

home, and so into the world again. The mammoth asylums to which year after year wings are added, until no man can have an adequate conception of the needs of his patients, and especially no idea of their pathological condition, are a blot on the intelligence of the age.

The lesson to be learned at Gheel is a valuable one, and while it could not as an institution be transplanted to the United States, yet modifications of it might.

Already in Massachusetts success has followed the placing of certain cases of insanity in the homes of those who were not only willing, but fitted to receive them.

A recent report made by eminent medical men of Belgium to the Belgian Royal Academy of Medicine, has reported favourably on the hospitalization and colonization for the care and treatment of epileptics.

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*The Plea of Insanity.* By GEO. H. SAVAGE, M.D., F.R.C.P.

Gentlemen,—Having received a notice from our secretary that a paper was needed for this meeting, I felt in duty bound to comply with his request that I should supply one. It was easy to promise and not very difficult to decide on a subject, but since giving the promise I have found that there was very little new or worth my saying about the very important subject which is the theme of my paper.

In what I have to say I shall confine myself almost entirely to the plea of insanity, as raised in grave criminal cases. The active reason for my choosing this subject was the trial of Mrs. Pearcey for murder, as so many points of interest arose between the time of the trial and the execution of the sentence that I felt it would serve at least as the text. I speak chiefly from personal experience, for in one way or another I have had a great deal to do with doubtfully sane prisoners who have committed criminal offences. I shall not spend much time in discussing things in general, but I must make several digressions from the main line.

First of all, each trial of this kind impresses me with the very great necessity there is for medical men to remember that they are to act as *witnesses*—skilled witnesses, it may be—but not advocates; I fancy there is a danger of our assuming the advocate, and even wanting to perform judicial functions. I believe our profession makes us very intolerant of opposition,

and one result of this attitude of mind of skilled witnesses is to discount the value of their evidence, so that judges (and others) are in the habit of looking at all skilled witnesses as liars in the higher degree.

Our duty is finished when we have placed the facts of the case and the specially medical inferences before the judicial authority. We have to make clear the difference between the facts and the inferences, and we must never forget that counsel are very apt to take our inferences as facts, and to build a false superstructure upon these inferences. The inferences, too, are of very varying value, for, though it may be assumed by some, that one man is as good as another, yet, I think, few would allow that the judgment of each is equally valid. The strength of any plea raised, must depend on the strength of the facts, the truth of the inferences and the personal value of the witness.

As the next general remark, I would say that a medical man often finds it difficult to decide when it is his duty to take part in raising or assisting the plea of insanity. As a rule, I think it is safe to say that when a medical man is asked to give evidence, and when the facts, or statement of facts, laid before him are so strong that he feels a prisoner may suffer unjustly if he does not give his aid, then he is justified in doing his best for him. It seems to me that a prisoner has a right to such a defence if it is not in distinct opposition to the belief of the medical witness. I can hardly understand a medical man raising and maintaining a plea which he does not believe; it is quite different in the case of the lawyer, though here, too, I have heard discussions on the morality of advocacy. I have, with intention, said "the doctor may give evidence if called upon," for I feel there is a very grave risk of our being misunderstood if we rush into advocacy, and generally at the same time into print, whenever a crime becomes notorious. I have also pointed out the importance of having your facts clear and true before you frame your inferences; one so constantly meets cases in which a defence on the plea of insanity has been raised, with good inferences drawn from untrue facts, or rather from mistaken descriptions of facts. For instance, there is all the difference in the world in the inferences to be drawn from the occurrence of epilepsy or of hysteria. It may be safely inferred that if a prisoner is epileptic he is likely to be of unsound or defective mind, but it would be rather hard to say that because a person has had hysteria she is of unsound mind. Be sure, then, that you have to do with Epilepsy, and not Hysteria.

I believe it is our duty then to be prepared to defend; or rather to assist the defence of, a prisoner when we believe him to be accused of a crime which might reasonably be believed to have been committed by him as a result of insanity which existed in him at the time of the act, or which was committed by him while he was of unsound mind, though there is no apparent relation between the act and the insanity. Before you, gentlemen, it is not necessary to point out that we cannot be controlled in our opinions by the legal dictum as to "responsibility," but we must look much further, so that we shall be prepared, as a general rule, to accept the crime as a possible result of the insane state of mind, though the connection between the two cannot be traced. I know that it is very difficult to get even medical men to acknowledge that this is a correct way of looking at things, for they all say the very existence of asylums depends on the inmates not being completely "topsy turvey," and that if those in asylums use graduated rewards and restrictions, surely society has a right to exercise a similar system of discipline. Some would go further, and suggest that just as the stupid boy may be made to learn something more by the fear of the stick, so the lunatic should suffer *more*, rather than less, as he needs the more distinct lesson, but I need not say more on this head beyond recording my experience of the punitive judicial treatment of some insane persons. I know of one now undergoing imprisonment, and I believe it will do him some temporary good, and I remember one young fellow who was certainly checked in a career of mad criminality by punishment. These are only very exceptional cases, and I feel I should be doing harm if I did not make this clear. Punishment is of no use as a warning to other insane persons, but may act as a warning and deterrent to the individual.

I fear that I shall be but a poor follower of your former editor, the brilliant writer of "Responsibility in Mental Disease," but in his track I wish to recall attention to the great difficulties which rise from the parallelism between the states of the nervous system which lead to crime and to insanity. Though long impressed with this, from asylum experience, I have been yet more struck by it in recent years by the number of dwellers one sees in the border lands of crime and insanity. One is constantly asking, "What is my duty to such and to society?" They are not mad enough to be secluded, and one cannot act prophetically and lock them up because they may become insane, otherwise the large asylums of England would not be half big enough to contain them all.

In seeing such cases one cannot exclude from one's mind the thought that they are not only possible lunatics, but also possible criminals, and it may be our duty at some later time to defend them. We must not forget that in the order of things there will always be some who suffer through the tyranny of their organization.

"It was ordained by Fate that I had to steal," said the slave. "Yes," said the judge, "and it was ordained by Fate that you had to suffer." Some of these dwellers in the borderland of insanity have a fairly just judgment of the consequences of their acts, and of the nature of punishment, and on more than one occasion a prisoner-patient has selected to fall into the hands of the law rather than into those of the asylum physician. "Broadmoor" sounds like a life sentence, and I agree with some that a few months in prison may be preferred to that of a long sentence to an asylum. I would here certainly urge upon you to weigh carefully the full consideration of the plea you are raising before you raise it; for, though things may be just, they may not all be convenient. Practically we have to trim very often in this world. I say we have a right to consider the effect of the plea before we raise it, but it seems to me going rather far for a judge, as once happened in a case in which I appeared, to say to the jury, "You have heard the evidence of insanity, but, gentlemen of the jury, think very carefully before you send this young patient to an asylum where he may spend his life." It might be justifiable to urge this point so strongly that the weak-minded prisoner was found guilty of manslaughter instead of murder, and sent for years to penal servitude, but I have my doubts of it. And the result appears to me a very questionable gain either to patient or to society.

Other difficulties may arise when the prisoner is both acknowledgedly immoral and wicked, as well as insane, and under this head many cases associated with drink occur. Only recently I was speaking to one of the criminal judges on the point, and he owned the very great difficulty which arises in accepting the plea of insanity when the prisoner has brought the mental disorder on himself.

Each of us, when consulted in such cases, must use the best of his judgment, and be prepared to receive abuse from the public in some cases.

It is often very difficult indeed to decide on one's duty when a prisoner, who has without doubt been very intemperate before the criminal act, is seen by you for the first time after a couple of months of prison-care and abstinence. He is then

apparently sane, and you have to draw your conclusions from statements of interested persons.

There is always some danger in raising this plea, for there is naturally a prejudice against a man who has committed a crime while drunk. There are others besides the drunken who have been very immoral before the committal of the criminal act—such was the late Mrs. Pearcey—yet it might have been quite possible for such an one to be insane and immoral, and one must not hastily discard the plea of insanity because the prisoner is generally immoral. General principles are like averages, very bad particular guides; therefore in speaking on this matter I refer as often as I can to examples.

There are, however, certain conditions in which there can be no doubt about the right of raising the plea, but I think at present the method in which this is done is unsatisfactory. I think there ought, first of all, to be some sort of court of criminal appeal, where any point which has been neglected in the trial, or which has been discovered since, may fairly be brought forward. I think, too, this ought to be done in a systematic way, and not in the spasmodic way which is the rule at present. I shall have later to speak of the more objectionable ways of raising the plea. There can be no doubt that the plea of insanity is fairly raised in defence of a criminal when he has suffered from a distinct attack of insanity in his previous life, or when he is subject to some recognized form of nervous disorder, such as epilepsy. In some cases, where there had been previous attacks of insanity, the evidence that the patient at the time of the trial was unfit to plead was accepted, and he was detained at her Majesty's pleasure. This occurred in the case of the Ramsgate murderer. In some similar cases difficulty has arisen from the fact that after the crisis of the attack of insanity, marked by the committal of the act, the prisoner has rapidly subsided into his normal state, and one may have great difficulty in establishing the insanity as existing at the time of the crime, but if it can be shown that the prisoner has had previous attacks he will stand a good chance of escape, though he may, in his sane moments, fully recognize, from the legal standpoint, the nature and quality of his act (a patient at Bethlem threatened to kill me and said no jury would condemn him). Epilepsy, no doubt, has been found to be a very useful plea in the defence of criminals. First of all, there is no doubt but that the criminal classes have a large number of epileptics among them; next, epileptics are almost always without recollection of events that have occurred while they were in the fit, or in the automatic stage after the

fit; and in my experience prisoners are safest when they deny all memory of acts, and if they can be consistent in their denials they will baffle the most acute, for a time at least. Again, we know that epilepsy is associated with most extreme and apparently brutal violence. The plea of epilepsy was raised in two recent cases, in both of which I had to give an opinion. In the one, the man who shot his sweetheart was not hung; the other, Mrs. Pearcey, was. In both the statement of loss of memory of certain periods was asserted; in the man's case, however, he went to a police station and did not conceal the act; in the other concealment and denial went together. Epilepsy is, as I say, one of the most difficult points to clear up, and time should be allowed for the chance of the recurrence of the epilepsy.

The plea of insanity may be raised, as I said, before the trial, and may thus prevent the trial taking place. This is rare, unless the crime is committed by a person who is very mad, and who has been recognized to be such.

As a rule, the plea is raised, either after the trial before the Magistrates, or after the conviction. I think it would be very useful and satisfactory if when the plea is raised before the final trial, the prisoner could be in a specially arranged infirmary, where asylum attendants are in charge, and if here the government referee could, in conjunction with the prison official, see the prisoner, and a joint report be presented to the court, either before the trial or as the first plea of evidence for the defence. One of the greatest difficulties will be to avoid giving any grounds for the idea that anything is being done in an underhand way to screen a culprit; therefore, in most of these cases, the facts of the crime will have to be brought out clearly in court before the evidence of insanity is given. One of the dangers of the present day is the frequent raising of the plea of insanity in all sorts of cases. An energetic lawyer who sees that the client is almost certain to be convicted of the crime, looks round for some other way of escape, and it is to avoid playing into the hands of these men that I write. The real interest of society is neither to hang insane persons nor to let the criminal escape through an ingenious subterfuge. I heard, when in America, that the raising the plea of mental unsoundness has been raised almost to a special art, and that few millionaires die without an action being started calling in question the sanity of the deceased. I trust that we shall not run into any such vicious groove in connection with criminal trials, and that depends a good deal on us.

I believe it should be insisted that the plea of insanity

should be early and *formally* notified, and that if this were not done at the time, it should be only admitted later in very exceptional conditions. I would like to see some such process as this. The prisoner having been committed for trial, if the plea is to be raised, this should be done by a formal affidavit to the Home Office, which would at once depute a recognized specialist, such as the government already employs, to arrange with the gaol surgeon for a series of visits, if necessary, to the patient, who should now be under the asylum attendants' observation, and that in straightforward cases, if the report of the two agreed, the prisoner should at once be detained in an asylum at her Majesty's pleasure.

I see the dangers and difficulties of such a course, for the public would, in many cases, believe that prisoners, with social interests, might be quietly sent to an asylum till the storm had subsided. I admit the danger, and would therefore suggest that if the facts were in dispute the trial would have to go on, and the expert evidence would only be called in at the beginning of the defence. Even, on the other hand, if the facts were not in dispute, or the counsel for defence pleaded guilty, then the plea of insanity might at once be received.

When the trial is over, I think there ought to be a ready and certain, and, above all, a quiet way of settling the sanity or insanity of the prisoner.

Very few things, to my mind, are more demoralizing than letters to the papers. These so frequently are the outcome of either hysterical, maudlin sentimentality, or else of a desire to bring oneself before the world as a philanthropist. In either case they enter into details and suggest ideas which are morbid. If we are to have a Court of Criminal Appeal this will be altered, but till then it ought to suffice that the Home Office is notified by affidavit, that there are grounds for believing in the insanity of the prisoner, and these should be at once handed to a small committee of experts to report upon. I would suggest that there should be one recognized referee (such as Dr. Bastian is at present), who should have power to select a colleague according to the nature of the defence; thus in one case he might prefer to have one chiefly with experience of epilepsy and its mental disorders, and in another one with longer experience of county asylums than his own.

The referee, his colleague, and the gaol surgeon should at their own time report, and their report should be final. In many cases the report should not be published, or if published, the names of the physicians should not necessarily be added, as many object to public notoriety, and the best opinion might

thus not be obtained. There is still another way in which a satisfactory course might be formed. On notice being given to the Home Secretary he might request the President of the Royal College of Physicians and Commissioners in Lunacy each to appoint a man to join with the official referee.

Personally, I believe it would be a very good plan if the Commissioners in Lunacy had the giving the decision or appointing the committee of reference.

I know at present that they are not numerous enough to be able to spare time for such a duty themselves, but they are surely the proper authority. It has seemed to me each time when I have had to perform the function a very unpleasant one, and yet one from which I had no right to withdraw. If I was sure that the responsibility would be shared, *i.e.*, divided and lessened, if, too, I knew newspaper publicity would be absent, I should have felt more happy in performing a duty which, in most cases, is painful, and is generally harassing.

The points of this paper are: That we have duties as experts, that the present methods are clumsy, and that some plans for improving them are suggested.

P.S.—Dr. Orange pointed out, in the discussion which followed the reading of the paper, that provision does already exist for an official inquiry into the mental state of a criminal alleged to be insane. Therefore all that is needed is to set it or one of the processes above recommended in motion in all cases in which the allegation is made, whether before trial or after conviction.

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#### CLINICAL NOTES AND CASES.

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*A Case of Delusional Insanity.\** By Dr. KEAY, Medical Superintendent of the Mavisbank Asylum, Edinburgh.

The following notes of a case of delusional insanity, in which recovery took place after nine years, may be of interest to the members of the Medico-Psychological Association:—

W. J., an unmarried lady, fifty years of age, was admitted into Mavisbank Asylum on 17th March, 1881. On both sides of her family there was a well-marked hereditary tendency to mental disease, but no exciting cause was known. Her temperament was somewhat reserved and suspicious. She was a woman of considerable intellectual ability, and well educated, being a good linguist and musician.

\* Paper read before the Scotch Meeting of the Med. Psych. Assoc., Nov., 1890.