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Part I.—Original Articles.

Occasional Notes on the Mental Deficiency Act. By Sir
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THE purpose of this article is to review briefly a few of the many questions that have arisen directly or indirectly out of the interest taken of late years in the matter of the care and control of the feeble-minded, and to comment on some of the aspects of the legislative measure, known as the "Mental Deficiency Act," which has ultimately resulted from that interest. Some reflections by the way on this subject, about which at the present moment there is necessarily but little practical activity, may, I trust, be regarded as not wholly inopportune. In offering to the readers of this Journal the following remarks on some difficulties that have been raised regarding the interpretation and working of the new Act, and in noting certain misconceptions and more or less irrelevant discussions that seem to have obscured the practical side of the subject, I have but the excuse of a long-continued interest in the matter of the due recognition of mental failure in all its varieties, and of my personal experience, gathered from the study of criminals, touching the part played by mental defect or disorder as a factor in the production of crime. These notes, which are at least meant to be practical, will therefore tend to circle chiefly round the questions of the actual diagnosis of such mental defect in persons of all ages as is now officially

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registered under the term "mental deficiency," and of the relation that seems to exist between mental defect generally and criminality.

Before taking in detail the special points needing comment, a short account of the happenings that led up to the passing of the Act of 1913 may be useful, seeing that now, for the first time, a legal import has been given to the term "mental deficiency." We need not look back further than to the beginning of the present century, when the National Association for Promoting the Welfare of the Feeble-minded, the Charity Organisation Society, and some other bodies, strongly urged upon the Government their belief that a great need existed for placing under care and control large numbers of both children and adults, who, by reason of mental defect, were harmful to themselves or others, but, although neglected and at large, were neither certified, nor deemed certifiable, under the law of lunacy. As a result of a Conference, appointed by the Home Office, on which several departments of Government and other authorities were represented, a Royal Commission was charged in 1904 to inquire into the whole matter. The reference given to this Commission having a distinct bearing on certain points to be mentioned presently, it seems useful to recall it as follows: "*To consider the existing methods of dealing with idiots and epileptics, and with imbecile, feeble-minded, or defective persons not certified under the Lunacy Laws; and in view of the hardship or danger resulting to such persons and the community from insufficient provision for their care, training, and control, to report as to the amendments in the law or other measures which should be adopted in the matter . . . ; and also to inquire into the constitution, jurisdiction, and working of the Commission in Lunacy and of other Lunacy Authorities in England and Wales, and into the expediency of amending the same or adopting some other system of supervising the care of lunatics and mental defectives, and to report as to any amendments in the law which should, in their opinion, be adopted.*"

The Royal Commission, after a long and minute inquiry, reported in 1908. The following points in the Report, immediately relevant to my purpose, alone concern us here. *First*: The actual recognition of a large class of "mental defectives" (thus specified in the reference) who were not certified under the Lunacy Laws, but required care and control,

Second: The finding that the largest class of such uncertified persons consisted of "mental defectives" to whom the term "feeble-minded" had been widely applied, at least in this country, in distinction from the lower and more easily recognised grades known as idiots and imbeciles, many of which could be, and some were, certified under the existing laws.

Third: The recommendation that the widely and duly comprehensive term "mental defect" should be adopted as the title of a new Act intended to cover all cases of mental failure that needed care and control, while retaining as far as possible, and somewhat clarifying, the existing terms now applied to "insane persons and idiots," and bringing in, as by far the chief addition to the content of the Act, the important group of "feeble-minded" as indicated above.⁽¹⁾

The adoption of the first two of these conclusions forms the kernel of the new Act, and it is abundantly clear that the term "mental deficiency" or "mental defect," as now used in the Act, practically denotes such persons as were not, and are not now, certifiable under the existing Lunacy Act. The third conclusion, or rather recommendation, arrived at by the Commissioners with a view to some amendments of the laws regarding mental defect generally on a logical and practical basis, was, in my judgment, unfortunately and unreasonably rejected in the drafting of the Bill which ultimately became law in 1913. The Act, as it now stands, tends to lead to the drawing of an inappropriate line between "mental defect" and insanity, while it leaves at least the lowest grade of the "deficient" group, *i.e.*, that of "idiots," to be dealt with indifferently under either the new or the old Act. One of the consequences of this decision has been that the new Board of Control is, in effect, composed of two parts, *viz.* (1) the pre-existing Commissioners in Lunacy, and (2) some additional members, constituting a small minority of the Board, who were appointed specially to deal with the subjects of the new Act of 1913. I cannot but think that this want of coherent unity in the constitution of the new Board may probably account for a considerable part of the difficulties that have been felt in the working of the Act.

I. The first misconception to be noted out of those that may have been, either directly or indirectly, occasioned by the Act, is possibly in some degree attributable to the very title of the

Act itself, in which, as I have just said, the general term of "mental defect" is used to denote only a certain class of persons who are defective in mind. Such a use of these words is certainly unscientific and likely to mislead. All "insanity," "mental unsoundness," "mental disorder," "mental deficiency," from whatever cause arising, involves, of course, defect in mind. The only practical distinction between the new and the old certifiabiles is that the former are mainly the subjects of such defects as are described in the first section of the new Act, and the latter mainly such as are named, but, be it noted, *not further described*, in the Lunacy Act, as "persons of unsound mind." These two groups, indeed, roughly correspond to the old dichotomy of "lunatic" and "idiot"; the first indicating him who has been, but is no longer, *compos mentis*; the second, him who is *fatuus naturalis* or *a nativitate mente captus*. In modern days this distinction is commonly made by the use of the popular but inaccurate terms, "acquired" and "congenital." In former times some legal distinction was set up between the two groups of cases comprised then under the comprehensive and correct term of *non compos mentis*, which may well be translated "mentally defective"; for there were distinct writs of *de idiota inquirendo* and *de lunatico inquirendo*. This differentiation was abolished many years ago; but now we have again two separate legal instruments, each professing to concern distinct groups, but nevertheless showing by their contents that some cases are dealt with indifferently by both.

However little the title of the Mental Deficiency Act may be credited with causing the particular misconception now to be noted, some commentators on the Act have fallen into the surprising error, avoidable, it should seem, by even a small acquaintance with the ordinary terms of psychology, of using the words "mind" and "intelligence" as synonymous. Some, on the one hand, have drawn the conclusion that the practical recognition of mental defect depends on intellectual tests alone, while, on the other hand, those responsible for the Act have been accused of ignoring the fact that "true mental defectives" do not form the whole of the subjects whom it is proposed to control under the Act. The slightest study, however, of the first section of the Act itself will show clearly that there is no ground given in the Act for either the conclusion or the accusation. The test by observation of *conduct* is clearly

implied in the descriptions given of the various sub-groups intended to be dealt with. Moreover, it is equally clear that this test is really used implicitly in most certificates given under the Lunacy Acts, as well as in the diagnoses or opinions formed in many cases of mental disorder of any kind, even by non-specialists, or by ordinary observers. Further reference to this matter will be made later in another connection. It needs only to be said here that the word "mental" is employed in its correct and accepted psychological sense throughout the descriptions in the Act; and that it duly denominates all persons intended to be brought under the operation of the Act.

II. The introduction of questions on the nature and origin of mental defect has in various ways tended to raise unnecessary difficulties in discussing the Mental Deficiency Act, and has led to many diversions and disputes about heredity. The Act as it stands has, however, clearly excluded the only practical matters on which problems of heredity might bear, *i.e.*, the segregation or sterilisation of defectives for the main purpose of preventing their reproduction and rendering illegal all sexual intercourse with mentally defective persons. Any attempt at comprehensive treatment of the various views regarding either the causes or the modes of transmission of mental defect would be quite outside the scope of this paper, which purports to be as practical as possible. It must be recognised that, at present, legal control of the "mentally defective" is, in effect, confined to those who, left uncontrolled, either suffer themselves or are the cause of suffering to others. Those of us, therefore, who have been convinced by experience and by massive evidence that obvious incapacity for efficient mental development, like other capacities or incapacities for development, tends to "run in families," and that in a vast number of cases signs of such incapacity are observed in very early life, need not trouble ourselves, when engaged in detecting or grading cases of mental defect, either in children or adults, about any questions concerning the origin or transmission of mental defect generally. He who adheres to the Mendelian school of biologists may conceive, if he will, that "congenital" or early mental defect is due to the absence of the "unit" factor of "mental normality," and that this absence is transmitted in accordance with the Mendelian formula. The disciple of the biometrical school may regard the cases called "feeble-minded" by clinical

observers as but extreme cases of low capacity at one end of a continuous line reaching at the other end to extreme cases of high capacity. And all the biologists who reject the Mendelian doctrine of unit-segregation (whether or no they admit that mental defect tends to be transmitted on Mendelian lines), may consistently hold the opinion that such mental defect may often be a spontaneous germinal variation, possibly of the nature of a reversion, and as such transmissible ; or that some cases may be due to an arrest of development, cerebral and otherwise, of later origin, including injuries and other bodily affections occurring in foetal life or at birth. Yet those who may hold these various views are not thus forced to disagree seriously about the practical recognition and certification of cases that need control under the Mental Deficiency Act. It should always be borne in mind, when discussing the question of heredity in this connection, that the Act, as we have seen, has nothing to do with the proposal of segregation of mental defectives with the express object of preventing their reproduction, although incidentally, of course, segregation for any purpose must necessarily have some considerable effect in this direction. Yet a eugenic object of this kind in the Act seems to be assumed by some critics. Prof. Pearson, for instance, in a lecture on the "Graduated character of mental defect, and on the need for standardising judgments as to the grade of social inefficiency which shall involve segregation," first assumes erroneously that those responsible for the Act regard the terms "mental" and "intellectual" as synonymous, and then proceeds to charge them with the consequent duty of obtaining accurate knowledge of the nature, definition, treatment and source of "feeble-mindedness," which term he employs as equivalent to intellectual defect. This accurate knowledge he considers necessary for the purpose of "segregating the mentally defective for life." Professor Pearson, in this lecture, admits that he has no direct experience of the mentally defective either as a medical observer or as a teacher in special schools. But in explanation of his taking this particular subject of "feeble-mindedness" as prominently illustrating his opening announcement of a "new scientific Renaissance which will cause much scientific and medical work to be looked upon only as dogma and quackery," he states that some *censores scientiarum* or watch-dogs of science are needed to warn the public against

ignorance that parades as knowledge. His own censorship in this instance amounts virtually to this : that the Commissioners who administer the Act are bound to have accurate scientific knowledge of the nature and source of feeble-mindedness, because they appear to him to have espoused the Mendelian doctrine which, he states, has so completely taken root regarding it. Now it is certainly not true that any definite theory whatever about the origin of feeble-mindedness has influenced the framers of the Mental Deficiency Act ; and it is unnecessary to insist further on the fact that any practical difficulties which may have occurred in connection with the Act's working have not been caused by such questions about the mode of origin or inheritance of mental defect as are here referred to. Doubtless it is possible that Mendelian doctrines may have partly influenced some supporters of the original movement that led up to the Act who were specially desirous of some definite enactment, directed towards the diminution, or even, as some enthusiasts seemed to think possible, the extinction of mental defect. Some explicitly " eugenic " measure might well appear to them to be favoured by the teaching that mental defect as such is hereditarily transmitted in the germ-cells as a " unit " character on a definitely detectable plan, and could, therefore, be eliminated with apparent ease by segregation or otherwise. Indeed, in a book on *Feeble-mindedness: Its Causes and Consequences*, Dr. Goddard, Ph.D., of the Training School at Vineland, New Jersey, comes to the conclusion that normal intelligence is a " unit character " transmitted in true Mendelian fashion, and that the absence of this unit-character is the " cause " of feeble-mindedness. And I have read somewhere in a serious article, of which I can recall neither place nor authorship, that " anarchists " are definite mutations and therefore ought to be prevented by law from producing offspring. Against all such unscientific assumptions as these no protest can be too strong ; and Prof. Pearson's criticisms in so far as they may concern only Mendelian doctrines as applied to this subject may be regarded as quite appropriate.

At present we have but little definite knowledge of the cerebral and other organic conditions which we believe to underlie mental manifestations generally of all kinds and grades, normal or irregular, healthy or disordered ; and we are forced to rely mainly on the clinical observation of individuals

for indications of such mental defect as seems to render it desirable or necessary that they should be placed under care or control. Some knowledge has indeed been acquired by studies of the minute histology of the brain; and the researches of Dr. J. S. Bolton, seem to indicate the possibility of demonstrating the close association of histological differentiation with individual differences of mental potentialities—an association which has, clearly, a high degree of probability *à priori*. Dr. Bolton maintains that there is a decided difference between the condition of the cortex of the pre-frontal region of the cerebrum of an “ament” and that of a “dement.”⁽²⁾ He defines, however, from the anatomical standpoint the term *Amentia* as signifying “the mental condition of a person suffering from deficient neuronc development,” and the term *Dementia* as signifying “the mental condition of those suffering from permanent disability due to neuronc degeneration following insufficient durability”; while, from the clinical standpoint, his use of these terms is apparently special to himself, and seems to depend to some extent on the histological condition he would expect to find on examination.

It is possible, again, that some future comparative study of the brains of human defectives and anthropoids may throw some light on the question whether manifest degrees of mental deficiency can be regarded as truly reversional in character; but it must be admitted at present that from the point of view of direct physical examination, and clinical investigation of cases of feeble-mindedness generally, we are without means for fixing any definite standard by which to measure accurately what we recognise as mental defect. I would insist, however, that in practice degrees of “mental defect” justifying the control of persons for the benefit either of the community or of themselves, or with both these objects in view, can be discovered in each individual case that may come in question by the study of their conduct, and capacity to learn what is fundamentally necessary for a human being to acquire in order to live sanely and safely, and more or less successfully, with his fellows; and, further, that such mental defect may justly be regarded, for practical purposes, as a recognisable condition, involving faults of mind and brain, equally with cases of what is known as “insanity,” and equally without the aid of any definite intellectual standard.

III. We come now to some difficulties that have been felt or raised in the matter of certification under the Mental Deficiency Act of both children and adults.

(1) It is to be noted, first, that the *descriptions* of the various clinical groups of persons deemed to be "defectives" within the meaning of the Act are placed prominently in the first section, and that an inference has been drawn (partly, it is possible, from this fact) that the Mental Deficiency Act requires strict demonstration that the mental defect in question has existed from birth or from an early age in any given case. It is perfectly clear that in a large number of adult cases, especially in criminals, no such absolute demonstration of the congenital or other early origin of the defect can be given; but it seems to be no less clear that such an interpretation of the Act cannot be insisted on, and should not give rise to difficulty. The practical diagnosis of early or congenital mental defect is of course made in a large number of instances on the grounds of the similarity of the case under consideration to other cases known to be attributable to the origin in question. This statement needs scarcely any expansion. It is of general application; and it is sufficiently illustrated by the evidence as to insanity, based on expert opinion, that is usually accepted as valid in courts of law. It cannot, indeed, be doubted that the correct diagnosis of mental defect arising from life-long incapacity is, as a rule, quite as readily made by expert observers as that of any other class of mental unsoundness. There is, it is true, nothing in the Lunacy Act that requires a certifier to state explicitly to what date he can trace back the origin of the patient's disorder; but the absence of this condition by no means renders him exempt from difficulties quite as great, or even greater than he might encounter in the matter of certifying persons under the Mental Deficiency Act. Most expert evidence constantly accepted in law courts, not only from doctors in cases of mental and physical diseases generally, but also from witnesses on many other kinds of technical questions, consists largely of opinions based on reasoned inference. The law, of course, deals extensively with such opinions as facts, and expert counsel's opinions are frequently main factors in settling the fate, albeit not the personal liberty, of many a suitor. Instances of difficulty will doubtless arise in both groups of cases, and perhaps in the

case of "mentally deficient" adults may more often require some prolonged observations before a just conclusion is reached.

It seems to me that where the difficulty of certification now in question has really been felt, it may be partly attributed to the possibility that some of those accustomed to certify under the Lunacy Act, which contains no specialised description of the cases it deals with, have now for the first time thought that they had, in virtue of the descriptions in the new Act, to give a decision of their own based on something more than "facts" either observed by themselves or reported to them by others, and that they have thus felt themselves somewhat at a loss. It is, perhaps, also possible that an excessive tendency to juggle with words might induce a counsel to seize an opportunity which he may think this Act affords him for baffling a witness and making a score.

It would have been almost unnecessary for me to dwell on this particular point had I not met with some instances of skilled observers who hesitate to certify cases of the nature of which they are in no doubt, owing to a fear that if their opinion were at any subsequent time called in question they might be confronted with a fresh allegation which they could not directly disprove, that there was nothing the matter in early life with the subject of the certificate. It is, however, hard to see why a difficulty of this sort should be more likely to occur in the matter of this certificate than in some other questions depending on reasoned inference. Before leaving this subject I would note here that the descriptions now standing in the first section of the Mental Deficiency Act were first proposed, though in a somewhat different form, in the Report of the Royal Commissioners, and were intended to serve as *descriptions* or convenient interpretations for practical use of the current terms "idiot," "imbecile," "feeble-minded," etc., and not as strict *definitions* of separate morbid states. However, as I have said, I do not regard the difficulty in question as highly important from the practical standpoint, though I incline to think that it might not have arisen at all had the substance of the measure of 1913 been incorporated in one revised Act covering all cases that are now dealt with by two. It is to be hoped that in time this anomaly may disappear, in the interests of both science and practice, and

that the law on the whole subject may thus be uniformly interpreted and administered.

(2) The questions that have arisen concerning the due certification of young children under the new Act are on the whole somewhat different from that which has just been noticed, and turn much on the difficulty of distinction between cases of mentally defective children, properly so called, and of children whose subsequent history practically shows them to belong to the class which the terms of the Act would certainly exclude. Now in a very large proportion of the cases of children coming under question, ample and ready evidence is available touching their history from birth upwards, both as to their conduct and grade of intelligence, as indicating, together with the actual examination of the expert, such a degree of permanent mental defect as makes it unsafe to leave them without proper care and control, and thus renders them certifiable under the Act, either as "feeble-minded" or as "moral imbeciles." But in many cases, suspected or roughly classed as subjects of mental deficiency, there is doubtless a considerable difficulty in rightly placing them; and this difficulty necessitates not only careful and repeated observation, but also a thorough testing, by properly chosen educational experiments, of whatever faculties they may possess. The more experienced the observer, the sooner may be detected the difference between the congenital defective and the child who is sufficiently teachable. There is a further question of considerable, but, in this special context, of somewhat subordinate importance, *viz.*, that which concerns the proper grading of feeble-minded children in schools adapted for such instruction as they can receive. Into the first of these two questions has been imported to some extent the confusion, already mentioned, of the terms "mind" and "intelligence," "mental" and "intellectual"; and there has been a great tendency to forget that in children, as well as in adults, the inference of their being the subjects of "feeble-mindedness" is, and must be, drawn not only from their low powers of learning what they are taught in school, but also from the further positive evidence, gained by observation as they grow up, of their deficiency in that sphere of mental function which is commonly called "moral," and concerns especially the question of fitness to live in society without causing harm to themselves or others. Of course,

even in young children there are cases where great incapacity to learn, *i.e.*, to understand or to retain what they are taught, is quite enough by itself to settle the question of their "mental defect" without waiting for the more overt acts, or omissions to act, that may, later, afford prominent evidence of mental defect, not only in these cases, but also in many others where the defect of intelligence alone is not sufficiently apparent to allow the correct diagnosis to be made. The practical difference between the intellectually feeble and the "moral imbecile" has been known for long. Moral imbeciles were quite properly introduced into the new Act as a group by themselves on account of their importance as a practically recognised class; but they would certainly have been far better and more logically placed as a sub-group of the "feeble-minded." Prof. Pearson condemns, as we have seen, the application of the term "mental defective" to the subjects of the Mental Deficiency Act generally, on the strength of his own use of the term "mental" as exclusive of all the faculties of the mind except that of the intellect, and appears not to have detected the presence of the "moral imbecile" in the Act under the guise of "mental" deficiency. He therefore proposes "Social Inefficiency" as a term in substitution for "Mental Deficiency," and apparently considers this proposal as important. But such a mere change of terminology is neither useful nor, indeed, practicable; nor does it add to the means we have for distinguishing the persons who should be cared for or segregated under the Act; and although Prof. Pearson seems to look for the invention of some definite method of "standardising judgments" on grades of "Social Inefficiency," he gives no indication at all for devising any such scheme. The truth is that all those who are conversant with the subjects with which the Act deals are well aware that there is no standard, no hard and fast line that can be laid down for fixing the qualifications for the legal control of "mental defectives" any more than in the case of other mentally disordered persons. The due diagnosis between the feeble-minded and the normal-minded with a view to certification is only to be made after a careful study of each case. No definite method of standardisation is to be expected. In saying this I fully recognise the difficulty which must often exist in differentiating between such young children as appear only at first sight, or for some time longer,

to be mentally defective within the meaning of the Act, and such as prove to be really thus defective. For very often there is no concomitant bodily defect or physical sign to assist the diagnostician even after very careful search, and sometimes there is a very doubtful previous history. Observation and experimental attempts carried out by careful teachers will go far towards elucidating the question of the likelihood of any improvement. In no case of any difficulty should an attempt be made to decide the question of certification in a child without observation prolonged over a considerable period.

It was remarked in one of the papers read before the Annual Conference, in 1915, of the National Association for Promoting the Welfare of the Feeble-minded, that a school doctor is expected to determine at a single interview whether a child he has never seen before is mentally defective, or is simply "backward" (*i.e.*, as I suppose, suffering from effects of neglect, ill-health, etc.). The writer correctly insisted that many mistakes would thus be made by reliance on any standard tests for intelligence. But we may surely trust that this procedure by single interview is neither enjoined by authority on any medical observer whatever tests he may use, nor allowed, if its employment be known, to be repeated.

Concerning the general question of the use of standard tests for grading *intelligence* in children, I can express only my opinion, based on what I have heard or read, that there is good evidence to show that the use of such tests as those known under the name of "Binet-Simon," or others of like nature, may be of value in practice by affording a ready means for the preliminary grading of children in classes; for recording cases with a view to making a report, or to their transference from one school to another; or for serving as a help to observers towards recalling the results of the successive interviews found necessary in arriving at a decision. Although I have no personal experience of this method of grading intelligence either in children or adults, I have learned enough, especially from papers read at the above-named Conference, at which I had the honour to preside, to recommend to those who are interested in this matter a study of the report of the Conference; and also to infer that, short of being regarded as providing any royal road to diagnosis or certification under the Act, or to

giving evidence in a law court, these tests, cautiously employed, may prove to be of practical use in some directions.

To sum up on the general question of testing a person's mental capacity in order to determine whether he is or is not "feeble-minded" within the meaning of the Act, I would repeat that no mere sitting examinations can be expected to suffice. The Act describes feeble-minded persons as those in whom there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they, by reason of such defectiveness, appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools. The only way to determine whether the examinee can do a thing is to observe whether in fact he does it. The description points to defect in the way he manages his life in all its circumstances and aspects, and this cannot be investigated by any verbal examination. It can be tested only by observing him in the circumstances of his life, and determining how he behaves in regard to them; how he deals with them, and how far he succeeds or fails. In other words, the test is conduct.

IV. At the risk of some repetition, I desire to lay further emphasis on the important conception of disorder of conduct as the essential factor in the diagnosis of all kinds of what is called mental defect. This concerns not only the matter already passed in review, but also that which will follow in treating of mental defect in relation to crime and responsibility. Many years before I had much practical conversance with the subject of mental disorder I became convinced that Mercier's now well-known teaching on this question was not only plainly true, but also immeasurably useful in attaining to clear notions of what insanity consists in, and of the right way to recognise and describe it in individual cases; and the strength of my conviction of its importance has grown with increasing experience. I had long been accustomed to hear that insanity could not be defined, and at the same time to find, in books on the subject, numerous and usually discordant accounts of it purporting to be definitions; but Mercier's definition seemed to supply all that was wanted by intelligent students as an introduction to a subject that previously appeared to many almost as hard of approach as an uncharted land. It is now, I think,

widely accepted that disorder of mind does exist outside insanity ; that insanity cannot be defined as disorder of mind ; and that the disorders of mind which take part in insanity are inferred or discovered by observation of disorders of conduct, without which the diagnosis of insanity cannot be made. Not only skilled specialists, but also all medical men, as well as the laymen who often form provisional judgments on a person's sanity, do virtually draw their inferences and opinions from observations of conduct, not of mind ; not from what is thought or felt, but from what is said or done. These inferences, which may, of course, lead to still further inferences regarding the cerebral and other bodily states that accompany or underlie or more or less proximately cause the mental disorder, are based primarily on the observation of defects and aberrations of conduct, or, in other words, of a person's action or inaction in relation to circumstances. It would seem, indeed, that the very formulation of this doctrine is its sufficient proof. Yet it appears, not alone from a passage in the preface to the last edition of Dr. Mercier's *Text-book of Insanity and other Mental Diseases*, but also from other indications, that the explicit acceptance of this doctrine may not have made much progress during the many years that have elapsed since its promulgation ; and that, therefore, many persons may be acting upon it, as M. Jourdain spoke prose, without knowing it, or even when actually denying it, and thus hiding the truth in their hearts while the words of their lips are far from it. I certainly cannot corroborate the allegation of this doctrine's slow progress from my own observations, which seem rather to indicate a fairly general recognition of the truth and utility of Dr. Mercier's teaching ; but, on the other hand, I am not in a position to challenge it. Should it be true, I can but say, *mirror magis*. That very condition of the lunacy certificate which demands the statement of "facts observed" implies the fundamental truth of this doctrine. We cannot observe the contents of another man's mind or the function of those parts of his brain which we surely conceive to be affected. Nor even even if our knowledge should so far grow as to demonstrate still further links in the chain of causation, such as metabolic changes originating in other internal organs, would disorder of conduct be any the less important as an essential element in any clear concept or practical definition of insanity.

In concluding this section of my notes I would shortly refer to the importance of the conduct test in its special bearing on the question of duly assessing degrees of responsibility in persons charged with committing criminal actions, but apparently not rightly liable to the full penalty for what they have done. Some cases of this kind come, of course, within the category of "mentally defective," and especially "feeble-minded" persons, including the "moral imbeciles." Others would be included in the long-recognised clinical class of "morally insane"—a class which perhaps has been the chief subject of dispute between physicians and jurists on the matter of criminal responsibility. Now, this group of "morally insane," properly regarded though it may be by some jurists, is still not legally placed or duly recognised, and is likely still to cause trouble and confusion unless the well-known conception of criminal responsibility nominally accepted in law undergoes material modification. It must be remembered that in cases of each group we are considering there is very often difficulty in proving defect in intellect by ordinary tests, or indeed by any tests apart from considerations of conduct, *i.e.*, of the actions of the persons in question, studied in their relation to all the discoverable circumstances in which the actions were done. The importance of the conduct test is thus seen in connection both with the matter of the diagnosis of non-criminal cases of mental defect where the defect of intellect, though existent, is not readily demonstrable; and with that of deciding the degree of responsibility in a person charged with crime. In Mercier's work on *Criminal Responsibility*, published over ten years ago, some important amendments of the usually accepted legal formula concerning responsibility were suggested, one of which was the addition to the clause concerning "knowledge of the nature and quality of the act," of the significant provision that in order to incur full responsibility a man must not only know, *but also appreciate*, the nature and quality of the act, and also *know and appreciate the circumstances in which the act was done*. This addition, recommended by the joint committee appointed to report on the matter, was adopted, as is well known to the readers of this Journal, at the General Meeting of the British Medical Association last year; and will, it may be hoped, secure as wide an acceptance in legal quarters as has been accorded for so many years to the unamended

doctrine which was an indirect issue of the Macnaghten case. The only way to discover whether the criminal did know and appreciate the circumstances is to study his action in those circumstances, *i.e.*, in other words, his conduct. It seems, therefore, that full consideration of the acts done, and all the circumstances in which they were done, will often be of great assistance in cases of special difficulty, and will enable medical witnesses to show that, although the accused *knew*, in a limited sense of the word, that the act he did was wrong, he did not appreciate all the circumstances and consequences of his act, and thus misconceived and under-estimated its wrongness; in short, did not know how wrong it was. There are, of course, many cases which, in spite of the too rigid conception of criminal responsibility that has hitherto prevailed, are now often dealt with by greatly modified sentences. Offenders of this kind, though they may not be classed as strictly insane, should be subjected to other and more appropriate treatment than ordinary imprisonment. A case which is illustrative of these remarks has very recently been under my observation, and I hope to be in a position to refer to it in some further notes on "Mental Defect and Crime," which, by the courtesy of the Editors, may appear in a subsequent number of this Journal.

(¹) It may be noted here that Dr. J. S. Bolton in his recent book on *The Brain in Health and Disease* represents the new Act as using the term "mentally defective" instead of "feeble-minded" to denote the highest of the three specified grades of defect. A reference to the Act would have shown that the contrary to this statement is true.—(²) See *Brain*, Part cxxiv (1910). *Journal of Mental Science*, 1905-1908, and Dr. Bolton's book already referred to.

Cases of High Grade Mental Deficiency.(¹) By JANE I. ROBERTSON, M.B., Beit Memorial Fellow, Eastern District Hospital, Glasgow.

THERE is a class of individual loose upon society whose presence and significance in our midst seems, as yet, insufficiently and improperly appreciated. These people are usually of pleasant address, with all the outward show of civil social observance; they are fluent of speech, readily adaptable to circumstances, superficially in every way most plausible. How does it come, then, that on closer acquaintance they prove to be the scourge of their relations and friends; that many of