RECENT MEDICO-LEGAL CASES.

Reported by Dr. Mercier.

[The Editors request that members will oblige by sending full newspaper reports of all cases of interest as published by the local press at the time of the assizes.]

*Reg. v. Roach.**

Charles Tucker Roach, 32, labourer, was indicted for the murder of his wife and child. Prisoner had lived for some time before marriage with the woman and had by her a child, who at the time of the murder was ten months old. He eventually married the woman on Saturday, January 9th, and on the following Tuesday he committed the murders. It was proved that the prisoner had always been on affectionate terms with the woman, and there appears to have been no quarrel between them. It was suggested by the prosecution that the prisoner had been drinking, but the evidence did not bear out this suggestion. From the prisoner's own statement it appears that on the night before the murder he talked with his wife after they went to bed, discussing their future. He was unable to sleep, so he got up and had a smoke. He went downstairs and fetched a razor, with which he cut his wife's throat. This was at three o'clock in the morning. Some time afterwards, probably some hours—it was suggested that it was as much as five hours—he cut the throat of the child. He then cut his own throat, but not fatally, and arranged a piece of rope on a hook as if with the intention of hanging himself. In the morning he opened the front door to his sister, and in her presence he got into bed with the bodies, and put his arm round that of the child. The facts were not disputed. The defence was a plea of insanity, resting on the assumption that the acts were committed during a state of unconsciousness or subconsciousness, the result of an attack of *petit mal*.

It was proved that several relatives of the prisoner on the mother's side had been insane, and that the prisoner had suffered from convulsions as a child, and had been subject to epilepsy in later life. Several relatives and comrades of the prisoner deposed that he not only had pains in the head, spasms, twitchings, and fits, so severe that he became insensible, and followed by violence, but that after the attacks of twitchings he would "fall into a doze" and know nothing of what passed, and that he would occasionally do irrational things for which he could give no explanation.

Dr. Boddy, of Crediton, had attended the prisoner ten years before for several days. Prisoner had been taken ill in the streets, and was "almost unconscious." Witness considered that the prisoner was then suffering from an attack of epilepsy.

Dr. Parker, who had treated the prisoner for the cut throat, stated that the prisoner's pupils were unequal and irregular; that for several days he appeared to have no memory of what had taken place; that his conduct was extraordinary and his behaviour peculiar, amounting more to stupor than to mania. His state would correspond with a post-epileptic condition.

Dr. Lionel Weatherly deposed that he regarded the prisoner as an epileptic, and that at the time of the murders the prisoner was probably in such a state of post-epileptic unconsciousness—absolute or partial—that he did not know what he was doing. Cross-examined: Would he expect the state of mind to last several hours? To this question the witness does not appear to have given a direct answer.

Dr. Law Wade had twice examined the prisoner, who had told him that he had no recollection of the murder of his wife, but that he killed the child because he felt that he could not leave it to strangers to be knocked about. He saw nothing in the condition of the man to lead him to the belief that he was insane. He gleaned nothing to convince him that the man was in an automatic state when he killed his wife.

* For the notes of this trial the editors are indebted to Dr, Weatherly,

Dr. Hyatt, surgeon to the gaol, had had the prisoner under his supervision, and did not discover anything to lead him to believe that the man was insane. The family history, however, led him to modify his opinion. Prisoner might be a partial epileptic, but was not, in his opinion, of unsound mind.

His lordship commented on the contention of the defence that the prosecution had shown no motive. It was not, he said, the duty of the prosecution to show motives. The question was whether the prisoner knew he was killing the woman and child—knew the quality of the act, that is, whether it was right or wrong. He had never heard that automatons were relieved of responsibility by law.

The jury returned a verdict of "Guilty, but insane."—Wells Summer Assizes, June 11th, 1897 (Mr. Justice Day).—*Bristol Times and Mirror*, June 12th.

A rare instance of the success of the defence of post-epileptic automatism, a defence which is usually laughed out of court, and which in the present case the judge evidently did his utmost to discredit. But, as often happens, especially with Mr. Justice Day, the jury showed a better appreciation of the psychology of the prisoner than the judge.

The main fact of the crime was the apparent want of motive. The prisoner had always been on exceptionally affectionate terms with his wife and child. The judge is reported to have declared that it was not the duty of the prosecution to show motive, but in this he must surely have been misreported, for the indictment speaks of malice aforethought, and if the prisoner was unconscious at the time of the act, there could have been no malice, no forethought, no motive, and no criminal intention. As a matter of fact, it is this absence of motive that appears to have had most weight with the jury, for the medical evidence of post-epileptic unconsciousness was by no means strong, and was rebutted by medical evidence on the other side. No medical witness had observed the prisoner in a state of post-epileptic automatism, although he had been under very close observation for five months in prison. His friends testified that he had done silly things and had been unable to account for doing them, and this was the nearest approach to any direct evidence of automatism that was produced. On the other hand, the interval of several hours between the two murders, and the fact that the prisoner alleged a definite motive for the second crime, are very strong arguments against the automatic nature of the action in the latter case. Post-epileptic automatism is very rarely indeed, if ever, of a duration that can be counted by hours. Commonly a few seconds or minutes are all that are occupied by this condition. Doubtless the maniacal excitement, the violence, the fury, that sometimes follow an epileptic paroxysm, are of longer duration. They may continue for many hours and for days; but it was not contended that there was any such condition in this case. The contention was that both the crimes were committed during post-epileptic automatism, and while there is certainly a degree of probability that the murder of the wife was so committed, it is very difficult to account for the murder of the child several hours afterwards upon the same hypothesis, unless we assume that the prisoner had two fits, and repeated after the second the act that had been done after the first. There would have been nothing uncommon in such a repetition of an act. On the contrary, it is the rule, and the very general rule, that whatever action is gone through after a fit is repeated after subsequent fits, but then would have arisen the question whether any such action had occurred after any previous fit, and this question could not have been answered affirmatively. There is another circumstance of considerable significance. The prisoner went downstairs to get the razor with which he committed the murders. Now, if the fit had occurred in the bedroom, it is improbable to the point of inconceivability that he should have gone downstairs for a razor instead of taking the first thing that came to his hand. On the other hand, if the fit occurred downstairs, while he had the razor in his hand, it is very improbable that he would, in an automatic state, have gone upstairs again to cut his wife's

throat. The rule, in this condition, is that the patient, taking whatever he finds in his hand, proceeds to do with it what he is accustomed to do with it, or with any instrument resembling it; and he proceeds at once with his action. He does not seek favourable circumstances; he does not go upstairs, or out of doors, or into another room, to do it. He does it, or something as near it as he can, then and there, on the spot. Thus, a woman cutting bread and butter for her children's tea is seized with a fit, and in her post-epileptic automatism she goes on using her knife, not on the bread, but on her child's throat, the child being sitting beside her at the time. But she does not go into the next room to find the child, still less does she go upstairs and cut its throat in bed. Nor, if her hands are empty, does she go downstairs to fetch a razor. The action is unreasoning, not only in its main effect, but in all the details of its accomplishment. The action in this case was singularly efficient in its details, and unreasoning only in its main purpose.

On the whole, the case for epileptic automatism appears to me singularly weak, and the success of the plea of insanity must, I think, have been due to other considerations. Foremost among these was, no doubt, the absence of any reasonable motive for the crime. If it is, as the learned judge maintained, no business of the prosecution to prove a motive, it is certainly a duty which the jury imposes upon itself to attribute a motive, and to take this motive into consideration in arriving at their verdict. In this case there appeared to be no motive at all, and the prisoner appeared as much puzzled as every one else as to why the crimes were committed. It is impossible that such total absence of apparent motive should not have weighed with the jury. In connection with this absence of reasonable motive, a very strong history of insanity in the prisoner's family probably had great weight with the jury, and this family history was corroborated by the definite history of epilepsy in the prisoner himself. Either of these three circumstances, taken alone, would have raised a suspicion of insanity. The three together could hardly be resisted; and it is probable that, in returning the verdict they did, the jury formed a correct conclusion on correct grounds. The crime seems to have been one of those motiveless crimes that are not unfrequently committed by persons of the prisoner's history and antecedents. It is no very uncommon thing for a man of insane stock, himself showing strong evidence of neurotic inheritance by his liability to epilepsy, to commit a brutal and motiveless crime. We cannot penetrate into his consciousness and see precisely how the crime came to be committed; but we recognise, and juries recognise, that in such cases the family history and antecedents ought to be taken into account, and the prisoners ought not to be held fully responsible for the crime.

PARLIAMENTARY INTELLIGENCE.

House of Lords.

Lunacy Bill.

The House went into Committee on the Lunacy Bill.

On Clause 15, which gives power to the Commissioners to require amendments of regulations of hospitals,

Earl Russell, by way of amendment, moved the omission of the clause on the ground that it was not necessary to give such powers to the Commissioners in the case of county and other asylums which were managed by large public authorities, the members of which were elective and whose actions were subject to criticism.

The Lord Chancellor could not accept the amendment. He thought the alteration proposed by the clause was well advised. If the noble lord had suggested an alteration in the clause or the placing of some restriction upon