

this petition he alleged, in answer to the question "Whether any near relative has been afflicted with insanity?" that his wife's mother (one of the plaintiffs) had been afflicted with puerperal insanity. For this statement the plaintiffs claimed damages. Application was made to Master MacDonell to strike out the statement of claim as disclosing no cause of action, and to dismiss the action as vexatious and an abuse of the process of the Court, and the Master had made the order asked for, but Mr. Justice Grantham reversed his decision. The defendant now appealed against Mr. Justice Grantham's refusal. The contention was twofold, first that the proceeding, in which the statement complained of as libellous was made, was a judicial proceeding, and the statement was therefore absolutely privileged; and second that the words were not capable of a defamatory meaning. The Court held that a justice exercising jurisdiction in lunacy as set out in the statement of claim (*i. e.* receiving a petition for a judicial reception order with respect to a person alleged to be in the place in which the justice has jurisdiction) was exercising judicial functions, and that anything stated to him in the course of those proceedings was absolutely privileged, and the appeal was allowed.—A. L. Smith, L. J., and Chitty, L. J.—*Times*, January 28th.

*Reg. v. Boakes.*

George Henry Boakes, 28, watchmaker, was indicted for the murder of Bessie Elizabeth Lawrence. The prisoner had known the deceased for some time, and about a year before the murder had asked permission to "walk out" with her. Her father had refused, on the ground that she was too young to be engaged; she was then sixteen years old. On the afternoon of the murder, the deceased, with two friends, was walking along the road towards her father's house, and passed the house of the prisoner, at the door of which the prisoner was standing. When she had got twenty or thirty yards past the house, the prisoner overtook them and pushing the girl's companions on one side, he placed a revolver against her head and fired twice in rapid succession. He then shot himself through the head. The girl died at once. The prisoner recovered. On the night of the murder he said to a policeman "I gave her two and myself one; I meant three for her and two for myself." Counsel for the prosecution, in opening the case, told the jury that the real question that they had to decide was whether the prisoner was sane or insane at the time. Dr. Pritchard Davies had examined the prisoner on behalf of the Treasury and had arrived at the opinion, on grounds that they would probably consider satisfactory, that at the time of the murder the mind of the prisoner was a complete blank. The witnesses were then called. There was not the slightest evidence that the prisoner had ever had an epileptic fit. He had fainted several times, but he suffered from severe heart disease. Dr. Kerry, who had attended him for heart disease, had never heard that he had had a fit. Prisoner's brother, who had slept in the same room with him for three years, had never known him have a fit. Dr. Davies thought that he had actually witnessed the occurrence of a fit, but all that he observed was that the prisoner on one occasion, after the murder, and after the injury to his head, stopped for a moment in the middle of a word, and then completed it. The prisoner had stated that he could remember taking the milk in, and that after that, the rest was a blank to him until he found himself lying by the roadside and heard the doctor say "Pour some water over his head." The judge summed up very fairly, and as appears from the report, without insisting on the strict formula of the law, and the jury found the prisoner guilty but insane.—Maidstone Assizes (Mr. Justice Mathew).—*Kent Messenger*, January 28th.

It is usually a most difficult task to get a jury to entertain the possibility of the occurrence of post-epileptic automatism. In the case above described Dr. Pritchard Davies triumphantly succeeded in getting the jury to accept the hypothesis that this murder was committed during post-epileptic automatism, and succeeded in spite of the facts that the judge was strongly opposed to the hypothesis, that there was not one jot of evidence to support it, and that all the probabilities of the case were against it. Not only was there a total absence of any evidence that the prisoner had ever had a fit in his life; not only was the evidence of the policemen absolutely conclusive against the hypothesis that the crime was committed unconsciously; but the circumstances of the crime itself were such as to make it altogether incredible that

it could have been so committed. What are the phenomena of post-epileptic automatism? They are that the automaton performs an act automatically; that is to say, he does some act *which he is in the habit of doing*, and, the act being done without the guidance of intelligence, is imperfect, is inappropriate in some of its particulars, is unadjusted to the circumstances; is a caricature, more or less faithful, of the habitual act. If the automaton finds in his hand some instrument that he is in the habit of using, or something having a similarity, even remote, to such an instrument, he proceeds to go through the movements of using that instrument and may commit damage through using the instrument inappropriately. A woman is seized with a fit while cutting bread. She goes on using the knife, but instead of cutting the bread she cuts her arm, or her child's arm. A soldier has a fit while his rifle is in his hands, and he loads and discharges it at random, and so forth. How does the theory fit this case? There was no evidence that the man had ever fired a revolver before in his life. There was no evidence that he had the revolver in his hand when he was standing at his door. If he had, and if he were then seized with a fit, he might have discharged the revolver at random, and if he were accustomed to use it, this is doubtless what he would have done. But this is not what he did. He ran after the party, pushed the companions on one side, selected his victim, placed the revolver to her head, fired two shots at her, and then one into his own head. Unless it is contended that the prisoner was in the constant habit of shooting his sweetheart and then himself through the head, the hypothesis of post-epileptic automatism cannot possibly be sustained for a moment. Dr. Pritchard Davies's success, in getting the jury to accept this hypothesis in the teeth of the constable's evidence, in the teeth of the judge's summing up and in the teeth of the probabilities, nay, of the possibilities of the case, was marvellous, and disposes for ever of the statement, so often repeated, that the evidence of medical witnesses on behalf of murderers does not receive the consideration that ought to attach to it.

*The case of Allan MacCallum.*

(Reported by Dr. Keay.)

Allan MacCallum was born near Fort William over 40 years ago. He had at least two insane relatives—maternal cousins. His people are gamekeepers, and when he grew up he followed that occupation. In youth and early manhood he was looked upon as a decent enough fellow, but he was restless and unsettled, never keeping a situation long and always moving from place to place. He enjoyed good health and did not drink to excess. In 1887, in one of his restless moods, he went with three other young men to Patagonia as a shepherd, and he remained there four years. He led in Patagonia an active, open-air life, but a very lonely one. After he had been there three years he began to be troubled by headaches, which he attributed to the effect of the sun and to exposure in sleeping out at night. The pain was practically confined to the left side of the head and face. He states that he also had singing in the ears, and that sometimes when he lay awake at night he imagined that he heard voices calling to him, although he well knew that there was no human being within miles of him at the time. The headaches, &c., became so bad that when he had earned sufficient money he decided to come home for a year to have them treated. On the voyage home he took stimulants and at first found great relief. When he came home he had bouts of excessive drinking, and owing to this he lost his situation and did not return to Patagonia. For two years he, to use his own expression, "went to the bad." The pains came and went, he had drinking bouts, he pulled himself together again and found employment as an under keeper, but just as before he was unable to remain in any situation long. In 1893 he went to Rosehall in Sutherlandshire as an under keeper, and when there he had what was doubtless an attack of insanity. He shut himself up in his cottage and darkened the windows. He sat brooding over the fire, did not go to bed, and did not take food. He discharged his gun several times in the house. Then he took to wandering alone in the woods until he heard voices calling to him about his soul, when he returned to the cottage and sent for the minister. The head keeper wrote to the inspector of poor informing him of MacCallum's condition, but the acute symptoms passed off and he was not certified. A brother of his was sent for, and MacCallum left the situation and went to live with him. Then family quarrels arose, MacCallum did no work, wandered about aimlessly, was moody and sus-