

The Waldstein Case at Prague: Two Letters addressed to the Members of the Medico-Psychological Association of Great Britain and Ireland. By Professor Dr. MORIZ BENEDIKT, Vienna.

I.

GENTLEMEN,—The Waldstein lawsuit has aroused painful surprise here, and the conduct of the psychologists taking part in it has evoked so much astonishment in professional circles, that it will be worth our while to subject it to a critical analysis—as follows :

1. The relation of mental weakness to moral insanity.
2. The danger of creating class legislation by a wrong conception of moral insanity.
3. The question of bringing lunacy under State control.

To make things clear I will recall to your recollection a certain lawsuit which took place at Vienna some time ago, which shows very clearly the danger of a stupid sense of justice springing up in certain sections of society.

A certain Baron Ulm, between sixty and seventy years of age, settled a certain sum of money on one of the *demi-monde* (Windisch). The Baron's family would not recognise the debt, and—through one of those legal tricks which are only too common in Austria—Windisch was prosecuted for fraudulent solicitation, on the ground that she must have been cognizant of the Baron's mental weakness.

As chief expert the late Professor of Psychology, Ludwig Schlager, stated his opinion that Windisch had formed this remarkably correct diagnosis, and the learned bench gave sentence in accordance with the medical evidence. According to Schlager, insanity is self-evident to an ordinary street arab ; and on the evidence of this specialist, a person was condemned after prosecution in order that a family might be relieved of the payment of a just debt.

The Waldstein lawsuit also owed its origin to a legal quibble used to substitute a criminal for a civil action. The Count Waldstein, deceased, hated his own family, and left the city of Vienna and certain friends amongst the municipal officials the bulk of his fortune. The offended relatives, and also apparently

the public prosecutor, came to this conclusion,—“ that a nobleman who wills away his property to the *bourgeoisie* cannot be right in his mind.” Physicians who had attended him, and particularly the proprietor of a Viennese asylum, after examination, incautiously in open court declared him to have been insane.

The first argument was that the young Count would never learn. There are insane persons who develop an extraordinary eagerness to learn, and sane children who will learn nothing. Temperament and sense of duty rule in this matter. Only the imbecile learn nothing from purely intellectual defects. Young Waldstein was a count, and in aristocratic circles the family tutor possesses neither the authority nor powers of discipline to curb a lively disposition or to stimulate a proper sense of duty. Secondly, there was his aversion to his mother. This was certainly a blot on the character of the son. But, as counsel for the defendants explained, the lawsuit itself vindicated the deceased intellectually. Thirdly, that the Count caused the lawyer to draft a letter to his agent. Whoever possesses any knowledge of business is aware that this proceeding is recognised, even in the higher political circles of society, to be completely justifiable.

As further evidence of imbecility it was alleged that the Count had described the Austrian Parliament as a “circus.” This expression is certainly disrespectful; but, nevertheless, it is decidedly witty, for, from one year’s end to the other, do not our members of Parliament ride their several hobbies one against the other to the detriment of the country?

In quite a childish way the Prague psychologists employed in court “went on the hunt” to find out whether the Count allowed himself to be influenced, in order to draw therefrom conclusions of insanity. Maniacs cannot be influenced, nor those suffering from delusions, nor the completely deranged imbeciles, nor those whose ideas of morality have become warped. The weak-minded and obstinate are difficult to influence.

The normal individual is, like “clay in the hands of the potter,” influenced by education, literature, family surroundings, public life, &c. The higher phase of impressionability is most valuable in the sphere of thought, research, and creative intellect. Was Mozart weak-minded because he allowed himself to be influenced by Haydn and the Italians, or Raphael because

he permitted himself to be influenced by Perugino? Are not judges influenced by the depositions and evidence of witnesses? A psychologist might ascribe to the late Count odd caprice, but not waxen pliancy of will. It is incontestable that a woman, though of limited ability, has more psychological instinct than an average intelligent man. Further, it is a psychological fact that an intellectually gifted girl or woman may love a man not so endowed, though deserving of esteem for other reasons. But, up to the present, no sensible girl or woman has loved one born weak-minded. No one doubts that Fräulein Pasqualine Metternich was an intellectual girl of the highest order, and it was stated on all sides, besides having been proved by her letters, that she was much attached to her *fiancé* and husband.

And how many psycho-pathological points of a technical nature had the cultured Princess Pauline Metternich opportunity of observing? So far from recognising him as insane, she welcomed him as her son-in-law with unfeigned joy. It is an undoubted fact that the deceased Count was an individual of average intellect, of amiable manners, with all the faults as well as all the privileges of humanity in his social rank of life. He knew how to manage his own affairs well, and how to protect himself against the repeated attacks of his family. His disposition was capable of enduring friendship or aversion, and therefore not weak. He was so energetic that he gave his antipathy (which for one of his position was unusual) to his own family practical shape in his will.

Most assuredly the psycho-pathologists employed in this case were wrong in having disputed the testamentary ability of the deceased on the ground of insanity, and in stating that the defendants were able to recognise mental weakness, and had thus obtained money by fraud. The presiding judge, in his summing up, drew attention to the point that weakness of mind does not altogether disannul testamentary ability; but this disclosure appears to have been made only at the last moment, otherwise the court would have been obliged to dismiss the case at the outset.

It was generally thought surprising that psycho-pathologists had expressed the opinion that the defendants must have recognised insanity in the testator, whilst his most distinguished associates remarked no signs of it. If ministers, governors, diplomatists, generals, bankers, well-known advocates, and

notaries failed to notice it, how can it be scientifically maintained that a difficult diagnosis like this could be affirmed by specialists?

We must recognise a serious deficiency in the culture or intellect of many psycho-pathologists; they are no psychologists. Many of them have studied "scientific" psychology, but have not a real knowledge of human nature.

True psychological knowledge is to be sought for in the ranks of poets, historians, teachers, and authors. So long as psycho-pathologists possess a merely superficial knowledge of human nature, so long will they incur the risk of describing human souls after their own fashion, and of stupidly regarding the sane as mentally unsound, and *vice versa*.

Count Waldstein liked brandy, but only one witness—who did not belong to his household—had ever noticed anything of this. The rest of his acquaintances were astonished to learn it then for the first time. The Count neither drank in society nor was ever seen drunk. Does that constitute a tippler from a psychological point of view?

The Count had an enlarged liver, and succumbed to hepatic cachexia. The conjecture that the disease of the liver may have had some connection with the brandy is allowed, but is it proved?

As there were no other pronounced alcoholic symptoms except degeneration of the liver and its consequences, it is certainly not permissible to treat an invalid as a drunkard, or to come to a conclusion that any organ—one of which might, of course, be the brain—was diseased by alcohol alone.

I hold that the decision of the Viennese psychologists, during the session of the College of medical men, was distinctly hazardous. And for this reason. It declared that if Count Waldstein had committed murder he would have been deemed irresponsible. Why should he have been unaccountable for his actions? Because he tumbled in secret? Then at once throw open all the prison doors in the world! For how many ordinary criminals are there in the world who not only tiddle, but tiddle often and secretly!

As regards his mental weakness, that, as a rule, has no absolute reference to crime. The weak-minded may be *homo nobilis* as the most genial may be a born criminal. There are categories of criminals who are weak-minded—such as incendiaries,

—but they are not incendiaries because they are weak-minded. There are other psychical factors which must be considered, such as temperament and moral perception. All testimony which alleges insanity as an argument for wrong-doing must be looked upon as open to doubt from a scientific point of view. If the particular grade of intelligence cannot discern the material consequences of a criminal deed either to the criminal himself or to others, then it ranks as imbecility or some other brain trouble. But no one could ever be considered a born lunatic or eccentric who was qualified to be an officer, a crack sportsman, a correct steward in a position of trust, the successful suitor to a lady of position, the esteemed colleague of ministers, diplomatists, bankers, and distinguished lawyers.

I recommend certain celebrated psychologists, as well as those who are yet unknown to fame, to read the articles of Grillparzer on "Poor Spielmann," from which they will gain a better insight into the connection of insanity with morality than they can obtain from their own text-books.

II.

I have long suffered some anxiety lest, owing to a certain prevalent haziness in scientific knowledge, a class legislation might be created, an evil which really already threatens us. For instance, if anyone belonging to the upper strata of society commits a crime or leads a dissipated life, detrimental to the interests of his family, the impression generally gains ground that a psychological inquiry should be instituted. Probably the result is that moral insanity as well as perhaps a low order of intelligence is diagnosed, and that testimony in favour of irresponsibility is declared. In legal circles particularly this has become quite an accepted *modus operandi*.

The quarantine of the delinquent in a private asylum until the affair has blown over is then resolved upon. The indictment is thus shelved. Two years ago I communicated my fears to Baron von Krafft-Ebing, and represented that if psychopathologists were to study the question in prisons they would soon come to the conclusion that one must advance the same testimony in favour of the great majority of professional criminals, and either let the whole crew loose on society or have them transported to asylums.

I gained the impression, however, that I had not turned my

attention in the right direction. There are here the same conditions as in the question of hypnotism, where also looseness of criticism and practical skill opens gate and door to every folly, delusion, and eccentricity. I perceived that not in Vienna, but in some foreign country, I should find the solution of this intellectual and moral problem.

First I tried Brussels, and the note of warning which I sounded there still tingles in the ears of psycho-pathologists and masters of forensic science.

Where is the proper place for a person who, as we presume, suffers from an innate perversity of sexual instinct? Does he deserve freedom? Certainly not. At liberty he is a social danger. Should he be in an asylum? Certainly not. It may be that the individual in question is not only more highly gifted, but perhaps even more sensible than his medical or administrative protectors. The place for such a person is the house of correction, and in solitary confinement, for he is even more dangerous to his companions in prison than to those at liberty. For him we can have about the same sympathy as we might feel in shooting a favourite dog that had gone mad, to avert whose fate would be to inflict a wrong on mankind.

Society rightly demands chastity, and punishes offenders by social means. Education and morality should raise the strength necessary to resist temptation. Penance as practised in the Christian middle ages, which has now become incomprehensible to us, had doubtless its origin in a wrong moral conception of sexual relations; although we physicians advise no one to go into monastic seclusion, still we dare not pose as the advocates of unbridled licence.

Now-a-days we have a new danger. I know that the publication of obscene and criminal literature in popular form has caused you great annoyance. Your anger was what might be called "gentlemanly ethical." But such publications are dangerous from another point of view. When describing deliberate methodical seduction, the profligates pose as victims of an innate impulse, which is made the excuse for irresponsibility. Such arguments are plentiful on the stage of any European theatre, but from a literary or ethical standpoint they have no justification. An impartial judge would send these persons to prison, and sentence the selfish for a shorter period than the dangerous victim of an "innate uncontrollable impulse."

At the Antwerp Congress of 1890 I was present when Professor Jules Morel, of Ghent, made the remark, in private conversation, to that celebrated lawyer and minister of justice, Mons. Le Jeune, that in Belgium perverse sexual excesses were increasing to an alarming extent.

I told him that the police everywhere constitute a wall of protection between sexual delinquents and justice ; and for this reason, that these are frequently found amongst the higher ranks of society. If such an individual seeks another domicile, during the summer for instance, the particular police officials whom it may concern are duly informed, but the fact is not mentioned to the public prosecutor. It is not part of our duty to criticise this international custom here. Then in many places official medical examination is prescribed in order to prove the irresponsibility of the patient, and the troublesome one is either sent abroad for some weeks or "towed into the port" of a private asylum to find rest there. On this account it is now an urgent necessity to make the care of the insane a State question. I appeal to my colleagues not to misunderstand me, and think that such misdeeds multiply indefinitely. That which applies to offenders against morality applies to crime of all kinds.

It is urgently to be hoped that the unfortunate expressions—*moral insanity*, *folie morale*, and *moralisches Irresein* will disappear from the vocabulary of science. They are erroneous, and have misled physicians and jurists. So-called moral insanity is nothing but innate or acquired depravity (corruption), and represents, without further complication, no form of insanity. It is an altered physiological and anti-social condition which may be natural or acquired, but is not a disease ; and it should be specially noticed that under favourable development the natural or innate condition may remain latent. Such persons possess the full measure of intelligence to regulate their family and business affairs ; and, with the exception of the special aberration, to conduct themselves in a laudable manner.

After the Eastern fashion we require to keep the three principal aims of penal law before us. The first and most important to determine is what, in the sense of social order, must be looked upon as *right* and what as *wrong* ; the second is to render the offender harmless ; and the third is the possible reformation of the criminal.

On these points physicians will surely agree, and will not

fall into a trap because the law everywhere speaks the perplexing language of moral-philosophical hypothesis. The physician will not wish to "vindicate." To "vindicate" is the affair of the legislature and of the judge.

In many countries it is first of all expedient to bring all the insane under the control of the State, in order to counteract existing abuses. I appreciate worthy men who own private asylums, and it is painful for me to offend many upright colleagues by advancing my opinion. But that kind of uncontrolled private enterprise leads to improprieties. I do not belong to the modern school of enthusiasts, who wish to bring everything under the control of the State, but with regard to insanity it must be urged that this is necessary. I could quote a long list of cases that have come under my notice to prove the necessity of State control, but on that point at least I shall keep silent as long as I am not compelled to speak out.

In my personal experience as a medical man I have seen the prognosis for many perverts grow worse under the influence of narcotics for years, both as regards duration and cure, especially the melancholic and hysterical cases.

At the Psychiatric Congress at Antwerp (1885) I drew attention to this point in presence of our much honoured friend Hack Tuke. What a serious mistake for the patients it was to do away with the mechanical strait-waistcoat, and put in its place a dangerous toxic restraint!

To control this convenient toxic strait-waistcoat in private asylums is a difficult matter, particularly in those countries where a feeling of leniency exists regarding abuses, and quite the reverse towards a positively tense sense of justice. It also happens that principals of public asylums are, for various reasons, enthusiastic *empoisonneurs*, ready to make use of every new drug; in public institutions, however, not only is control easier, but literary criticism better deals with blunders.

Gentlemen, I have told you why I so highly value your esteem, and why I am a disciple of the British school,—because it demands that a scientist must first of all be a gentleman, not only in sentiment but in behaviour, doing right without regard to personal opportunity. I know that my "call to arms" against class legislation will find a powerful responsive echo on both sides of the Atlantic. But the official medical world in my native country does not appear to know

that I speak with authority in the international world of psychopathologists; and this coterie, strange though it may appear, has not only the ear but the arm of the law completely at its disposal.

Further Research on the Formation of Axial Fibres in the Brain, by Dr. Paul Flechsig, Dr. Döllken, and Dr. Nissl. A Digest by W. W. IRELAND, M.D., Mavisbush House, Polton.

DR. FLECHSIG.

IN a reprint from the *Neurologisches Centralblatt*, No. 21, 1898, Dr. Paul Flechsig gives us some further investigations on the development of the fibres in the human brain. In his examinations he has used forty-eight hemispheres belonging to twenty-eight brains of all periods of early life, from the foetus of seven months to the child of fifteen months. He thus sums up the results to which he has arrived.

1. The development of axis-cylinders in the lobes of the brain follows the same laws of growth and time of growth as in the spinal cord, the medulla, the cerebellum, and the middle brain. Flechsig observes in a note that the processes have a regular course, and not at random, as some observers have stated. This is owing to faulty preparations and inability to follow the complicated course of the nerve-fibres.

2. It may be stated that nerve-fibres having the same functions get their axis-bands about the same time, whereas dissimilar systems have their own times. But it is to be borne in mind that collateral fibres attain their full growth later than those of the main stems.

3. From which it follows that systems of fibres which are separated in their development by considerable intervals of time cannot fulfil the same special functions. As examples of this take the radiating fibres of the second parietal gyrus (29, Fig. 1) and the posterior median gyrus of about three months.