

the jury, in the Tierney case, by the Advocate Depute, (the prosecuting counsel,) Professor Muirhead, of Edinburgh, appears to me so clearly marked by good sense, and an advanced knowledge of the nature of insanity, that I cannot avoid here presenting it.

The Advocate Depute "argued that there was no ground for thinking the prisoner insane at the time the act was committed, either from the recurrence of his malady, or from an accession of homicidal mania." (*Note.*—Tierney had been insane for a considerable time sixteen years before, and was said to have had several short relapses.) "There was, however, an intermediate view that might be taken. They might, upon the evidence, feel themselves persuaded, that, *through the operation of disease*, at an earlier period, there had been, as regarded this man, a diminished power of regulating his actions. What would be murder in a man whose mental faculties had never been affected by disease, might, in the case of a man who had been so affected, and whose mental faculties were for the time obscured by disease, be looked on more leniently. If the jury, looking on all the evidence, felt that they could conscientiously pronounce a more lenient verdict, he asked them to find that the panel was guilty of culpable homicide." How utterly different is the preceding utterance of Professor Muirhead from the blood-beseeching address of the prosecuting counsel to the jury in McConnell's case! Professor Muirhead regards insanity as a *disease*. Mr. Sinclair pooh-poohed the idea that fracture of the skull was a fact worthy of any consideration in estimating the mental condition of McConnell!

I have, indeed, heard and read of cases in which severe fracture of the skull, resulting in actual loss of a portion of the brain, has transformed idiotic or half crazy persons into sensible men. I trust no such serious accident will ever befall McConnell's prosecutor. He has a splendid forehead, the beauty of which I would not see effaced for the exchange of any amount of mental frailty, for augmented rationality.

*Dr. Yellowlees*, the present Superintendent of the celebrated Gurnavel Asylum, at Glasgow, and the writer of the article on Tierney's case in the *Journal of Mental Science*, contrasts the

legal directions given to the jury in the trial of one Blamfield, a workman in the Chatham dockyard, by the judge, with the more rational charge of Lord Ardmillan. The English judge based his directions on the oft-quoted definitions of insanity by his predecessors and brethren; "but so contrary," says *Dr. Yellowlees*, "did these definitions seem to what justice required in the case, that the jury deliberately disobeyed the instructions, and acquitted the man on the ground of insanity."

Only a few days intervened between the murder by Tierney and that by Blamfield, and their trials were nearly co-temporary; but the Scotch are a thinking, shrewd and progressive people; the English cling to antiquity and plum pudding.

*Dr. Yellowlees* makes one observation which appears to me deserving of serious consideration by the framers of our criminal law. He says, "I am unable to see why, in a case like this, (Tierney's) the wife's testimony should not be admissible as to the past history of her husband. Let her statements be carefully tested, and let there be such reservation or deduction in receiving them as the other evidence seems to demand; but it appears strange deliberately to reject the witness who must be the best informed as to the history and habits of the accused."

Never were more sensible words than the above written. Every physician who has been called upon to treat a case of insanity in either a husband, a son, or a daughter, well knows the vast importance he attaches to the statements of the wife or mother. Who, so well, so intimately, so minutely *can* be acquainted with all the guiding, instructive and most important facts, an accurate knowledge of which is indispensable alike to the diagnosis of the case and its judicious treatment? And yet in the case of a husband accused of any offence whatever, British jurisprudence seals the lips of the very witness whose testimony might throw a flood of light on the great psychological difficulty! I can affirm from abundant experience and observation that in the cases of husbands, sons and daughters, I have found the details given me by wives and mothers, though sometimes almost tiresomely exuberant, yet unspeakably