the symptoms, as occurred in these cases. Chronic poisoning is, of course, different fundamentally, since calcium fluorid and insoluble fluosilicates produce the intoxication quite readily. Calcium is the choice antidote for acute poisoning and should be used locally and systemically, the gluconate being better tolerated than the chlorid, both intramuscularly and intravenously. Charcoal can be profitably given in liberal quantities and left in the stomach after the lavage is completed. Tremors or convulsions, if present, can be controlled with barbital. According to Doctor Carr, the total fatal dose for a man is much smaller than has been frequently supposed. In the presence of food, recovery can probably result from larger quantities.

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C. D. LEAKE, Ph.D. (University of California Medical School, San Francisco).—As Professor P. J. Hanzlik of Stanford University has remarked in other discussions of reports by Doctor Geiger and the members of the staff of the Department of Public Health of San Francisco, the citizens and medical profession of the city may be extremely grateful for their splendid work. Doctor Geiger has developed a technique of frankness and honesty in his relation with the public and the profession which is almost unique, but which has been responsible for great and significant improvement in public health matters in San Francisco. The promptness with which Doctor Geiger and Doctor Carr are reporting to their scientific colleagues the essential facts in the recent fluorin poisonings in San Francisco is eloquent testimony of their desire to coöperate fully with their colleagues in every affair concerning public health. The difficulty of arriving at an accurate picture of the unfortunate situation is graphically described by Doctor Geiger. There is no doubt but that this incident will serve to bring about much more satisfactory public health control of hitherto unregulated food and drug dealers. It will also serve to bring to the city chemist improved apparatus and facilities which he has for so long needed.

Doctor Carr's report is an excellent review of the essential features in acute fluorin poisoning. The widespread use of various fluorids in pest control makes it necessary that all physicians be aware of the possibility of acute poisoning from these substances. The protection of water supplies to prevent chronic fluorin intoxication is a public health matter, and physicians must also be familiar with the symptoms of such poisoning. The review made by De Eds (*Medicine,* 12:1, 1933) is the best available on this matter.

It is interesting that the amounts of sodium fluorid taken by the individuals mentioned in Doctor Geiger's and Doctor Carr's reports is in the range of the minimal fatal dose that we found in animals. We found that 87 milligrams per kilogram would kill about half of the animals into which it was intravenously injected, and later we found that approximately this same dosage given by mouth was also in the minimal toxic range. This latter work was not reported. It was our opinion that the chief factor in acute fluorid poisoning is calcium precipitation. However, we brought forward definite evidence to indicate inhibition of enzyme action throughout the body (*American Journal of Physiology,* 90:426, 1929). We had previously found (*American Journal of Physiology,* 76: 234, 1926) that sodium fluorid by mouth is extremely irritating to the stomach mucosa, rapidly producing marked congestion and erosion in high concentrations. Although the weights of the patient referred to are not given, they took amounts of sodium fluorid apparently around three grams or more. Since there were two elderly women who died and one old man, it may be assumed that their weights were not very great and that they ingested and absorbed amounts of sodium fluorid in the range of 60 to 90 milligrams per kilogram.

The fluorids constitute a definite public health hazard, both from the standpoint of the accidental or suicidal ingestion of insect powders or chronic poisoning from contaminated water supplies. These reports by Doctor Geiger and Doctor Carr comprise an excellent survey of these dangers, and of the necessity of attempting to control them.

PSYCHIATRY AND THE LAW*

By BENJAMIN W. BLACK, M.D.
Oakland

DISCUSSION *by Walter Rapaport, M.D., Imola; J. M. Scanland, M.D., Agnew; Margaret H. Smyth, M.D., Stockton.*

MUCH confusion has existed in the minds of laymen as well as physicians, and also in the minds of attorneys regarding the use of the term "insanity." Many maintain that the term is purely medical, while others as seriously contend that it is a legal contribution, both as to name and as to conception. Glueck states that the specific term "insanity" seems first to have been introduced into the law by medical experts, finally superseding such terms as madness, lunacy and mental unsoundness, which were borrowed from the very imperfect psychiatric knowledge of the day. The word "insanity" seems to have been quite generally used by commentators on the law in early times, and it is probable that all such terms were popularly used until they were taken over by the first systematic writers both in law and in psychiatry, and applied to this specialized field.

RULES OF LAW GOVERNING INSANITY AS A DEFENSE TO CRIME

The rules of law governing insanity as a defense to crime are vague and confused; clearly unsound in that they are based upon notions of the mental disorder discredited by medical science. Owing to the careless use of language by judges and others in the law, insanity has become synonymous with criminal irresponsibility, by reason of a certain type and degree of mental disorder which was noted far in advance by means of artificial tests of criminal responsibility. Because the law has preëmpted the term "insanity" and specialized it, judges frequently employ the term in the sense of irresponsibility, while psychiatrists seek other terms to distinguish the mentally-ill without reference to criminal responsibility. This practice has resulted in judges on the bench frequently attempting to distinguish between "legal insanity" and "medical insanity." This subject has been under discussion by English and American courts, legislators, and legal writers for more than a century. As long ago as 1800 the brilliant Lord Erskine, in his argument as counsel in the trial of Hadfield, attempted to lay down a universal test of responsibility in cases where the defendant suffered from a mental disease. His effort and the efforts of others have yet failed to attain clarity and uniformity; and even to this date, no universal test of responsibility has been generally adopted. There are many reasons for this; but for a branch of learning which has as a specialized objective largely the definition of words and their making, the law is strangely lax in its use of the term. Unfortunately, the word has no technical meaning either in law or in medicine, and is used by the courts and by legislators ordinarily to convey either one or two meanings:

* Read before the Neuropsychiatry Section of the California Medical Association at the sixty-fourth annual session, Yosemite National Park, May 13-16, 1935.

(1) A type or degree of mental defect or disease, or (2) Such a degree of mental defect or disease as to entail legal consequences, as for example commitment to a state institution, appointment of a guardian, or to avoid a contract or relieve responsibility for crime.

Many states have a provision in law that no act can be punished which was done "in a state of insanity," or while the person "is insane." In one decision, this was held to mean that no act done by a person suffering from a mental disorder of any sort could be punished. On the other hand, it is generally held that persons are exempt from punishment only when so mentally disordered as to come within the test of responsibility which has been established or accepted in the particular jurisdiction served by the court. Great clarification would immediately result if the term "insanity" could be eliminated, and in its place the use of some other term as, for example, "mental disorder" or "psychosis," or by the use of a more specific term when referring to the medical concept of mental ill health, and other terms clearly legal to describe the concept having to do with the lack of responsibility by reason of insanity at the time the crime was charged, or present insanity at the time of the criminal proceedings.

PRESENT ATTITUDE OF CALIFORNIA COURTS TO INSANITY

For the purpose of this discussion, the present attitude of the courts relative to insanity in California is attempted, so that our conception concerning the term "insanity" and its implications when used as a defense for crime may be better understood and at the same time pertinent facts may be submitted which permit a more intelligent service by physicians who may be called to serve the courts. From a recent charge to a jury in the Superior Court in this State, one may find clearly the attitude of the Bar toward the plea "not guilty by reason of insanity" as usually permitted as a defense for crime. This particular Superior Judge stated that the general test which is recognized by the law in California as being the test by which to determine whether or not a person charged with a crime should be held responsible for his acts or should be excused because of some diseased mental condition, is called the Right and Wrong Test:

"The law presumes every man to be sane and to possess a sufficient degree of reason to be responsible for his crimes until the contrary is proven. To establish a defense on the ground of insanity, it must be clearly proven that at the time of the committing of the act the party accused was laboring under such a defect of reason from a disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know he was doing what was wrong.

"It is at once apparent from a mere statement of this test that there are many persons suffering from various degrees and kinds of mental diseases, and who for most purposes would ordinarily be regarded as insane, but who nevertheless have sufficient mentality to know the nature and quality of their acts and to know that what they are doing, or may do, is wrong, and who, therefore, are to be called sane under the legal test just given. The law is thoroughly aware that under the right and wrong test, persons who are mentally diseased may nevertheless be found to be sane, but the reason for the character of the test is to be found in the purpose for which the test is used. The right and wrong test was never intended as a method of determining the existence or nonexistence of mental disease. It was intended as a method of determining whether persons charged with crime should or should not be relieved of the ordinary consequences of their acts by reason of a diseased mental condition. The law does not recognize a diseased mental condition as being of itself a defense to crime any more than it so recognizes a diseased physical condition; and a diseased mental condition relieves a person charged with crime of the consequences of his acts only when his defect of reason is such that he is not aware of the wrongful nature of his act."

FINDINGS OF THE EXAMINING PHYSICIAN

With this clearly in mind, a physician called to examine a person who has entered such a plea must find that the patient at the time of the commission of the crime must have been so deranged mentally as to be unable to determine the difference between right and wrong. He must have been so seriously deranged mentally as to be unaware of his surroundings: unable to tell where he was, who he was: or properly identify persons with whom he was associated or with whom he came in contact. He must have been, because of his mental disorder, so greatly deranged as to be unable to appreciate the action of the court or confer with counsel relative to his own defense. He must be unaware that the commission of a crime results in punishment, and must be unable to understand that if guilty of the crime charged, he will be punished by commitment to the penitentiary or punished in some other manner.

CALIFORNIA LAW REGARDING COMMISSIONS OF THREE PHYSICIANS

In this State the law permits the court to appoint a commission consisting of not more than three physicians, one of whom shall be an active member of the staff of the state hospitals, and either of the other two may or may not be a trained psychiatrist, but each must have had experience concerning insanity in order that they shall advise the court relative to the findings after examining the defendant in court and hearing the testimony given. In criminal proceedings the defense, as well as the prosecution, is permitted to employ alienists who are presumed to have special knowledge governing mental disorders, and who are expected to testify from examinations made, from information received, and from observation in the court, their conclusions relative to the mental capacity of the defendant. The commission appointed by the court is expected to reserve its opinion until all the testimony is in, and then arrive at an opinion when all the facts are in its possession. The commission is presumed to be entirely impartial; the presence of members of the commission in the court is in the capacity of expert advisors to the court itself. The jury makes the final decision, and in spite of the testimony of experts and alienists who may appear, the decision of the jury is final, and when the jury determines the mental capacity of the defendant, such a decision must stand as a part of

the record of the court. Alienists and other physicians are often times expected to testify from a series of hypothetical questions presumed to cover the testimony introduced, and from such questions draw the conclusion as to the insanity of the hypothetical person, well known to all to be the defendant in the case.

RESPONSIBILITY OF THE INDIVIDUAL PHYSICIAN AS A PSYCHIATRIC EXPERT

A psychiatrist or other physician appointed by the court or employed by either the prosecution or defense to examine a person charged with a crime whose defense is a plea of "not guilty by reason of insanity," must appreciate that his determination in the case under present court procedure is one of responsibility or lack of responsibility governing the action of the patient at the time of the commission of the crime charged. The physician must secure a very complete history, even going back to the ancestry of the defendant to determine any mental trends, diseases, or disorders in the family tree. He must secure information concerning the birth of the person; his infancy, any facts having to do with abnormalities of birth; delayed development as demonstrated in delayed walking or talking; any serious diseases from which the patient suffered in infancy. He must rather clearly distinguish the amount of schooling the patient received, his adjustment to school life, subjects in which he excelled, his general information acquired since leaving school, his general reaction to his environment up to the time of the commission of the crime, as well as his adjustmejnt to society and to business or to his profession. He should determine the reaction of the patient to the facts relative to the commission of the crime and to the events immediately subsequent to the commission of the crime. Did the prisoner or patient plan the crime with any degree of intelligence; was the plan reasonably successfully carried out; after the crime was committed, was a reasonable attempt made to conceal the crime; did the patient attempt to evade arrest and conceal himself from the police, and did he attempt to escape? What was his attitude at the time of arrest and since his confinement; his philosophy of life relative to the commission of the crime, the value of property, sacredness of person? The presence of delusions or hallucinations, if found, should be carefully analyzed to determine if there is any relationship between such delusions and hallucinations and the crime committed. Does the prisoner have sufficient memory, recent and remote, to remember reasonable events, both before and after the time the crime was committed; is he sly in his attitude toward the physician, and does he attempt to conceal pertinent facts relative to the crime for the purpose of exonerating himself from blame?

PROCEDURE WHEN IT IS CLAIMED A PERSON IS INSANE

In the State of California physicians are concerned with another phase of the term "insanity" and its implications as applied to persons suffering with mental disorders. A person may be found in his home to be suffering with a disorder of mind that in the opinion of his relatives or neighbors makes him dangerous to be at large. When such is true, the interested person proceeds to the office of the district attorney where an affidavit is filed in which the offending party is alleged to be insane. The affidavit must definitely state that there is a degree of mental unsoundness to an extent as to endanger the life of the person concerned; the lives of his immediate associates or members of his family, and that the person so concerned is also a menace to property. Under such conditions, the court of proper jurisdiction issues a "warrant of apprehension," and when such warrant is issued, it is placed in the hands of a police officer or a deputy sheriff, who calls at the home of the patient and takes him into custody, and delivers such a patient to a place of detention—the county jail, a room in a county hospital or, in the larger counties, the psychopathic ward, where he is held for a period of observation.

Shortly after his delivery to the psychopathic ward or some other place of detention, it is necessary under the present court procedure in this state, to "arraign" the prisoner. The judge appears before the patient or the "prisoner" so confined, and reads to him the affidavit, or makes a statement containing the pertinent facts contained in the affidavit, and indicates to him that the time for hearing is set for a given future date; that he may have the benefit of counsel; that he may have witnesses subpoenaed who will be required to testify in his behalf. He is also informed that if he is found to be insane and committed to a state hospital, he may have the right to appeal, provided the appeal is made within five days after such commitment, at which time his case will be tried in the Superior Court in the presence of a jury who will determine, on the basis of his appeal, whether or not he is insane. It is the experience of all persons who have to do with the detention of patients charged under such warrants, that not infrequently the judge makes this formal statement to patients who are in the midst of manic excitement from many of the various psychoses from which they suffer, or who are so confused in mind as to be unable to distinguish their location or the persons surrounding them, and in some cases they are even unable to determine their own identity. On the date set for hearing, such persons are personally brought into court and in the presence of witnesses, who may be loved ones and neighbors, the court hears the testimony relative to the mental disorder from which the patient suffers, particularly the erratic behavior, if such be present, or peculiarities manifested to these interested friends and neighbors who have led to the issuance of the warrant. The court appoints two physicians who may or may not be psychiatrists to hear such testimony, and in the presence of the court these physicians prepare a blank which is required by the state hospital service

covering pertinent facts pertaining to the history and mental examinations. After a very short period of observation and with the testimony in their minds, these two physicians are expected to recommend to the judge concerning the sanity of the person concerned, and as to whether or not he should be committed to a state hospital. The judge is not bound to follow these recommendations, but may determine individually as to the disposition of the case. However, under ordinary conditions, he accepts the recommendations of the two physicians appointed, and if the recommendation is commitment, the patient is committed. The judge may also, in his discretion, discharge the patient from further custody of the court, even though the person has a well marked psychosis, but is not shown to be a menace to other persons or property.

CRITICISM OF THE PRESENT LAW OF COMMITMENTS

This procedure has come to be known in loose language as "a finding in medical insanity." The law under which such commitments are made, with certain modifications and amendments, dates back to more than half a century. Modern thought is in favor of doing away with this apparent criminal approach to persons long recognized as suffering from a mental illness. The present law does not presume to take into consideration the simple fact that the person under consideration is suffering with a mental disorder and requires institutional care, unless it is found that such a person, by virtue of behavior already shown, becomes a community menace. Attempts have been made to modify the law to permit a more scientific approach with the simplification of court machinery to permit the admission of mentally sick individuals to state hospitals without the stigma that is always incidental to such court action.

DEVELOPMENT OF PSYCHOSIS SUBSEQUENT TO COMMISSION OF A CRIME

Between the time of the commission of a crime and the date of trial, a patient confined in a prison awaiting trial may develop a psychosis. If such is found to be true, the court orders a hearing to be conducted under conditions similar to those of a civil commitment just described. If the prisoner is found to be insane, but it is determined that his insanity has no relationship to the time of the commission of the crime charged, he is sent to a state hospital where he remains until his mental condition is sufficiently recovered so that he may be discharged. It is a requirement of law that when such a person is discharged from the state hospital, he must be returned to the sheriff of the county of original jurisdiction, and the district attorney is required to proceed to prosecute the case under the original indictment which refers to the crime committed. The fact that he has been a patient in a state hospital does not have any bearing upon the case if it is at this time shown that the patient was responsible at the time of the commission of the crime.

THE TERM "PSYCHOSIS," FROM THE MEDICAL AND LEGAL POINTS OF VIEW

The term "psychosis" now has a modern usage to indicate the presence of a mental disease, and is used to define a mental disorder of a functional type or one organic in origin. It is used in the practice of medicine by physicians who are careful of their language and properly by psychiatrists in discussing mental diseases, and has no relationship whatever to the legal aspects in any given case. The term itself does not take into account menace to property or person, nor does it have any relationship to responsibility to the law or the ability on the part of the patient to distinguish between right and wrong. The classification of the American Psychiatric Association should be the basis of all findings in the practice of medicine by psychiatrists in dealing with mental patients. If this terminology is used, it will tend to eliminate from our ordinary work the use of the term "insanity," which has no connection or relationship whatever to the term "psychosis," and it will enable the intelligent physician to properly distinguish and label the presence of mental diseases without the use of this term.

ETHICS RELATING TO EXPERT TESTIMONY OF ALIENISTS

Psychometric tests as such are not required to be covered in the testimony of alienists, but are important in their hands to assist in decisions relative to responsibility. Even in the presence of a mental disorder under our present court procedure, insanity as a defense for crime may not be shown. An alienist who is retained by either side in a case involving the commission of a crime should accept a retainer only for the purpose of making an examination of the prisoner, after which he should render a report to the attorney who arranged for such examination. He should draw his conclusion quite independently of any interests the counsel for the defendant may have in his examination. If he is retained by the prosecution and after a complete investigation has been made, concludes that the patient is not insane, he may then properly agree to testify for the prosecution. If, on the other hand, he finds that the patient is insane, he is similarly bound to make such a report to the prosecution and to state his position clearly when, under ordinary conditions, he will not be permitted to testify for that side. He should not, according to professional ethics, testify in opposition to the side for which he made his original examination. The literature contains many opposing decisions relative to this particular matter, but it is generally agreed that "to require a physician to render expert testimony without proper compensation would, in the last analysis, be antisocial." It is also considered that a reputable attorney dealing with a reputable physician would not arrange for testimony to be given by such a physician if he had been retained by the counsel for the opposing side and for whom the original examination was made, even though his testimony were not used by the side that originally retained him.

ATTITUDE IN COURT OF PHYSICIAN WHO TESTIFIES

A physician should not be concerned with the ultimate guilt or innocence of the prisoner examined. He should assume the attitude that his information has been acquired in a legitimate manner, and he is coming into court having been properly retained to give expert opinion for the benefit of the court and jury in order that findings of justice to the prisoner may be made. An alienist should never appear in court without having carefully prepared his case. He should not only know the case at hand, but he should be familiar with the literature, both medical and legal, governing such cases, and as it applies to conditions under which he is working. He should assume a neutral attitude, being truthful in his answers, and sincere and impartial in his testimony and the deductions made from the testimony. Only under such conditions may alienists expect to demand and retain the respect which is due them as expert witnesses in criminal cases where insanity is an issue.

Highland Hospital.

DISCUSSION

WALTER RAPAPORT, M.D. (Napa State Hospital, Imola). I wish to add my word of approval for the elimination of the word "insanity" from medical diction and the relegation of that term entirely to legal terminology. I never use it in a medical sense, in or out of court, and that fact alone has saved me the embarrassment of quibbling over so-called medical and legal insanity.

One phase of the question of insanity has not been touched upon by Doctor Black, and that is when the question arises after arraignment and before the termination of the trial. If it appears to the court, either by suggestion of counsel or by any other means, that a defendant has not sufficient mental capacity to proceed with his defense, the court interrupts the trial and directs an inquiry into the mental capacity of the accused. In that case the requirements are a little different from that in the issue of insanity regarding the defense.

The question of the last aforementioned instance is not whether the accused is suffering from a mental disease, but whether or not the accused has sufficient mental capacity to understand what is going on, and to assist his counsel in the conduct of his defense.

While it is true that the mere showing of the presence of mental deficiency is not a defense to crime, yet here, as in all other questions of criminal procedure, the question of intent is relevant. Therefore, if the mental age of the individual is so low that he would not be able, by reason thereof, to form an intent, then it would be material as a defense. In many states it has been decided that the mental age of seven years is the dividing line below which the assumption is that the accused would not have sufficient intelligence to form an intent.

When a showing is made that a psychosis has been developed subsequent to conviction, the individual may be treated in the prison or sent to a state hospital for the insane for treatment. If he should recover before the expiration of his sentence, he is returned to the prison for completion of his sentence. If he does not recover prior to the completion of his sentence, his status changes at the termination of his sentence to that of an ordinarily committed insane person. If the sentence is capital punishment, and the individual develops a psychosis before the sentence is carried out, the sentence is stayed until he recovers. He may, during this time, be kept at the prison or be sent to a state hospital for the insane, to be returned as before mentioned.

The question of the relationship between a person suffering from mental disease and the making of contracts is also a pertinent one, but does not concern us in the present discussion.

The expert frequently invites undeserved condemnation because of his lack of understanding of what is required of him. I have heard it said that a medical expert should confine himself to medicine and disregard all else.

To follow this advice implicitly leads to trouble, because it permits of much speculation and theorization; all permissible and commendable in medicine, but in the court it frequently only adds confusion. The court is interested only in the case at bar. It is not interested in what might happen in many and divers situations, but what it can reasonably be supposed did happen in the present situation. The court sets out what the law is, and what the law requires and expects. The expert should confine himself to these restrictions and attempt, if possible, to give his best judgment in the matter. The fact that the expert does not feel that the law is correct is not his problem in court. If he is interested in espousing his theories and speculations of what the law should be, he should do so before the legislature and not during his appearance in court.

It is conceded that certain peculiarities and even frank psychoses might be present in the accused. But in a plea of not guilty by reason of insanity, that is not the point at issue. Doctor Black has told you what the points at issue are; and, unless these peculiarities or psychotic manifestations are such as to meet the legal requirements of insanity, opinions on that score are immaterial and inconsequential, and if indulged in by the witness only befuddle and confuse the issue and bring contempt on the expert.

The issue of peculiarities or psychotic manifestations are material during the trial if, by reason of them, the accused cannot conduct his defense; or if, after conviction, the accused is found to be suffering from a psychosis, he may be directed to an institution for the treatment of his mental condition without disturbing the issue of guilt or innocence.

There is an element of law enforcement to which all should contribute their efforts, and it is not the duty nor the right of an expert to interject immaterial, speculative, or highly improbable opinions with the view that, by giving such opinions, he might help his client or give voice to his disapproval of existing jurisprudence.

Undoubtedly, there is much in medical jurisprudence that could be improved upon to the benefit of all concerned, and it would be, perhaps, an excellent move if this section were to have a standing and permanent committee whose duty it should be to study the problem to the end that better legislative action could be had. But the courtroom, at the time of a trial, is not the place nor the time for such activity.

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J. M. SCANLAND, M. D. (Agnew State Hospital, Agnew).—The subject of psychiatry and the law is one in which we are especially interested. We of our specialty are frequently "ordered" to give expert testimony in superior courts as psychiatrists, when the plea of "Not guilty by reason of insanity" has been entered as defense for crime, and in other cases in which the subject of insanity is an issue.

I agree with Doctor Black that the term "psychosis" is far preferable to that of insanity, and think we should school ourselves in the use of the more dignified and professional expression. To an extent, too, as Doctor Black has so well said, the use of the word "psychosis" rather than "insanity" might bring to juries and courts a better understanding of our conception of medico-legal responsibilities. However, it is likely that clever lawyers would soon come to define the term "psychosis" as it may apply to the subject of expert medical testimony to be much, if not quite the same, as is the present interpretation by the courts of the legal meaning of insanity.

Doctor Black, in his article, has referred to an interpretation and explanation of the laws of California by a Superior Court judge in a written summarization prepared for the guidance of medical witnesses in procedures in which insanity is a question, and in which it is clearly set forth that "the only test of insanity which is recognized in criminal cases is the right and wrong test."

The State Supreme Court has more than once ruled on the subject of such evidence, and states in an opinion of a certain case:

"Responsibility depends on whether the defendant knew the nature and quality of the act at the time of its com-

mission, and the wrongfulness of the act. If he had sufficient mental capacity to know what he was doing, and to know that it was wrong, he is legally accountable for his act. Even though he may be mentally abnormal or defective, or may suffer from some nervous disorder, he is, under our law, held to full responsibility for his act unless the evidence brings him within the strict legal meaning of insanity."

This then is the law, and certainly it is not within our province, nor is it our intention or desire to question an opinion from such a source.

Another law, however, if added to the statutes of the State would, in my opinion, simplify and probably clarify this problem of psychiatric expert testimony. I have in mind and suggest an amendment of an existing law providing that Superior Court judges in cases in which defendants have pleaded "Not guilty by reason of insanity," appoint medical commissions as is now provided, adding a mandate to the effect that no other medical testimony be admissible.

An objection might be raised to this that such an act would be discriminatory, and therefore unconstitutional; but it would seem to me that Superior Court judges should have this latitude and authority in such cases, and that legislation to this effect could be created in a manner that would be constitutional.

Or, a law might be passed in this State similar to those in effect in other states, making provision that the Superior Court judges in cases wherein insanity is entered as defense be empowered to order the defendant confined in a state hospital for a period of not less than thirty nor more than sixty days for an examination by the superintendents and medical staffs of state hospitals, who will be required to give an opinion to the court as to the sanity or insanity of defendant at the time of the commission of the crime.

The statute now in effect provides that in such cases the Superior Court judge presiding must appoint two or more physicians to "examine defendant and otherwise inform themselves concerning his mental condition." In accordance with the provisions of this statute, Section 1027 of the Penal Code of California, the judge orders these alienists by him appointed to "examine the said defendant and investigate his sanity and to testify in court in reference thereto." Under this law both attorneys for the defendant and attorneys for the State may question, and cross-question, and examine the medical experts as freely as may the judge.

It would surely seem that this procedure should bring out all the worthwhile expert testimony necessary to the case on trial, and is a fair and just and comprehensive presentation of expert medical evidence.

If then, as above suggested, no other medical testimony be permitted in such cases, and if no other alienists be called by attorneys for the people, the ends of justice would be better served. How often have we seen a doctor or group of doctors offering expert testimony on one side of a case in court, and another or more doctors on the other, each side earnestly testifying to opinions, and even that which they profess to believe to be facts, that are entirely different one from the other; and it seems equally ridiculous that a jury of laymen may be expected to pick and choose between experts who testify to conflicting opinions. And if experts cannot agree, certainly juries cannot be expected to agree.

This imposition on the public and on our profession could, I believe, be remedied by the enactment of a short statutory provision as above suggested.

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MARGARET H. SMYTH, M. D. (Medical Director and Superintendent of Stockton State Hospital, Stockton).—Psychiatry and the law have been running on parallel lines for a long time, but the indications seem to be that the lines are changing their direction and fusing into better comprehension of the two viewpoints in so far that both lawyers and medical men show a dissatisfaction with present meaning and procedure.

The term "insanity," to which blind custom and habit seem to have given a fixed place in legal and medical diction, possibly has had a legitimate excuse for being when first formulated, which the title of Doctor Black's paper points out. The legal side of psychiatry is certainly an important one, and especially so from the standpoint of responsibility.

A person suffering from a serious mental disorder is sent to a state hospital unless he has private means to be cared for elsewhere. In case a commitment is considered, legal procedure becomes necessary. The procedure in this and in many of our states could be changed in some respects with considerable benefit to the patient. It is encouraging to see better and more widespread understanding of modern psychiatry in the past several years, with psychiatric wards provided in many of our county hospitals and with deputies endeavoring to improve their methods in conveying their charges to the hospitals. A mental patient arrives at the hospital in a far more comfortable state than was true some ten or fifteen years ago, at which time a large number arrived in full restraint, fearful and uncomfortable.

The law now offers voluntary admission of patients on written request to the superintendent of the hospital. This law is being taken advantage of to such an extent that at the present time the six state hospitals in California have under care for treatment ond observation 504 voluntary patients. This plainly shows the course a mental patient with some insight will follow if medical aid is offered, and without the necessity of resorting to legal measures for admission to a hospital giving the patient the benefit of early treatment for his particular illness.

As for a trial by jury when required to determine sanity or insanity of a defendant, when the time comes for a medical man to ask the opinion of a jury as to whether a patient is suffering from chicken pox or smallpox, the psychiatrist may then hope to request a jury to sit on a case of dementia praecox or paresis. However, it is for the determination of sanity or insanity that the jury is called. The jury gleans its information from witnesses and the testimony given by physicians appointed by the judge of the court or called on the case. One cannot be too critical of the findings of the jury of inexperienced men when, in certain instances, the medical experts themselves disagree as to the diagnosis in the individual's case.

Psychiatry, I believe, is one of the most important branches of medicine, and I am in agreement with Doctor Black's statement that the classification of the American Psychiatric Association should be the basis of all findings in the practice of medicine by psychiatrists in dealing with mental patients.

FRESNO COUNTY PART-PAY PLAN*

By H. M. GINSBURG, M.D.
Fresno

DISCUSSION *by A. E. Anderson, M.D., Fresno; John Hunt Shephard, M.D., San Jose; Charles A. Dukes, M.D., Oakland.*

A BRIEF summary of the Fresno County part-pay plan is submitted to show number of cases and results between July 7, 1933 (the date of its inauguration), and December 1, 1935. The plan was slow in its showing, due, first to a lack of medical social service workers, and, second, the fact that the plan was new and workers were reluctant to refer cases with small fees. The medical social service department, under the supervision of trained medical social workers, was not established in the General Hospital until October 1, 1934, and yet, as will be seen in the statistical report, it is a vital factor in the working of the plan.

HOW THE FRESNO PLAN FUNCTIONS

The plan has been outlined previously and, briefly, functions as follows: The medical social

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