

that the purport of the sealed paper is now no longer a secret. The revelation which Auguste Comte held over his wife was, that before her marriage Caroline Massin had been a prostitute, and that her name was inscribed in the register of the Préfeture. We are not told whether Comte became aware of this before or after his marriage. At any rate it did not cause Littré to abandon her; on the contrary, he always speaks highly of her solicitude for her husband's welfare and her devotion to his memory. It is to be hoped that this attempt to strike at the woman who bore his name was the worst act of a life otherwise honourable.

Without questioning the justice of the court's decision it may be said that during the last years of his life the fine intellect of Auguste was deranged to a notable degree. Even warm admirers like J. S. Mill and E. Littré mourn the decadence of a great genius. In the words of Dr. Dumas, after the mania in 1826 *il cotoya la folie*; though by his system of hygiene and mental regimen he escaped such another attack, he was subject to severe nervous crises, and remained for the rest of his life a "neuropath."

(¹) *Auguste Comte et la Philosophie Positive*, par E. Littré, Paris, 1864. (²) *Revue Philosophique*, p. 178.

Comparative Lunacy Law. By A. WOOD RENTON, Esq.,
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CONSIDERING the closeness of the ties which the existence of such bodies as the Medico-Psychological Association have created between alienists throughout the world, it is surprising that so little attention has been paid to the comparative side of the medical jurisprudence of insanity. In the spring of 1898 there was published in New York a treatise by Dr. Clevenger and Mr. Bowlby, an American barrister (*Medical Jurisprudence of Insanity, or Forensic Psychiatry*, 1898, Lawyers' Co-operating Publishing Company, 2 vols., pp. 1356), in which excellent work in this direction, so far as England and the United States are concerned, was done. The book is a monument of labour. Every conceivable branch of forensic

medicine is discussed with learning and ability, and an admirable index, both of cases and of subjects, renders fairly accessible to the reader the otherwise bewildering mass of legal information which the editors have so industriously accumulated. It is not, however, specially of efforts of this kind that it is desired to speak in this paper. The problems of lunacy law and lunacy administration with which civilised countries have to deal are, to a great extent, similar. It would obviously be of immense international importance if the solutions attempted of these problems in different parts of the world and the results of such experiments were systematically chronicled from time to time, so as to give the lunacy authorities, lawyers, and experts of the chief countries of the globe the benefit of each other's experience. It may be of interest to select some instances of the manner in which different countries have dealt with questions that are constantly arising. Take first interdiction and curatory. The voluntary and judicial interdiction of Scots law is sufficiently familiar to alienists (for full information on the subject see Stair, i, 6, 37; iii, 8, 37; Bankt., i, 7, 118; Ersk., i, 7, 53; Bell, *Com.*, 139, *Prin.*, S. 2123; Fraser, *P. and C.*, 554).

In England the only analogue is to be found in the law as to catching bargains and undue influence. In France, however, an elaborate system of interdiction is in force. A person of full age who is in a usual state of imbecility, insanity, or madness is to be interdicted, even if such condition is accompanied by lucid moments (Civ. Code, Art. 489). Any relative is allowed to apply for the interdiction of his relative. In like manner, any married person may do the same for his wife or her husband (Art. 490).

In case of madness, if the interdiction is not applied for by the husband or wife or the relatives, the Republic's Attorney (Public Prosecutor) must do so; and in cases of imbecility or insanity he can likewise apply for the same against a person who has no husband or wife or parents (relations) known (Art. 491). All applications for interdiction shall be made to the Tribunal of First Instance (Art. 492). Acts of imbecility, insanity, or madness shall be stated in writing. Those who apply for the interdiction shall produce the witnesses and papers (Art. 493). The tribunal shall order the family council⁽¹⁾ to give its opinion on the condition of the person whose inter-

diction is sought for (Art. 494). Those who have applied for the interdiction cannot form part of the family council; nevertheless the husband or wife and the children of the person whose interdiction is sought for can be admitted without having the power to vote (Art. 495). After having received the opinion of the family council the tribunal shall examine the defendant in the judge's room; if he cannot appear there, he shall be examined at his home by one of the judges appointed for that purpose, attended by his clerk. In all cases the Public Prosecutor (*Procureur de la République*) shall be present at the examination (Art. 496). After the first examination the tribunal shall, if necessary, appoint a temporary administrator to look after the person and property of the defendant (Art. 497). A judgment upon an application for interdiction can only be rendered at a public sitting after the parties have been heard or summoned (Art. 498).

If the tribunal rejects the application for interdiction, it can nevertheless, if the circumstances require it, order that the defendant shall no longer be allowed to go to law, compromise, borrow, receive capital or give discharges therefor, convey or mortgage his property without the assistance of a counsel, who shall be appointed to him by the same judgment (Art. 499). In case of appeal from a judgment rendered in the Court of First Instance the Court of Appeal may, if it deems it necessary, again examine the person whose interdiction is applied for, or have him examined by a commissioner (Art. 500). All decrees or judgments ordering interdiction or the appointment of a counsel shall, at the instigation of the plaintiffs, be docketed, served upon the parties, and recorded, within ten days, among the notices which must be posted in the court room and in the offices of the notaries of the district (Art. 501). An interdiction or the appointment of a counsel shall take effect from the day of the judgment. All acts performed subsequently by the interdicted person, or without the assistance of a counsel, shall be void by right (Art. 502). Acts previous to the interdiction can be annulled if the cause of the interdiction notoriously existed at the time these acts were performed (Art. 503). After the death of an individual the acts performed by him can only be attacked on account of insanity, if his interdiction had been pronounced or applied for before his death, unless the proof of insanity results from the very act which is attacked

(Art. 504). A husband is by right the guardian of his interdicted wife (Art. 506). An interdicted person is assimilated to a minor as to his person and as to his property. The laws on minors shall apply to the guardianship of interdicted persons (Art. 509). The income of an interdicted person must be specially used to better his condition and hasten his recovery. The family council may direct that he be taken care of at his residence, or be placed in an asylum, or even in a hospital, according to the symptoms of his disease and the amount of his fortune (Art. 510). Interdiction ceases with the causes which have given rise to it. Nevertheless the withdrawal thereof shall only be obtained by following the rules set down to obtain an interdiction; and the interdicted person can only resume the use of his rights after a judgment ordering the withdrawal of such interdiction (Art. 512).

The German system under the new civil code (which came into operation on January 1st, 1900) resembles the French, but presents a sufficient number of distinctive points to justify a brief sketch of it. A person is incapable of managing his affairs, and also disqualified from at any time instituting legal proceedings with effect, who is in a condition of disordered mental activity excluding the free exercise of the will, unless the disorder is only a temporary one, and still more so who is placed under guardianship (*Dormundung*) on account of mental disease (s. 104). In the latter case the effect of the guardianship is to put the lunatic in the same legal position as a minor who has completed his seventh year (s. 114). The validity of a contract into which he enters without his guardians' consent depends on whether the contract is beneficial to him or not (s. 108). A unilateral contract which he makes without the above-mentioned consent is ineffectual (s. 111); he cannot draw up a will (s. 2229), but he can revoke a will formerly made (s. 2253). On the other hand, he possesses unlimited capacity for such arrangements as he, after his lawful guardian has authorised him to enter into contracts as to service or work, makes in regard to the entry on or abandonment of service or work of the permitted kind, or the fulfilment of the obligations resulting therefrom (s. 113). It is worthy of notice how much more detailed the German system is than the French with reference to the extent and the consequences of the incapacity. The idea of authorising a certain area within which

the insane ward may exercise his own discretion as to contracts and engagements is an ingenious and interesting one. A person of full age, who has been placed under guardianship, has a curator as his legal guardian (s. 1896). A major for whose subjection to curatory a motion is made can be placed under interim curatory if the judicial authority think it necessary for the prevention of serious danger to his person or property (s. 1906), and a person under interim curatory is, in regard to capacity, in precisely the same position as a minor who has completed the seventh year of his age (s. 114).

By Section 52 of the Civil Procedure Rules, as modified by the law of May 1st, 1898, a person is capable of instituting legal proceedings if he can, according to the common law, bind himself contractually. The application to have a pension subjected to curatory can be made by spouses, by a relative, by the lawful guardian proposed for the person alleged to be insane, and further by the Public Prosecutor to the Landgericht. The proceedings are in the first instance instituted in the court of the Amtsrichter, which corresponds roughly to the English county court or Scotch sheriff's court. The practice of this tribunal is to enter into a personal examination of the alleged lunatic in presence of one or more competent experts, and to receive other evidence as to his mental condition. It can, in particular, sequester him up to six weeks in a medical establishment if this seems necessary owing to his state of health. The decision of the Court on a question of curatory can be impugned in an action by the insane person himself, by his lawful guardian, by the persons otherwise entitled to apply for curatory, and also by the Public Prosecutor. The procedure is substantially identical with that in other civil proceedings. If the insane person again becomes mentally sound, the supersedeas of the curatory can be applied for by himself, his legal guardian, or the Public Prosecutor. Here again the decision rests with the Court of the Amtsrichter. If the application is refused, an action can, as before, be instituted, and the case will be decided by means of it.

The main interest of the above analysis of the provisions of French and German law as to the interdiction and curatory of the insane consists in the light that they throw upon the lines on which a system of dealing with "borderland" cases, from the legal standpoint, can be worked. It may have yet to be

considered whether some machinery of the kind is not needed in England. The law as to "catching" or unconscionable bargains does not protect the class of persons who in Scotland or France may be interdicted. The law of undue influence is a weapon of most uncertain action. Something might be done, if necessary, by an extension of the summary procedure established by Sect. 116 of the Lunacy Act, 1890, to cases of "facility."

The next point to which, in surveying the field of comparative lunacy law, we may call attention is the similarity of the manner in which civilised countries, both in the Old World and in the New, have solved the chief problems of lunacy administration. The necessity for the interposition of a judicial check on the commitment of the insane (with special procedure, in most instances, for dealing with cases of emergency), for the regular official visitation of all classes of receptacles for the insane, the importance of classifying patients according to the nature and severity of their malady, and of keeping mechanical restraint within the strictest bounds, the protection of patients' correspondence, the right of access to them of their friends,—these and all the other ordinary questions which the administration of asylums presents have been settled in Britain, France, Germany, and the United States on identical lines.

"This similarity is partly due, no doubt, to the fact that civilised nations, brought face to face with the same administrative problems, will naturally light upon similar solutions of them. But its origin is mainly attributable to historical causes. The typical modern asylum system is the product of the great movement for reform which, associated in England with the name of William Tuke, in France with the names of René and his disciples, and in America with that of Ray, swept almost simultaneously over both the Old World and the New at the end of the eighteenth and during the first half of the nineteenth century. The points of contact between the lunacy laws of modern Europe and America are the heads of the reformation which that movement demanded and accomplished." (*Journal of the Society of Comparative Legislation*, N. S., vol. i, p. 272.)

There are other features in comparative lunacy law which are instructive. There is a growing tendency in English-speaking countries to supersede the old formal inquisition by such a summary system as Sect. 116 of the English Lunacy Act, 1890, embodies. The question of the civil capacity of the insane is being gradually freed from external standards, and

made to depend, as it ought to do, on the facts of particular cases. Room is being found in the criminal law for the plea of moral insanity and the theory of modified responsibility. It may be noted, in conclusion, that a bold step has just been taken by Germany. The new Civil Code (s. 1569) recognises the lunacy of a spouse as a ground of divorce, but only where the malady continues during at least three years of the union, and has reached such a pitch that intellectual intercourse between the spouses is impossible, and also that every prospect of a restoration of such association is excluded. If one of the spouses obtains a divorce on the ground of the lunacy of the other, the former has to allow alimony, just as a husband, declared to be the sole guilty party in a divorce suit, would have to do (ss. 1585, 1578). The inquiry which this paper has initiated might easily be carried further, but perhaps enough has been said to show the lines on which useful work might be done.

(¹) A family council is composed of six blood relatives in as near a degree of relationship to the lunatic as possible; if there are not six, relatives by marriage are then chosen. Such a council is always presided over by the *Juge de Paix* of the district where the lunatic is domiciled (Civil Code, Arts. 407 and 408).

The Physical Signs of Insanity. By F. GRAHAM CROOKSHANK, M.D.Lond., late Assistant Medical Officer Northampton County Asylum.

IT is disappointing to anyone trained in modern clinical methods, and accustomed to hear alienists urge with so much insistence that insanity is a brain disease, to find so little apparent attention paid to what may be called the physical signs of insanity.

It would be foolish to declare that these physical signs have not been observed. But is there not a tendency to speak of them merely as interesting phenomena met with amongst the insane, and to forget that they are consequences of those brain changes which make up the somatic background to what we call insanity? Have we not of late somewhat neglected the old-fashioned method of induction from clinical observations?

The stigmata of degeneration, it is true, have had attention