

THE QUEEN *against* DANIEL M'NAUGHTON.

TRIAL OF DANIEL M'NAUGHTON FOR THE MURDER OF MR. DRUMMOND,
AT THE CENTRAL CRIMINAL COURT, BEFORE TINDAL, C.J., WILLIAMS
AND COLERIDGE, JJ., MARCH 3 AND 4, 1843.

ANSWERS OF THE JUDGES IN THE HOUSE OF LORDS TO FIVE QUESTIONS
PROPOUNDED BY THE HOUSE, JUNE 19, 1843. (Reported in 10 Cl.
and F. 200.)

On January 20, 1843, Daniel M'Naughton fired at and wounded Mr. Drummond, Sir Robert Peel's private secretary. Mr. Drummond having died, M'Naughton was indicted for murder. At the trial medical witnesses were called to prove the prisoner's insanity; and Tindal, C.J., finding that the Crown was not prepared with medical evidence to contradict them, stopped the case, and the jury, under his direction, found the prisoner Not guilty on the ground of insanity.^(a) In consequence of this verdict the House of Lords resolved to take the opinion of the judges on the law governing such cases.

Held by eleven of the judges—

1. *Criminal Responsibility of Persons labouring under partial Delusions.*

A person labouring under partial delusions only, and not otherwise insane, who did the act charged with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or wrong, or of producing some public benefit, is punishable, if he knew at the time that he was acting contrary to the law of the land.

If a party labouring under an insane delusion as to existing facts, and not otherwise insane, commits an offence, he must be considered in the same situation as if the facts in respect to which the delusion exists were real.

2. *Direction to the Jury in such Cases.*

To establish a defence on the ground of insanity it must be clearly proved that, at the time of committing the act, the party accused was labouring under such a defect of reason from disease of the mind, as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know that what he was doing was wrong.

If the accused was conscious that the act was one which he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable.

3. *Evidence—Medical Witnesses present at the Trial.*

Where the defence of insanity is set up, a medical witness who never saw the prisoner before, but was present during the whole of the trial, cannot in strictness be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime; or whether the prisoner was conscious at the time of doing the act that he was acting contrary to law; or whether he was labouring under any and what delusion at the time.

Such questions involve the determination of the truth of the facts deposed to, which it is for the jury to decide. But where the facts are admitted or not disputed, and the question becomes one of science only, such questions may be allowed to be put in that general form, though this cannot be insisted on as a matter of right.

4. *Right of the House of Lords to consult the Judges.*

The judges cannot be required by the House of Lords to give their opinion upon a Bill not yet passed into law, but they may be called on to assist the House by giving their opinions on abstract^(b) questions of existing law.

(a) As to the form of verdict now required in such cases, see 46 & 47 Vict. c. 38. s. 2, cited above, p. 497 (a).

(b) As to this limitation, see *London and Westminster Bank* case, 2 Cl. & F. 191; *Macqueen's House of Lords*, 47-57; also *Wensleydale Peerage* case, 5 H.L. 958; *Bright v. Hutton*, 3 H.L. 341; *Stephenson v. Higginson*, 3 H.L. 638; *Egerton v. Brownlow*, 4 H.L. 1.

CENTRAL CRIMINAL COURT, OLD BAILEY.

Friday, March 3, 1843.

THE QUEEN *against* DANIEL M'NAUGHTON,
for the wilful Murder of MR. DRUMMOND.

Before TINDAL, C.J., WILLIAMS, J., and
COLERIDGE, J.

The following gentlemen were sworn of
the Jury:—

William Routledge.
William Jewett Harris.
Thomas Eames.
Thomas Gardner.
Thomas Innocent.
George Henry Galloway.
Richard Falcon.
William Hay.
Henry Wood.
Robert Oust.
William White.
Thomas Penrose Williams.

Counsel for the prosecution: The *Solicitor General* (Sir William Webb Follett), (a) *Adolphus, Waddington, and Russell Gurney.* (b)

Counsel for the prisoner: *Cockburn, Q.C.,* (c) *Clarkson, Bodkin, and Monteith.*

The prisoner, on being placed at the bar, pleaded "Not guilty." (d)

(a) Afterwards Attorney General.

(b) " Recorder of London.

(c) " Lord Chief Justice of England.

(d) The prisoner had been placed on his trial at the previous session, February 2, and called upon to plead.

Straight: How say you, prisoner, are you guilty or not guilty?

The prisoner, who kept his eyes steadily fixed towards the Bench, made no reply to the question.

Straight: Prisoner, you must answer the question, whether you are guilty or not?

The prisoner, after again hesitating for some time, said, "I was driven to desperation by persecution."

Lord ABINGER: Will you answer the question? You must say either guilty or not guilty.

Prisoner, after another pause: I am guilty of firing.

Lord ABINGER: By that, do you mean to say you are not guilty of the remainder of the charge; that is, of intending to murder Mr. Drummond?

Prisoner: Yes.

Lord ABINGER: That certainly amounts to a plea of "Not guilty"; therefore, such a plea must be recorded.

The prisoner was then charged upon the coroner's inquisition with the like offence.

To the inquisition also, a plea of "Not guilty" was entered.

Clarkson then applied to postpone the trial to the next session, to allow of evidence as to the prisoner's state of mind being procured from

Gurney opened the indictment, which alleged that the prisoner—

"on the 20th of January, at the parish of St. Martin-in-the-Fields, did feloniously assault Mr. Edward Drummond with a certain pistol, which he then and there held in his right hand, loaded with gunpowder and a leaden bullet, and which he, of his malice aforethought, discharged at and against the said Edward Drummond, thereby giving him a certain mortal wound, in and upon the left side of the back of the said Drummond, a little below the blade-bone of his left shoulder, of the breadth of half an inch, and of the depth of twelve inches, and of which wound the said Edward Drummond did languish until the 25th of January, and languishing did live, on which 25th of January he, of the said mortal wounds so given in manner aforesaid by him, the said Daniel M'Naughton, died; and that he did wilfully kill and murder the said Edward Drummond."

OPENING SPEECH FOR THE CROWN.

The *Solicitor General:* May it please you, my Lord, Gentlemen of the jury, You are assembled here to-day to discharge a most solemn and important duty. You will have to decide whether the prisoner at the bar be guilty or not guilty of the awful crime with which he stands charged; and I feel, gentlemen, that I shall best discharge my duty to the Crown and to the public, on whose behalf I appear here to-day, if I proceed at once to state, as calmly and dispassionately as I can, all the facts and circumstances connected with the melancholy case. Mr. *Drummond*, whose death we are to inquire into this day, was, as you all know probably, the private secretary of Sir *R. Peel*, and was on terms of friendship and intimacy with him. By virtue of his office he occupied apartments in the official residence of the Prime Minister of this country. He was in the constant habit of passing from those rooms to the private residence of Sir *R. Peel*, in Whitehall Gardens; and it will be proved to you that the prisoner at the bar, for many days before the fatal occurrence took place, was seen loitering about those spots, and watching the persons who went in and out of the public offices and the houses in Whitehall Gardens. This conduct had attracted attention, and he was spoken to

Scotland and possibly from France; he also read affidavits in support of the motion.

The *Attorney General* (Sir *Frederick Pollock*), for the Crown, said that he had read the depositions taken at Glasgow and alluded to in the affidavits, and that they contained matter which it would be very proper to lay before the jury.

Lord ABINGER, C.B., ordered the trial to stand over, and also directed that sufficient funds should be supplied to the prisoner for the purposes of his defence out of the money found upon him at the time of his arrest.

by some soldiers, who had observed him, as well as by the police; but, unfortunately, no steps were taken to remove him. On Friday, January 20, Mr. *Drummond* left his apartments in Downing Street, and went to the Treasury, and thence to the Admiralty, in company with Lord *Haddington*, whom he left at the Admiralty, and proceeded alone to *Drummond's* banking-house, at Charing Cross; on his return from which, when near the "Salopian" coffee-house, the prisoner at the bar—for there can be no doubt of his identity—came behind him, and discharged a pistol almost close to him. After discharging that pistol, the prisoner drew another from his breast, presented it at Mr. *Drummond*, and was in the act of firing it at him, when a policeman, who had observed him from the opposite side of the street, ran across the road and threw his arms about him; and other persons also assisted the policeman to secure the prisoner, who, in struggling with them, discharged the second pistol, but luckily without doing any mischief. The prisoner was then seized and taken to the police station-house, in Gardner's Lane, where he was searched, and there were found on his person two five-pound notes, four sovereigns, and a deposit receipt for 745*l.* from the Glasgow Bank. Among some other trifling articles that were found in his pockets, were ten copper percussion caps, which fitted the nipples of the pistols he had discharged in the manner I have described; and afterwards, upon searching his lodgings, bullets were also found to match the barrels of those very pistols. Mr. *Drummond*, after the pistol which wounded him was fired, staggered from the effect of the shot, but did not fall. He walked, I believe, almost without assistance, back to the banking-house. A medical gentleman in the neighbourhood was sent for, and after a short time Mr. *Drummond* was removed in his own carriage to his private residence. For some time hopes were entertained of his recovery, and that the wound would not prove fatal; but, unfortunately, those hopes were abortive. He lingered in great pain for some days, and died on Wednesday, January 25.

Gentlemen, his death is deeply, and I may say permanently, regretted; for he was beloved, esteemed, and valued by all who knew him. He was of a disposition so amiable that it was impossible he could have had any personal enemies. You will naturally ask, then, gentlemen, who was the prisoner at the bar, and what could induce him to deprive of life a being so unoffending? Mr. *Drummond* was not only without any personal enemies, but he did not fill any prominent situation

before the public. He did not hold that situation in public life which would render him obnoxious to political enemies, but he was the private secretary of the principal Minister of the Crown, often an inmate of his house, and constantly passing therefrom to the public offices in Downing Street and the neighbourhood, about which the prisoner was observed to be loitering and watching. You will be satisfied, from the facts of the case, from the threats used by the prisoner before he committed his crime, and his declarations afterwards, that it was not the life of Mr. *Drummond* that he sought. You will be satisfied that it was the life of Sir *Robert Peel* that he desired to take, and that it was his life that he believed he was destroying when he discharged the fatal pistol against the person of Mr. *Drummond*.

Gentlemen, the nature of his crime is not altered by this circumstance, but it affords a reason for it. I need not tell you that he is guilty of murder, although he might have mistaken the person against whom he discharged the pistol. Of the guilt of the prisoner—of the fact of his having deprived Mr. *Drummond* of life—it is impossible I can suggest a doubt; it is impossible that any doubt can be suggested that the crime was committed, and that that crime was murder. But I cannot conceal from you, because I know, from applications which have been made to this Court, and the depositions which have been made on behalf of the prisoner, that it is intended to rest the defence on the plea that he was insane at the time he committed the crime; and, gentlemen, it will be your painful duty—for painful it must be—to decide whether he was in that degree of insanity at the time he committed that crime which would render him not a responsible agent, and not answerable to the laws of his country for the offence of which he has been guilty. This defence is a difficult one at all times; for while, on the one hand, everyone must be anxious that an unconscious being should not suffer, yet, on the other hand, the public safety requires that this defence should not be too readily listened to; and, above all, the public safety requires that the atrocious nature of the act itself, and the circumstances under which it was committed, should not form any ingredient in that defence. There are few crimes that are committed, and, above all, crimes of an atrocious nature like this, that are not committed by persons labouring under some morbid affection of the mind; and it is difficult for well-regulated minds to understand the motives which lead to such offences in the absence of that morbid affection of the mind. I

believe that the truth of this remark will be more especially proved when attacks are directed to persons holding high and important stations in the nation. If you look back upon the page of history, and consider the facts connected with the death of persons whose lives have been destroyed by the hands of assassins, you will be satisfied in one moment of the truth of that proposition. But we need not look far back; occurrences of our own times furnish us with sufficient instances for illustration. If you look at a neighbouring country, you will see there that persons in broad day, in the crowded streets of the metropolis of France, without any precaution for their own safety, without any attempt to escape, in the midst of the people, close to the armed guards of the King, have discharged their weapons at the person of the sovereign of the country. What motive had they? We know of none but that of an ill-regulated mind, worked upon by morbid political feeling. We have seen other instances in France of parties, having laid plans to assist themselves in their escape, discharging infernal instruments in the streets of Paris, regardless of how many and what lives they destroyed, provided they could reach the person of the sovereign.^(a) I refer to these things, gentlemen, to show that the circumstances attendant upon the crime itself afford no grounds for holding that the parties committing it are not responsible to the laws of their country.

But I know that in this case the defence on the part of the prisoner will not rest upon this, but that evidence will be offered to show that the prisoner was not in a sane state of mind at the time he committed the crime; and knowing that, I feel that I ought, in this stage of the case, to refer to some authorities, and state my view of the principles of the English law. It will be open to my learned friend, whose powerful assistance I am happy to see the prisoner will have, to comment upon that, and to differ from me if he thinks I am wrong. It has been the custom in these cases to refer to proceedings of authority, and to the *dicta* of judges who have tried similar questions; not that I mean to say for one moment that it is a question of law; on the contrary, the question to be decided by you is a question of fact, a question of common sense and belief. The whole question will turn upon this: if you believe the prisoner at the bar at the time he committed this act was not a responsible agent; if you believe that when he fired the pistol he

was incapable of distinguishing between right and wrong; if you believe that he was under the influence and control of some disease of the mind which prevented him from being conscious that he was committing a crime; if you believe that he did not know he was violating the law both of God and man: then, undoubtedly, he is entitled to your acquittal. But it is my duty, subject to the correction of my Lord and to the observations of my learned friend, to tell you that nothing short of that will excuse him upon the principle of the English law. To excuse him it will not be sufficient that he laboured under partial insanity upon some subjects—that he had a morbid delusion of mind upon some subjects, which could not exist in a wholly sane person; that is not enough, if he had that degree of intellect which enabled him to know and distinguish between right and wrong, if he knew what would be the effects of his crime, and consciously committed it, and if with that consciousness he wilfully committed it. I shall be able to show you, gentlemen, with regard to the authorities upon this point, that observations have been made to the effect that they have attempted to define the law too strictly; but such observations were made without regard to the object of those authorities. It is impossible beforehand to lay down any definition of the kind of madness which will excuse the crime of murder; the disease assumes such different forms and such various shapes, and acts in such opposite ways, that you cannot define it. But you may lay down the principles of law which are applicable to it; and they are laid down, and uniformly laid down in the same way, that it is a question for the jury to take into their consideration whether the party was a responsible agent when he committed the crime, whether he then knew right from wrong, whether he was conscious that he was offending against the law of his country and nature, and whether he did it wilfully. Gentlemen, the public safety is the object of all law; the public safety is intrusted solely to the protection of courts of criminal judicature, and to juries who administer justice under the law; and it is with a view to the public safety that the law is laid down by legal authorities principally for the guidance of juries who have to decide upon questions of this nature.

[Counsel cited *Hale*,^(a) and the following passage from the speech of the *Solicitor General*^(b) in Lord *Ferrers'* case:—]

“If there be a total permanent want of reason, it will acquit the prisoner; if there be a total

(a) Fieschi attempted the life of Louis Philippe in this way, July 28, 1835.

(a) 1 P.C. 30; above, p. 507.

(b) Charles Yorke, 19 St. Tr. 886.

temporary want of it when the offence was committed, it will acquit the prisoner; but if there be only a partial degree of insanity mixed with a partial degree of reason—not a full and complete use of reason, but (as Lord Hale carefully and emphatically expresses himself) a competent use of it sufficient to have restrained those passions which produced crime—if there be thought and design, a faculty to distinguish the nature of actions, to discern the difference between moral good and evil; then, upon the fact of the offence proved, the judgment of the law must take place.”

Counsel also quoted the direction of *Tracy, J.*, in *Arnold's case*,^(a) and of *Le Blanc, J.*, in *Bowler's case*.^(b)

There is, certainly, one other case to which I should refer. It is not the authority of a judge; but it is one of the most celebrated cases of the kind. I allude to the trial of *Hadfield*,^(c) on a charge of high treason, for firing at King George 3. He was defended by Lord *Erskine*, who made one of the most eloquent and able speeches, probably, that was ever delivered at the bar; and he entered at that time much into the law of insanity, and the nature of the insanity that would excuse the prisoner. In that case, I believe, no doubt could be entertained of the insanity of the prisoner, and the Court, upon that ground, stopped the trial. But in the course of that trial Lord *Erskine* said the prisoner must be shown to labour under some delusion, and it must also be shown that he committed the act in consequence of that delusion. That was the ground upon which Lord *Erskine* put the defence. But, as was remarked by the present Lord Chief Justice of the Court of Queen's Bench,^(d) the counsel for the prisoner would only state so much of the law as was applicable to the defence of the prisoner; and I cannot help thinking that there may be many cases in which the prisoner may be excused from the consequences of a crime that would not fall under the description of Lord *Erskine*. A party may have that state of mind which would render him wholly unconscious of right and wrong; he may have that state of mind which makes him not aware that he is committing a crime, and yet the crime may not be the offspring of any delusion he labours under; nor do I think it is right in another point of view. I think that parties may be liable to be punished under the law, although they did labour under a delusion, and although the act may have been committed under that delusion. I think, therefore, the doctrine of

Lord *Erskine* is not true in either way to its fullest extent. I will put one case, that which Lord *Erskine* refers to in that celebrated speech. He speaks of two brothers—one of whom laboured under the morbid delusion that the other was his enemy, and conspiring against him; and in consequence of that delusion he made a will, in which he disinherited that brother. The question arose as to whether that will could be set aside; and it was held that the will was made under circumstances which rendered it invalid. Now, I cannot help thinking that, upon the principles of the English laws, if that brother was aware of the consequences of what he did; if he knew the difference between right and wrong, and with that knowledge and consciousness had deprived his brother of life, he would have been guilty of murder. I own that in that case the ground laid down does not appear satisfactory either in favour of or against the principle.

The next case, gentlemen, is that which took place here in the year 1812, when *Bellingham* was tried for the murder of Mr. *Perceval*, and convicted of that offence. He was tried in this Court before Lord Chief Justice *Mansfield*, Sir *James Mansfield*, who laid down the law in this way:

“In another part of the prisoner's defence, which was not, however, urged by himself, it was attempted to be proved that at the time of the commission of the crime he was insane. With respect to this the law was extremely clear. If a man were deprived of all power of reasoning, so as not to be able to distinguish whether it was right or wrong to commit the most wicked transaction, he could not do an act against the law. Such a man, so destitute of all power of judgment, could have no intention at all. In order to support this defence, however, it ought to be proved, by the most distinct and unquestionable evidence, that the criminal was incapable of judging between right and wrong. It must, in fact, be proved beyond all doubt that, at the time he committed the atrocious act with which he stood charged, he did not consider that murder was a crime against the laws of God and nature. There was no other proof of insanity which would excuse murder or any other crime. There were various species of insanity. Some human creatures were void of all power of reasoning from their birth; such could not be guilty of any crime. There was another species of madness, in which persons were subject to temporary paroxysms, in which they were guilty of acts of extravagance; this was called *lunaey*. If these persons were to commit a crime when they were not affected with the malady, they would be, to all intents and purposes, amenable to justice. So long as they could distinguish good from evil, so long would they be answerable for their conduct. There was a third species of insanity, in which the patient fancied the existence of injury, and sought an opportunity of gratifying revenge by some hostile act. If such a person were capable in other respects of distinguishing

(a) 19 St. Tr. 886; and above, p. 508.

(b) *Collinson*, 673*n*; and above, p. 508.

(c) 27 St. Tr. 1314.

(d) In *Oxford's case*, above, p. 508.

right from wrong, there was no excuse for any act of atrocity which he might commit under the description of insanity." (a)

Now from the last observation of the learned judge who tried that cause, it appears to me, gentlemen, that a party may labour under the delusion of having received injury, but if he be able to distinguish between right and wrong, and if he be conscious of the nature of the crime, the delusion will not excuse him from punishment for that crime. [Counsel also referred to *R. v. Offord*, (b) in which Lord *Lyndhurst* approved of the direction in *Bellingham's* case, and told the jury that—"they must be satisfied, before they could acquit the prisoner on the ground of insanity, that he did not know, when he committed the act, what the effect of it, if fatal, would be, with reference to the crime of murder. The question was, Did he know that he was committing an offence against the laws of God and nature?"]

I have referred to these authorities for the purpose of enabling you, gentlemen of the jury, to judge of the evidence which will, beyond doubt, be produced on behalf of the prisoner, that you may compare the circumstances and consider whether the prisoner at the bar was in that state of mind which rendered him not responsible for the crime he committed. But, knowing the nature and object of that evidence, I think I should not discharge my duty to the public or to the Crown, if I did not lay before you on my part what is known respecting the history of the prisoner and what is known of his conduct directly before his apprehension. It is right I should tell you, at least, that I do not mean to go into any observations which persons may have particularly directed to the state of mind of individuals in similar circumstances, but to show in what way the prisoner has conducted himself in his past life, the way in which he managed his business, the mode and manner of his living, what care he took of himself, and how he was left by all his connections to manage his own affairs, and continued to do so down to the very hour of his defence. It appears that he has carried on the business of a wood-turner in Glasgow, and that his father had carried on the same business before him. They did work together, but he left his father in consequence of some dispute between them, and set up on his own account as a wood-turner in Glasgow. He continued carrying on that business down to the end of the year 1840. He then left that business, and went and took lodgings in Glasgow with a person of the

name of *Pattieson*. He seems to have been of very sober, prudent, and saving habits, and had, during the time he was in business in Glasgow, saved a considerable sum of money by the time he retired at the close of the year 1840. He afterwards occasionally came to London, and it appears that he has been upon the continent. While in London he resided with a Mrs. *Dutton*, who lives at No. 7, Poplar Row, Newington, and he was residing there when he committed the crime with which he now stands charged. While at Glasgow he attended lectures on natural philosophy at the Mechanics' Institution in that city, and he took an active part in various alterations which were made in the rules of that institution, and also in the arrangement of the rooms and the conveniences of the building. He was in the habit of getting books from the library; he was known to all the persons who frequented that institution, and, moreover, he afterwards attended lectures on anatomy, and made considerable progress in that science. I shall call one of the persons whose lectures he attended. He came first to London in July 1841, when he went to the house of Mrs. *Dutton* and lodged there continually, therefore she has had an opportunity of seeing him and noticing his habits for the last year and a half. He had been ill in her house, and she attended him, and she will be examined as a witness. She will tell you, gentlemen, that, as far as she could see, there was nothing extraordinary in his conduct. On the morning of the day on which the crime was committed she spoke to him, and assisted him in putting on part of his dress, but neither then nor when he left the house did she observe anything extraordinary in his manner or demeanor, and she had no reason at any time to consider him insane. Gentlemen, I stated that he came here in July 1841. Before that he had opened an account with the Bank of Glasgow, upon what is called a deposit receipt. He afterwards shifted that to the London Joint Stock Bank, and he had applied to the persons in London to give him 5*l.* on the deposit, which was for about 750*l.* They said it was contrary to usage to do it, and he then drew out the 750*l.*, and obtained the 5*l.* he wanted, and then, when he got that sum of money, he paid the other back. But on the 23rd May, desiring to transfer his account to the Glasgow Bank again, he wrote this letter:

"SIR, Glasgow, May 23, 1842.

"I HEREBY intimate to you that I will require the money, ten days from this date, which I deposited in the London Joint Stock Bank, through you. The account is for 745*l.*; the account is dated August 28, 1841, but is not numbered. As it would put me to some incon-

(a) Collinson, 636-674.

(b) 5 C. & P. 168.

venience to give personal intimation, and then remain in London till the eleven days' notice agreed upon had expired, I trust this will be considered sufficient.

"Yours, &c.

"DANIEL M'NAUGHTON."

Well, upon that, gentlemen, the account was transferred to the Bank of Glasgow, and he received a deposit receipt from the Bank of Glasgow for the larger sum, specified in the deposit receipt found upon him at the time of his apprehension. Another letter was written by him in July 1842, which will be read to you, as it will be proved that he went to the shop of a gunsmith in the neighbourhood of Glasgow, where he bought the pistols, and bargained with the man for them, expressing a wish to have them of the same size, and desiring the man, if he had not them himself, to get them for him. In that month he bought the pistols, and in that month he came to London, and again in the September following. But on the 19th of July he wrote the letter relating to his entering into some business or partnership in London, in consequence of an advertisement published in a London newspaper—the *Spectator*—of the 16th of that month, as follows:—

"OPTIONAL PARTNERSHIP.—Any gentleman having 1,000*l.* may invest them, on the most advantageous terms, in a very genteel business in London, attended with no risk, with the option, within a given period, of becoming a partner, and of ultimately succeeding to the whole business. In the meantime, security and liberal interest will be given for the money.—Apply by letter to 'B. B.,' Mr. Hilton's, bookseller, Penton Street, Pentonville."

On the 21st of July the advertiser received from the prisoner the following letter:—

"SIR, Glasgow, 19th July 1842.

"My attention has been attracted to your advertisement in the *Spectator* newspaper, and as I am unemployed at present, and very anxious to obtain some, I have been induced to write, requesting you to state some particulars regarding the nature of the business which you are engaged. If immediate employment can be given or otherwise, what sort of security will be given for the money, and how much interest? I may mention that I have been engaged in business on my own account for a few years, am under 30 years of age, and of very active and sober habits.

"The capital which I possess has been acquired by the most vigilant industry, but unfortunately does not amount to the exact sum specified in your advertisement. If nothing less will do, I will be sorry for it, but cannot help it; if otherwise, have the goodness to write me at your earliest convenience, and address 'D. M. M.,' 90, Clyde Street, Anderton's frontland, top flat."

He then came to London in that same month, and I shall call before you some of

his friends and acquaintances who had known him in Glasgow, and who met with him and had various conversations with him, and with whom he walked by the house of Sir *Robert Peel*; particularly, evidence will be given with regard to a conversation with the prisoner in the month of November 1842. He remained in London from that time down to the time when he committed the offence, in the month of January, and still lodged in Mrs. *Dutton's* house. Other persons at that time were acquainted with the prisoner; these persons I will put into the witness-box—persons conversant with his manners and habits, as well as his landlady, in order that you may form an opinion whether or not the prisoner was a responsible agent at the time he committed the offence. On the other side, no doubt evidence will be offered to prove his insanity; and certainly it is some consolation to me, in the discharge of a painful duty, to know that the interests of the prisoner will be most ably and powerfully attended to; but it will be your duty, and no doubt your desire also, to most attentively listen to the evidence on both sides, and to weigh the one against the other. What the precise nature or the details of the evidence on the part of the prisoner may be, I cannot say. I know not the exact nature of it, nor its extent; but when it is adduced, you will say, upon that evidence, are you or are you not satisfied that the prisoner was, at the time he committed this crime, a responsible agent, that he did know right from wrong, and that he was aware of the consequences of the act which he committed? If you think he was not, he ought to be acquitted. If that should be the result of the evidence he will be entitled to your acquittal. But if it fall short of that, if you think he was a responsible agent, I need not say to you that public justice requires a different verdict. It is a painful duty, gentlemen, but it is a duty which must be faithfully discharged; and I am perfectly satisfied that when you have heard the witnesses, when you have maturely deliberated upon and considered the evidence, your verdict will be one of justice between the public and the prisoner.

EVIDENCE FOR THE CROWN.

James Silver.—Examined by *Waddington*.

[I am a police constable of the A Division. On Friday, January 20, I was on duty at Charing Cross, twenty minutes before four o'clock in the afternoon. I was on the right side of the street from Whitehall. I heard a report of a pistol on the opposite side of the street. I looked over and saw a gentleman stagger, with his hand pressed

against the left side of his back. I also saw the prisoner returning a pistol with his right hand into the left side of his breast. He was behind the gentleman. When I saw him put the pistol into his bosom, I perceived that he drew another pistol from his right breast, with his left hand, and changed it into his right hand. I ran across the street and seized his right arm, and tripped his feet from under him. He struggled very violently, and the pistol went off upon the pavement. When I seized him he tried to raise his right arm and turn upon me, but I secured him so that he could not. I then took the pistol from his right hand, and also the other from his left breast. On the way to the station-house he said either "he" or "she" (I cannot recollect which) shall not break my peace of mind any longer. That was all he said. At the station-house I found ten pistol caps on him, three 5*l.* Bank of England notes, a receipt for 750*l.* of the Glasgow and Shipping Bank, four sovereigns, four half-crowns, one shilling and fourpence, a knife, a key, and a small coin. I also found upon him an address, "Daniel M'Naughton, 7, Poplar Row, New Kent Road," which was found to be correct. From being frequently on duty in the neighbourhood of Whitehall and Downing Street, I had often seen Mr. *Drummond*. I knew his person well, and he it was whom the prisoner shot. I had often seen Mr. *Drummond* coming out of Sir *Robert Peel's* house, and the Treasury, and the Privy Council offices. I produce the pistols and other articles found upon the prisoner. The date of the receipt from the Glasgow Bank is June 2, 1842, for 750*l.* (*The receipt was put in and read.*) I also produce a pistol ball which I received from Colonel *Drummond*, the brother of the deceased gentleman.

Cross-examined by *Cockburn*.

A few seconds only elapsed between the firing of the first pistol and my seizing the arm of the prisoner. When I seized him his right hand was elevated.

Benjamin Weston.—Examined by *Gurney*.

I am an office porter. On the afternoon of the 20th of January, shortly before four o'clock, I was in the neighbourhood of Charing Cross when I heard the report of a pistol; on turning round I saw a gentleman pointing to the prisoner, who was standing about three paces behind him. I then observed the prisoner draw back a pace or two and draw a pistol from his breast; he then placed the barrel of his pistol in his left hand and cocked it; I then observed that the gentleman was

reeling, and the prisoner was pointing the pistol at him. At that moment the witness *Silver* ran up and sprung upon him, seizing him by the arms. A scuffle then took place, and in the scuffle the second pistol was discharged.

Cross-examined by *Clarkson*.

The prisoner drew the pistol very deliberately, but at the same time very quickly. As far as I can judge, it was a very cool, deliberate act. I was about eight paces distant, and did not hear the cocking of the pistol, but from his motion I could distinctly discern what he was doing. There was no one between the gentleman and the prisoner.

Richard Jackson.—Examined by the *Solicitor General*.

I am an apothecary in Charles Street, St. James', Westminster. I knew the deceased, Mr. *Drummond*. On the afternoon of the 20th of January I was sent for to attend him at the banking house, Charing Cross. I satisfied myself that he had been wounded. I recommended his immediate removal to his own residence, and accompanied him there in his carriage. Mr. *Guthrie*, Mr. *Bransby Cooper*, and other medical gentlemen, were soon in attendance upon him, and the ball was extracted the same day within an hour after the injury was received, and I was present at the time. Mr. *Drummond* lingered till the following Wednesday, when he died.

George James Guthrie, surgeon, spoke to the nature of the wound. The ball passed through the body, but not in a direct line. It wounded the diaphragm, and that is a wound which never heals under such circumstances.

George Walter Shaw, a policeman, spoke to searching the prisoner's lodgings at No. 7, Poplar Row, Kent Road, and finding a powder flask, percussion caps, five leaden bullets, and a pistol key. The bullets fitted the pistols used by the prisoner.

John Massey Tierney.—Examined by the *Solicitor General*.

I am an inspector of the A Division of police. On the evening of the 20th of January I went to the station-house in Gardener's Lane, where I found the prisoner in custody. Between the hours of five and eleven o'clock I visited the prisoner in his cell several times, and conversed with him. When I first went to him, I gave him a caution that in any conversation we might have together he should say nothing to criminate himself, as it might be used in evidence against him. I cautioned him in

the same manner on other occasions, when he said I acted fairly towards him, and that fair play was the English character. He said that he had left Glasgow about three months; that he stayed at Liverpool seven days, and then came to London, where he had remained ever since; he then said that he was in business at Glasgow as a turner, but left that and was going into another business, but was prevented. I observed that he had a good share of money, to which he replied that he had wrought hard for it, and that he generally did the work of three ordinary men daily. I told him I had been in Glasgow three or four weeks before. He then asked the name of the ship I went in. I said I had forgotten, but thought it was the *British Queen*. He said I must have been mistaken, it must have been the *Princess Royal*, and I then recollected that was the name of the vessel. I then asked him whether he knew Mr. *Richardson*, the superintendent of the Gorbals police. He said he did, and added that he was considered a more clever man than *Miller* (another police officer). I then asked him whether he came over in the *Princess Royal*. He said he did not; he came over in the *Fire King*. I asked him whether there was a railway from Edinburgh to Glasgow? He told me there was, and, as far as I recollect, said they were thirty or forty miles apart. He also mentioned the fares. I told him that when I was going to Glasgow I went through Paisley. I asked him whether he had ever been there. He said he had. I remarked that it was a great place for shawls. He admitted that it was; that nearly all the inhabitants were weavers, but he was sorry to say there were a great many of them out of employ. I then asked him whether he would take any refreshment, when he expressed a wish to have some coffee, with which he was supplied. In the course of conversation I asked him whether *Drummond* was a Scotch name. He answered that it was; that it was the family name of the Earl of *Perth*, but the title had become extinct. On the following morning I again saw the prisoner, between eight and nine o'clock. On entering his cell I asked him whether he had had his breakfast. He replied in the affirmative, and asked to have some water to wash himself with. I then sent the constable, who had been sitting up with him, for some water, and when he had left the cell, I said to the prisoner—"I suppose you will assign some reason to the magistrate this morning for the crime you have committed?" He said, "I shall give a reason—a short one." I then said, "You might have stated anything you thought proper to me last night after the caution I gave you." He then

told me that he was an object of persecution by the Tories, that they followed him from place to place with their persecution. He seemed inclined to go on with his statement, when I said, "I suppose you are aware who the gentleman is you shot at?" He said, "It is Sir *Robert Peel*, is it not?" I at first said "No," but in a moment recollecting myself, said, "We do not exactly know who the gentleman is yet." Then, turning round, I said, "Recollect the caution I gave you last night, not to say anything to criminate yourself, as it may be used in evidence against you;" to which he immediately replied, "But you will not use this against me?" I said, "I make you no promise; I gave you the caution." I then left the cell, and in the course of the same day took him to the police court, Bow Street.

Cross-examined by *Cockburn*.

It was my duty to visit all the cells in the course of the night.

Is it your duty to put questions to the prisoners?—As long as I do not interfere with the case in point I do not see any harm in putting questions to prisoners.

Did anyone direct you to put such questions?—Certainly not.

What was your object in putting them?—I wanted to get all the information I could about his former life.

In order to give it in evidence against him?—I never intended to give in evidence against him anything he told me till he mentioned the name of Sir *Robert Peel*.

What was your motive for wishing to get information respecting his former life?—Nothing that I know of but the anxiety of human nature, under such revolting circumstances, to know who and what he was.

Now, do you mean to swear that you ever intended to suppress the evidence you have given?—Not to suppress it, but I had no intention to mention it till he mentioned the name of Sir *Robert Peel*. I cannot give you the precise conversation which took place at each interview, but I have stated the substance of them all. A constable, of the name of *Edwards*, was present when the conversation took place, but he is not here to-day. As I did not intend to mention the conversations I did not make any notes of them, but I did make a memorandum of the conversation in which Sir *Robert Peel's* name was mentioned.

Why did you not have the morning conversation in the presence of the constable?—I wish he had been present. I had no motive for the conversation taking place in his absence. I first mentioned the conversation at Bow Street.

Do you mean to swear that you had no

motive lurking in your mind when you asked him whether he intended to make any statement before the magistrate?—I had no particular motive, but I imagined the responsibility was off my shoulders after the caution I gave him on the previous night.

Was not the object of that interview to induce him to make that statement?—I did it for the purpose of letting him know that I was ready to receive any communication he thought proper to make.

When did you first mention these circumstances?—I first mentioned them to Mr. *Burnaby* at Bow Street on the morning of the prisoner's first examination, before the examination took place; and to Mr. *Hall*, the chief magistrate, afterwards; but I believe he was aware of it before the examination. I was not examined on the first occasion.

Did you mention the conversation to anyone else?—Yes; I mentioned it to the Commissioners of Police, but I cannot say whether I mentioned it to Colonel *Rowan*. I sent a private report in writing to the Commissioners.

Now, perhaps, you will tell me upon your solemn oath, whether, when you made that observation to him, you did not do so with the intention of extorting a confession from him?—The remark was thoughtlessly made. I wanted to turn the conversation, as I thought he was going to make a full confession, and I did not wish to hear it.

Re-examined by the Solicitor General.

I was subsequently examined at Bow Street, and I then heard the prisoner make a statement. That statement was taken in writing by the clerk and signed by the prisoner (*handing in a document*).

This is the statement?—It is.

The clerk of arraigns then read the statement as follows:—

“The Tories in my native city have compelled me to do this. They follow and persecute me wherever I go, and have entirely destroyed my peace of mind. They followed me to France, into Scotland, and all over England; in fact, they follow me wherever I go. I cannot get no rest for them night or day. I cannot sleep at night in consequence of the course they pursue towards me. I believe they have driven me into a consumption. I am sure I shall never be the man I formerly was. I used to have good health and strength, but I have not now. They have accused me of crimes of which I am not guilty; they do everything in their power to harass and persecute me; in fact, they wish to murder me. It can be proved by evidence. That's all I have to say.”

Edward Howe.—Examined by *Waddington*.

I am office keeper at the office of the Board of Trade at Whitehall. I know the

prisoner at the bar. I first saw him about a fortnight before the 20th January last. He was then standing at the top of the steps of the Council Office, which is at the corner of Downing Street. Sir *Robert Peel's* residence is in Privy Gardens, which is nearly opposite the end of Downing Street. Sir *Robert Peel*, at times, walks up Downing Street to his official residence. I saw him almost daily after that time, either on the Council Office steps or in the neighbourhood of the Treasury; sometimes I have seen him twice in one day. On the 20th of January, between three and four o'clock, I again observed the prisoner standing on the Council Office steps, when I said, “You will excuse my taking the liberty, sir, but I belong to the office next door; you are a police officer, are you not?” to which he replied, “Yes,” and I said, “I suppose, then, it is all right.” I then went away, leaving him on the steps. In less than an hour afterwards I saw him in custody in Gardener's Lane station-house.

Not cross-examined.

James Partridge.—Examined by *Gurney*.

A police constable of the A Division, on duty at Whitehall, confirmed the last witness. I have frequently noticed the prisoner in the neighbourhood of the Council Office between the 5th and the 20th of January. On the 13th I spoke to him, and asked him whether he was waiting for any person, when he replied that he was waiting for a gentleman, and immediately walked away in the direction of the Horse Guards. On the 20th I again spoke to him, about ten o'clock in the morning; he was standing on the last step leading to the Council Office, where he remained for about twenty minutes. I asked him whether he had seen the gentleman he had previously told me he was waiting for? He quickly replied “No,” and instantly walked away. He did not appear inclined to answer any questions. About twelve o'clock the same day I again saw the prisoner standing near *Lady Dover's*, eating a piece of bread. *Lady Dover's* is opposite *Gwydyr House*, at the back of which is the residence of Sir *Robert Peel*; but it cannot be seen from *Lady Dover's*.

Not cross-examined.

Richard Jones.—Examined by the *Solicitor General*.

A recruiting sergeant. Spoke to seeing the prisoner frequently in the neighbourhood of Whitehall, walking between Whitehall and Charing Cross. On one occasion I asked him to join Her Majesty's service, if he felt inclined to enlist, but he

said he had something better in view. On a subsequent day I said, "Oh, what here again! is there any particular regiment you wish to join?" but his reply was, "I don't wish to enter the service, I am only waiting to see a gentleman." On the 20th I again saw the prisoner near Downing Street, about fifteen yards from the steps of the Privy Council Office, when I pointed him out to one of the police. The next time I saw him he was in custody.

Not cross-examined.

William Bale confirmed the last witness.

Not cross-examined.

John Drake.—Examined by *Gurney*.

A police constable. Spoke to seeing the prisoner near the corner of Downing Street, loitering about; on the 18th of January I said to him, "Some of the gentlemen inside have been speaking to me about your standing on the steps." He said, "Tell them it is a notion I have taken." I said, "If you are waiting for anyone you had better wait on the pavement, as they do not appear to like your standing on these steps, unless they know your business." He said, "You can tell them their property is quite safe." On that same day I spoke to him again, at the corner of Downing Street; he then asked me to take a glass of ale; I declined.

Not cross-examined.

Eliza Dutton.—Examined by the *Solicitor General*.

I live at No. 7, Poplar Row, Newington. The prisoner first came to lodge at my house about last July twelve months. He remained with me for three months; he generally went out between eight and nine in the morning, and sometimes later; sometimes he went out without having his breakfast; he returned home generally about eight or nine in the evening. I used to wash for him, and he always paid me punctually for it, and also my rent. When he left his lodging he was absent about a fortnight or three weeks, and I think he said he had been to France. I never thought him unsettled in his mind. He came back and then remained with me about three weeks, when he again quitted until the September following, when he returned. In the beginning of December he was poorly, but I never did anything for him in the house; he asked me to get him a little barley water, which I did; he had no medical man to attend him. He said he was suffering under a bad cold from neglect: he continued ill

about a fortnight. I never had any conversation with him whatever about his friends. I recollect seeing the prisoner on the morning of the day *Mr. Drummond* was shot; I asked him if he had got the brushes for his boots, and he said he had. I gave him the clothes brush, but he did not use it. I saw him again on that day, about a quarter to ten o'clock, when he went out. I did not observe, on that morning, anything about his manner. When he came back to me in September last, he said he had been to Scotland. I asked him if he had seen the Queen when she visited there, and he said he had not, for he was not in that part. I asked him if he thought the Queen's visit had done trade good, and he said he thought it had. He was always very regular in his habits. I never knew him to stay out.

Cross-examined by *Clarkson*.

He appeared to me to be a man of very sober habits. He was very reserved in his manners. He avoided conversation with people. I never saw any companion with him. On the morning *Mr. Drummond* was shot he went out and returned; he ran up stairs, and then went out again. When he was ill, I observed that his head appeared to be bad, and that he had much fever. When I spoke to him about the Queen's visit to Scotland, he seemed to wish to avoid my questions. He was not in the habit of looking people in the face, but always hung his head down. He spoke quickly. His habits appeared to me to be very penurious; he had but one change of linen. I had no idea whatever that he was possessed of such a large sum of money as 700*l.* No person ever called upon the prisoner while he lodged at my house. Whenever he came home at night he went to bed immediately. He never had a fire in his bedroom. He had no sitting-room. I always considered the prisoner very sullen and reserved. There were five other lodgers in my house. I sleep in the room adjoining the prisoner's. I have heard him get out of his bed at night, moan repeatedly, but it did not attract my attention, as I had observed nothing peculiar about him. I never heard him pacing the room of a night, but I have known him get out of bed and smoke a pipe. I thought the prisoner was a person out of a situation with very small means. I attributed his sullenness to his difficulty in obtaining a situation.

Re-examined by the *Solicitor General*.

The prisoner used to go out and stay out all day until the evening. He has returned occasionally during the day. He

did not take his meals in my house. He breakfasted out, except when he was ill. His room was never locked; there were three table drawers in his room which had no locks. I saw the police find the powder flask and bullets in the table drawer; but I never knew that he had such things.

TINDAL, C.J.: When he came to lodge with me first he brought a portmanteau with him, which he kept in his bedroom. He took it away when he left me the second time, but did not bring it back on coming to lodge with me the third time. He then had nothing but what was about his person. The change of linen must have been in his pockets. He had no books lying about his room. I gave him one religious book—"Extracts from the Bible." I gave it him because he asked me for it. His habits were just the same on Sunday as on other days.

William Henry Stevenson.—Examined by the *Solicitor General.*

I am private secretary to Sir *Robert Peel*. The late Mr. *Edward Drummond* was also private secretary to Sir *Robert Peel*. Both Mr. *Drummond* and Sir *Robert Peel* were very much in the habit of going from the private residence of the premier, in Privy Gardens, to the house in Downing Street. In doing so you pass by the steps leading to the Council Office; you may also go through the Treasury.

John Gordon.—Examined by *Waddington.*

I have known *M'Naughton* about six years. I never saw anything particular about his conduct on any occasion. I came to London in November last, when I met the prisoner in St. Martin's Lane. Prisoner said, "I am in search of employment." He asked me where I was going, and I told him to Mr. *Hedge's*, in Great Peter Street. We then walked on together and passed by the Horse Guards and down Parliament Street. I know Sir *Robert Peel's* house. I mentioned to him that that (pointing to the house) was where Sir *Robert Peel* stopped. He said, "D—n him, sink him," or something like that. When we passed the Treasury, he said, "Look across the street, there is where all the treasure and worth of the world is," or something like that. When we got to Westminster Hall, we entered some of the courts, and afterwards we went to the Abbey. He said, "You see how time has affected that massive building," or something like that. We then went to Great Peter Street.

Cross-examined by *Bodkin.*

I have known the prisoner many years. He appeared to me to be carrying on a

prosperous business in Glasgow. So far as my intercourse with him allowed me to judge, he appeared to be a particularly mild and inoffensive person. He would sometimes speak roughly. His manner did not appear changed when I met him in St. Martin's Lane. I did not have any idea that his mind was disordered.

John Caldwell and *James Thompson*, from whom the prisoner had rented workshops, deposed that they had not noticed anything strange in his manner.

Alexander Martin, gunmaker of Paisley, proved selling the two pistols produced, to the prisoner in the previous July, also a flask, powder, and balls.

William Ambrose, writer to the signet, and *William Swanstead*, curator of the Mechanics' Institution, Glasgow, spoke to seeing the prisoner frequently at the institution. *Swanstead* said he spoke tolerably fair, and made as respectable an appearance as the rest. Witness never observed anything remarkable in his conversation or manner.

James Douglas, M.D.—Examined by the *Solicitor General.*

I am a surgeon, residing at Glasgow. I am in the habit of giving lectures on anatomy. I recognise the prisoner as having been a student of mine last summer. I had opportunities of speaking to him almost every day; I merely spoke to him on the subject of anatomy. He seemed to understand it. I scarcely had any opportunity of judging of his knowledge, because he did not attend the examinations. He attended in the dissecting room an hour a day. He used to be reading there. I never observed anything to lead me to suppose his mind was disordered. I am in the habit of explaining in a familiar manner to the students the different parts of the body, independently of the lectures; I did so to *M'Naughton* as well as others. I had not seen him until he was in custody since the last day of July. When I saw him in custody he knew me. I expressed my surprise at seeing him there. He made some monosyllabic reply, but I could not tell what.

Cross-examined by *Cockburn.*

I went to the gaol to see the prisoner by the direction of Mr. *Maule*, the solicitor, simply for the purpose of identifying him. I observed nothing particular about him, except his being a man of little education. There was a want of polish about him. I think he was capable of understanding what was said to him.

Now, sir, do you mean to say you had an opportunity of forming a judgment as to the man's sanity or insanity?—No; I

merely came to say that he appeared to understand what he heard of my lectures.

Joseph Forrester.—Examined by *Waddington.*

I am a hair dresser in Glasgow. I have known the prisoner for the last eighteen months. I never saw anything in his manner which led me to think he was not in his right senses, or that he was wrong in his intellect. I used to stay with him sometimes half an hour, sometimes two hours.

Cross-examined by *Clarkson.*

I never suspected there was anything wrong in the prisoner's mind. It never occurred to me that I should like to come to London as a witness. I am not aware how the attorneys for the prosecution found me out. I never offered myself as a witness to anyone else. I never told *Mrs. Patterson* that I wished to come as a witness for the prisoner, neither did I ever tell *Wilson*, the baker, that *M'Naughton* was a "daft" man. I have spoken to *Mrs. Patterson* on several occasions respecting the prisoner. One night she told me she wondered I said he was right, as I had once said he was wrong, but I denied having said anything of the sort. She then said that I was tipsy. I am quite sober now.

[Other witnesses proved the letters read by the *Solicitor General.*]

Solicitor General: That, my Lord, is the case on behalf of the Crown.

Cockburn applied to the Court to be allowed till the next morning before he entered upon the defence. He was himself labouring under very severe indisposition; and from the length to which the evidence on behalf of the prisoner would run, it would be impossible to close the proceedings that night.

TINDAL, C.J., inquired whether, if they adjourned at once, it was quite certain the remainder of the case would come within the compass of to-morrow.

Cockburn replied that he hoped it would, but that would depend mainly upon the course pursued by the counsel for the Crown.

TINDAL, C.J., said, if there was a probability of its being concluded to-morrow, the Court would at once accede to the learned counsel's request.

Cockburn said, that rather than make any statement which might mislead the Court he would go on till a late hour to-night.

TINDAL, C.J., said, that whatever might be the consequences, the Court would at once adjourn the proceedings, as the

learned counsel had intimated that he did not feel he could in his present state do justice to the prisoner.

Cockburn assured the Court, that he not only spoke with great pain, but he felt that if he proceeded he should not be able to address the jury at the length the importance of the case required.

Saturday, March 4, 1843.

SPEECH FOR THE DEFENCE.

Cockburn: May it please your Lordships, Gentlemen of the Jury,—I rise to address you on behalf of the unfortunate prisoner at the bar, who stands charged with the awful crime of murder, under a feeling of anxiety so intense—of responsibility so overwhelming, that I feel almost borne down by the weight of my solemn and difficult task. Gentlemen, believe me when I assure you that I say this, not by way of idle or common-place exordium, but as expressing the deep emotions by which my mind is agitated. I believe that you—I know that the numerous professional brethren by whom I see myself surrounded—will understand me when I say that of all the positions in which, in the discharge of our various duties in the different relations of life, a man may be placed, none can be more painful or more paralyzing to the energies of the mind than that of an advocate to whom is committed the defence of a fellow being in a matter involving life and death, and who, while deeply convinced that the defence which he has to offer is founded in truth and justice, yet sees in the circumstances by which the case is surrounded, that which makes him look forward with apprehension and trembling to the result. Gentlemen, if this were an ordinary case—if you had heard of it for the first time since you entered into that box—if the individual who has fallen a victim had been some obscure and unknown person, instead of one whose character, whose excellence, and whose fate had commanded the approbation, the love, and the sympathy of all, I should feel no anxiety as to the issue of this trial. But alas! can I dare to hope that even among you, who are to pass in judgment on the accused, there can be one who has not brought to the judgment-seat a mind imbued with preconceived notions on the case which is the subject of this important inquiry? In all classes of this great community—in every corner of this vast metropolis—from end to end, even to the remotest confines of this extensive empire—has this case been already canvassed, discussed, determined—and that, with re-

ference only to the worth of the victim, and the nature of the crime—not with reference to the state or condition of him by whom that crime has been committed; and hence there has arisen in men's minds an insatiate desire of vengeance—there has gone forth a wild and merciless cry for blood, to which you are called upon this day to minister! Yet do I not complain. When I bear in mind how deeply the horror of assassination is stamped on the hearts of men, above all, on the characters of Englishmen—and believe me, there breathes no one on God's earth by whom that crime is more abhorred than by him who now addresses you, and who, deeply deploring the loss, and acknowledging the goodness—dwelt upon with such touching eloquence by my learned friend—of him who in this instance has been its victim, would fain add, if it may be permitted, an humble tribute to the memory of him who has been taken from us—when I bear in mind, I say, these things—I will not give way to one single feeling, I will not breathe one single murmur of complaint or surprise at the passionate excitement which has pervaded the public mind on this unfortunate occasion. But I shall, I trust, be forgiven if I give utterance to the feelings of fear and dread by which, on approaching this case, I find my mind borne down, lest the fierce and passionate resentment to which this event has given rise may interfere with the due performance of those sacred functions which you are now called upon to discharge. Yet, gentlemen, will I not give way to feelings of despair, or address you in the language of despondency. I am not unmindful of the presence in which I am to plead for the life of my client. I have before me British judges, to whom I pay no idle compliment when I say that they are possessed of all the qualities which can adorn their exalted station, or ensure to the accused, a fair, a patient, and an impartial hearing—I am addressing a British jury, a tribunal to which truth has seldom been a suppliant in vain—I stand in a British court, where Justice, with Mercy for her handmaid, sits enthroned on the noblest of her altars, dispelling by the brightness of her presence the clouds which occasionally gather over human intelligence, and awing into silence by the holiness of her eternal majesty the angry passions which at times intrude beyond the threshold of her sanctuary, and force their way even to the very steps of her throne. In the name of that eternal justice—in the name of that God, whose great attribute we are taught that justice is, I call upon you to enter upon the consideration of this case with minds divested of every preju-

dice, of every passion, of every feeling of excitement. In the name of all that is sacred and holy, I call upon you calmly to weigh the evidence which will be brought before you, and to give your judgment according to that evidence. And if this appeal be not, as I know it will not be, made to you in vain, then, gentlemen, I know the result, and I shall look to the issue without fear or apprehension.

Gentlemen, my learned friend the *Solicitor General*, in stating this case to you, anticipated, with his usual acuteness and accuracy, the nature of the defence which would be set up. The defence upon which I shall rely will turn, not upon the denial of the act with which the prisoner is charged, but upon the state of his mind at the time he committed the act. There is no doubt, gentlemen, that, according to the law of England, insanity absolves a man from responsibility and from the legal consequences which would otherwise attach to the violation of the law. And in this respect, indeed, the law of England goes no further than the law of every other civilised community on the face of the earth. It goes no further than what reason strictly prescribes; and, if it be not too presumptuous to scan the judgments of a higher tribunal, it may not be too much to believe and hope that Providence, when in its inscrutable wisdom and its unfathomable councils, it thinks fit to lay upon a human being the heaviest and most appalling of all calamities to which, in this world of trial and suffering, human nature can be subjected—the deprivation of that reason, which is man's only light and guide in the intricate and slippery paths of life—will absolve him from his responsibility to the laws of God as well as to those of man. The law, then, takes cognisance of that disease which obscures the intellect and poisons the very sources of thought and feeling in the human being—which deprives man of reason, and converts him into the similitude of the lower animal—which bears down all the motives which usually stand as barriers around his conduct, and bring him within the operation of the Divine and human law—leaving the unhappy sufferer to the wild impulses which his frantic imagination engenders, and which urge him on with ungovernable fury to the commission of acts which his better reason, when yet unclouded, would have abhorred. The law, therefore, holds that a human being in such a state is exempt from legal responsibility and legal punishment; to hold otherwise would be to violate every principle of justice and humanity. The principle of the English law, therefore, as a general proposition, admits of no doubt whatsoever. But, at the same time, it would be idle to contend

that, in the practical application of this great principle, difficulties do not occur. And therefore it is that I claim your utmost attention whilst I lay before you the considerations which present themselves to my mind upon this most important subject. I have already stated to you that the defence of the accused will rest upon his mental condition at the time when the offence was committed. The evidence upon which that defence is founded will be deserving of your most serious attention. I will content myself in the present stage by briefly stating its general character. It will be of a two-fold description. It will not be such as that by which my learned friend the *Solicitor General* has sought to anticipate the defence, and to establish the sanity of the prisoner. It will not be of that naked, vague, indefinite, and uncertain character; it will be testimony positive and precise, and I say, from the bottom of my heart, that I believe it will carry conviction to the mind of everyone who shall hear it. It will be the evidence of persons who have known the prisoner from his infancy—of parties who have been brought into close and intimate contact with him—it will be the evidence of his relations, his friends, and his connexions; but as the evidence of near relations and connexions is always open to suspicion and distrust, I rejoice to say that it will consist also of the statements of persons whose testimony will be beyond the reach of all suspicion or dispute. Gentlemen, I will call before you the authorities of his native place, to one and all of whom this unfortunate calamity with which it has pleased Providence to afflict the prisoner at the bar was distinctly known—to all of whom he has from time to time, and again and again, applied for protection from the fancied miseries which his disordered imagination produced; all of them I will call, and their evidence will leave no doubt upon your minds that this man has been the victim of a fierce and fearful delusion, which, after the intellect had become diseased, the moral sense broken down, and self-control destroyed, has led him on to the perpetration of the crime with which he now stands charged. In addition to this evidence I shall call before you members of the medical profession—men of intelligence, experience, skill, and undoubted probity—who will tell you upon their oaths that it is their belief, their deliberate opinion, their deep conviction, that this man is mad, that he is the creature of delusion, and the victim of ungovernable impulses, which wholly take away from him the character of a reasonable and responsible being. I need not point out to you the great importance and

value of the latter description of testimony. You will not, I am sure, think that what I say is with the view, in the slightest degree, of disparaging your capacity, or of doubting your judgment, when I venture to suggest to you that, of all the questions which can possibly come before a tribunal of this kind, the question of insanity is one which (except in those few glaring cases where its effects pervade the whole of a man's mind) is the most difficult upon which men not scientifically acquainted with the subject can be called upon to decide, and upon which the greatest deference should be paid to the opinions of those who have made the subject their peculiar study.

It is now, I believe, a matter placed beyond doubt that madness is a disease of the body operating upon the mind, a disease of the cerebral organisation; and that a precise and accurate knowledge of this disease can only be acquired by those who have made it the subject of attention and experience, of long reflection, and of diligent investigation. The very nature of the disease necessitates the seclusion of those who are its victims from the rest of the world. How can we, then, who in the ordinary course of life are brought into contact only with the sane, be competent to judge of the nice and shadowy distinctions which mark the boundary line between mental soundness and mental disease? I do not ask you, gentlemen, to place your judgment at the mercy, or to surrender your minds and understanding to the opinions, of any set of men—for after all, it must be left to your consciences to decide,—I only point out to you the value and importance of this testimony, and the necessity there is that you should listen with patient attention to the evidence of men of skill and science, who have made insanity the subject of their especial attention. My learned friend the *Solicitor General* has directed your attention to the legal authorities; and, perhaps, when those authorities shall have been minutely examined, no great difference will be found to exist between my learned friend and myself. But lest any confusion should be produced in your minds to the detriment of justice, you will forgive me if I pray your attention to the observations which I deem it my duty to make on this branch of the subject. I think it will be quite impossible for any person, who brings a sound judgment to bear upon this judgment, when viewed with the aid of the light which science has thrown upon it, to come to the opinion that the ancient maxims, which, in times gone by, have been laid down for our guidance, can be taken still to obtain in the full force of the terms in which they

were laid down. It must not be forgotten that the knowledge of this disease in all its various forms is a matter of very recent growth. I feel that I may appeal to the many medical gentlemen I see around me, whether the knowledge and pathology of this disease has not within a few recent years first acquired the character of a science? It is known to all that it is but as yesterday that the system of treatment, which in past ages—to the eternal disgrace of those ages—was pursued towards those whom it had pleased Heaven to visit with the heaviest of all human afflictions, and who were therefore best entitled to the tenderest care and most watchful kindness of their Christian brethren—it is but as yesterday, I say, that that system has been changed for another, which, thank God, exists to our honour, and to the comfort and better prospect of recovery of the unfortunate diseased in mind! It is but as yesterday that darkness and solitude—cut off from the rest of mankind like the lepers of old—the dismal cell, the bed of straw, the iron chain, and the inhuman scourge, were the fearful lot of those who were best entitled to human pity and to human sympathy, as being the victims of the most dreadful of all mortal calamities. This state of things has passed, or is passing fast away. But in former times when it did exist, you will not wonder that these unhappy persons were looked upon with a different eye. Thank God, at last—though but at last—humanity and wisdom have penetrated, hand in hand, into the dreary abodes of these miserable beings, and whilst the one has poured the balm of consolation into the bosoms of the afflicted, the other has held the light of science over our hitherto imperfect knowledge of this dire disease, has ascertained its varying character, and marked its shadowy boundaries, and taught us how, in gentleness and mercy, best to minister to the relief and restoration of the sufferer! You can easily understand, gentlemen, that when it was the practice to separate these unhappy beings from the rest of mankind and to subject them to this cruel treatment, the person whose reason was but partially obscured would ultimately, and perhaps speedily, in most cases, be converted into a raving madman. You can easily understand, too, that when thus immured and shut up from the inspection of public inquiry, neglected, abandoned, overlooked—all the peculiar forms, and characteristics, and changes of this malady were lost sight of and unknown, and kept from the knowledge of mankind at large, and therefore how difficult it was to judge correctly concerning it. Thus I am enabled to understand how it was that crude maxims and singular propositions founded

upon the hitherto partial knowledge of this disease, have been put forward and received as authority, although utterly inapplicable to many of the cases arising under the varied forms of insanity. Science is ever on the advance; and, no doubt, science of this kind, like all other, is in advance of the generality of mankind. It is a matter of science altogether; and we who have the ordinary duties of our several stations and the business of our respective avocations to occupy our full attention, cannot be so well informed upon it as those who have scientifically pursued the study and the treatment of the disease. I think, then, we shall be fully justified in turning to the doctrines of matured science rather than to the maxims put forth in times when neither knowledge, nor philanthropy, nor philosophy, nor common justice had their full operations in discussions of this nature. My learned friend the *Solicitor General* has read to you the authority of Lord *Hale* upon the subject-matter of this inquiry. I hold in my hand perhaps the most scientific treatise that the age has produced upon the subject of insanity in relation to jurisprudence—it is the work of Dr. *Ray*, an American writer on medical jurisprudence, and a professor in one of the great national establishments of that country.

[Counsel quoted the criticisms of Drs. *Ray* (a) and *Prichard* (b) on the test suggested by Lord *Hale* in cases of partial insanity (c):—

“Such a person as labouring under melancholy distempers hath yet ordinarily as great understanding as ordinarily a child of fourteen years hath, is such a person as may be guilty of treason or felony.”

On this Dr. *Ray* observes:—

“In the time of this eminent jurist insanity was a much less frequent disease than it is now, and the popular notions concerning it were derived from the observation of those wretched inmates of the mad-houses whom chains and stripes, cold and filth, had reduced to the stupidity of the idiot, or exasperated to the fury of a demon. Those nice shades of the disease in which the mind, without being wholly driven from its propriety, pertinaciously clings to some absurd delusion, were either regarded as something very different from real madness, or were too far removed from the common gaze, and too soon converted by bad management into the more active forms of the disease, to enter much into the general idea entertained of madness. Could Lord *Hale* have contemplated the scenes pre-

(a) “A Treatise on the Medical Jurisprudence of Insanity, by I. Ray, M.D. Boston, 1838.”

(b) “On the different Forms of Insanity in relation to Jurisprudence, by James Cowles Prichard, M.D. London, 1842.”

(c) 1 Hale, P.C. 30.

sented by the lunatic asylums of our own times, we should undoubtedly have received from him a very different doctrine for the regulation of the decisions of after generations."

This is not the first time, gentlemen, that this doctrine of Lord *Hale* has been discussed, with the view to ascertain its true interpretation: One of those master minds whose imperishable productions form part of the intellectual treasure and birthright of their country—the great Lord *Erskine*, whose brilliant mind never shone forth more conspicuously than upon the occasion to which I am about to allude, and whose sentiments it would be presumption and profanation to give in other than the language which fell from his own gifted lips at the celebrated trial to which allusion was made by my learned friend, put the true interpretation upon the doctrine of Lord *Hale*. I will read the passage, and I know you will pardon me the time I occupy, for who would not gladly spare the time to listen to observations coming from such a man on so momentous an inquiry?

[Counsel read a passage from *Erskine's* speech in defence of *Hadfield*, concluding as follows:—]

"Delusion, therefore, when there is no frenzy or raving madness, is the true character of insanity; and when 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 courts of law were to be governed by any other principle, every departure from sober, rational conduct would be an emancipation from criminal justice. I shall place my claim to your verdict upon no such dangerous foundation. I must convince you, not only that the unhappy prisoner was a lunatic within my own definition of lunacy, but that the act in question was the immediate, unqualified offspring of the disease. You perceive, therefore, gentlemen, that the prisoner, in naming me for his counsel, has not obtained the assistance of a person who is disposed to carry the doctrine of insanity in his defence so far as even the books would warrant me in carrying it. He alone can be so emancipated whose disease (call it what you will) consists not merely in seeing with a prejudiced eye, or with odd and absurd particularities, differing, in many respects, from the contemplations of sober sense upon the actual existence of things; but he only whose whole reasoning and corresponding conduct, though governed by the ordinary dictates of reason, proceed upon something which has no foundation or existence.^(a)

Such, gentlemen, is the language of this great man, and in this doctrine is the true interpretation of the law to be found. Gentlemen, that argument prevailed with the Court and jury in the case of the person on behalf of whom

it was urged. Upon that argument I take my stand this day. I will bring this case within the scope of the incontrovertible and unanswerable reasoning which it comprises, and I feel perfectly confident that upon you, gentlemen, this reasoning will not be lost, but that the same result will follow in this as did in that memorable case. My learned friend, the *Solicitor General*, has cited to you one or two other cases which I will dispose of in a very few words. A prominent case in his list is that of Earl *Ferrers*. Here, too, I am glad that my learned friend has referred to the celebrated case of *Hadfield*, because that case furnishes me with some valuable observations of Lord *Erskine's*, made on *Hadfield's* trial, which will enable me to show how that great authority disposed of two of the cases relied on by my learned friend. I prefer to read to you, gentlemen, those observations rather than trouble you with any of my own. After stating Lord *Ferrers'* case and drawing the distinction between the species of insane delusion which produces erratic acts, and that species of insanity which I trust I shall be able to prove to you possessed the prisoner now at the bar, Lord *Erskine* says:—

"I have now lying before me the case of Earl *Ferrers*. Unquestionably there could not be a shadow of doubt, and none appears to have been entertained, of his guilt. I wish, indeed, nothing more than to contrast the two cases; and so far am I from disputing either the principle of that condemnation, or the evidence that was the foundation of it, that I invite you to examine whether any two instances in the whole body of the criminal law are more diametrically opposite to each other than the case of Earl *Ferrers* and that now before you. Lord *Ferrers* was divorced from his wife by Act of Parliament; and the person of the name of *Johnson*, who had been his steward, had taken part with the lady in that proceeding, and had conducted the business in carrying the Act through the two Houses. Lord *Ferrers* consequently wished to turn him out of a farm which he occupied under him; but his estate being in trust, *Johnson* was supported by the trustees in his possession. There were also some differences respecting coal mines, and in consequence of both transactions Lord *Ferrers* took up the most violent resentment against him. Let me here observe,"

continues Lord *Erskine*,

"that this was not a resentment founded upon any illusion; not a resentment forced upon a distempered mind by fallacious images, but depending upon actual circumstances and real facts; and acting like any other man under the influence of malignant passions, he repeatedly declared that he would be revenged on Mr. *Johnson*, particularly for the part he had taken in depriving him of a contract respecting the mines. Now, suppose that Lord *Ferrers* could

(a) 27 St. Tr. 1314.

have showed that no difference with Mr. Johnson had ever existed regarding his wife at all, that Mr. Johnson had never been his steward, and that he had only, from delusion, believed so when his situation in life was quite different. Suppose, further, that an illusive imagination had alone suggested to him that he had been thwarted by Johnson in his contract with these coal mines, there never having been any contract at all for coal mines; in short, that the whole basis of his enmity was without any foundation in nature, and had been shown to have been a morbid image imperiously fastened upon his mind. Such a case as that would have exhibited a character of insanity in Lord Ferrers, extremely different from that in which it was presented by the evidence of his peers. Before them he only appeared as a man of turbulent passions, whose mind was disturbed by no fallacious images of things without existence, whose quarrel with Johnson was founded upon no illusions, but upon existing facts, and whose resentment proceeded to the fatal consummation with all the ordinary indications of mischief and malice, and who conducted his own defence with the greatest dexterity and skill. Who then could doubt that Lord Ferrers was a murderer? When the act was done, he said, 'I am glad I have done it. He was a villain, and I am revenged'; but when he afterwards saw that the wound was probably mortal, and that it involved consequences fatal to himself, he desired the surgeon to take all possible care of his patient; and, conscious of his crime, kept at bay the men who came with arms to arrest him, showing, from the beginning to the end, nothing that does not generally accompany the crime for which he was condemned. He was proved, to be sure, to be a man subject to unreasonable prejudices, addicted to absurd practices, and agitated by violent passions; but the act was not done under the dominion of uncontrollable disease; and whether the mischief and malice were substantive or marked in the mind of a man whose passions bordered upon, or even amounted to insanity, it did not convince the lords that, under all the circumstances of the case, he was not a fit object of criminal justice."

Thus, gentlemen, Lord *Erskine* showed the greatest possible contrast between the two cases; and I shall, in the case now before you, do the same thing. [Counsel also quoted *Erskine's* reference to *Arnold's* case, and Dr. *Ray's* arguments, to show that *Arnold* was insane.(a) Though *Arnold* was convicted, Lord *Onslow*, at whom he fired, thought he was insane, and procured a reprieve.]

Gentlemen, I will now go on to another case cited by my learned friend the *Solicitor General*. I allude to the case of *Bowler*, which is reported in *Collinson on Lunacy*.(b) I trust, gentlemen, I shall not be considered

(a) *Ray's Medical Jurisprudence of Insanity*, s. 10, p. 18.

(b) 673n.

open to the imputation of arrogance, or as travelling out of the line of my duty on the present occasion, if I say that I cannot bring myself to look upon that case without a deep and profound sense of shame and sorrow that such a decision as was there come to should ever have been resolved upon by a British jury, or sanctioned by a British judge. What, when I remember that in that case Mr. *Warburton*, the keeper of a lunatic asylum, was called and examined, and that he stated that the prisoner *Bowler* had, some months previously, been brought home apparently lifeless, since which time he had perceived a great alteration in his conduct and demeanour; that he would frequently dine at nine o'clock in the morning, eat his meat almost raw, and lie on the grass exposed to rain; that his spirits were so dejected that it was necessary to watch him lest he should destroy himself—when I remember that it was further proved in that case that it was characteristic of insanity occasioned by epilepsy for the patients to imbibe violent antipathies against particular individuals, even their dearest friends, and a desire of taking vengeance upon them, from causes wholly imaginary, which no persuasion could remove, and yet the patient might be rational and collected upon every other subject—when I also recollect that a commission of lunacy had been issued and an inquisition taken upon it, whereby the prisoner was found to have been insane from a period anterior to the offence—when all these recollections cross my mind, I cannot help looking upon that case with feelings bordering upon indignation. But, gentlemen, I rejoice to say—because it absolves me from the imputation of presumption or arrogance in thus differing from the doctrines laid down in that case by the learned judge and adopted by the jury—that in the view which I have taken of it I am borne out by the authority of an English judge now living amongst us—a judge who is, and I trust will long continue to be, one of the brightest ornaments of a profession which has, through all times, furnished such shining examples to the world. I refer, gentlemen, to Mr. Baron *Alderson*, and the opinion that learned judge pronounced upon *Bowler's* case on the recent trial of *Oxford* in this Court(a); and I must say that I think, if the attention of my learned friend the *Solicitor General* had been drawn to that case, if he had heard or read the observations made by Mr. Baron *Alderson* on that occasion, he would not now have pressed *Bowler's* case upon your notice. The At-

(a) Above, p. 508.

torney General of that day, the present Lord *Campbell*, in conducting the prosecution against *Oxford* for shooting at Her Majesty, had, in his address to the jury, cited the case of *Bowler*. When he came to the close of it, Mr. Baron *Alderson* interrupted him with this observation, "*Bowler*, I believe, was executed, and very barbarous it was!" Such was the expression of Mr. Baron *Alderson* upon the mention of *Bowler's* case, and I rejoice to be able to cite it. I reverence the strength of feeling which alone could have given rise to that strength of expression; and I am sure that if the attention of my learned friend had been directed to such an observation coming from so high an authority, I know my learned friend's discretion and sense of propriety too well to think he would have cited *Bowler's* case for your guidance. Gentlemen, you will therefore, I am sure, dismiss that case from your minds after so clear and decided an exposition of the fallacious views which led to that decision. Let the error in that case, I implore you, operate as a warning to you not to be carried away headlong by antiquated maxims or delusive doctrines. God grant that never in future times may any authority, judicial or otherwise, have reason in this case to deplore the consequences of a similar error; never may it be in the power of any man to say of you, gentlemen, that you agreed to a verdict which in itself, or in its execution, deserved to be designated as barbarous.

I pass now, gentlemen, to the next case cited by my learned friend the *Solicitor General*—the case of *Bellingham*. All I can say of that case is, that I believe, in the opinion of the most scientific men who have considered it, there now exists no doubt at all that *Bellingham* was a madman. Few, I believe, at this period, unbiassed by the political prejudices of the times, and examining the event as a matter of history, will read the report of *Bellingham's* trial without being forced to the conclusion that he was really mad, or, at the very least, that the little evidence which did appear relative to the state of his mind was strong enough to have entitled him to a deliberate and thorough investigation of his case. The eminent writer I have already quoted—I mean Dr. *Ray*—in speaking of *Bellingham's* case, says(a):—

"It appeared from the history of the accused, from his own account of the transactions that led to the fatal act, and from the testimony of several witnesses, that he laboured under many of those strange delusions that find a place only in the brains of a madman. His fixed belief that

his own private grievances were national wrongs; that his country's diplomatic agents in a foreign land neglected to bear his complaints and assist him in his troubles, though they had in reality done more than could have reasonably been expected of them; his conviction, in which he was firm almost to the last, that his losses would be made good by the Government, even after he had been repeatedly told, in consequence of repeated applications in various quarters, that the Government would not interfere in his affairs; and his determination, on the failure of all other means to bring his affairs before the country, to effect this purpose by assassinating the head of the Government, by which he would have an opportunity of making a public statement of his grievances and obtaining a triumph, which he never doubted, over the Attorney General; these were all delusions, as wild and strange as those of seven-eighths of the inmates of any lunatic asylum in the land. And so obvious were they, that though they had not the aid of an *Erskine* to press them upon the attention of the jury, and though he himself denied the imputation of insanity, the Government, as if virtually acknowledging their existence, contended for his responsibility on very different grounds."

Gentlemen, it is a fact that *Bellingham* was hanged within one week after the commission of the fatal act, while persons were on their way to England who had known him for years, and who were prepared to give decisive evidence of his insanity. He was tried, he was executed, notwithstanding the earnest appeal of Mr. *Alley*, his counsel, that time might be afforded him to obtain evidence as to the nature and extent of the malady to which *Bellingham* was subject. Moreover, on the occasion of the trial of *Oxford* in this Court, the then Attorney General, Sir *John Campbell*, now Lord *Campbell*, after *Bowler's* case had been disposed of by the emphatic observation of Mr. Baron *Alderson*, expressed himself in these words:—

"I will not refer to *Bellingham's* case, as there are some doubts as to the correctness of the mode in which that case was conducted."

I would that my learned friend the *Solicitor General* had taken on this occasion the same course, and had exercised the same wise forbearance; because the doubts expressed by the late Attorney General as to the propriety of the conduct of that case are not confined to that learned person, it being notorious that very serious doubts as to the propriety of that trial are commonly entertained among the profession at large. Under such circumstances, gentlemen, I feel that it would have been much better if your attention had not been directed to that trial as it has been. I turn now to a very recent treatise on criminal law, which I am the more entitled to cite as an authority, because its learned author, Mr. *Roscoe*, has been snatched from us by

(a) *Ray's Medical Jurisprudence*, p. 29, s. 15.

the hand of death,^(a) while his career was full of that promise which his great attainments and varied learning held out to us. Referring to the rule laid down in the case of *Bellingham*, and which you have been told was adopted by Lord *Lyndhurst* in *Rex v. Offord*, Mr. *Roscoe* says:—

“The direction does not appear to make a sufficient allowance for the incapacity of judging between right and wrong upon the very matter in question, as in all cases of monomania.”^(b)

Mr. *Roscoe* quotes some remarks by an eminent writer on the criminal law of Scotland. Now I may here observe, that I have the authority of the present Lord *Campbell*, when Attorney General, in *Oxford's* case, for saying that there is no difference between the law of Scotland and that of England in this respect; so that all which I may have to cite with respect to the law of Scotland will be quite applicable to the case in hand. Gentlemen, Mr. *Roscoe* goes on to say:—

“The following observations of an eminent writer on the criminal law of Scotland (Mr. *Alison*) are applicable to the subject: ‘Although a prisoner understands perfectly the distinction between right and wrong, yet if he labours, as is generally the case, under an illusion and deception in his own particular case, and is thereby incapable of applying it correctly to his own conduct, he is in that state of mental aberration which renders him not criminally answerable for his actions. For example, a mad person may be perfectly aware that murder is a crime, and will admit it, if pressed on the subject; still he may conceive that the homicide he has committed was nowise blamable, because the deceased had engaged in a conspiracy, with others, against his own life, or was his mortal enemy, who had wounded him in his dearest interests, or was the devil incarnate, whom it was the duty of every good Christian to meet with weapons of carnal warfare.’”

These observations of Mr. *Roscoe* and Mr. *Alison*, when applied to the cases of *Bellingham*, of *Arnold*, and of *Offord*, show that they are not cases to be relied upon as perfect—that the doctrine laid down in them cannot be taken as an unerring criterion by a jury. Unless you attend to all the circumstances of the particular case, you may be led into disastrous results, which it must be your most anxious wish to avoid. [Counsel next referred to *Offord's* case, and read the report^(c) to the jury.]

The verdict was not guilty. I think my learned friend did not state to you the verdict.

(a) Mr. *Roscoe* died March 25, 1836, in his 37th year.

(b) *Roscoe's Criminal Evidence*, p. 876.

(c) 5 C. & P. 168; and see above, p. 547.

Solicitor General: I beg your pardon; I did.

Cockburn: If so, I was in error, and on my learned friend's statement, I withdraw at once the observation I made. I am sorry that I made it; and here let me take the opportunity of expressing my sense—and I am sure my learned friend will not object to receive such a tribute from me—of the forbearance and merciful consideration with which he opened and has conducted this case. I am bound also to say, that whatever facilities could be afforded to the defence, have been readily granted to the prisoner's friends by those who represent the Crown on this occasion. But to resume. With respect, then, to *Offord's* case, I have only to remind you that *Offord* was acquitted on the ground of insanity. Here, gentlemen, I shall prove a much stronger case; and when I have done so, you will, I feel confident, have no hesitation in following the precedent set you by the jury in that case. So much, gentlemen, for the legal authorities cited by my learned friend the *Solicitor General*; but, after all, as was observed by him, this is not so much a question of law as of fact. That which you have to determine is, whether the prisoner at the bar is guilty of the crime of wilful murder. Now, by “wilful” must be understood, not the mere will that makes a man raise his hand against another; not a blind instinct that leads to the commission of an irrational act, because the brute creation, the beasts of the field, have, in that sense, a will; but by will, with reference to human action, must be understood the necessary moral sense that guides and directs the volition, acting on it through the medium of reason. I quite agree with my learned friend, that it is a question—being, namely, whether this moral sense exists or not—of fact rather than of law. At the same time, whatever light legal authorities may afford on the one hand, or philosophy and science on the other, we ought to avail ourselves of either with grateful alacrity. This being premised, I will now take the liberty of making a few general observations upon what appears to me to be the true view of the nature of this disease with reference to the application of the important principle of criminal responsibility. To the most superficial observer who has contemplated the mind of man, it must be perfectly obvious that the functions of the mind are of a twofold nature—those of the intellect or faculty of thought alone—such as perception, judgment, reasoning—and again, those of the moral faculties—the sentiments, affections, propensities, and passions, which it has pleased Heaven, for its own wise purposes, to implant in the nature of man. It is

now received as an admitted principle by all inquirers, that the seat of the mental disease termed insanity is the cerebral organisation; that is to say, the brain of man. Whatever and wherever may be the seat of the immaterial man, one thing appears perfectly clear to human observation, namely—that the point which connects the immaterial and the material man—is the brain; and, furthermore, it is clear that all defects in the cerebral organisation, whether congenital—that is to say, born with a man—or supervening either by disease or by natural and gradual decay, have the effect of impairing and deranging the faculties and functions of the immaterial mind. The soul is there as when first the Maker breathed it into man; but the exercise of the intellectual and moral faculties is vitiated and disordered. Again, a further view of the subject is this—it is one which has only been perfectly understood and elucidated in its full extent by the inquiries of modern times. By any one of the legion of casualties by which the material organisation may be affected, any one or all of these various faculties of the mind may be disordered,—the perception, the judgment, the reason, the sentiments, the affections, the propensities, the passions—any one or all may become subject to insanity; and the mistake existing in ancient times, which the light of modern science has dispelled, lay in supposing that in order that a man should be mad—incapable of judging between right and wrong, or of exercising that self-control and dominion, without which the knowledge of right and wrong would become vague and useless—it was necessary that he should exhibit those symptoms which would amount to total prostration of the intellect; whereas modern science has incontrovertibly established that any one of these intellectual and moral functions of the mind may be subject to separate disease, and thereby man may be rendered the victim of the most fearful delusions, the slave of uncontrollable impulses impelling or rather compelling him to the commission of acts such as that which has given rise to the case now under your consideration. This is the view of the subject on which all scientific authorities are agreed—a view not only entertained by medical, but also by legal authorities. It is almost with a blush that I now turn from the authorities in our own books, to those which I find in the works of the Scottish writers on jurisprudence. I turn to the celebrated work of a profound and scientific jurist, I allude to Baron *Hume*. He treats on the very subject which is now, gentlemen, under your consideration—namely, the test of

insanity as a defence with reference to criminal acts, and he says (a) :—

“To serve the purpose, therefore, of an excuse in law, the disorder must amount to absolute alienation of reason, ‘*ut continua mentis alienatione, omni intellectu careat*’—such a disease as deprives the patient of the knowledge of the true disposition of things about him, and of the discernment of friend from foe, and gives him up to the impulse of his own distempered fancy, divested of all self-government or control of his passions. Whether it should be added to the description that he must have lost all knowledge of good and evil, right and wrong, is a more delicate question, and fit, perhaps, to be resolved differently, according to the sense in which it is understood. If it be put in this sense in a case, for instance, of murder—Did the panel (b) know that murder was a crime? Would he have answered on the question, that it is wrong to kill a neighbour? This is hardly to be reputed a just criterion of such a state of soundness as ought to make a man accountable in law for his acts. Because it may happen to a person, to answer in this way, who yet is so absolutely mad as to have lost all true observation of facts, all understanding of the good or bad intention of those who are about him, or even the knowledge of their persons. But if the question is put in this other and more special sense, as relative to the act done by the panel, and his understanding of the particular situation in which he conceived himself to stand. Did he at that moment understand the evil of what he did? Was he impressed with the consciousness of guilt and fear of punishment? it is then a pertinent and a material question, but which cannot, to any substantial purpose, be answered, without taking into consideration the whole circumstances of the situation. Every judgment in the matter of right and wrong supposes a case, or state of facts, to which it applies. And though the panel may have that vestige of reason which may enable him to answer in the general, that murder is a crime, yet if he cannot distinguish his friend from his enemy, or a benefit from an injury, but conceive everything about him to be the reverse of what it really is, and mistake the illusions of his fancy for realities in respect of his own condition and that of others, those remains of intellect are of no use to him towards the government of his actions, nor in enabling him to form a judgment on any particular situation or conjunction of what is right or wrong with regard to it; if he does not know the person of his friend or neighbour, or though he do know him, if he is possessed with the vain conceit that he is come there to destroy him, or that he has already done him the most cruel injuries, and that all about him are engaged in one foul conspiracy to abuse him, as well might he be utterly ignorant of the quality of murder. Proceeding as it does on a false case or conjuration of his own fancy, his judgment of right and wrong, as to any respon-

(a) *Hume's Commentaries on the Law of Scotland*, vol. i. 37.

(b) The prisoner.

sibility that should attend it, is truly the same as none at all. It is, therefore, only in this complete and appropriated sense as relative to the particular thing done, and the situation of the panel's feelings and consciousness on that occasion, that this inquiry concerning his intelligence of moral good or evil is material, and not in any other or larger sense."

This, gentlemen, I take to be the true interpretation and construction of the law. The question is not here, as my learned friend would have you think, whether this individual knew that he was killing another when he raised his hand to destroy him, although he might be under a delusion, but whether under that delusion of mind he did an act which he would not have done under any other circumstances, save under the impulse of the delusion which he could not control, and out of which delusion alone the act itself arose. Again, gentlemen, I must have recourse to the observations of that eminent man, Lord *Erskine*. I am anxious, most anxious on this difficult subject, feeling deeply my own incapacity, and that I am but as the blind leading the blind (you will forgive me the expression); I am, I repeat, anxious to avail myself as much as possible of the great light which others have thrown upon the subject, and to avoid any observations of my own by referring to the remarks of much greater minds. I turn again, therefore, to the remarks of Lord *Erskine* on the subject of delusion, in the case which has so often been mentioned. The case here is one of delusion—the act in question is connected with that delusion out of which, and out of which alone, it sprung.

"Delusion,"

says Lord *Erskine*,

"therefore, where there is no frenzy 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 emancipation from criminal justice. I shall place my claim to your verdict upon no such dangerous foundation."

And, gentlemen, I following at an immeasurable distance that great man, I, too, will place my claim to your verdict on no such dangerous foundation.

"I must convince you,"

said Lord *Erskine*,

"not only that the unhappy prisoner was a lunatic within my own definition of lunacy, but that the act in question was the immediate unqualified offspring of this disease."

I accept this construction of the law: by that interpretation, coupled with and

qualified by the conditions annexed to it, I will abide. I am bound to show that the prisoner was acting under a delusion, and that the act sprung out of that delusion, and I will show it. I will show it by evidence irresistibly strong; and when I have done so, I shall be entitled to your verdict. On the other hand, my learned friend the *Solicitor General* told you yesterday that in the case before you the prisoner had some rationality, because in the ordinary relations of life he had manifested ordinary sagacity, and that on this account you must come to the conclusion that he was not insane on any point, and that the act with which he now stands charged was not the result of delusion. I had thought that the many occasions upon which this matter had been discussed would have rendered such a doctrine as obsolete and exploded in a court of law as it is everywhere else. Let my learned friend ask any of the medical gentlemen who surround him, and whose assistance he has on this occasion, if they will come forward and pledge their professional reputation, as well as their moral character, to the assertion that shall deny the proposition that a man may be a frenzied lunatic on one point, and yet on all others be capable of all the operations of the human mind, possessed of a high degree of sagacity, in possession of full rational powers, undisturbed by evil or excessive passions. On this point Dr. *Ray*,^(a) in the following observations (the result of his long experience), disposes of the very objection which my learned friend has put forward on the present occasion:—

"The purest minds cannot express greater horror and loathing of various crimes than madmen often do, and from precisely the same causes. Their abstract conceptions of crime, not being perverted by the influence of disease, present its hideous outlines as strongly defined as they ever were in the healthiest condition; and the disapprobation they express at the sight arises from sincere and honest convictions. The particular criminal act, however, becomes divorced in their minds from its relations to crime in the abstract; and being regarded only in connexion with some favourite object which it may help to obtain, and which they see no reason to refrain from pursuing, is viewed, in fact, as of a highly laudable and meritorious nature. Herein, then, consists their insanity, not in preferring vice to virtue, in applauding crime and ridiculing justice, but in being unable to discern the essential identity of nature between a particular crime and all other crimes, whereby they are led to approve what, in general terms, they have already condemned. It is a fact not calculated to increase our faith in the march of intellect, that the very trait peculiarly characteristic of insanity has been seized upon

(a) *Ray's Med. Jurisp.* s. 17, p. 32.

as conclusive proof of sanity in doubtful cases ; and thus the infirmity that entitles one to protection, is tortured into a good and sufficient reason for completing his ruin."

I trust, gentlemen, that these observations, proceeding from a man of the most scientific observation, having all the facilities of studying everything connected with the subject, will not be lost upon you. I could mention case after case—I could continue till the sun should go down on my uncompleted task—I could cite case after case, in which the intellectual faculty was so impaired that the insanity upon one point was beyond all doubt, and yet where there was upon all others the utmost sagacity and intelligence. You will see that all the evidence of my learned friend the *Solicitor General* relates to the ordinary relations of a man's life. That does not effect the real question. It may be that this man understood the nature of right and wrong on general subjects—it may be that he was competent to manage his own affairs, that he could fulfil his part in the different relations of life, that he was capable of transacting all ordinary business. I grant it. But admitting all this, it does not follow that he was not subject to delusion, and insane. If I had represented this as the case of a man altogether subject to a total frenzy—that all traces of human reason were obliterated and gone—that his life was one perpetual series of paroxysms of rage and fury, my learned friend might well have met me with the evidence he has produced upon the present occasion ; but when I put my case upon the other ground, that of partial delusion, my learned friend has been adducing evidence which is altogether beside the question. I can show you instances in which a man was, on some particular point, to all intents and purposes mad—where reason had lost its empire—where the moral sense was effaced and gone—where all control, all self-dominion, was lost for ever under one particular delusion ; and yet where in all the moral and social relations of life there was, in all other respects, no neglect, no irrationality, where the man might have gone through life without his infirmity being known to any except those to whom a knowledge of the particular delusion had been communicated. My learned friend has also remarked upon the silent design and contrivance which the prisoner manifested upon the occasion in question, as well as upon his rationality in the ordinary transactions of life. But my friend forgets that it is an established fact in the history of this disease, perhaps one of its most striking phenomena, that a man may be mad, may be under the influence of a wild and insane delusion,—one who, all

barriers of self-control being broken down, is driven by frenzied impulse into crime, and yet, in carrying out the fell purposes which a diseased mind has suggested, may show all the skill, subtlety, and cunning, which the most intelligent and sane would have exhibited. Just so in the case of *Hadfield* ; it was urged against Lord *Erskine*, that *Hadfield* could not be mad, because he had shown so much cunning, subtlety, deliberation, and design, in the whole of the circumstances which led to the perpetration of the act with which he was charged. In the present case, my learned friend the *Solicitor General* has told you that the prisoner watched for his victim, haunted the neighbourhood of the Government offices, waited for the moment to strike the blow, and throughout exhibited a degree of design and deliberation inconsistent with insanity. The same in *Hadfield's* case ; *Hadfield* went to the theatre, got his pistol loaded, and took his position in a place to command the situation in which he knew the King would sit ; he raised the pistol, he took deliberate aim, and fired at the person of the King. All these circumstances were urged as evidence of design, and as inconsistent with the acts of a madman. What then, gentlemen, is the result of these observations ? What is the practical conclusion of these investigations of modern science upon the subject of insanity ? It is simply this : that a man, though his mind may be sane upon other points, may, by the effect of mental disease, be rendered wholly incompetent to see some one or more of the relations of subsisting things around him in their true light, and though possessed of moral perception and control in general, may become the creature and the victim of some impulse so irresistibly strong as to annihilate all possibility of self dominion or resistance in the particular instance ; and this being so, it follows, that if, under such an impulse, a man commits an act which the law denounces and visits with punishment, he cannot be made subject to such punishment, because he is not under the restraint of those motives which could alone create human responsibility. If, then, you shall find in this case that the moral sense was impaired, that this act was the result of a morbid delusion, and necessarily connects itself with that delusion ; if I can establish such a case by evidence, so as to bring myself within the interpretation which the highest authorities have said is the true principle of law as they have laid it down for the guidance of courts of law and juries in inquiries of this kind, I shall feel perfectly confident that your verdict must be in favour of the prisoner at the bar.

With these observations I shall now proceed to lay before you the facts of this extraordinary case. My learned friend the *Solicitor General* has already given you some account of the prisoner at the bar, and I will now fill up the outline which my learned friend has drawn. The prisoner, as you have been told, is a native of Glasgow. At an early age he was apprenticed to his father, who carried on the business of a turner in that city; at the end of the apprenticeship he became a journeyman to his father, having been disappointed in not being taken by him as a partner. The prisoner, I should observe, is a natural son, and probably did not meet with that full measure of kindness which is usually shown to legitimate offspring. Whatever might have been the predetermining cause, he appears to have been from the commencement a man of gloomy, reserved, and unsocial habits. He was, moreover, as you will hear, though gloomy and reserved in himself, a man of singularly sensitive mind—one who spent his days in incessant labour and toil, and at night gave himself up to the study of difficult and abstruse matters; but whose mind, notwithstanding, was tinctured with refinement. As one trait of his character, I would mention that he was extremely fond of watching children at play, and took infinite delight in their infantine and innocent ways. I will prove, also, that he was a man of particular humanity towards the brute creation, and that when he went out he was in the habit of carrying crumbs in his pocket to distribute to the birds. If in the course of their walks his companions discovered a bird's nest, he would interfere, and not allow them to approach it. These things are striking indications of character, and certainly do not accord with the ferocity of an assassin. I mention these things to show that, from the earliest period, the prisoner had a predisposition to insanity. I shall prove to you, gentlemen, that the man and his wife with whom he lodged in 1837, became so alarmed at his behaviour that they gave him notice to quit, and forced him to leave, despite his wish to remain, from an apprehension that all was not right within his mind. I shall next carry him on to the time when he relinquished his business. When he quitted his lodgings in 1837 he went to live in his own workshop, and there he lived alone, without friend or associate, without recreation or amusement, save that which was found in turning from severe toil to severer studies. He then began to believe that persons persecuted him; he then began to act more strangely than before. With these moral phenomena must be coupled

certain physical accompaniments. The unhappy prisoner would complain of pain; he would sit for hours, aye, even for days, holding his head within his hands, and uttering ejaculations descriptive of the tortures he endured. Often has he been known to hasten out, under the influence of these agonies, and throw himself into the waters of the Clyde in order to seek some relief from the torturing fever by which his brain was consumed. These facts I shall prove to the court and jury. They do not amount to insanity, but they will show what was going on within. They will show his predisposition to the disease which has since assumed so terrible a shape. It appears that in the beginning of 1841 he gave up his business from which he was deriving considerable gain. Why? Doubtless because at that time the fearful phantasms of his own imagination rendered his existence miserable. He was wretched, because he was constantly harassed by the terrible images his disordered mind conjured up. These terrifying delusions had become associated with the place of his abode, haunting him at all hours of the day and night. You will hear from one of the witnesses, to whom he explained himself, that he gave up business "on account of the persecution by which he was pursued." Yet it appears that all this time his business was prosperous and thriving, and, in addition, the great tendency of his mind seemed still to be a desire to earn money and to save it. That these phantasms long existed in that man's mind there is no doubt, before he at length sought relief by flight from this hideous nightmare, which everlastingly tortured his distracted senses. No doubt these delusions existed in his mind before, but it was not until he left his business that they were revealed to others in anything like a definite shape. And, gentlemen, you will learn from the medical authorities that it was natural for him, who became at last borne down by these delusions, to struggle against them as long as he could; to resist their influence, and to conceal their existence; until, at last, the mind, overwrought and overturned, could contain itself no longer, and was obliged to give form, and shape, and expression, "a local habitation and a name," to the fantasies against which it had struggled at first, believing, it may be, for a time, that they were delusions, until their influence gradually prevailing above the declining judgment, they at last assumed all the appearance of reality, and the man became as firmly persuaded of the substantiality of these creations of his own fevered brain as of his very existence. Wherever he was, these creatures of his imagination still haunted him with

eager enmity, for the purpose of destroying his happiness and his life. Nothing, then, could be more natural than that a man under such a persuasion should attempt to escape from the persecution which he erringly imagined to exist, and to seek in some change of place and clime a refuge from the tortures he endured. Alas! alas! in this man's case the question put by the poet of old received a melancholy response:—

“ ——— Patriæ quis exul
Se quoque fugit? ”

What exile from his country's shore can from
himself escape?

When he left his own country he visited England, and then France; but nowhere was there a “resting-place for the sole of his foot.” Wherever he went, his diseased mind carried with him the diseased productions of its own perverted nature. Wherever he was, there were his fancies; there were present to his mind his imaginary persecutors. When he planted his foot on the quay at Boulogne, there he found them. No sooner was he landed on a foreign soil than there were his visionary enemies around him. Again he fled from them, and again returned to his native land. Feeling the impossibility of escape from his tormentors, what course did he pursue? When he found it was impossible to go anywhere by night or by day to effect his escape from those beings which his disordered imagination kept hovering around him, what does he? What was the best test of the reality of the delusion? That he should act exactly as a sane man would have done, if they had been realities instead of delusions. And there is my answer to the fallacious test of my learned friend the *Solicitor General*. He did so act; he acted as a sane man would have done, but he manifested beyond all doubt the continued existence of the delusions. He goes to the authorities of his native place, to those who could afford him protection, and with clamours entreats and implores them to defend him from the conspiracy which, he told them, had been entered into against his happiness and his life. Are we to be told that a man acting under such delusions, on whose mind was fixed the impression of their existence, and who was goaded on by them into the commission of acts which but for them he never would have committed,—are we to be told that such a man is to be dealt with in the same way as one who had committed a crime under the influence of the views and motives which operate upon the minds and passions of men under ordinary circumstances? [Counsel proceeded to refer to the prisoner's applications for

protection to his father, to Mr. *Wilson*, the Sheriff Substitute, to the Lord Provost of Glasgow, &c.] That these delusions afterwards took a political bias is possible; they may have done so. But such was not the first morbid impression of the prisoner's mind. The first was, according to his own complaint to Mr. *Wilson*, that the Catholic priests and Jesuits were engaged in persecuting him, and he stated that the annoyance he had experienced from them was such that he had been obliged to leave the country, and had gone to France, but that on landing at Boulogne he found he was watched by them still, and therefore it was useless to go further. Mr. *Wilson* endeavoured to soothe him and to disabuse his mind, and he went away, apparently somewhat quieted. At the end of three or four days he comes back and says that there are spies all around him, and that the Church of Rome and the police and all the world are against him. Here you have in addition to the Church of Rome, the “police” and “all the world.” Mr. *Wilson* spoke to him of the folly of supposing the Church of Rome to be against him, and assured him that if the police did anything against him, he, Mr. *Wilson*, would find it out. He comes again in the course of a few days, and then, in addition to his former complaints, he says, “The Tories are now persecuting me on account of a vote I gave at a former election.” You will at once comprehend, gentlemen, that the delusion arose not from any part he had individually taken in politics—it was the form which was assumed by a diseased mind, believing itself to be the victim of persecution by anybody and everybody. First it was the “Catholic priests,” then it was “the Church of Rome, the police, and all the world,” and then it was “the Tories.” After that he called again upon Mr. *Wilson* to know what had been done for him, when Mr. *Wilson*, to soothe him, told him that he had made inquiries; and promised to speak to Captain *Miller*, a superintendent of police. Again he called, and was told that Captain *Miller* said there were no such persecutors, if there were, he should know of it. The prisoner said that Captain *Miller* was deceiving Mr. *Wilson*, as he knew that his persecutors were more active than ever; that they gave him no rest day or night; that his health was suffering, and that the persecutions he endured would drive him into a consumption. Mark that statement, gentlemen; couple it with the declaration he made after he was apprehended, and it will enable you to judge of the state of the man's mind at the time he made that declaration. Again he goes away; he does not come back again for

some months, when he returns to talk again of his persecutors. This was in the summer, and the time was drawing nigh to the period of this unhappy deed. Mr. *Wilson* will tell you, gentlemen, that when he saw him at that time his conduct had become more strange, and his conversation more incoherent; doubtless as time progressed his disorder was becoming worse. Having got rid of him, Mr. *Wilson* does that which affords the best test of the sincerity of the conviction he will express to you—namely, that he believed the man to be insane. He goes to the man's father and tells him that, in his opinion, it was unfitting for his son any longer to be left at large.

[The prisoner also applied to Mr. *Turner*, who gave the same advice to his father.] Would to God that advice had been listened to! Would to God that warning voice had produced the effect which was intended! Then this melancholy catastrophe might have been prevented! By judicious medical treatment the man might have been restored to reason, or, at all events, such means might have been resorted to as the law allows for the protection of society. Oh, then, what different results would have been produced! The unhappy prisoner might have been spared the horror of having imbrued his hand in the blood of a fellow creature; he would have been spared the having to stand to-day at that bar on his trial for having committed the worst crime of which human nature is capable; as it now is, his only trust must be in your good sense, judgment, and humanity, in the opinion of which you may form upon the evidence which those who come from a distant part to throw a light on the subject will give you, and in such aid as my humble capacity enables me to afford him. So much, gentlemen, for the evidence I shall give with respect to the origin of this wretched assassination.

[The evidence called by the *Solicitor General* does not in the slightest degree negative the case of insanity which the witnesses will clearly establish. It is that sort of negative testimony which can only spring either from the absence of all opportunity of observation, or from want of attention to the matter in question.]

I now come, gentlemen, to the act itself, with which the prisoner now stands charged. The *Solicitor General* has said that you are not from the nature of the act itself, to draw an inference as to the state of mind of the person committing it. My learned friend put the proposition rather vaguely, but I can scarcely suppose that he meant what I have just said to the full extent of the terms. He might have meant either that you were not necessarily to infer from the

nature of the act, from its atrocity and the absence of all probable impelling motives, the insanity of the person committing it, that is to say, that you were not to infer it conclusively from those circumstances alone, or he might have meant that the nature of the act itself ought not at all to be an ingredient in forming a judgment of the state of the party committing it. Now, if my learned friend could have meant this last proposition, I must say, that with all my respect for him, I should be compelled boldly to differ from him, and to dissent altogether from a proposition so monstrous as that would seem to be. If it be found that an act is done, for which he who committed it was without any of those motives which usually actuate men in a state of sanity to wickedness and crime, if the whole circumstances connected with the perpetration of that act tend to show that it was one wholly inconsistent with the relation towards the surrounding world of the party committing it, am I, in such a case, to be told that I am to draw no inference at all from the nature of the act itself? I am sure, gentlemen, you will not allow your minds to be influenced and misled by any such proposition. You must look to the act, not conclusively, indeed, but in connexion with the other leading circumstances of the case. What is the act? In the broad face of day, in the presence of surrounding numbers, in one of the great and busy thoroughfares of this peopled metropolis, with the certainty of detection, and the impossibility of flight, with the inevitable certainty of the terrible punishment awarded to such a deed, a man takes away the life from one who (in any view of the case) had never, in thought, word, or deed, done to the perpetrator of that act the faintest vestige of an injury, from one who, as my learned friend yesterday described him, was of so mild a nature that he would not injure any being that had life, does this in the total absence of all motive, with the certainty of inevitable detection, and of equally inevitable punishment; yet you are told by my learned friend that you are not to let the nature and the circumstances of such an act enter into your judgment as to whether the person so committing it was sane or not. Who is there who, not having his judgment overclouded by the indignation which the very mention of such a deed is calculated to excite, could bring for a single moment his dispassionate reason to bear upon the nature of the case whose mind would not suggest that the act must be that of a frenzied lunatic and not of one possessed of his senses? My learned friend says that, nevertheless, you are not to look to the

question of motive, and he appeals to history for instances where fanaticism and enthusiasm have operated on ill-regulated minds to induce them to commit similar crimes. I might possibly object that these instances are not strictly in evidence before you, but I will not adopt such a course. I admit that in order to understand the nature of insanity aright we must look beyond the evidence in the particular case. I will travel, therefore, with my learned friend beyond the facts now before you, and will turn to history in order to aid our judgment. I concede to him that fanaticism and enthusiasm operating on ill-regulated minds have produced similar disastrous results on former occasions. But look at the mode in which those motives operated on the minds of the criminals. The religious fanatic sharpened his steel against his sovereign's life, because he was told by a fanatical priesthood that he was doing a service to God and to religion, that he was devoting himself by that act to the maintenance of God's religion, and that, while incurring an earthly martyrdom, he was also ensuring to himself an everlasting reward. Again, I admit that political enthusiasm has urged on others to similar crimes. Why? Because they acted under the belief that in some great emergency, while they were sacrificing the moral law, they were ensuring the welfare of their country. They were impelled by fanaticism in another form, by political enthusiasm, by misdirected and ill-guided notions of patriotism. Political enthusiasm! Where in this case is there a single trace of the existence of such a sentiment in the mind of the assassin? Where has the evidence for the prosecution furnished you with a single instance of political extravagance on the part of this man? Is he shown to have taken a strong and active part in political matters? Did he attend political meetings? Is he shown to have been a man of ill-guided, strong, and enthusiastic political sentiments? There is not a tittle of evidence on that subject. Many among us entertain strong political opinions. I do not disclaim them myself. I entertain them, and most strongly too; but if I believed that they would make me love, cherish, esteem, or honour any human being the less on account of his holding different opinions I would renounce politics for ever, for I would rather live under the most despotical and slavish government than forego aught of those feelings of humanity which are the charm of human life, and without which this world would be a wilderness. [The prisoner had no animosity against Sir *Robert Peel*, for whom he is said to have mistaken Mr.

Drummond.] There is no evidence to show that he did intend to shoot Sir *R. Peel*, save that of the policeman. I hardly know whether I am not throwing away time in devoting a single observation to the evidence of a man whose own statement justifies me in saying that he was acting a thoroughly treacherous part; a man who now shows himself in his true colours, an inquisitor and a spy; but who then, in the garb of fairness and honesty, sought to worm himself into the secrets of the unhappy man at the bar. I allude to the statement made before the magistrate as to the conversation he had with the prisoner. Having gently insinuated himself into the man's confidence, he asks a question as to the identity of the individual who had been shot. The answers he says the prisoner gave may be true or false; the statement of that witness may be consistent with truth, or it may be a fabrication; I know not, care not. Sure I am of this, that whatever may be the nature of the crime with which a man may stand charged, a British jury will hesitate to admit any one single fact which is an essential ingredient in the proof of the case, on the unsupported testimony of an individual who has manifested so much black perfidy, which will remain indelibly stamped upon his character. If the statement were true, why should it rest upon the evidence of that policeman only, when it is clear that at part of the conversation at least there was also a constable present? But I really waste time upon this part of the case, and I will proceed at once to a more important point, namely, the conduct of the prisoner himself after he had been brought before the magistrates.

And this brings me to the question, whether or not the delusion under which the prisoner previously laboured existed in his mind at the time the act was done with which he now stands charged, and in truth was the cause of that act? I have already laid before you circumstances (and they will be proved in evidence) which establish beyond all controversy the existence of a delusion, exercising a blind and imperious influence over the man; and I have only further to establish, that the delusion led to the act, and was subsisting at the time that act was done. But surely it would be most monstrous and unjust to say that the same degree of delusion which prevailed eighteen months or two years before, did not exist at the time of his committing the act. What was his statement before the magistrate? He said:—

“The Tories in my native city have compelled me to do this. They follow and persecute me wherever I go, and have entirely destroyed my

peace of mind. They followed me to France, into Scotland, and all over England; in fact, they follow me wherever I go. I can get no rest for them night or day. I cannot sleep at night in consequence of the course they pursue towards me. I believe they have driven me into a consumption. I am sure I shall never be the man I formerly was. I used to have good health and strength, but I have not now. They have accused me of crimes of which I am not guilty; they do everything in their power to harass and persecute me; in fact, they wish to murder me. It can be proved by evidence; that's all I have to say."

Save only that the enemies he spoke of and their persecution were the phantoms of a disordered mind, his statement was true. True it was that he was a different man, in health of body, and in health of mind, quite different in the regulation of his passions and propensities; he that at home had been a quiet, calm, inoffensive man, one who never raised his hand against a human being or created thing, had been converted by the pressure of imaginary evils into a shedder of human blood. This statement of the prisoner, which doubtless, at first, was received with suspicion, shows, when coupled with his previous history, in a totally different light, and now cannot be regarded otherwise than as the true and genuine expression of the feelings which were alive in his breast. No wonder that in the first excitement of popular feeling such a statement should be unfavourably received; the people had seen an innocent and unoffending man perish by the hand of an assassin; they were justified in viewing with distrust manifestations of insanity, which might be only assumed; but now, when the fearful delusions under which this man has so long laboured are made clearly known to you, the whole matter will, I am sure, be regarded by you under a totally different aspect. But then the *Solicitor General* speciously asks, whether this is not the case of a man feigning and simulating insanity in order to avoid the consequences of his crime? It is not so; it is the case of a man who manifested, after the deed was done, the same delusion, which will be proved to have been present in his mind for months, nay, years before the act was committed. But I shall not leave this part of the case upon the prisoner's statement alone, for I am enabled to lay before you evidence that will satisfy your minds of the prisoner's insanity since he has been confined within the walls of a prison. He has been visited by members of the medical profession, of the highest intelligence and the greatest skill, not chosen by the prisoner himself, but some of them selected by his friends, and others deputed by the Government

which my honourable and learned friend the *Solicitor General* represents on the present occasion. They visited the prisoner together several times; they together heard the questions put to him, and noted the answers he gave. My learned friend has accurately told you the nature of the defence I have to offer; he has sought to anticipate it by evidence to establish the prisoner's sanity. How is it, then, that the medical men employed by the Crown have not been called? Why, my learned friend has now beside him, within his arm's reach, two of the medical gentlemen sent by the Government, and he has not dared to call them. My learned friend knew (because their opinions have been communicated to the Government and to my learned friend) that the man was mad, and in justice to the public and to the prisoner those gentlemen ought to have been brought forward. I was astonished when the case for the prosecution was closed without those two witnesses being called. They sat within my learned friend's call, and yet my learned friend, in the exercise of the discretion which is his characteristic, dared not put them in the witness-box. Their testimony is, however, upon record; it requires not their delivery by their own mouths of the opinions I know them to entertain; their absence from the witness-box speaks trumpet-tongued as to the opinions they were ready to pronounce; and when I call before you the medical gentlemen who have attended at the request of the friends of the prisoner, and have communicated with this poor deluded maniac, and it is found that their opinions correspond in all particulars, there will not be left a shadow of doubt that this was no simulated insanity, but a real delusion, by which the prisoner was deprived of all possibility of self-control, and which left him a prey to violent passions and frenzied impulses.

I know there has been much said of the danger of admitting a defence of this kind. I do not dispute it; it is a defence at which it is the province of a court and jury to look with care. True, it is a defence easily made, but it is a defence which the sagacity of courts and juries prevents being too easily established. If an offender should first suggest insanity as a defence after the perpetration of a crime, the eye of suspicion would naturally rest upon such a defence. Here, however, there can be no pretence for saying there is the slightest reason to believe that this was a case of feigning and simulation, when I shall have proved the existence of the delusion for the space of two long years before, as well as its continuance since, the act was committed.

When I have proved this, my learned friend will not dream of contending that this is a case of simulation. Again, I ask, is there no distinction between the manner in which the common murderer who acts under the impulse of ordinary motives executes his purpose, and that of the unhappy maniac who, in self-defence as he thinks, slays one who in his delusion he fancies is attacking him? There is every distinction. The ordinary murderer not only lays plans for the execution of his designs; not only selects time and place best suited to his purpose; but when successful, he either flies from the scene of his enormities, or makes every effort to avoid discovery. The maniac, on the contrary, for the most part, consults none of the usual conveniences of crime; he falls upon his victim with a blind fury, perhaps in the presence of a multitude, as if expressly to court observation, and without a thought of escape or flight; not unfrequently he voluntarily surrenders himself to the constituted authorities. When, as is sometimes the case, he prepares the means, and calmly and deliberately executes his project, his subsequent conduct is still the same as in the former instance. The criminal often has accomplices, and always vicious associates; the maniac has neither. What was the case in the present instance? The prisoner does not attempt to escape; he acts coolly and deliberately; he shows himself to be a maniac seeking only the gratification of his involuntary impulse; he made no attempt to secure his own safety by flight or escape, though he knew that the noise of his first pistol must have attracted attention to the spot; though he saw Mr. Drummond's coat in flames, and his victim staggering under the shot, though he must have known that his purpose was effected, instead of thinking of himself, he drew forth the other pistol, with a deliberate intent he passed it from one hand to the other, he levelled it at his victim, and when the policeman had even seized him, still the struggle was not to escape, but to raise his arm and to carry out the raging impulse of his burning and fevered brain. A common murderer would have acted in a different manner; he would have chosen a different time, a different place; he would have sought safety by escape. Gentlemen, I have mentioned that I shall call medical men of the highest rank in the profession; men who have frequently been employed by the Government in cases of this nature, and upon whose characters the stamp of the highest approbation has thus been placed. They will state the result of their examinations of the prisoner, and their evidence upon the whole will be such as to leave no other

than a firm conviction that he is insane. I shall also call the surgeon of the gaol, whose duty it has been to see him daily, and whose facilities of observation have therefore been such as to enable him to come to a sound conclusion, and who, besides, was directed to pay particular attention to the state of the prisoner's mind. My friend has not thought fit to call him. I will call him. You will hear from that gentleman the result of his deliberate and impartial judgment, which is that the prisoner is labouring under morbid insanity, which takes away from him all power of self-control, and that he is not responsible for his acts. When I have proved these things, I think the defence will be complete. I do not put this case forward as one of total insanity; it is a case of delusion, and I say so from sources upon which the light of science has thrown its holy beam. I have endeavoured to show the distinction between partial delusion and complete perversion and prostration of intellect. I may, however, perhaps be allowed to refer to one more author on this subject. I allude to M. Marc, physician to the King of the French, and one of the most profound investigators of this disease. I will translate the passage as I proceed. M. Marc, in his treatise "De la Folie," says(a):—

"Homicidal monomania is a partial delusion characterised by an impulse, more or less violent, to murder; just as suicidal monomania is a partial delusion characterised by a disposition, more or less voluntary, to destroy oneself. This monomania presents two very distinct forms. In some cases the murder is provoked by an internal but raving conviction, by the excitement of a wandering imagination, by a false reasoning, or by the passions in delirium. The monomaniac is impelled by some motive obvious but irrational; he always exhibits sufficient signs of partial delirium, of the intelligence or of the affections. Sometimes his conscience makes him turn with horror from the act which he is about to commit; but his will is overcome by the violence of his impulse; the man is deprived of his moral liberty; he is a prey to a partial delirium; he is a monomaniac; he is mad. In the other cases the homicidal monomaniac does not present any alteration of the intelligence or affections; he is carried away by a blind instinct, by something indefinable, which impels him to kill."

I think, gentlemen, I have sufficiently dwelt upon the authorities which can throw light upon this inquiry. I trust that I have satisfied you by these authorities, that the disease of partial insanity can exist—that it can lead to a partial or total aberration of the moral senses and affections, which may render the wretched patient incapable of resisting the delu-

(a) M. Marc, De la Folie, p. 25.

sion, and lead him to commit crimes for which morally he cannot be held to be responsible, and in respect of which, when such a case is established, he is withdrawn from the operation of human laws. I proceed now to lay the evidence before you. In doing so I shall give my learned friend the *Solicitor General* the opportunity of a reply. In this case it will be of considerable advantage, for he will have the opportunity of addressing you, and commenting on the evidence after it all shall have been given; whereas I can only anticipate what it may be. Many facts may be spoken to by the witnesses—many important observations may fall from them—on which I shall be deprived of all comment.^(a) The arguments which my friend's profound experience and his great legal acquirements may suggest are yet within his own mind; I can but dimly anticipate them. If any advantage should exist in such a case, surely it should not be on the part of the prosecution, but of the prisoner. And my learned friend, moreover, will have the immense advantage resulting from that commanding talent before which we all bow down. But I know that he will prolong to the end of this eventful trial that calm and dispassionate bearing, that dignified and appropriate forbearance which sat so gracefully on him yesterday. Gentlemen, my task is at an end. I have received at your hands, and at the hands of the Court, a degree of considerate attention for which I owe you my most grateful acknowledgments. I ought to apologize to my lords and to you for the length of time that I have detained you; but you know the arduous and anxious duty which I have had to perform, and you will pardon me. From the beginning to the end I have felt my inadequacy to discharge it; but I have fulfilled it to the best of my poor ability. The rest is with you. I am sure that my observations in all that deserves consideration will be well weighed by you, and I am convinced that the facts of this case, and the evidence adduced in support of them, will be listened to by you with the most anxious and scrupulous attention. You can have but one object—to administer the law according to justice and to truth; and may that great Being from whom all truth proceeds guide you in this solemn inquiry, that when hereafter the proceedings of

this memorable day, and their result shall be scanned by other minds, they may bear testimony that you have rightly done your duty; and, what to you is far more important, that when hereafter in the retirement of your own homes, and the secrecy of your own thoughts, you revert to the part you have taken in the business of this day, you may look back with satisfied consciences and tranquil breasts on the verdict you will this day have given. Gentlemen, the life of the prisoner is in your hands; it is for you to say whether you will visit one on whom God has been pleased to bring the heaviest of all human calamities—the most painful, the most appalling of all mortal ills—with the consequences of an act which most undoubtedly, but for this calamity, never would have been committed. It is for you to say whether you will consign a fellow being under such circumstances to a painful and ignominious death. May God protect both you and him from the consequences of erring reason and mistaken judgment! In conclusion, let me remind you, that though you do not punish the prisoner for an offence committed at a time when he was unconscious of wrong, you have, on the other hand, the power of causing him to be placed in an asylum provided by the mercy of the law, where he will be protected from the consequences of his own delusions, and society will be secured from the danger of his acts. With these observations I trust the case in your hands, with the full conviction that justice will be upheld in the verdict to which you shall come.

*Daniel M'Naughton.—Examined by
Clarkson.*

I reside at Glasgow, and am a turner by business. The prisoner, who is a natural son of mine, was apprenticed to me, and after he had served about four years and a half became my journeyman, in which capacity he continued for about three years. When he left me he went into business as a turner on his own account, and was always a very steady, industrious young man, and exceedingly temperate in his habits. After he went into business I did not see him so often, although I saw him then frequently. He seemed to me more distant than formerly, but I knew of no reason for his being so. He would frequently pass me in the street and not speak to or notice me. About two years ago I recollect the prisoner calling at my house, and, upon seeing me, he expressed a wish to have an interview in private. We went into a room alone, and he then told me that various prosecutions had been raised against him, and

(a) The right of summing up the evidence in cases of felony and misdemeanor was conferred on prisoners and their counsel in 1865 by 28 & 29 Vict. c. 18. s. 2 (Denman's Act). Similar provisions had already been enacted as regards civil trials by the Common Law Procedure Act, 1854, 17 & 18 Vict. c. 125. s. 18.

begged that I would speak to the authorities of the town upon the subject, in order to have a stop put so them. He particularly mentioned the name of Mr. Sheriff *Alison*, as one of the persons I was to speak to. I asked who the persons were that persecuted him, and he told me that Mr. Sheriff *Alison* knew all about it. I told him I was extremely sorry to hear that he was so persecuted, and endeavoured to persuade him that he was labouring under some mistake. I told him that I was not aware of any person being persecutive in Glasgow. Finding that he was labouring under some delusion, I said nothing more upon the subject, but tried to turn the conversation. We then talked upon other subjects, upon all of which he spoke rationally enough. He then asked me to get him a situation in some counting house in Glasgow. I promised him that I would endeavour to do so, but told him that I thought he had, in the first instance, better go to some respectable teacher, and learn writing and arithmetic. He said he would do so, and we then parted. About a week after that interview he again called upon me, and inquired whether I had, according to my promise, caused the authorities to take any measures to prevent the persecution which was going on against him? I told him that I thought after our last interview he would have gone to school, and banished all such ideas from his mind. He then said that the persecution still continued, and that he was followed night and day by spies; wherever he went they followed him. I asked him who the spies were, whether he knew any of them, or whether he could point them out? To which he replied, that it would be quite useless to point them out, as they were always in his presence; wherever he might be, whenever he turned round, there they were. I asked him whether he ever spoke to them, or they to him? He said they never spoke to him, but whenever he looked at them they laughed at him, and shook their fists in his face, and those who had sticks shook them at him. He also said, that one of the men, whenever he looked at him, threw straws in in his face. I asked him whether, if I went out with him, he could point out any of the spies to me? He said, "Oh, no; if they see anyone with me they will not follow at all; it is only when I am alone that they follow and annoy me." I then asked him what he thought they meant by showing him straws? To which he replied, he presumed it meant that he was to be reduced to a state of beggary by them. I told him that if he really saw a person with straws, in all probability it must be some person out of his mind.

After some further conversation in the same strain, he begged of me, nay, insisted upon my calling on Mr. Sheriff *Bell*. I then promised him that I would see Sheriff *Bell* upon the subject. In about a week he called upon me a third time, and asked whether I had seen Sheriff *Bell*. I told him I had not. He then said the persecution still continued, and inquired why I had not seen Sheriff *Bell* according to my promise, as he knew all about the matter. I saw nothing more of him for a considerable time, and I then accidentally met him on the road, a short distance (about four miles) from Glasgow. We had a conversation for upwards of an hour, and the chief topic was the persecution he was enduring; he said he had left Glasgow, and had gone to England, and even to France, to get rid of the spies, but they still followed him; the moment he landed in France there they were also. After that interview he called upon me again, and requested that I would prevail upon the authorities, particularly Sheriff's *Alison* and *Bell*, to put an immediate stop to the persecution. On that occasion I reasoned with him for some time upon the folly and absurdity of supposing that such a conspiracy existed against him, and assured him that such was not the case; and I then thought that the impression was effaced. He again spoke to me about getting him a situation, and I promised I would do so. Between that interview and the month of September he called upon me several times, and always requested me to see the authorities upon the subject. I never saw any of the civil authorities, as I saw that he was labouring under some extraordinary delusion, and therefore considered it quite unnecessary.

Cross-examined by the *Solicitor General*.

The last interview I had with him was in August last, shortly before he came to London. When he was apprenticed to me he lived in my house, but whilst a journeyman he went into lodgings. I do not know his reason for leaving my house, but it certainly was not on account of any quarrel. He did not go into business for himself before he left my house, nor till some time afterwards. I believe he went into business for himself because he felt dissatisfied at my not letting him have a share of my little business.

Did he ask you to take him into partnership?—Yes, he did; but I refused, because I had some younger children to provide for. After he went into business we very seldom spoke. For a long time I think he fancied that I was annoyed because he took some of my business from me, which was not the case. I know that

his shop was in Stockwell Street, but I never went there. He carried on business in Stockwell Street for about five years, and disposed of it two years ago. We were not at all upon the terms that a father and son usually are. At times party politics run very high at Glasgow.

At the time the conversations you have been mentioning occurred, what was your opinion with respect to your son's mind?—It certainly was my impression that his intellects were impaired.

Did you consult any medical gentleman?—I did not, because I thought the delusions under which he was labouring would eventually pass away.

Then am I to understand that upon all other subjects he conversed rationally?—Yes, upon all subjects except the one I have mentioned.

Re-examined by *Clarkson*.

The prisoner continued to work at my shop after he left my house. He frequently passed me in the street without taking the slightest notice; it was his own act to do so, not mine. He was always a very harmless, inoffensive youth, and appeared harmless when labouring under those delusions. I never heard of his having evinced any disposition to do any injury either to himself or anyone else.

William Gilchrist.—Examined by *Bodkin*.

I am a printer in Glasgow. I have known the prisoner since the year 1834. I lodged with him at Gorbals. We slept in the same bed. The prisoner used frequently to get up in the night and walk about the room, uttering incoherent sentences, and making use of such ejaculations as "By Jove," "My God." He uttered them in a very serious manner, but not in a very loud tone. Sometimes he would walk about the room by the hour together whilst undressed, and then return to bed. Such conduct occurred from time to time during the whole period we lodged together. His conduct was always that of a mild, inoffensive, and humane man. I have frequently seen him, when we have been going out to take a walk, put crumbs of bread into his pocket to feed the birds with. He appeared to be very fond of children, and I have observed him watch the children at play for hours; he said he liked to see their innocence. The last time I saw the prisoner was in July 1842, when we walked together for a short distance. I thought he was altered, both in manner and appearance, for when I looked at him he always dropped down his head and looked on the ground. His conversation was not so connected as formerly.

I have known the prisoner burst out into immoderate fits of laughter without any cause whatever; at other times he would moan. I never knew him to attend any political meetings, or express any extravagant political opinions. When I last saw him he told me, in the course of a conversation, that when he was in London he went one night to the House of Commons, and heard Sir *Robert Peel*, Lord *John Russell*, and Mr. *O'Connell* speak, and he expressed himself highly delighted. He said he thought Sir *Robert Peel* had arrived at what Lord *Byron* had said of him, "that he would be something great in the State"; he said he thought Lord *John Russell* was very inferior as a speaker to Sir *Robert Peel*, and that Mr. *O'Connell* was inferior to both.

Did you ever hear him, either on that or any other occasion, speak at all disrespectfully of Sir *Robert Peel*?—Certainly not.

Cross-examined by *Adolphus*.

The ejaculations which I have spoken of, and also the laughter, might have been caused by the recollection of something he had previously heard, and of which I was not aware.

Did you ever hear him speak about Sir *R. Peel's* political character?—Never.

Or make use of any threat towards him?—No.

John Hughes.—Examined by *Monteith*.

A tailor at Glasgow, confirmed the evidence of the last witness. The prisoner lodged at my house during the year 1835. A person of the name of *M' Cordigan*, who slept in the same bed with the prisoner, made several complaints to me about the prisoner disturbing him during the night, and left me in consequence. The prisoner did not appear to be fond of society, and scarcely ever spoke unless first spoken to, and then his replies were quick and hurried, as if he wished to avoid conversation. I also noticed that when any person spoke to him, if their eye caught his he immediately looked down to the ground, as if ashamed; whenever he asked for anything he appeared confused. In consequence of his very strange manner I gave him notice to leave, but he was very unwilling to go away. Another reason I had for wishing him to leave was in consequence of the infidel doctrines he maintained, and the books of such a character which he was in the habit of reading. I always have family worship in my house every Sunday, and generally in the week days. The prisoner mostly attended on Sundays.

Cross-examined by the *Solicitor General*.

I did not tell him the true reason why I wished him to leave my house. I assigned as a reason that my wife could not wait upon him any longer.

Did you observe any particular difference in his behaviour whilst he was at your house?—Yes, I thought his appearance just before he left was more strange than when I first saw him.

COLERIDGE, J.: Have you any children living in your house?—I have, my Lord.

Did the prisoner seem fond or take any notice of them?—He never used to take any notice of them.

William Carlo.—Examined by *Clarkson*.

I am a turner in Stockwell Street, Glasgow. I have known the prisoner for seven years, and was in his employ as journeyman for nearly three years, down to 1838. He had a very good business in 1840. I purchased it in 1841. Whilst I was in his employ he frequently complained of a pain in his head, and would often keep his hand to his head, as if in pain, the greater part of the evening. When in this state I have known him on several occasions go and bathe in the Clyde, which is near the premises, in order to get rid of it. I have very frequently seen him since 1841, but never observed anything particularly the matter with him till about six months ago. I had frequently heard it stated during the last eighteen months that there was something wrong about him, but I did not believe it. In consequence of those rumours, however, I went to see him whilst lodging at Mrs. Patterson's. We then walked out together, and he gave me a description of his visit to France; the only motive he assigned to me for going there was curiosity. He told me he was very much persecuted by certain parties, who always followed him about wherever he went, and that he could get no rest for for them night or day. He said they were using all their influence against him, in order to prevent his getting a situation; whether he went to France, England, or Scotland, the spies were always about him. He told me it was immaterial in what country he was, for they were sure to send their emissaries before him, and he was known wherever he went. I asked him who the parties were, and he told me they were Scotchmen, and natives of Glasgow. I told him it was all imagination, and endeavoured to persuade him to think nothing more about it. I also told him that if any person ill-used him or slandered him I would have them punished, as I considered his character was very good. He said he would do so, and added that if he could once set his eyes upon

them they should not be long in the land of the living. After the conversation had continued for some time he became very much excited; and, seeing that he was labouring under some extraordinary excitement, I considered it prudent to drop the subject. In consequence of that conversation I immediately came to the conclusion that he was not in his right mind.

Cross-examined by *Waddington*.

I never noticed anything extraordinary in his behaviour till the period I have just mentioned, although his habits were rather eccentric.

What do you mean by eccentric?—Why, that he was very hard-working and penurious; he was also eccentric in his dress. The last few times that I saw him I noticed that he was not quite so cheerful as usual, though he was generally sullen and reserved, and always evinced a disposition to evade conversation.

COLERIDGE, J.: What did you pay him for his business?—18*l*.

Did that sum include the tools?—Yes; but there were very few, and most of them were worn out.

Jane Drummond Patterson.—Examined by *Bodkin*.

I know the prisoner. He lodged in my house two years ago. I observed something very peculiar in his manner. His eyes presented a very strange appearance; he looked wild, and very different from what he used to do. He was also very restless in his sleep. I frequently heard him moan and groan in his sleep, and sometimes he spoke as if disturbed. He went away twice, and told me he had been to France. I told him he had better stop away altogether; to which he replied that he could not stop either in London or in France, as he was constantly haunted by a parcel of devils following him, and they said they were persons from Glasgow. He appeared then rather angry. I at length began to be afraid of him, and expressed a wish for him to leave my house. He said he would leave as soon as possible; he could get situations anywhere, but it was of no use, as they were all haunted with devils. A few days before he left in September, I found some pistols in his room. I said, "What in the name of God are you doing with pistols there?" He said he was going to shoot birds with them. On one occasion, when I was speaking to him about getting a situation, he laid hold of me, made use of an oath, and looked very wild. When he went away he took nothing with him but the clothes on his back. I noticed when

he went away that he looked very wild and frightsome-like.

Cross-examined by the *Solicitor General*.

I noticed the peculiarity when he first came to lodge with me, but he did not mention anything about being haunted by devils till three or four months afterwards.

Henry C. Bell.—Examined by *Monteith*.

I am one of the sheriff's depute of the county of Lanark, and reside at Glasgow. I believe the prisoner to be the person who called upon me about nine or ten months ago and complained that he was harassed to death by a system of persecution which had for some time been adopted towards him, and for which he could obtain no redress whatever. I told him I would render him any assistance in my power, and asked him the nature of the persecution he complained of. He made a long, rambling, unintelligible statement in reply, from which I gathered, as far as I can recollect, that he was constantly beset by spies, and that he considered his life and property in danger. I told him that I thought he must be labouring under some very erroneous impression, and advised him, if he had any criminal charge to make against any person, to go to the Procurator-Fiscal, or if his complaint was of a civil nature, to apply to some man of business. He said it would be perfectly useless to make any such application, and appearing dissatisfied with my answer, he went away. He called upon me again about a fortnight or three weeks afterwards. I asked him whether he had seen the Procurator-Fiscal or a man of business, and he said he had not. He then made another statement of a precisely similar character, but I told him that I could not render him any assistance, and he then went away. I certainly concluded that he was not right in his intellects—that he was labouring under some very extraordinary delusion, and I made a remark to that effect to my clerk.

Not cross-examined.

Alexander Johnston, M.P..—Examined by *Clarkson*.

The prisoner called upon me about a twelvemonth ago and complained of being subjected to an extraordinary system of persecution, and wished for my advice as to the best method of getting rid of it. On subjects of general business he talked very rationally, but with respect to this particular business he said that he had for a considerable time been persecuted by the emissaries of a political party, whom

he had offended by interfering in politics. He also complained of being attacked through the newspapers, and said the persons of whom he complained followed him night and day; that he could get no rest for them; that they had destroyed his peace of mind, and what to do he really did not know. I reasoned with him, and told him that I thought he must be mistaken; assured him that nobody followed him about, and advised him, if he received any annoyances, to apply to the captain of police. He then said that he thought his persecutors would be satisfied with nothing less than his life. When I told him that I thought he was mistaken, he said that he was quite certain that he was not. He assured me that he was perfectly sound in his mind, and in good bodily health. He then left me.

What was the impression left upon your mind by that interview?—I certainly thought that what he stated was his firm conviction. In about a week or ten days the prisoner again called upon me, and he then told me that his persecutors were still pursuing him, and wished me to take some steps in order to deter them from so doing. I again recommended him to go to the sheriff, and assured him that if he was in reality annoyed as he had described, he would be protected. I merely told him that in order to get rid of him, feeling assured that he was labouring under a delusion. About a month after the last interview, I came to London, and in a few days I received a letter from the prisoner, reiterating the same complaints, and begging of me to interfere in his behalf; to that communication I wrote the letter produced.

Have you the letter you received from the prisoner?—No, I have not.

Clarkson: We propose now, my Lord, to put in and read the letter this witness wrote to the prisoner.

TINDAL, C.J.: Be it so.

The clerk of arraigns then read the letter as follows:—

“Reform Club,

“SIR,

“May 5, 1842.

“I RECEIVED your letter of the 3rd of May, and am sorry I can do nothing for you. I fear you are labouring under an aberration of mind, and I think you have no reason to entertain such fears.

“I am, &c.

“ALEXANDER JOHNSTON.

“Mr. D. M'Naughton.”

Cross-examined by the *Solicitor General*.

I had no knowledge of the prisoner previous to his calling upon me; neither had I any other conversations with him but those I have stated.

Sir James Campbell.—Examined by
Cockburn.

I am Lord Provost of Glasgow, and was so in the year 1842. In the month of May in that year, the prisoner called upon me; he said he wanted my advice and protection. He said that he was the victim of an extraordinary persecution; that he was followed and beset by spies night and day, and that he could not get rid of them; they dogged him wherever he went, and he could not in consequence get any rest night or day; that he was afraid to go home, and had therefore been compelled to sleep in the fields in the suburbs of the town. I asked him who his persecutors were, and he told me they were persons who had an ill-feeling towards him, and that he considered his life in danger in consequence. I at once saw that he was labouring under a strange delusion, and told him that he was labouring under some hypochondriac affection, for which he ought to have advice, and asked him whether he had ever been treated as an insane person? He said he had not, and endeavoured to persuade me that he was in the enjoyment of sound mind and health. After some further conversation, I advised him to consult with his friends upon the subject, and suggested the propriety of seeing some medical gentleman. He did not appear to be satisfied with what I stated to him, and he then went away. I immediately sent for the prisoner's father, in order to let him know what had taken place, but he did not wait upon me, and I took no further steps in the affair. I felt no doubt at the time that the prisoner was labouring under some species of insanity.

Cross-examined by *Waddington.*

I did not notice anything particular in the prisoner's appearance, and I should not have observed there was anything wrong about him had it not been for what he stated. He was a total stranger to me, and I should think the conversation did not last more than five minutes.

[The Rev. *Alexander Turner* spoke to a similar interview with the prisoner, and to advising his father to put him under restraint.]

Hugh Wilson.—Examined by *Bodkin.*

Commissioner of police at Glasgow. I have known the prisoner for about ten or twelve years. I recollect his calling upon me, about eighteen months ago, to make a complaint. He said that he had come to consult me on a very delicate matter; and, after some hesitation, said that he was the object of some persecution, and

added, that he thought it proceeded from the priests at the Catholic chapel in Clyde Street, who were assisted by a parcel of Jesuits. I asked him what they did to him, and his reply was, that they followed him wherever he went, and were never out of his sight, and when he went into his bedroom he still found them with him. He was perfectly calm and collected when he first came in, but when he began to talk about the persecution, he became very much excited; and I then thought he was daft. I saw that he was extremely anxious upon the subject, and therefore told him to call again on the following Tuesday, and I would see what could be done for him. A few days afterwards I again saw him, when I promised to speak to *Miller*, the superintendent, about it. When I again saw him, I told him that I had seen *Miller*, who said it was all nonsense and there was nothing in it; to which the prisoner replied that *Miller* was a bad one, that he saw it in his face, and he wanted to deceive both him and me. Having again run on about the Catholics and the Jesuits, he went away. In two or three days he again called, and on alluding to the subject, said, the Tories had joined with the Catholics, that he could get no rest either night or day, through their persecuting conduct, and he felt quite sure they would throw him into a consumption. At that interview I told him he had spoilt the scheme which I had planned for the purpose of finding out his persecutors, at which he appeared to be very much disappointed. I desired him not to look either to the right or to the left, and, if possible, let them see that he did not observe them. He said he would do so. After that interview, I did not see him for three or four months, when he again came to me and said he was worse than ever. I told him he should get out of their way. He said he had been to Boulogne, and asked me if I knew the watch-box on the Custom House quay there? I told him I did. He then said that as soon as he landed, he saw one of his spies peep from behind it, and added, that it was no use going further into France, and spending his money, when he could get no relief. He appeared then worse than ever, and I advised him to go into the country and amuse himself by working, and not to think anything more about it; but he said it was no use going there, as they would be sure to follow him. I had several other interviews with him, and the last time I saw him was about the month of August last, when he made the same sort of complaint, and the delusion then appeared to be stronger in his mind than ever.

Cross-examined by the *Solicitor General*.

The office I hold is not one of a political character. I have not canvassed the prisoner for his vote within the last twelve months. I have solicited his vote, but that was three or four years ago. When I saw him in August last, he was very much excited. He said the police, the Jesuits, the Catholic priests, and Tories were all leagued against him.

Dr. *E. T. Monro*.—Examined by *Cockburn*.

I have devoted much attention to the subject of insanity, and have an experience of thirty years. I was requested by the friends of the prisoner to visit him in Newgate. I was accompanied by Sir *A. Morrison*, Mr. *M'Clure*, and other professional gentlemen.

You met on that occasion some medical gentlemen, who were deputed on the part of the Crown to visit the prisoner?—I met Dr. *Sutherland*, jun., and Dr. *Bright*.

I believe you all saw the prisoner together?—Yes, we saw and examined the prisoner together.

How was the examination conducted?—We all asked the prisoner questions in turn.

Did you make at the time any note of the examination?—No; but I made some notes afterwards.

When did that examination take place?—On the 18th of February.

What did the prisoner say in answer to the questions put to him?—With the permission of the Court, I will state the substance of what he stated. In reply to the questions put to him, the prisoner said he was persecuted by a system or crew at Glasgow, Edinburgh, Liverpool, London, and Boulogne. That this crew preceded or followed him wherever he went; that he had no peace of mind, and he was sure it would kill him; that it was grinding of the mind. I asked him if he had availed himself of medical advice? He replied, that physicians could be of no service to him, for if he took a ton of drugs it would be of no service to him; that in Glasgow he observed people in the streets pointing at him, and speaking of him. They said that is the man, he is a murderer and the worst of characters. That everything was done to associate his name with the direst of crimes. He was tossed like a cork on the sea, and that wherever he went, in town or country, on sea or shore, he was perpetually watched and followed. At Edinburgh he saw a man on horseback watching him. That another person there nodded to him, and exclaimed, "That's he;" that he had applied to the authorities of Glasgow for protection and relief. His complaints

had been sneered and scouted at by Sheriff *Bell*, who had it in his power to put a stop to the persecution, if he had liked. If he had had a pistol in his possession, he would have shot Sheriff *Bell* dead as he sat in the court-house; that Mr. *Salmond*, the procurator-fiscal, Mr. Sheriff *Bell*, Sheriff *Alison*, and Sir *R. Peel* might have put a stop to this system of persecution if they would; that on coming out of the court-house he had seen a man frowning at him, with a bundle of straw under his arm; that he knew well enough what was meant; that everything was done by signs; that he was represented to be under a delusion; that the straw denoted that he should lie upon straw in an asylum; that whilst on board the steamboat on his way from Glasgow to Liverpool, he was watched, eyed, and examined closely by persons coming near him; that they had followed him to Boulogne on two occasions; they would never allow him to learn French, and wanted to murder him—he was afraid of going out after dark, for fear of assassination—that individuals were made to appear before him, like those he had seen at Glasgow. He mentioned having applied to Mr. *A. Johnston*, M.P. for Kilmarnock, for protection; Mr. *Johnston* had told him that he (the prisoner) was labouring under a delusion, but that he was sure he was not. That he had seen paragraphs in the *Times* newspaper containing allusions which he was satisfied were directed at him; he had seen articles also in the *Glasgow Herald*, beastly and atrocious, insinuating things untrue and insufferable of him; that on one or two occasions something pernicious had been put into his food; that he had studied anatomy to obtain peace of mind, but he had not found it. That he imagined the person at whom he fired at Charing Cross to be one of the crew—a part of the system that was destroying his health.

When you referred to the person whom he had fired at at Charing Cross, how did you put your question?—I cannot recollect the exact question. I have no doubt I asked him who he thought the person was.

State, Dr. *Monro*, as correctly as you can, what the prisoner said on this point?—He observed that when he saw the person at Charing Cross at whom he fired, every feeling of suffering which he had endured for months and years rose up at once in his mind, and that he conceived that he should obtain peace by killing him.

I believe all the medical men heard the questions put to him and the answers?—Yes. Drs. *Bright* and *Sutherland* were present. I do not know if they saw the prisoner yesterday.

Do you think that your knowledge of insanity enables you to judge between the conduct of a man who feigns a delusion and one who feels it?—I do, certainly.

Do you consider, Dr. *Monro*, that the delusions were real or assumed?—I am quite satisfied that they were real. I have not a shadow of a doubt on the point.

Supposing you had heard nothing of the examination which took place in Newgate, but only the evidence which has been adduced in court for the last two days, would you then say that the prisoner was labouring under a delusion?—Most certainly. The act with which he is charged, coupled with the history of his past life, leaves not the remotest doubt on my mind of the presence of insanity sufficient to deprive the prisoner of all self-control. I consider the act of the prisoner in killing Mr. *Drummond* to have been committed whilst under a delusion; the act itself I look upon as the crowning act of the whole matter—as the climax—as a carrying out of the pre-existing idea which had haunted him for years.

Is it consistent with the pathology of insanity, that a partial delusion may exist, depriving the person of all self-control, whilst the other faculties may be sound?—Certainly; monomania may exist with general sanity. I have frequently known a person insane upon one point exhibit great cleverness upon all others not immediately associated with his delusions. I have seen clever artists, arithmeticians, and architects, whose mind was disordered on one point. An insane person may commit an act similar to the one with which the prisoner is charged, and yet be aware of the consequences of such an act. The evidence which I have heard in Court has not induced me to alter my opinion of the case. Lunatics often manifest a high degree of cleverness and ingenuity, and exhibit occasionally great cunning in escaping from the consequences of such acts. I see a number of such cases every day.

Cross-examined by the *Solicitor General*.

You have stated that Drs. *Bright* and *Sutherland* were present at the examination. Did they hear your examination of the prisoner?—Yes, they were present and heard the examination. They were there on the part of the Crown. I asked all the questions.

Is it not the practice of the Crown to have medical gentlemen present at the examination of a person charged with such serious crimes as the prisoner is now accused of?—I believe it is.

I believe you attended in the case of *Oxford* on the part of the Crown?—I saw

Oxford by myself; no other medical man was present.

Who were present when you examined *M'Naughton*?—Sir *A. Morrison*, Mr. *M'Clure*, Drs. *Bright* and *Sutherland*. On the two last occasions on which I saw the prisoner, Mr. *Hutchinson* and Dr. *Crawford* were present at the request of the friends of the prisoner. They examined the prisoner almost exclusively on that occasion, and, in accordance with the usual practice, gentlemen in behalf of the Crown also attended.

I should like you to acquaint the Court with the exact form of the question you put to him which had a reference to his firing the pistol at Mr. *Drummond*, at Charing Cross?—I did not take any notes at the time.

Did you ask him if he knew whom he fired at?—I am not quite certain. I think I asked the prisoner whom he fired at.

Did anyone present ask the prisoner if he knew that it was Sir *Robert Peel* he shot at?—I think he was asked the question more than once. He hesitated and paused, and at length said he was not sure whether it was Sir *Robert Peel* or not. This was asked in my presence.

Please to refer to your notes, and tell me whether he did not say that if he thought it was not Sir *Robert Peel*, he would not have fired at all?—I have no notes to that effect. The notes that I have with me were made at home, and not at the time of the examination.

Did he not say he would not have fired if he had known that it was not Sir *Robert Peel*?—No, I think he did not. On this point he observed that the person at whom he fired gave him as he passed a scowling look. At that moment all the feelings of months and years rushed into his mind, and he thought that he could only obtain peace by shooting him. He stated this in answer to my questions. I avoided all leading questions. There was much repetition in the questions put to him. The gentlemen from Scotland also examined him.

What was the form of the question which related to his firing at Sir *Robert Peel*?—I think the question was, “Did you know whom you were firing at?” In reply he observed, “He was one of the crew that had been following him.”

Do you mean to say, Dr. *Monro*, that you could satisfy yourself as to a person's state of mind by merely going into a cell and putting questions to him?—In many instances I can; I will mention a case in point. A short time back I was called in to examine a man who was confined in Newgate under sentence of death. It was thought that he had feigned insanity. After an attentive examination, in conjunc-

tion with Mr. *M'Murdo*, I at once detected that his insanity was assumed, and such turned out to be the fact. I had the satisfaction afterwards of hearing that the man himself confessed prior to his execution that he had feigned insanity.

I wish to know whether your skill would enable you to ascertain the nature of the delusion under which the prisoner was labouring without seeing the depositions taken in his case?—Certainly. I have formed my opinion from an examination of the prisoner personally, in conjunction with the depositions.

Is it not necessary to examine the bodily symptoms in these cases; for instance, the pulse?—Yes, sometimes. I did not feel his pulse, neither did I lay much stress upon the appearance of his eye.

Do you always assume that the party tells you what is passing in his mind?—Not always.

What do you mean by insanity? Do you consider a person labouring under a morbid delusion of unsound mind?—I do.

Do you think insanity may exist without any morbid delusion?—Yes; a person may be imbecile; but there is generally some morbid delusion; there are various shades of insanity. A person may be of unsound mind, and yet be able to manage the usual affairs of life.

May insanity exist with a moral perception of right and wrong?—Yes; it is very common.

A person may have a delusion and know murder to be a crime?—If there existed antecedent symptoms I should consider the murder to be an overt act, the crowning piece of his insanity. But if he had stolen a 10*l.* note it would not have tallied with his delusion.

But suppose he had stolen the note from one of his persecutors?—

(Dr. *Monro's* answer was not heard owing to the laughter which followed the *Solicitor General's* observation.)

A delusion like *M'Naughton's* would carry him quite away. I think a person may be of unsound mind, labour under a morbid delusion, and yet know right from wrong.

Have you heard of what is called moral insanity? Have you read the works of *M. Marc*?—I understand what monomania means. It is attended by an irresistible propensity to thieve or burn, without being the result of particular motives.

Re-examined by *Cockburn*.

You said, Dr. *Monro*, that a person might labour under a particular form of insanity without having his moral perceptions deranged. For illustration—a man may fancy his legs made of glass. There

is nothing in that which could affect his moral feelings?—Certainly not.

You have not the slightest doubt that *M'Naughton's* moral perceptions were impaired?—No.

Sir *A. Morrison, M.D.*—Examined by *Clarkson*.

I believe, Dr. *Morrison*, that you were one of the gentlemen who saw the prisoner in conjunction with Drs. *Monro, Sutherland*, and *Bright*?—I did.

You have been in Court during the whole of the day?—I have.

Were you not present during the whole of the examination of the prisoner in Newgate?—I was.

Did you arrive at any conclusion as to the prisoner's state of mind?—I did.

Please to state to the Court what your impression was?—That *M'Naughton* was insane.

After having heard the evidence adduced that day in Court, has your opinion undergone any alteration?—I am still of the same opinion, that the prisoner was insane at the time he committed the act with which he is charged.

The prisoner's morbid delusions consisted in his fancying himself subject to a system of persecutions?—Yes; that was the peculiar cause of his insanity.

What effect had this delusion upon his mind?—It deprived the prisoner of all restraint over his actions.

Do you speak with any doubt upon the point?—Not the slightest.

Cross-examined by the *Solicitor General*.

Had you formed your opinion in consequence of reading the depositions?—It is the result of reading the depositions and examining the prisoner. I had, however, arrived at a conclusion of his insanity before I read the depositions.

[Mr. *William M'Clure*, a surgeon living in Harley Street, confirmed the previous evidence.

I consider when he fired at Mr. *Drummond*, at Charing Cross, he (the prisoner) was suffering from an hallucination which deprived him of all ordinary restraint.

Dr. *W. Hutchenson*, physician to the Royal Lunatic Asylum at Glasgow, gave evidence to the same effect. The prisoner had lost all self-control at the moment he fired at Mr. *Drummond*. The act flowed immediately from the delusion.]

Cross-examined by the *Solicitor General*.

Do you mean to say that the delusion prevented the prisoner from exercising any control over his actions?—I said that the act was the consequence of the delu-

sion, which was irresistible. The delusion was so strong that nothing but a physical impediment could have prevented him from committing the act. He might have done the same thing in Glasgow if the disease of the mind had reached the same point.

From what period do you date his insanity?—From the time when *M'Naughton* called upon the commissioner of police, *Mr. Wilson*, for protection.

Was he insane at that time?—Yes.

When was that?—Eighteen months back.

Cockburn: Supposing at that time the same morbid notion had seized him, do you think he would have committed a similar act?—I do not think he could have resisted any impulse springing from the morbid delusions under which he suffered.

Re-examined by *Cockburn*.

When patients exhibit symptoms similar to those which the prisoner manifested they are generally, I believe, placed under restraint?—Yes. Such symptoms often gradually develop themselves, whereas many have these delusions for some time and are harmless, and then they may suddenly impel them to the commission of crime. I have known cases of that kind.

[*Dr. P. J. Crawford*, of Glasgow, and *Mr. Aston Key*, of Guy's Hospital, confirmed the previous witnesses.]

Forbes Winslow.—Examined by *Clarkson*.

Mr. Winslow, you are a surgeon residing in Guildford Street?—I am.

You are the author of the "Plea of Insanity in Criminal Cases," and other works on the subject of insanity?—Yes.

I think, *Mr. Winslow*, that you have been in Court during the whole of the trial and have not been summoned on either side, and have heard all the evidence on the part of the Crown and for the defence?—I have.

Judging from the evidence which you have heard, what is your opinion as to the prisoner's state of mind?—I have not the slightest hesitation in saying that he is insane, and that he committed the offence in question whilst afflicted with a delusion, under which he appears to have been labouring for a considerable length of time.

TINDAL, C.J.: *Mr. Winslow*, will you repeat what you have just stated?—Witness again expressed an unqualified opinion of the prisoner's insanity.

Dr. Philips, surgeon and lecturer at the Westminster Hospital, was then called.

TINDAL, C.J.: *Mr. Solicitor General*, are you prepared, on the part of the Crown, with any evidence to combat this testimony of the medical witnesses who now have been examined, because we think, if you have not, we must be under the necessity of stopping the case? Is there any medical evidence on the other side?

Solicitor General: No, my Lord.

TINDAL, C.J.: We feel the evidence, especially that of the last two medical gentlemen who have been examined, and who are strangers to both sides and only observers of the case, to be very strong, and sufficient to induce my learned brother and myself to stop the case.

Solicitor General: Gentlemen of the jury, after the intimation I have received from the Bench I feel that I should not be properly discharging my duty to the Crown and to the public if I asked you to give your verdict in this case against the prisoner. The Lord Chief Justice has intimated to me the very strong opinion entertained by himself and the other learned judges who have presided here to-day, that the evidence on the part of the defendant, and more particularly the evidence of the medical witnesses, is sufficient to show that this unfortunate man at the time he committed the act was labouring under insanity; and, of course, if he were so, he would be entitled to his acquittal. I was anxious, however, to say, on the part of the Crown, that they have had no object whatever but the attainment of public justice, and I believe I am right in saying that, on the part of the prosecution, every facility has been given to the defence. There is no wish, there can be no wish on the part of the public prosecutor, but that the ends of public justice shall be attained; and, certainly, when in the streets of this metropolis a crime of this sort was committed, it was incumbent on those who have the care of the public peace and safety to have the case properly investigated. The safety of the lives and persons of all of us requires that there should be such an investigation. On the part of the Crown I felt it my duty to lay before you the evidence we possessed of the conduct of this young man. I cannot agree with the observations my learned friend has made on the doctrines and authorities that have been laid down in this case, because I think those doctrines and authorities are correct law; our object being to ascertain whether at the time the prisoner committed the crime he was at that time to be regarded as a responsible agent, or whether all control of himself was taken away? The Lord Chief Justice I understand, means to submit that question to you. I cannot press for a verdict against the prisoner.

The learned judge will submit the case to you, and then it will be for you to come to your decision.

TINDAL, C.J.: Gentlemen of the jury, in this important case which has excited very great anxiety during the two preceding days, the point I shall have to submit to you is whether on the whole of the evidence you have heard, you are satisfied that at the time the act was committed, for the commission of which the prisoner now stands charged, he had that competent use of his understanding as that he knew that he was doing, by the very act itself, a wicked and a wrong thing. If he was not sensible at the time he committed that act, that it was a violation of the law of God or of man, undoubtedly he was not responsible for that act, or liable to any punishment whatever flowing from that act. Gentlemen, that is the precise point which I shall feel it my duty to leave to you. I have undoubtedly been very much struck, and so have my learned brethren, by the evidence we have heard during the evening from the medical persons who have been examined as to the state of the mind of the unhappy prisoner, for unhappy I must call him in reference to his state of mind. Now, gentlemen, I can go through the whole of the evidence, and particularly call back your attention to that part of it to which I at first adverted, but I cannot help remarking, in common with my learned brethren, that the whole of the medical evidence is on one side, and that there is no part of it which leaves any doubt on the mind. It seems almost unnecessary that I should go through the evidence. I am, however, in your hands; but if on balancing the evidence in your minds you think the prisoner capable of distinguishing between right and wrong, then he was a responsible agent and liable to all the penalties the law imposes. If not so, and if in your judgment the subject should appear involved in very great difficulty, then you will probably not take upon yourselves to find the prisoner guilty. If that is your opinion then you will acquit the prisoner. If you think you ought to hear the evidence more fully, in that case I will state it to you, and leave the case in your hands. Probably, however, sufficient has now been laid before you, and you will say whether you want any further information.

Foreman of the Jury: We require no more, my Lord.

TINDAL, C.J.: If you find the prisoner not guilty, say on the ground of insanity, in which case proper care will be taken of him.

Foreman: We find the prisoner not guilty, on the ground of insanity.

The clerk of the arraigns, by order of the Court, directed the gaoler to keep the prisoner in safe custody till Her Majesty's pleasure be known.

The prisoner was then removed, and the jury were discharged.

On Wednesday, the 15th of March, the prisoner was removed by Mr. *Cope*, the governor of Newgate, to Bethlehem Hospital, St. George's in the Fields, under an order from the Right Hon. Sir *James Graham*, Her Majesty's Secretary of State for the Home Department.

HOUSE OF LORDS, May 26, 1843.

The House of Lords having resolved^(a) in consequence of this verdict to take the opinion of the judges as to the law respecting crimes committed by persons afflicted with insane delusions, all the judges attended their Lordships, but no questions were then put.

June 19, 1843.—The judges again attended the House of Lords, when the following questions were put to them without argument:—

- “1st.—What is the law respecting alleged crimes committed by persons afflicted with insane delusion in respect of one or more particular subjects or persons; as, for instance, where, at the time of the commission of the alleged crime, the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed public benefit?”
- “2nd.—What are the proper questions to be submitted to the jury when a person, alleged to be afflicted with insane delusion respecting one or more particular subjects or persons, is charged with the commission of a crime (murder, for example), and insanity is set up as a defence?”
- “3rd.—In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed?”
- “4th.—If a person under an insane delusion as to existing facts commits an offence in consequence thereof, is he thereby excused?”
- “5th.—Can a medical man, conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial, and the examination of all the witnesses, be asked his opinion as to the state of the pri-

(a) See debate on March 6 and 13, 1843, Hansard, vol. 67, pp. 288, 714.

soner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any and what delusion at the time?"

MAULE, J. : I feel great difficulty in answering the questions put by your Lordships on this occasion:—First, because they do not appear to arise out of, and are not put with reference to, a particular case, or for a particular purpose, which might explain or limit the generality of their terms, so that full answers to them ought to be applicable to every possible state of facts not inconsistent with those assumed in the questions; this difficulty is the greater, from the practical experience both of the Bar and the Court being confined to questions arising out of the facts of particular cases: secondly, because I have heard no argument at your Lordships' Bar or elsewhere on the subject of these questions, the want of which I feel the more the greater is the number and extent of questions which might be raised in argument: and, thirdly, from a fear, of which I cannot divest myself, that as these questions relate to matters of criminal law of great importance and frequent occurrence, the answers to them by the judges may embarrass the administration of justice when they are cited in criminal trials. For these reasons I should have been glad if my learned brethren would have joined me in praying your Lordships to excuse us from answering these questions, but as I do not think they ought to induce me to ask that indulgence for myself individually, I shall proceed to give such answers as I can, after the very short time which I have had to consider the questions, and under the difficulties I have mentioned, fearing that my answers may be as little satisfactory to others as they are to myself.

The first question, as I understand it, is, in effect, What is the law respecting alleged crime, when, at the time of the commission of it, the accused knew he was acting contrary to the law, but did the act with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance of injury, or of producing some supposed public benefit? If I were to understand this question according to the strict meaning of its terms, it would require, in order to answer it, a solution of all questions of law which could arise on the circumstances stated in the question, either by explicitly stating and answering such questions, or by stating some principles or rules which would suffice for the solution. I am quite unable to do so, and, indeed, doubt whether

it be possible to be done, and therefore request to be permitted to answer the question only so far as it comprehends the question whether a person, circumstanced as stated in the question, is for that reason only to be found not guilty of a crime respecting which the question of his guilt has been duly raised in a criminal proceeding; and I am of opinion that he is not. There is no law that I am aware of that makes persons in the state described in the question not responsible for their criminal acts. To render a person irresponsible for crime on account of unsoundness of mind, the unsoundness should, according to the law as it has long been understood and held, be such as to render him incapable of knowing right from wrong. The terms used in the question cannot be said (with reference only to the usage of language) to be equivalent to a description of this kind and degree of unsoundness of mind. If the state described in the question be one which involves, or is necessarily connected with, such an unsoundness, this is not a matter of law, but of physiology, and not of that obvious and familiar kind as to be inferred without proof.

Second, the questions necessarily to be submitted to the jury are those questions of fact which are raised on the record. In a criminal trial, the question commonly is, whether the accused be guilty, or not guilty; but in order to assist the jury in coming to a right conclusion on this necessary and ultimate question, it is usual and proper to submit such subordinate or intermediate questions as the course which the trial has taken may have made it convenient to direct their attention to. What those questions are, and the manner of submitting them, is a matter of discretion for the judge—a discretion to be guided by a consideration of all the circumstances attending the inquiry. In performing this duty, it is sometimes necessary or convenient to inform the jury as to the law; and if, on a trial, such as is suggested in the question, he should have occasion to state what kind and degree of insanity would amount to a defence, it should be stated conformably to what I have mentioned in my answer to the first question as being, in my opinion, the law on this subject.

Third, there are no terms which the judge is by law required to use. They should not be inconsistent with the law as above stated, but should be such as, in the discretion of the judge, are proper to assist the jury in coming to a right conclusion as to the guilt of the accused.

“Fourth, the answer which I have given to the first question is applicable to this.

Fifth, whether a question can be asked depends, not merely on the questions of fact raised on the record, but on the course of the cause at the time it is proposed to ask it; and the state of an inquiry as to the guilt of a person charged with a crime, and defended on the ground of insanity, may be such that such a question as either of those suggested is proper to be asked and answered, though the witness has never seen the person before the trial, and though he has been present and heard the witnesses; these circumstances, of his never having seen the person before and of his having been present at the trial, not being necessarily sufficient, as it seems to me, to exclude the lawfulness of a question which is otherwise lawful, though I will not say that an inquiry might not be in such a state as that these circumstances should have such an effect.

Supposing there is nothing else in the state of the trial to make the questions suggested proper to be asked and answered, except that the witness had been present and heard the evidence, it is to be considered whether that is enough to sustain the question. In principle it is open to this objection, that, as the opinion of the witness is founded on those conclusions of fact which he forms from the evidence, and as it does not appear what those conclusions are, it may be that the evidence he gives is on such an assumption of facts as makes it irrelevant to the inquiry. But such questions have been very frequently asked, and the evidence to which they are directed has been given, and has never, that I am aware of, been successfully objected to. Evidence, most clearly open to this objection, and on the admission of which the event of a most important trial probably turned, was received in the case of the *Queen v. M'Naughton*, tried at the Central Criminal Court in March last, before the Lord Chief Justice, Mr. Justice *Williams*, and Mr. Justice *Coleridge*, in which counsel of the highest eminence was engaged on both sides; and I think the course and practice of receiving such evidence, confirmed by the very high authority of these judges, who not only received it, but left it, as I understand, to the jury without any remark derogating from its weight, ought to be held to warrant its reception, notwithstanding the objection in principle to which it may be open. In cases even where the course of practice in criminal law has been unfavourable to parties accused, and entirely contrary to the most obvious principles of justice and humanity, as well as those of law, it has been held that such practice constituted the law, and could not be altered without the authority of Parliament.

TINDAL, C.J.: My Lords, Her Majesty's

judges, with the exception of Mr. Justice *Maule*, who has stated his opinion to your Lordships, in answering the questions proposed to them by your Lordships' House, think it right, in the first place, to state that they have forborne entering into any particular discussion upon these questions, from the extreme and almost insuperable difficulty of applying those answers to cases in which the facts are not brought judicially before them. The facts of each particular case must of necessity present themselves with endless variety, and with every shade of difference in each case; and as it is their duty to declare the law upon each particular case, on facts proved before them, and after hearing argument of counsel thereon, they deem it at once impracticable, and at the same time dangerous to the administration of justice if it were practicable, to attempt to make minute applications of the principles involved in the answers given by them to your Lordships' questions.

They have, therefore, confined their answers to the statement of that which they hold to be the law upon the abstract questions proposed by your Lordships; and as they deem it unnecessary, in this peculiar case, to deliver their opinions *seriatim*, and as all concur in the same opinion, they desire me to express such their unanimous opinion to your Lordships.

The first question proposed by your Lordships is this: "What is the law respecting alleged crimes committed by persons afflicted with insane delusion in respect of one or more particular subjects or persons; as, for instance, where, at the time of the commission of the alleged crime, the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed benefit?"

In answer to which question, assuming that your Lordships' inquiries are confined to those persons who labour under such partial delusions only, and are not in other respects insane, we are of opinion, that, notwithstanding the party accused did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable, according to the nature of the crime committed, if he knew, at the time of committing such crime, that he was acting contrary to law, by which expression we understand your Lordships to mean the law of the land.

Your Lordships are pleased to inquire of us, secondly: "What are the proper

questions to be submitted to the jury, where a person alleged to be afflicted with insane delusion respecting one or more particular subjects or persons is charged with the commission of a crime (murder, for example), and insanity is set up as a defence?" And, thirdly: "In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed?" And as these two questions appear to us to be more conveniently answered together, we have to submit our opinion to be, that the jury ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that, to establish a defence on the ground of insanity, it must be clearly proved, that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong. The mode of putting the latter part of the question to the jury on these occasions has generally been, whether the accused at the time of doing the act knew the difference between right and wrong; which mode, though rarely, if ever, leading to any mistake with the jury, is not, as we conceive, so accurate when put generally, and in the abstract, as when put with reference to the party's knowledge of right and wrong in respect to the very act with which he is charged. If the question were to be put as to the knowledge of the accused, solely and exclusively with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction; whereas the law is administered upon the principle that every one must be taken conclusively to know it, without proof that he does know it. If the accused was conscious that the act was one which he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable; and the usual course, therefore, has been, to leave the question to the jury, whether the party accused had a sufficient degree of reason to know that he was doing an act that was wrong; and this course we think is correct, accompanied with such observations and explanations as the circumstances of each particular case may require.

The fourth question which your Lordships have proposed to us is this: "If a person under an insane delusion as to existing facts commits an offence in consequence thereof, is he thereby excused?"

To which question the answer must of course depend on the nature of the delusion; but, making the same assumption as we did before, namely, that he labours under such partial delusion only, and is not in other respects insane, we think he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. For example, if, under the influence of his delusion, he supposes another man to be in the act of attempting to take away his life, and he kills that man, as he supposes, in self-defence, he would be exempt from punishment. If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment.

The question lastly proposed by your Lordships is: "Can a medical man, conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial and the examination of all the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any and what delusion at the time?" In answer thereto, we state to your Lordships, that we think the medical man, under the circumstances supposed, cannot in strictness be asked his opinion in the terms above stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide, and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But, where the facts are admitted, or not disputed, and the question becomes substantially one of science only, it may be convenient to allow the question to be put in that general form, though the same cannot be insisted on as a matter of right. (a)

LORD BROUGHAM: My Lords, the opinions of the learned judges, and the very able manner in which they have been presented to the House, deserve our best thanks. One of the learned judges has expressed his regret that these questions were not argued by counsel. Generally speaking, it is most important that in questions put for the consideration of the judges they should have all that assistance which is afforded by an argument of counsel; but,

(a) As to these answers see Stephen's *History of the Criminal Law of England*, vol. 2, 152, &c.; also later cases collected in 1 *Russ. Cri.* 128 &c.

at the same time, there can be no doubt of your Lordships' right to put in this way abstract questions of law to the judges, the answer to which might be necessary to your Lordships in your legislative capacity. There is a precedent for this course in the memorable instance of Mr. Fox's Bill on the Law of Libel, where, before passing the Bill, this House called on the judges to give their opinion on what was the law as it then existed.^(a)

Lord CAMPBELL: My Lords, I cannot avoid expressing my satisfaction that the noble and learned lord on the woolsack carried into effect his desire to put these questions to these judges. It was most fit that the opinions of the judges should be asked on these matters, the settling of which is not a mere matter of speculation, for your Lordships may be called on in your legislative capacity to change the law; and, before doing so, it is proper that you should be satisfied beyond doubt what the law really is. Your Lordships have been reminded of one precedent for this proceeding, but there is a still more recent instance, the judges having been summoned in the case of the Canada Reserves to express their opinions on what was then the law on that subject. The answers given by the judges are most highly satisfactory, and will be of the greatest use in the administration of justice.

Lord COTTENHAM: My Lords, I fully concur with the opinion now expressed

^(a) See the answers of the judges. 29 Parl. Hist. 1861.

as to the obligations we owe to the judges. It is true that they cannot be required to say what would be the construction of a Bill not in existence as a law at the moment at which the question is put to them; but they may be called on to assist your Lordships in declaring their opinions on abstract questions of existing law.

Lord WYNFORD: My Lords, I never doubted that your Lordships possess the power to call on the judges to give their opinions upon questions of existing law proposed to them as these questions have been. I myself recollect that when I had the honour to hold the office of Lord Chief Justice of the Court of Common Pleas, I communicated to the House the opinions of the judges on questions of this sort framed with reference to the usury laws. Upon the opinion of the judges thus delivered to the House by me, a Bill was founded and afterwards passed into a law.

Lord LYNTHURST, L.C.: My Lords, I entirely concur in the opinion given by my noble and learned friends, as to our right to have the opinions of the judges on abstract questions of existing law, and I agree that we owe our thanks to the judges for the attention and learning with which they have answered the questions now put to them.

MATERIALS MADE USE OF.—The report of the trial has been abridged from the full report by *Richard M. Bousfield* of Gray's Inn, and *Richard Merrett* shorthand writer (London, 1843). The proceedings in the House of Lords are from 10 Cl. & F. 200.