of the case, which are certainly much nearer the boundary of insanity than have occurred in almost any other case, and therefore require that more careful definition of the law which I have endeavoured to give. The case of the prisoner begins with the life of the grandfather, and from the facts detailed by witnesses who knew him, the inference is drawn that the prisoner at the bar may be affected with hereditary insanity. [The learned judge read the evidence relating to the alleged insanity of the grandfather, and observed that there was no proof as to the nature of the insanity—it might have been the result of some accident in the head which might not make it hereditary. In consequence of his violence he was on one occasion taken before a magistrate, but he was discharged on promising to leave the place and go to London. On another occasion he was heard talking about *St. Paul* and *St. Peter*: he was then on guard at the gate of the hospital, and it should be considered whether this expression may not be attributed to some ignorant notions he may have entertained, rather than to insanity. And it will also have to be taken into consideration that he was there five or six years, and that he was never visited by a surgeon. The learned judge read the evidence of Dr. *Davis*, and proceeded. With regard to

the medical evidence, the professional skill of those gentlemen may enable them perhaps to judge in a great many matters with greater accuracy than other persons; but, after all, in this case your common sense must be the arbiter of the circumstances. You may, however, place that weight upon the medical gentlemen which you conceive the whole circumstances warrant, and you may be guided in examining the facts by their testimony. There may be cases in which medical evidence as to physical symptoms is of the utmost consequence, but as for moral insanity I, for my own part, do not consider that a medical man is better able to judge than a person acquainted with the ordinary affairs of life, and bringing to the subject a wide experience. From the very facts of the case it has been said that insanity is to be inferred, and Dr. *Davis* has said that, supposing a person without any apparent motive should act, as it is proved the prisoner acted, he would consider him of unsound mind. It would be a dangerous thing to conclude from the high and dangerous character of a crime that the party, unless insane, could not be capable of committing it. It is dangerous to make the crime itself a proof that the party must be exempt from criminal punishment. Although there may be no motive—no adequate motive—it cannot be said that that shows insanity, for there can be no adequate motive for any crime whatever. If a party should be charged with killing his wife, or child, that is a great crime, and if no motive should appear, the jury would not conclude he was mad. [The learned judge read the rest of the medical evidence, and told the jury to consider whether there was a real absence of the control of reason, or whether the conduct was that of a very violent and perhaps cruel disposition.] Now I can conceive that Mr. *Tedman* suggested to the master very good advice to part with the boy, and in a sense he might have been insane; but whether there is disease in the mind of the person to show him incapable of distinguishing between right and wrong, that is the point to which you are to apply your attention. Something has been said about the power to contract, and to make a will. But I think that these things do not supply any test. The object of the evidence laid before you is to show, in point of fact, that at the time he committed this act he was quite unaware of the nature and character and consequences of it, and therefore unconscious that in doing that particular act he was committing a crime; if that is so, if you think he was so unconscious at the time, then undoubtedly

you will be bound to say that he was insane and not responsible.^(a)

Take all the circumstances into your consideration. The papers may be brought forward upon either side of the question, because, supposing he deluded himself into the belief that he was a member of a non-existing society, with guns and swords and means of escape and concealment, and so on, it would be a kind of delusion that would excuse a man from almost anything. If he could believe he was a member of that society, clearly proved not to have existed, it would be such strong proof as to affect every part of his conduct, and show him not responsible for any act of his life—because you cannot know what act of folly a person of that kind may be guilty of. We do not know when they were written, or whether they were to be produced or not, but they show a contemplation of dangerous objects likely to lead anybody with a wild imagination and a love of notoriety to commit such an act as this. The love of notoriety is the only motive imputed to him on this occasion, and upon this I have to observe that notoriety would be just as well reached by firing off a pistol without bullets as with them. On the other hand, if the love of notoriety compels him to commit acts of this sort, in order to be in the mouths of all men, put in all the newspapers, and even in his present condition an object of greater interest than he could ever hope to excite in any other condition whatever—if under the influence of that motive he performed this act, knowing he was levelling a pistol at the Queen with a great probability of destroying her life, but choosing to do it then because of this absurd love of notoriety and of being discussed and thought of—if that motive acted upon him, and he well knew what he was about, in that case he would be guilty of the act, however slight and inadequate the motive by which he may have been prompted.

The jury retired for some time, and then brought in the following verdict, which the foreman read from a paper:—

“We find the prisoner, Edward Oxford, guilty of discharging the contents of two pistols at Her Majesty; but whether they were loaded with ball or not there is not satisfactory evidence, and that the prisoner was of unsound mind at the time of committing the offence.”

(a) “The question is whether the prisoner was labouring under that species of insanity which satisfies you that he was quite unaware of the nature, character, and consequences of the act he was committing, whether he was under the influence of a diseased mind, and was really unconscious at the time he committed the act that it was a crime.”—Report in 9 C. & P. 525.

Upon this a question arose as to whether the prisoner could be kept in custody or not, the *Attorney General* requiring that he should be detained, and the prisoner's counsel contending that the verdict was a general acquittal, which entitled him to be discharged.

Lord DENMAN, L.C.J., told the jury that, if they had not considered the question as to the loading of the pistols distinctly and separately, they had better retire again and consider it, and find the prisoner either guilty or not guilty.

The foreman at first said they had so considered it, but one of the jurors dissented.

Lord DENMAN, L.C.J.: You will consider whether the prisoner discharged a loaded pistol.

One of the Jury: Loaded with a bullet?

Lord DENMAN, L.C.J.: Or a ball.

ALDERSON, B.: Not with powder and wadding only.

The jury retired to reconsider their verdict.

Attorney General: The statute 39 & 40 Geo. 3, c. 94. s. 1, (a) provides that, if on a trial for treason, murder, or felony, insanity at the time of committing the offence is given in evidence, and the jury acquit, they must be required to find especially whether the prisoner was insane at the time of the commission of the offence, and whether he was acquitted on that account; and, if they find in the affirmative, the Court must order him to be kept in custody till Her Majesty's pleasure be known. Now I will assume, for the purposes of argument, that the jury have acquitted the prisoner, still I contend that these questions must be asked by the Court.

ALDERSON, B.: The statute speaks of the commission of the offence: now the jury say that there has been no offence committed.

Attorney General: These words mean the act done.

ALDERSON, B.: What act done?

Taylor: The act done in compassing the Queen's death. The overt act is not the offence, it is only the evidence of it.

PATTESON, J.: The word "offence" cannot mean crime, because, if the party was insane, he cannot have committed a crime.

Bodkin: Suppose the jury had found that the prisoner discharged the pistols, but not at the Queen at all?

ALDERSON, B.: Suppose that they had found that he was not the person?

Lord DENMAN, L.C.J.: My view of the case is this: the statute must mean that

the jury are to find, that that act has been done by the prisoner which fixes him as a criminal, unless he is a lunatic.

ALDERSON, B. (to the *Attorney General*): The construction you contend for would lead to this, that, if a man were charged with an offence, and the jury thought that no offence at all had been committed, yet he must be handed over to the mercy of the Crown perhaps for his life.

Taylor: Suppose the charge were one subjecting the party to only six months' imprisonment if convicted?

Attorney General: If no evidence of insanity had been given, then the prisoner would have been entitled to his discharge; but if the prisoner sets up the defence of insanity, he does it at the peril of the finding of the jury.

PATTESON, J.: Then the latter part of the clause is altogether useless.

ALDERSON, B.: The word "offence" must mean that which in a sane person would be an offence.

Lord DENMAN, L.C.J.: That, it seems to me, must be the meaning. But none of us mean to be bound by what we now say; it is too important a matter.

[The jury returned into Court, and found the prisoner "Not guilty, he being at the time insane."

The prisoner was ordered to be detained during Her Majesty's pleasure.](a)

MATERIALS MADE USE OF.—The summing up is abridged from Mr. Gurney's shorthand note preserved at the Treasury; the evidence is abridged from the Sessions Papers. The speeches of counsel and the summing up are taken from the *Morning Chronicle*, the *Morning Herald*, and the *Times*. The reports in 9 C. & P. 525, and in Townsend's *Modern State Trials* have also been made use of.

(a) For the trials of Francis and Beau for shooting at the Queen, May 30 and July 3, 1841, see below, Appendix A. In consequence of these attempts 5 & 6 Vict. c. 51 entitled "An Act for providing for the further security and protection of Her Majesty's person," was passed. As to section 1, see above, p. 521a. Section 2 provides that any person discharging or aiming firearms, or throwing or using any offensive matter or weapon with intent to injure or alarm Her Majesty shall be liable to be transported for seven years, or imprisoned with or without hard labour for any period not exceeding three years, and during such imprisonment to be publicly or privately whipped, as often and in such manner and form as the Court shall order and direct not exceeding thrice.

In 1850 Robert Pate was convicted of assaulting the Queen with a stick; and in 1882 Roderick Maclean was tried for high treason by shooting at the Queen, but was acquitted on the ground of insanity.

(a) See above, 497a.