Medico-Legal Notes.

Two interesting cases are reported from Australia:

REX *v.* EDMUND NICHOLAS KELLY.

This case was tried at Perth, Western Australia, on April 11 and 12. The prisoner was accused of the murder of Police-Sergeant Mark, on March 7. The facts were that the prisoner was refused drink in a hotel. He said he would go and obtain a gun, and would shoot the bar-man and another man who was present. He went out, returned with a revolver, and fired at a mirror. The sergeant, hearing the shot, rushed in to secure the revolver; in the struggle which ensued he was shot in the abdomen, and died two days later. The prisoner had often been in prison for alcoholic and other kinds of offences. About seven years previously he had received an indeterminate sentence, but had been released.

The first question which arose at the trial concerned the prisoner's fitness to plead. It was admitted by the prosecution, that the prisoner had been in mental hospitals at Dublin and at Brisbane, and that at the latter institution he had claimed to be King George and Sir George Beresford. On February 17 he had been admitted to the observation ward of the Perth Hospital, where he had been violent (this would appear to have been directly due to alcohol). There was a marked divergence of medical opinion. Dr. James Bentley, the Inspector-General of Insane, had examined Kelly on April 4 and 6, when he had found his memory to be very defective. Kelly stated to the witness that he had spent the greater part of his life in prisons and asylums; that he had been persecuted; that there were worms all over his system, and that these had now reached his head; that his food had been drugged while awaiting his trial; that he heard voices, which said, "We'll get him and dope him," that the murdered man had appeared to him in prison, and that, on pressure, a red light and a blue light had become visible at the site of the wound; that the murdered man had said that he was in heaven, and that the prisoner would get there "through dope," and would show three red lights. The prisoner had further stated that he owned the hotel, and that a voice had told him to assert his rights, as an alternative to getting his head cut off; and that he was obliged to obey the voice, whether he thought its orders were right or wrong. The witness considered

https://doi.org/10.1192/bjp.74.307.749 Published online by Cambridge University Press

that Kelly had been insane for a long time past, and that his condition had been aggravated by the consumption of alcohol. He did not consider that there was any question of feigned insanity. On the other hand, Dr. Charles Douglas Kerr, the prison medical officer, had seen Kelly, on various occasions, during the past five years; he had never heard him speak of "voices"; he had never found any delusions, except those of being persecuted by the prison authorities. The witness had always regarded Kelly as sane; he was liable to impulsive outbreaks upon trivial provocation, but this was not necessarily an indication of insanity. The witness considered Kelly to be a true instinctive criminal. Dr. Donald Stewart McKenzie, District Medical Officer, considered that Kelly's actions, at the time of the crime, showed a purpose so well maintained as to put them quite beyond the actions of a lunatic; they were deliberate, and showed comparatively clear reasoning.

The prisoner was found fit to plead. The trial proceeded in the usual way, and the facts of the offence were established. The medical evidence, as detailed above, was repeated. The prisoner gave evidence on his own behalf. He stated that he had been in various mental hospitals. Once he had been confined in such an institution for chasing a man with a sword, and, on another occasion, for threatening a man with a knife. He had been drinking on the day of the offence, and had fired the revolver simply with a view of frightening the bar-man. He had never intended or desired to shoot the sergeant. From the reports, it would not appear that the prisoner said anything about "voices" in his evidence.

The defence was that Kelly was insane at the time of the crime, or alternatively that the shooting was an accident. The jury found a verdict of wilful murder. Asked whether he wished to say anything, Kelly made a speech lasting thirty minutes, in which he referred to Magna Charta and other irrelevant matters. Sentence of death was then passed but has not been carried out, for after being confined for a time in the prison hospital Kelly was removed to a mental hospital.

Cases in which there is a conflict of medical testimony are always of interest, if only for the quite unwarranted suspicion which they throw upon the value of expert evidence. It would be improper for us to comment upon this aspect of a case in which our only information is derived from newspaper reports. We may, however, remark that the course which was ultimately adopted, and which was, doubtless, arrived at upon medical evidence, would appear to support Dr. Bentley's view. It seems unfortunate that a man who was obviously liable to become dangerous to others was released from serving his indeterminate sentence.

https://doi.org/10.1192/bjp.74.307.749 Published online by Cambridge University Press

Rex *v.* John Sumpster Milner.

This case was tried at Perth on April 19 and 20. The accused was a farm labourer, and was charged with the murder, on February 28, of a girl, æt. 11. She had been sexually outraged, and then murdered with a shot-gun. Suspicion fell upon the accused, who was noticed to have blood on his hands and clothing. He first attempted to explain the presence of this blood by a tale about a fight with some Italians; later he altered this to one of having killed a kangaroo; still later he made a confession, and took the police to the place where the crime had been committed. While in prison, awaiting trial, he disclaimed any memory for the events at the time of the crime.

The facts were not disputed, and the defence was that of "moral insanity." No medical evidence in support of this defence was adduced. The farmer who had employed Milner for the past eight years stated that his conduct, at first exemplary, had deteriorated; he would tell tales of a fantastic nature, for which there was no foundation in fact; he was restless, and would absent himself from the farm for days at a time. The witness had, prior to the crime, considered the propriety of having Milner's mentality investigated.

Drs. Bentley and Kerr, who gave evidence in the previous case, furnished rebutting testimony. They stated that they had found no evidence of insanity in Milner. Dr. Kerr said that he was not prepared to make a clear distinction between moral insanity and moral depravity.

The summing-up appears to have been based upon the McNaghton criteria. But the judge is reported as ruling that loss, on the part of the accused, of "capacity to control his actions" would, if established, justify a verdict of insanity. The jury found the accused guilty of wilful murder, he was sentenced to death, and has been hanged.

A UNIQUE INCIDENT IN LUNACY ADMINISTRATION.

The following case, related by the Hon. O. T. J. Alpers in his *Cheerful Yesterdays*,* presents features of such extraordinary interest as would seem to make it worthy of record in a psychiatric journal. Such events are, to say the least of them, unusual, if not unique, in the history of lunacy administration.

* John Murray, Albermarle Street, London, W. 1. 15*s*. net, postage 6*d*.

https://doi.org/10.1192/bjp.74.307.749 Published online by Cambridge University Press