DANIEL M'NAGHTEN'S CASE. May 26, June 19, 1843.

The prisoner had been indicted for that he, on the 20th day of January 1843, at the parish of Saint Martin in the Fields, in the county of Middlesex, and within the jurisdiction of the Central Criminal Court, in and upon one Edward Drummond, feloniously, wilfully, and of his malice aforethought, did make an assault; and that the said Daniel M'Naghten, a certain pistol of the value of 20s., loaded and [201] charged with gunpowder and a leaden bullet (which pistol he in his right hand had and held), to, against and upon the said Edward Drummond, feloniously, wilfully, and of his malice aforethought, did shoot and discharge; and that the said Daniel M'Naghten, with the leaden bullet aforesaid, out of the pistol aforesaid, by force of the gunpowder, etc., the said Edward Drummond, in and upon the back of him the said Edward Drummond, feloniously, etc. did strike, penetrate and wound, giving to the said Edward Drummond, in and upon the back of the said Edward Drummond, one mortal wound, etc., of which mortal wound the said E. Drummond languished until the 25th of April and then died; and that by the means aforesaid, he the prisoner did kill and murder the said Edward Drummond. The prisoner pleaded Not guilty.

Evidence having been given of the fact of the shooting of Mr.Drummond, and of his death in consequence thereof, witnesses were called on the part of the prisoner, to prove that he was not, at the time of committing the act, in a sound state of mind. The medical evidence was in substance this: That persons of otherwise sound mind, might be affected by morbid delusions: that the prisoner was in that condition: that a person so labouring under a morbid delusion, might have a moral perception of right and wrong, but that in the case of the prisoner it was a delusion which carried him away beyond the power of his own control, and left him no such perception; and that he was not capable of exercising any control over acts which had connexion with his delusion: that it was of the nature of the disease with which the prisoner was affected, to go on gradually until it had reached a climax, when it burst forth with irresistible [202] intensity: that a man might go on for years quietly, though at the same time under its influence, but would all at once break out into the most extravagant and violent paroxysms.

Some of the witnesses who gave this evidence, had previously examined the prisoner: others had never seen him till he appeared in Court, and they formed their opinions on hearing the evidence given by the other witnesses.

Lord Chief Justice Tindal (in his charge):-The question to be determined is, whether at the time the act in question was committed, the prisoner had or had not the use of his understanding, so as to know that he was doing a wrong or wicked act. If the jurors should be of opinion that the prisoner was not sensible, at the time he committed it, that he was violating the laws both of God and man, then he would be entitled to a verdict in his favour: but if, on the contrary, they were of opinion that when he committed the act he was in. a sound state of mind, then their verdict must be against him.

Verdict, Not guilty, on the ground of insanity.

This verdict, and the question of the nature and extent of the unsoundness of mind which would excuse the commission of a felony of this sort, having been made the subject of debate in the House of Lords (the 6th and 13th March 1843; see Hansard's Debates, vol. 67, pp. 288, 714), it was determined to take the opinion of the Judges on the law governing such cases. Accordingly, on. the 26th of May, all the Judges attended their Lordships, but.no questions were then put.

 [204] Mr. Justice Maule

 . . .Second, the questions necessarily to be submitted to the jury, are those questions of fact, which are [206] 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 whioh 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. . .

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 [212] 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.

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