

n intoxication, he fell from that into drunken stupor and semi-imbecility. While in this state, and in an evil moment, he made two small purchases, and gave in payment equally small cheques, signed in the name of John Holmes, which, no doubt, in the eyes of the law was forging—but, let it be remembered, the forgery of a man stupid, and for the time imbecile, through intoxication. The name, moreover, of John Holmes was not intended to represent any resident in the district, on the strength of whose credit he could hope for payment of the cheque: and, if it is laid down as a fundamental principle that a man is not responsible for his acts whilst in a state of intoxication, then the crime of Sergeant Wilson was not, after all, a very heinous one. Notwithstanding this, and that there were no previous convictions against him, he was tried, and sentenced by Judge Harvey, in effect, to two years' hard labour. Were Dr. Franklin now in the world, reviewing this man's punishment, he would doubtless pronounce it more than commensurate with his crime. But our interest lies in the sequel.

In prison Wilson submitted obediently to the regulations and discipline. He worked with the hard-labour gang, complaining occasionally of being unwell, and of suffering palpitations of the heart. On the 6th and 17th March he was sounded, and, we may suppose, carefully examined by the doctor, and pronounced quite fit for work. On the 23rd he resumed work, but *the wardsman said deceased was evidently in pain, and not able to do his work*. Several times deceased had put his hands to his breast as if unwell. On the 24th the doctor saw him again, and made the following entry: "Prisoner Wilson complains of shortness of breath." This is brevity itself. On the 27th the doctor again saw him, and made this entry: "Prisoner Wilson is perfectly able to work, in spite of his complaints of pains in his chest. My firm belief is that he is malingering." This is clear, unquestionably, but the succeeding entry is somewhat in accord with the previous ones: "April 5.—Found Wilson dead."

I cannot but feel that this unhappy man was sadly neglected. It was alleged in evidence that the disease from which he died was one difficult to determine—difficult, I presume, without implicit reliance being placed on the patient's statement; and, so far as appears in this instance, the sick man's statement was utterly disregarded. He was denied, what is necessary in almost every case requiring medical aid, some credence to the patient's description of his own malady. This was not to be given to Prisoner Wilson, and as the stethoscope did not indicate disease, he was, as a patient, allowed to die unheeded, unattended, and neglected. What I do not understand is how, after McKillop was satisfied that deceased was in pain and unfit for work, the doctor, if unable to detect disease, should so persistently have disbelieved deceased's statement, and neglected to treat him, at any rate in his rations, as an invalid. Was not the shadow of death slowly and perceptibly creeping over the unhappy prisoner; and, whilst the patient again and again complained of pain in the region of the heart, did it never occur to Dr. Button that there was such a malady as *angina pectoris*, which, although difficult to detect, would account for the spasms and pains; and why, whilst satisfied prisoner was in pain, did Warden McKillop order him on half rations? However worthless the prisoner's life might seem, it is sad to think that a dying man was refused a cup of tea, and that the only comfort extended to him was a drink of hot water! If the statement of the cook be true, what, we would ask, was the governor's idea of the prisoner's state, when, from Good Friday to the day he died, he did not eat half a pound of solid food? Was that characteristic of a malingering scoundrel? A consideration of the whole matter would point to the conclusion that the gaoler rashly satisfied himself that Wilson was malingering; that this idea was conveyed to the doctor, who, under its influence did not, so nicely as he would otherwise have done, endeavour to discover the presence of disease, but, by a foregone conclusion, became convinced of and certified its absence. Meantime from amongst them the spirit of poor Wilson fled, to find "in Hades better men, and juster judges, and truer judgment than he found on earth." Were it possible to consult his spirit, he would doubtless ask that his memory and his ashes were alike allowed to remain in peace. I regret that so it may not be, for, as the closing scenes of his life were surrounded with blunders, so also was to be the inquest into the cause of his death.

More than ordinary care and fidelity are demanded in the inquest on a prisoner dying in gaol. The statute law on gaol and gaoler provides, among other things, "that a surgeon or apothecary shall be appointed, with a salary," who perforce, becomes an officer of the gaol. "If the gaoler keeps the prisoner more strictly than he ought of right, whereof the prisoner dieth, this is felony in the gaoler by the Common Law; and this is the cause that if a prisoner die in gaol the coroner ought to sit upon him, and if the death were owing to cruel and oppressive usage on the part of the gaoler, or any officer of his, it would be deemed wilful murder on the part of the person guilty of such duress."—3rd Inst., 91 Fost., 321-322. Burns's Justice says: "Forasmuch as the gaol is intended in most cases for custody, and not for punishment, and confinement itself in such dismal abodes is sufficiently afflictive and disconsolate, human nature will plead for these miserable objects that their condition be rendered as tolerable as the case will admit of." The Coroners' Law by the same author, says: "He ought also to inquire of the death of all persons who die in prison, that it may be known whether they died of violence or any unreasonable hardship, for, if a prisoner by the duress of the gaoler come to an untimely death, it is murder in the gaoler, and the law implies malice in respect of the cruelty."—3rd Inst., 52-91.

The colonial statute, 1873, repeals, in the following respect, all former Acts, and says, in Law of Prisons—Inquest on Prisoners: "And in no case shall any officer of the prison or any prisoner confined in the prison be a juror." I am not aware that this Act has been repealed. If it has not, how can Mr McCulloch justify the presence in the jury of six prisoners? One feature of the inquest was the apparently indecent haste shown by the Coroner, and his seeming aversion to probe thoroughly the course of treatment which, in this instance, it devolves upon the jury to dissociate from the cause of death.

The position I hold is this. There has been no duly legal inquest, through the Coroner's blunder. The deceased has been interred, and a fresh inquest must be held, and the body exhumed for the purpose. Few will therefore dispute that the first inquest is in keeping with the treatment and death of the unhappy, and I believe, ill-used, Sergeant-Major Wilson.

I am, &c.,

P. K. McCaughan.

Invercargill, April 14th, 1880.