

are based upon what must be still regarded, in spite of much adverse comment, as the most authoritative exposition of the English law upon this subject, viz., the answers of the judges to the questions put to them by the House of Lords in *McNaghten's Case* (1843) 4 St. Tr. N.S. 847, from which we would make the following quotation as being particularly relevant to the case which has so exercised the minds of our neighbours during the past three months: "Notwithstanding the person 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 mean the law of the land."

This dictum of the English judges is of special interest to Canadians, as on its application chiefly turned the fate of the accused in the celebrated case of *R. v. Riel* (1885) 1 Terr. R. 23. In that case it was argued with great skill and persistence by the present Chief Justice of Canada and the counsel associated with him in the defence of the unfortunate leader in the North-West Rebellion, that his treasonable acts were excused by insane delusions to which he was said to be subject, nor was there lacking the element of difference in opinion among the medical experts called as witnesses, which has been so prominent a feature in the Thaw case and others of the same kind. The opinions of the Canadian judges before whom the case came on appeal contain a very full and instructive discussion of the law as it then stood, which as already stated is very much the same as it is to-day under the Code.

It should be remarked, even in so slight a discussion as this, of a subject so vast and complex as the criminal responsibility of the insane, that the doctrines of the judges in *McNaghten's Case* have been vigorously assailed as being at all events incomplete in their scope, and it must be admitted that they seem to deal too exclusively with what may be called mental or intellect-