of the judges' answers of 1843, and was such as is rarely heard in an English court, unless the judge has made up his mind that the case he is trying is one in which the plea of insanity ought not to be admitted, and he therefore wishes to strengthen the hands of the jury, and render it easy for them to refuse to give effect to the plea. Whether the criminal code of New Zealand would allow, as our law does, greater latitude to the judge, in cases which it seems to him right to assume it, I do not know; but it seems that, with a free hand to draw up such a code as it pleased, and with all the experience of many countries to guide them, the Legislature of New Zealand has been content to adopt, without modification, the strict letter of the judges' answers as the rule in cases of alleged insanity. The fact is worth the consideration of would-be reformers and codifiers of our own law.

Rex v. *Macgregor.*

For the account of this case also I am indebted to Dr. Alexander, of Dunedin, N.Z.

The accused had for some years been manager of Sargood's factory. On July 27th Mr. Sargood found the accused in an office in the factory, in which he had been locked by the clerks. Mr. Sargood thought accused had been drinking, told him to leave the office and report himself next morning. There was a conversation, in the course of which accused spoke sensibly on matters of business, and also expressed the intention of taking his own life. He spoke of troubles he had had with his wife. Accused did not appear to resent Mr. Sargood's action in virtually dismissing him from the service. Between five and six o'clock the same evening, accused bought a revolver and fifty cartridges, and then engaged a cab to Mr. Sargood's private house. Mr. Sargood was at dinner, but accused had him called out, and without any words, fired at him at very short distance, hitting him in the face, but not killing him. The other diners ran out on hearing the shot, threw the accused down, and asked if he had killed Mr. Sargood. He said, "I hope so." When first seized, he said, "Yes, I have done it," and hoped he had not hurt anyone else. To all the

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spectators, the diners, the gardener who ran in on hearing the shot, the police who were called in to arrest the accused, he appeared calm, rational, and sober, though he smelt of drink. To the shopman who sold him the revolver, the cabman who drove him to the house, and the maid who opened the door he appeared the same. To the police he spoke of his child and wife, and hoped the ordeal he had now to go through would bring the latter to her senses. On the following morning, however, he said, "I don't even know where I got the revolver; I have no 'down' on Mr. Sargood; why should I? I shall have to admit it. What could a lawyer do?"

The fact of the shooting was admitted. The defence was that there was no intention; and the desperate straits to which counsel was put, in advocating this view, may be judged from his contention that the fall of the accused on the floor, when he was first apprehended, so disordered his mind that no importance was to be attached to what he said at the time. Counsel contended, in short, that the act was the act of a broken-hearted, reckless, drunken madman, and that there was no intention to murder. It was the familiar defence that though drunkenness is no excuse for crime, yet it may, by depriving the accused of intention, excuse him from punishment. The plea of insanity was not raised.

In summing up, the judge said that if a man by reason of drunkenness did not know what he was doing, or was incapable of forming an intention, he would not be guilty; but the judge pointed out that the buying of a revolver and cartridges, loading the weapon, going to another man's house with it, and shooting that other man, were inconsistent with absence of intention. The jury must devote their attention mainly to this question of intention. If the accused had a delusion that Mr. Sargood had done him a wrong, and did the act to avenge that wrong, then, even if the delusion existed, that was not sufficient to justify a verdict of not guilty on the ground of insanity.

The jury acquitted the prisoner, on the ground that he was insane at the time the offence was committed. (Mr. Justice Williams, *Otago Evening News*, n.d.)

The verdict gave rise to a good deal of unfavourable comment in the colony. The jury found the prisoner insane, although the plea of insanity was not raised by the defence, and in spite of the clear instructions of the judge, which

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indicated very strongly that such a verdict was inapplicable to the case; and there is no doubt that the verdict is indefensible, alike in logic and in law. The facts seem to be, however, that a great deal of sympathy was felt for the prisoner. It was known that the conduct of his wife had given him very great distress, and to this were attributed his intemperate habits. Mr. Sargood, the person chiefly aggrieved, had spoken in the witness-box most charitably and generously of the prisoner, had looked after the prisoner's child, and had disclaimed any resentment against him. The act itself was undoubtedly an irrational one, not traceable to any reasonable motive. The attitude of the jury seems to have been to consider, not under what technical legal description the crime could most logically be classified, but how the prisoner ought to be dealt with, admitting that he had done the act, but making allowance for the desperate trouble in which he was; and they concluded that, while they must mark their reprobation of the crime, they would yet let the criminal down as lightly as possible. The verdict was against the strict letter of the evidence, and in the teeth of the judge's ruling, but it seems to have fitted pretty fairly the merits of the case.

Occasional Notes.

Benedikt: aus Meinem Leben.

Our distinguished and venerable colleague, Professor Moriz Benedikt, of Vienna, has given the world a most interesting account of his life, in a substantial volume of some 400 pages. He is a born traveller, has known distinguished men and many cities, and his interests are of the widest. For a quarter of a century he has been an honorary member of the Medico-Psychological Association and a kind friend to those of us who venture as far as his home in the Austrian capital.

Professor Benedikt begins with a clear account of his childhood, in well-remembered detail. At the time of his birth, July 4th, 1835, Austria was a feudal and autocratic state, yet his education was fortunate in the era of a new development of

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