

been sent to an asylum without arraignment, but the Common Serjeant has not yet decided what ought to be done about enlarging or discharging the recognisances of the prosecutor and the witnesses. But the most important cases, from the public point of view, are those of lunatics who kill their fellow-citizens. In the case of the Kensington murder it has been suggested that if the accused is insane he should at once be sent off to an asylum by an order of the Home Secretary; and in the case of Matthews, charged with a murder at Bethnal Green, such an order has actually been made. It was a novelty and puzzled the magistrate, who ultimately marked the charge-sheet, 'Removed to a lunatic asylum by order of a Secretary of State.' But the proceeding was perfectly legal, though we shall have something to say about its policy.

The law as to criminal lunatics stands now thus:—

1. If it is proposed to discontinue a prosecution on indictment against a man on the ground of his insanity at the time when the act charged was done, a jury may be impannelled to decide whether the accused was or is a lunatic (39 & 40 Geo. III. c. 94, s. 2).

2. If a question arises whether an accused person is sufficiently sane to plead to an indictment, a preliminary issue as to his sanity is usually tried by a jury (39 & 40 Geo. III. c. 94, s. 2).

3. Upon the trial the jury could acquit for insanity (39 & 40 Geo. III. c. 94, s. 2). This power is not in terms abrogated, and we have known cases in which a quarter sessions jury has successfully been invited by the defendant's counsel to acquit on this ground; but the regular procedure is now to find the accused guilty, but insane, under the Trial of Lunatics Act, 1883 (46 & 47 Vict. c. 38, s. 2). In each case the verdict of a jury is obtained, and in each case it is followed with the same result—detention in a lunatic asylum during Her Majesty's pleasure.

4. But the Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 64), appears to introduce a fourth mode of disposing of the accused. By section 16 of that Act 'prisoner' is defined as any person committed to a prison or place of confinement to which a person may be committed, *whether on remand or for trial*, and section 2 empowers a Secretary of State to send to a criminal lunatic asylum any prisoner (not under sentence of death) who is certified as insane by two medical practitioners called in at the instance of the visiting justices of the prison.

On the wording of this enactment the certificate and order of detention may precede and be substituted for the verdict of a jury at the trial. But it is somewhat dangerous to adopt such a method. On the one side, in the case of well-to-do criminals it would seem to avoid the scandal of the trial; on the other, it deprives the accused of the verdict of a jury as to his sanity, to which he has hitherto been entitled, and to which, if not a prisoner, he would be entitled under the Lunacy Act, 1890.—*London Law Journal.*