

# Association for Moral and Social Hygiene.

19, TOTHILL STREET, S.W. 1

Since the issue of the attached Memorial we have noted with appreciation the following remarks made by Mr. Justice Avory at the Central Criminal Court, at the trial of George Harman, a Canadian soldier, for the murder of a woman whom he alleged had infected him with venereal disease.

We trust the circulation of an influentially signed Memorial will strengthen the hands of those who are thus maintaining the integrity of the law.

## THE LAW OF MURDER.

Mr. Justice Avory, in summing up, said there had of late been some trifling with the law of murder, and in cases recently tried in that and other Courts serious encroachments had been made upon the established principles of the law relating to that crime. He reminded the jury that, just as it was an essential part of our jurisprudence that all questions of fact should be determined by the jury, so it was equally an essential part of our jurisprudence that the jury should apply to the facts of the particular case the law as it was laid down to them by the presiding Judge. It was not open to the jury to apply a law of their own to the facts of any particular case. If he were wrong in the law which he laid down to them the Court of Criminal Appeal could set him right.

“For the purposes of to-day the jury were bound by their oaths to accept his definition of the law, just as they were bound by their oaths to decide according to the evidence whether the prisoner was guilty or not upon the facts. The law was this—If one person assaulted another with intent either to kill or to do grievous bodily harm that was murder unless there were circumstances which would justify or excuse the killing. And the killing might be justified or excused on the ground that it was necessary in self-defence. No such question arose in the present case, and therefore they might dismiss that. Or a crime which *prima facie* was murder might be reduced to the crime of manslaughter if the killing was in hot blood under provocation which the law recognized as a sufficient provocation to reduce the crime of murder to manslaughter. There were two conditions which must be satisfied—the killing must be in hot blood under provocation, and the provocation must be of the kind which the law recognized. It was just as much a question of law whether the provocation was of the nature which the law recognized as it was a question of law whether murder could be reduced to manslaughter by any provocation. In other words it was not a question for the jury to decide as a matter of fact in each case whether there had been what they considered provocation—it must be provocation which the law recognized, and if there was evidence of the provocation which the law recognized then it was for the jury to say whether it in fact existed in the particular case, and whether the accused acted in hot blood and under the particular provocation.

“In the present case he told the jury as a matter of law that the fact of the deceased woman having communicated to the prisoner—if she did—a venereal disease was not a provocation recognized by law which would reduce the killing of her from murder to manslaughter, even though it was followed by some aggravating or insulting words.”—*Times*, March 6th, 1918.