

would sooner divest themselves; and the best way to encourage crime of the worst character in the reading ranks of life is to promulgate the "couldn't help it" doctrine, taking care to invest it with the authority of science. Constance Kent's confession completely brushes away all the fine-spun cobwebs which pseudo-philanthropists and philosophers have been spinning about her case. The culprit owns her motive—the old-fashioned one of jealousy and revenge—and describes the consummate craft, subtlety, and cruelty with which she accomplished her purpose—a purpose which she had nursed for a long period, and which she would never have confessed had not her dormant better nature—of which no human being is utterly destitute—been awakened by the teachings of religion.

Dr. Bucknill, whilst he throws any suspicion of insanity in the case to the winds, yet thinks "that, owing to the peculiarities of her constitution, it is probable that under prolonged solitary confinement she would become insane." He goes on to say that "the validity of this opinion is of importance now that the sentence of death has been commuted to penal servitude for life; for no one could desire that the punishment of the criminal should be so carried out as to cause danger of a further and greater punishment not contemplated by law." We are quite ready to concede to Dr. Bucknill that Miss Constance Kent's history shows that she has "a peculiarity of disposition" which seems to us, however, to be peculiar only in strength of will and depravity; but that, because her early girlhood was blackened by a great crime, conspicuous for the coolness, determination, and circumspection with which it was executed, she is more likely to go mad than other criminals, we do not see. We sincerely hope that the accounts we have heard of Constance Kent's penitence may be true, but we should be sorry to see her let loose on society on the ground that insanity might be produced by prolonged confinement. There is really but one party to be considered in the matter. Public safety and public justice require that such criminals as Miss Kent should not only be punished, but restrained from committing further crimes. Although in the course of their punishment insanity should arise, the infliction of a just sentence is not to be suspended or relaxed on such a possibility. We may also remind Dr. Bucknill that penal servitude and solitary confinement for life are by no means one and the same thing.—*Medical Times and Gazette*, Sept. 2nd.

#### *Justice to Criminal Lunatics.*

On the 29th July, we commented on the case of George Broomfield, who had been tried for murder and left for execution—the

man being a manifest lunatic. Notwithstanding his trial by judge and jury, the man has since been reprieved and converted into a criminal lunatic. Again, on August 3rd, a man was tried for murder of his wife. The crime of murder, and the responsibility of the murderer, according to law, were as certain and clear in this case as in the case of Broomfield; but Mr. Justice Montague Smith saw the case in a different light from the judge who tried Broomfield, and actually stopped the trial; and the man was acquitted on the ground of insanity.

We venture to think that, in both these cases, there is a grievous miscarriage of justice; and that the conclusions arrived at in both cases must tend to bring judge and jury and criminal law into disrepute. In the case of Broomfield, the man, *after* being tried by judge and jury, is again tried by a Government expert (whose name even does not appear); and by the sentence of this expert is upset the solemn verdict of the jury.

This sort of upsetting of justice is becoming an everyday occurrence; and it will continue to be so, until Government has the good sense to send an expert in lunacy to examine and give evidence in court concerning the mental condition of criminals, who are supposed to be, or who are, lunatic. What can be more outrageous to reason and justice—more brutal, we might say—than to throw upon a lunatic the *onus probandi* his lunatic state of mind? What, again, can be more dissonant from our English idea of administering justice, than that the verdict of the jury should be reconsidered and settled *after trial* by an unknown and irresponsible lunacy expert? What can more tend to throw the opinions of judges and the verdict of juries into disrepute—to render justice uncertain—than the fact that, after the solemn judicial trial of a criminal, he is to be tried again in private by an individual who is responsible to no court of law? Is it not a scandal to our laws that cases of such kind should be now of constant occurrence? Smethurst, for example, was condemned to death by judge and jury; but his fate was finally decided by a report of the late Sir B. Brodie, who thus revised the jury's verdict! Consider, again, the scandal of Townley's case. He is first made a lunatic by the jury and sent to a lunatic asylum; and afterwards declared sane by Government experts, and sent from the lunatic asylum into penal servitude for life.

All such constantly recurring scandals to justice can be prevented by making the impartial Government expert give his evidence in court during the trial, and, therefore, of course, before the jury deliver their verdict. Such a course of proceeding is demanded by humanity as well as by justice. Humanity requires that a skilled and impartial inquirer should investigate and report upon the condition of supposed criminal lunatics; and save them—if they be

really lunatic in the eyes of science—from the hangman's hands. Why should a poverty-stricken wretch be put in a worse position than the rich criminal who is able to fee heavily some high authority in lunacy? And again, justice demands, on the other side, that criminals who have the means of paying heavy fees in order to bring witnesses with high names into court, should not thereby escape the just reward of their crimes. Justice demands that, in such cases also, an impartial Government expert should be there to counteract the evidence of the authoritative names; *i. e.*, if the evidence be guided by party considerations rather than by the actual facts of the case.—*British Medical Journal*, Sept. 2nd.

*The Legal View of Insanity.*

*To the Editor of 'The Lancet.'*

SIR,—At Winchester, on July 16th, George Broomfield was found guilty of murder. He was ably defended by Mr. Coleridge, Q.C., on the ground of insanity. It was proved in evidence that two years previously he had been shot in the head, and had since been a "changed man;" that he had delusions and suicidal impulses; and that at this moment he is half dead from the effects of a shot-wound inflicted upon himself. The counsel for the crown made no attempt to rebut the evidence of Dr. Tweed, and that of a crowd of other witnesses who deposed to the insanity of the prisoner; nevertheless the learned judge, in his summing-up, told the jury that "it was not every aberration of mind that would free the prisoner—it must be such an aberration of intellect as to disable him from distinguishing between right and wrong." Under this ruling the jury returned a verdict of "guilty," and the poor lunatic criminal, whose own only plea was, "I wish to die," is duly sentenced to be hanged.

The same eloquent counsel, before the same judge, will, on Saturday, plead in behalf of Miss Constance Kent. It is possible that in her case the defence of insanity may be set up, and may be equally justified; nevertheless it is clear that, whether insane or not, she must be condemned to death on her own confession, by making which she herself shows her full appreciation and knowledge of the difference between right and wrong. Surely there must be some grave mistake as to the value of a test that inevitably sends the possibly insane daughter of an insane mother to die upon the scaffold. That it is practically fallacious must be shown by the fact that, standing by her side, condemned in the same week by the same judge, will be found another unhappy homicide, admittedly suffering under mental disease arising from physical injury to the brain,