concerns the "King's pleasure" prisoners, the asylum of Broadmoor is not a criminal lunatic asylum at all, for its inmates, though they have been in words found guilty, have not been convicted of crime, and therefore are not criminals.

The effect of the judgment of the House of Lords is that no appeal lies from the verdict of "guilty but insane," and it must be a matter of congratulation, no less to the judges of the Court of Criminal Appeal than to the medical profession, that this should be so.

COURT OF CRIMINAL APPEAL.

Murder on the High Seas.

Rex *v.* Coelho.

(Before the Lord Justice of England, Mr. Justice Coleridge and Mr. Justice Sankey.)

Reported by Dr. Mercier.

In this case Alberto Oliveiro Coelho appealed against a conviction at Liverpool Assizes, before Mr. Justice Bray, of the murder of his wife. The appellant was not present.

Mr. Rigby Swift, K.C., and Mr. J. E. Singleton appeared for the appellant; and Mr. A. H. Maxwell and Mr. R. E. Gething for the Crown.

Mr. Swift said that the appellant was convicted of the murder of his wife in the British ship, the "Deseado," on the high seas about 170 miles west of Madeira. The only defence raised was that he was insane at the time. He now contended that the unqualified verdict of "Guilty" could not be sustained, having regard to the evidence, and that there had been misdirection by the learned Judge. The appellant, who was æt. 32, was a Portuguese, who understood no English, and had never been in England. At the age of 10 he went to Rio de Janeiro, where he carried on a successful business as a confectioner. He lived there with the woman, who afterwards became his wife. She left him, and he followed her to Lisbon, but she went away with another man to Peru. Ultimately she returned to the appellant, but again, in October, 1913, she left for Portugal, and he again followed her. In January the appellant married this woman at Oporto from his brother's house, living there with her until February 5th, when they embarked in the "Deseado" for Brazil. Up to that time the evidence showed that the appellant was passionately fond of this woman, whom he had twice followed across the world, and was then taking back to his home. There was evidence that he had complained of "inconsiderate conduct" on her part after the marriage, but there was no complaint after they got

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on board. On February 7th she was sitting in the social room of the "Deseado." Three bandsmen were also in the room. The appellant came in with one Gomez, and a perfectly quiet conversation, free from gesticulations, ensued between the three. The appellant and Gomez then walked out, returning almost immediately, and the former without a word drew a revolver and fired twice at his wife at a distance of one and a half yards. He then walked quietly out with Gomez, and was arrested. No motive or provocation was shown, and he must have known when committing the crime that there was no possibility of hiding it or escaping its consequences. He was put in irons under the charge of a Spanish doctor until Rio was reached on February 19th.

The defence did not hear of this doctor until the trial, so that his evidence was not available. The learned counsel then dealt with the medical evidence which, he contended, showed that the appellant, after the crime, was suffering from incipient general paralysis of the insane, that at twelve years of age he had been operated upon for an affection of the eyes, and at sixteen and again at twenty-four years of age had suffered from syphilis, and had been six months in hospital, but had never been entirely cured. When living with his brother-in-law, in January, the latter said that he was "half mad"; he was inattentive to his business, and spent his time walking about the streets. He had said since the crime that he thought he was being poisoned by his wife. He stated that he knew nothing of what had happened until he found himself in irons. The doctor called for the defence said that he thought the appellant did not fully appreciate the difference between right and wrong.

Mr. Justice Bray left it to the jury to say whether the appellant through disease of the mind was not conscious of the nature and quality of his act, or, if he was, whether he was conscious of the difference between right and wrong, but he did not explain this, as it was suggested in Macnaughton's case (10 Cl. and F., 200), that the Judge should explain it. The question ought to have been left whether he knew at that time that it was wrong to kill his wife (see Reg. *v.* Davis, 14 Cox C. C., 563).

Mr. Maxwell submitted that there was ample evidence to justify the verdict. He was stopped.

Judgment.

The Lord Chief Justice, in giving judgment, said that the determination of the appeal must depend upon the view that they took of the evidence. They were by no means intending to lay down that that Court would not interfere with such a verdict as was found in this case and substitute for it a special verdict under the Trial of Lunatics Act, 1883, if they thought it right and just to do so. But upon an examination of the evidence they could not come to the conclusion, as a court of law, dealing with the verdict upon which they thought was a proper direction, that the verdict was wrong. In this case the only alternative to quashing the conviction of murder would be to substitute a special verdict, with the consequence that the appellant would be detained during his Majesty's pleasure.

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His Lordship stated the facts, and said that those facts were ample to prove that murder was committed. They were of opinion that the direction to the jury was correct, and was put in language which had long been laid down as correctly expressing the law. In substance the jury were told that a man must be presumed to be sane and possessed of sufficient reason to be conscious of his crime unless he established the contrary, and proved that he was suffering from such a disease of the mind as to be unconscious of the nature and quality of his act, or, if unconscious, not to be conscious of the difference between right and wrong. No fault could be found with that, and evidence was, in fact, admitted in the appellant's favour to which the prosecution could have objected as inadmissible. The effect of the evidence for the defence was that the appellant had suffered from syphilis, loss of memory, persistent insomnia, want of concentration, and it could be summed up by saying that he was suffering from syphilitic neurasthenia. A certificate of a doctor was in evidence to the effect that after the crime he was under the delusion that his wife had tried to poison him. Further evidence was given that he was not fully conscious of the difference between right and wrong, and had delusions which interfered with his mental activity.

It was for the defence to establish facts upon which the special verdict could be found, and all this evidence was before the jury. The jury took another view. The certificate produced before this Court, but not before the jury, bore no date, and must have been sent to this country on instructions emanating from the appellant or his friends. It was meagre in its statements, and they did not think that they would be justified in acting upon it to vary the verdict of the jury. They had come to the conclusion that the appeal could not succeed, but only with hesitation, as it was a difficult case. It must be borne in mind that there were powers vested in the Home Secretary not available to the Court. They would not presume to intervene in any way with the advice which should be given to his Majesty, but they did think that this was one of those cases in which the powers vested in the Home Secretary might be usefully employed, if he thought fit, in making inquiries and examinations. The appeal must be dismissed.—*The Times*, May 12th.

This is one of the cases which raise the indignation of the medical commentator. It is a case in which a verdict of guilty of murder will be followed by the commutation of the sentence, and this will be regarded as a proof that the law, or the procedure under the law, is defective or faulty, inasmuch as a verdict of insanity was not found, and yet the extreme sentence of the law is remitted, and is remitted on account of the insanity of the convict. It is cases of this class that are made the text for homilies on the imperfection of the law, and for demands that medical assessors shall sit beside the judge to direct the jury in the way it should go. These clerics forget that the

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assessor does not address the jury. He might influence the judge, but the judge is bound to expound to the jury the law as it is, not the law as the medical assessor desires it to be.

As I have pointed out in my book on 'Criminal Responsibility,' the cases in which a prisoner is convicted in spite of the plea of insanity, and is subsequently reprieved on the ground of insanity, are cases in which the evidence of insanity at the trial was not enough to satisfy the jury, and in which, after the trial, evidence comes to light which was not then available, or in which a doubt remains in the mind of the judge. The evidence of insanity produced at the trial of Coelho was weak. It certainly would not have satisfied me, and I cannot pretend to be sorry that it did not satisfy the jury. The murder was committed in cold blood; so are plenty of sane murders. No motive or provocation was shown, but it was shown the man was passionately fond of his wife, and that twice or three times she had run away from him. Sane murders from the motive of jealousy are not altogether unknown. Moreover, he said after the crime that he thought he was being poisoned by his wife, and this was brought forward as evidence of delusion; but it may not have been delusion. It may have been a well-founded belief: it may have been true. Or, if not true, there may have been some evidence to justify the man in entertaining it; it may, in short, have been a sane mistake. In any case, true or false, the belief was a motive. He said he knew nothing about the crime until he found himself in irons; this is one of the commonest subterfuges of arrested criminals, and should never be accepted without strong corroboration. It does not appear that in this case there was any corroboration. It was alleged in favour of insanity that there was no possibility of hiding the crime or escaping its consequences; but this was a *crime passionel*; the man was a Portuguese, and these are the characters of *crimes passionels* in Latin peoples. The doctor called for the defence said he thought the prisoner did not fully appreciate the difference between right and wrong, but on what evidence he founded this opinion does not appear in the report; moreover, the judgment of the Court of Appeal says there was evidence that he had delusions "which interfered with his mental activity." The phrase is a peculiar one. I have seen no report of the trial, and do not know what the nature is of the delusions referred to. Presumably they were not delusions

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ad hoc—delusions with respect to his wife which might have influenced him to commit the murder; and presumably the evidence of these delusions was weak, or more would have been made of them. It must, I think, have been this evidence that influenced the Court to make the observation with which the judgment closes, for there is nothing else to make it hesitate and say that this was a difficult case. So much for the contention that the verdict was against the weight of the evidence; and as to the fairness of the trial, the Lord Chief Justice declared that evidence was admitted in favour of the prisoner to which the prosecution could have objected as inadmissible.

It was contended by Mr. Rigby Swift, K.C., for the appellant, that the judge had misdirected the jury by leaving it to them to say whether the appellant, through disease of the mind, was not conscious of the nature and quality of his act, or, if he was, whether he was conscious of the difference between right and wrong. The contention was that the jury ought to have been told to decide whether he knew at the time the difference between right and wrong, not generally and in the abstract, but specifically with respect to the act with which he was charged, of killing his wife. The contention is founded on the answer to the second and third questions of the House of Lords to the judges in 1843, which runs thus: "The mode of putting the latter part of the question to the jury, on these occasions, has generally been, whether the accused, at the time of the act, knew the difference between right and wrong; which mode, though rarely, if ever, leading to any mistake with the jury, is not, we conceive, so accurate when put generally and in the abstract, as when put with reference to the party's knowledge of right and wrong in respect to the very act with which he is charged. If the question were to be put as to the knowledge of the accused solely and exclusively with reference to the law of the land, it might tend to confound the jury by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction; whereas the law is administered on the principle that everyone must be taken conclusively to know it, without proof that he does know it. If the accused was conscious that the act was one that he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable"; etc.

The report of the appeal does not give Mr. Rigby Swift's

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argument more fully than it is given above, and, therefore, I do not know what contentions he urged to the Court; but it is evident that some nice and curious points arise in this case out of the answer of the judges. This answer lays down that the accused is punishable on two conditions, first, that he knew that the act was one that he ought not to do, and second, that that act was, whether he knew it or not, contrary to "the law of the land." In their answer to the first question, however, the judges omit the first condition, and say, "he is 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 understand your Lordships to mean the law of the land."

Now, it may be conceded that the accused man Coelho did know that the act of killing his wife was one that he ought not to do; but it may well be argued that the conclusive presumption of law, that everyone must be presumed to know it, did not apply to him. The only reason that the knowledge of the accused with respect to the criminality of the act is immaterial to the issue, is that "everyone" is presumed to have this knowledge; but does "everyone" in this case include every man, woman, and child on the face of the earth, or is the meaning of the term not restricted to those who have lived in that "land" of which this is the "law," or at least are, to their own knowledge, on English soil? In this case the crime was committed on board an English ship, hundreds of miles from this country, a ship that was going neither to nor from an English port. The accused was a Portuguese, and so was his victim. English ships are notoriously largely manned by foreigners, among them a considerable proportion of Portuguese. Unless the accused had happened to notice the ensign, which is flown, not continuously, but on occasions only, that is to say, on entering and leaving port and on meeting another ship, unless he has happened to notice the ensign, and unless he also knew what it meant, of neither of which does there seem to have been any evidence, how can it be presumed that he knew "the law of the land?" In such a case it may well be contended—I don't know whether it was contended—that the "conclusive presumption" of law did not apply. Supposing, as may well be the case, that such acts as the killing of a wife from motives of jealousy are, in Portugal as in France, either not murder in law, or are only

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technically and by a fiction of law considered to be murder, it is clear that the accused killed his wife under a mistake as to the facts, as much as if a householder were to kill an innocent intruder under the mistake that he was a burglar. He was doing an act which, according to the code of the country in which he lived, and in which he thought he was, is an innocent and even a laudable act, and ought he to be punished on account of a mistake of fact which he may have had no means of correcting? Even supposing that he did know he was on an English ship, is it to be presumed that he therefore knew that he was on English soil and amenable to English law? The point is a purely legal one, and scarcely in place here, but it seemed worth making.

Part II.—Epitome.

Progress of Psychiatry during 1913.

AMERICA.

By Dr. WILLIAM McDONALD.

ON April 16th–18th, 1913, the Johns Hopkins Hospital, Baltimore, Maryland, opened the Henry Phipps Psychiatric Clinic. No event in the history of American psychiatry more justly deserved celebration, and none ever received more dignified and fitting observation. Scholars of world renown gathered from widely-separated parts to participate in the launching of the new enterprise. Practically the entire fifth number of vol. lxix of the *American Journal of Insanity* is devoted to the publication of the addresses delivered at the opening exercises, and every reader of the *Journal of Mental Science* would do well to review this remarkable collection of memoirs. There will be found a more complete and more authoritative *résumé* and retrospect of psychiatric progress than could possibly be conveyed in one or all of the annual letters of your correspondent.

Dr. Adolf Meyer, who has superintended the planning and erection of the institution from its very inception, has formally taken up his duties as Director. All who know of Dr. Meyer's devoted labours in his profession—and no one having the slightest acquaintance with the study of mental diseases is unfamiliar with his work—must feel that under his guidance the Clinic will accomplish its great purpose.

In his introduction to the above-mentioned collection of addresses published in the *American Journal of Insanity*, Dr. Meyer declares that: "For the first time in English-speaking countries a university and a large general hospital serving as a medical school received as a not merely affiliated, but as an intrinsic part of its facilities, a well-

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