OCCASIONAL NOTES OF THE QUARTER.

Judge and Doctor.

We venture to think that there was recently a considerable *rapprochement* between the judicial and the medical mode of viewing certain criminal acts. Friendly intercourse between judges and mental physicians has had the beneficial effect of opening the eyes of some of the former to the real nature of crimes committed by the insane, while very possibly the latter have derived benefit from the free intercommunication of ideas in regard to a just judgment of matters upon which lawyers and physicians must at bottom have a common object—simple justice. We are sure that no judge really wishes an irresponsible man to be punished, and it is very certain no medical man wishes the guilty criminal to escape the penalties of the law. There are occasions, however, when we think that judges are somewhat unduly disposed to set aside the evidence of medical men, and not only to lay down the law, but to go out of their way to influence the jury in a direction contrary to that of the medical opinion given in evidence. As an example of judicial discourtesy we might instance the petulant language of Baron Huddleston in the course of a trial at the Devon and Cornwall Assizes last November, in which he seemed to us to forget the golden rule in his brusque treatment of a medical witness. And, again, the same judge more recently acted in a way which has somewhat rudely shaken the hope and belief above expressed, and made us fear that our judges may sometimes "indifferently minister justice" in the least favourable construction of that phrase. At the Winchester assizes, in November, a young man (Russell) was charged before Baron Huddleston with murdering his grandmother. Among other witnesses, Dr. J. G. Symes, for thirty years Superintendent of the Dorset County Asylum, who had examined the prisoner by desire of the Home Office, alleged that he was of low intellect, from his mode of answering questions and his general appearance. He appeared indifferent to his position and to the act he had committed. He did not display any excitement or delusions during the interview, and appeared to know right from wrong, but, in his report to the Treasury, Dr. Symes stated that at the time of the murder he was, in his belief, of unsound mind, an opinion the judge would not allow him to express in Court.

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The prisoner had had fits. In his summing up, the judge animadverted upon the evidence of medical men, and he thought it proper to assert that they usurped the functions of a jury in getting into the witness-box to show their knowledge and ventilate their own fancies and theories without being able to give the reasons on which they based their conclusions. Happily, the jury, while finding the prisoner guilty of murder, strongly recommended him to mercy on account of weak intellect, and he has been reprieved.

The heading of this "Occasional Note" has, however, been suggested by a trial in Scotland, in which one Thomas Lamb, twenty years of age, was charged with indecent assault. The plea set up in the prisoner's defence was that he was insane at the time the offence was committed. Evidence was given that at eight years of age he had scarlatina, and for some weeks afterwards was very deaf, there having been a discharge from his ears continuously from that time. His memory, never good, became much worse after his illness. A year afterwards he had measles, and soon afterwards whooping cough. Subsequently he fell from some bales of jute and was brought home insensible, remaining in that condition for two days and a night. When his mother stated that there was a mark on the back of his head, in consequence of the fall, Lord Young humorously observed, amid the laughter of the Court, "I suppose most boys have marks or cuts about their heads." The mother also stated that her father was insane and had to be confined on two occasions. On being recalled Mrs. Lamb stated that her husband's uncle was insane, and a grand-uncle was silly.

His Lordship, addressing Mr. Guy, who defended the prisoner, said: I am sorry to have to interrupt you, but the question just at present is whether this young man at the bar is insane. We do not require to go back to the prisoner's birth to discover this; you should lead the medical evidence.

Mr. Guy: I will lead the medical evidence after.

His Lordship: Do begin with the medical evidence now.

Mr. Guy: I have placed this witness in the box, and must proceed with her examination.

His Lordship: No, no.

Mr. Guy: Well, I won't go on with this any further.

Dr. Rorie, the Medical Superintendent of the Dundee Royal Lunatic Asylum, stated that he had examined Lamb in prison, and had drawn up a report, dated August 30th, 1886, which was signed by himself and Dr. J. W. Miller. In this

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report it is stated that the prisoner is unable to distinguish right from wrong, and is otherwise insane. The opinion was expressed that he was also insane when he committed the alleged crime. Prisoner could not tell his age, and in counting came to a standstill at sixty, and in other respects showed great mental stupidity.

Dr. Miller, the jail surgeon in Dundee for fifteen years, stated that he had seen the prisoner daily, and was quite satisfied as to the prisoner's insanity.

Lord Young, while admitting that the prisoner was a stupid lad, his stupidity being increased by his deafness, said that he should have thought it a very questionable thing to put forward a plea of insanity, and decided that the case must go to trial.

The prisoner was then asked to plead, and on being requested to stand up, he gazed vacantly around the Court; he paid no heed to the plea, "Are you guilty or not guilty?"

Lord Young: You must answer the question.

Prisoner: Am I guilty or not guilty?

Lord Young: Yes, you know what you are charged with.

Prisoner: Ah.

Lord Young: Do you know the crime charged against you?

Prisoner: Ah.

Lord Young: You know what you are said to have done?

Prisoner: Know what I did?

Lord Young: Yes; did you do it or not?

As nothing could be elicited from the prisoner beyond his having been told in Forfar what he had done, his Lordship directed the Clerk to record the plea of "Not Guilty." A jury was empanelled, and evidence was given which is not published. The jury found the prisoner guilty. In passing sentence the judge observed to the prisoner that he did not think him by any means an intelligent man, but that as a matter of fact he very rarely did see intelligent persons at that bar. "They are unintelligent persons who act so as to bring themselves under the pains and penalties which are inflicted in this Court." The prisoner was sentenced to penal servitude for five years. During the passing of the sentence the prisoner acted in a dull and careless manner, and did not appear affected by the result of his trial.

We are informed by Dr. Rorie that neither he nor Dr. Miller had the slightest difficulty in arriving at a conclusion about the nature of this case, viz., that it was one of dementia, mental arrest having followed severe delirium during an attack of scarlatina in a boy hereditarily predisposed to insanity.

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Much surprise was felt by the medical witnesses at the course adopted by Lord Young; their evidence being completely set aside, and the question of the prisoner's insanity being referred to the jury, who by their verdict decided that the prisoner was sane.

After the prisoner's sentence, steps were taken to obtain an independent medical examination of the convict, and the result was that he was examined and certified to be insane.

In this case, the result of a conflict between judge and doctor has proved ultimately a triumph for the latter, although, as often happens, the triumph of the former seemed secure at the time of the trial. It would have been strange indeed if the deliberate opinion of a superintendent of an asylum for six-and-twenty years, and of a doctor of a prison for fifteen years, should have proved less correct than that of a legal functionary who thought himself competent to express a dogmatic opinion on the prisoner's mental condition from his observation of him in Court.

Actions against Medical Men for signing Lunacy Certificates.

Two instructive trials having an important bearing upon the responsibility of medical men signing certificates in lunacy, have recently occurred, which ought not to be allowed to pass without notice in this Journal.

The first was the case of "Tanfani v. Spurgin." The plaintiff, Louisa Tanfani, the wife of Signor Achille Tanfani, alleged that Mr. Spurgin, without taking due care, and without reasonable cause, and for the purpose of causing the plaintiff to be imprisoned as a person of unsound mind, signed a certificate under the Lunacy Act, whereas she was not of unsound mind, and was therefore falsely imprisoned. The plaintiff further declared the statement made in the certificate to be libellous. The defendant traversed most of the allegations made against him. As to the alleged libel, he said that the words complained of were true in substance and in fact, that the action had not been brought within twelve months, and that the plaintiff was the wife of an alien, and therefore was not entitled to bring the action.

Dr. Charles E. A. Semple stated in evidence that he was called upon to examine the plaintiff in 1878, to ascertain the state of her mind, and that he had refused to certify that she was insane. Dr. Ruddiforth had also declined to write a certificate. Mrs. Douglas, the wife of a Superintendent of Police at High Barnet, stated that she had taken plaintiff to Brandenburgh Asylum in a brougham; she was greatly excited, and called the police, but she considered that the plaintiff

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