THE INSANE COMMISSION OF THE ST. LOUIS CITY JAIL, AN EXPERIMENT IN CIVIC MEDICINE.*

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The work which this paper attempts to outline is in the nature of an experiment in the *Grenzgebiet* where the problems concerning law and medicine are most frequently encountered. The lamentable position which so-called expert medical testimony has reached in the courts of the United States justifies any logical attempt at improvement, and this Society furnishes an admirable place before which to present such an attempt. The special features of criminal procedure in the St. Louis Criminal Courts give to this attempt a certain unique character, although the conditions elsewhere present largely the same sort of problem. Mention should be made in this place of the indebtedness which we feel to the efforts of Dr. Stedman of Boston towards the improvement of the procedure in criminal cases in which the question of responsibility is raised. Much of the inspiration to our modest efforts in St. Louis is due to his work.

The main purposes underlying the organization of the commission of which this paper treats were the cultivation of a better standard of expert medical testimony in respect to mental questions in the Criminal Courts of St. Louis, the training of a group of experts in such questions for service in the courts, and the collecting of such data as afterwards might prove of value in respect to the problems that arise in the relation of the criminal to nervous and mental diseases.

The central idea of this whole experiment is that all expert testimony should be given on the question at issue and should have nothing whatever to do with one side or the other in the actual legal test of the case. In other words an expert exists for the sole purpose of informing the court upon questions of the proper interpretation of facts lying within the limits where expert knowledge is required.

A brief description of the organization of the criminal

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courts in St. Louis and the relation of the administration of the City Jail and the Circuit Attorney to them might serve to make clear the special problem which this commission had to face.

There are nine circuit courts in St. Louis presided over by nine elective circuit judges. Two of these in rotation sit in the criminal division, thus forming two criminal courts. In addition there is a third criminal court called the court of criminal correction whose jurisdiction is more limited. This latter court has its own prosecuting officer who is appointed to that position. The circuit attorney of the city is the States' representative in all criminal cases. The city jail contains all prisoners who are awaiting trial or who have been sentenced, and who for some reason are kept there until final decision in their cases are reached. It is thus seen that the prosecuting attorney determines the matter of prosecution, and it is clear likewise that the question of responsibility concerns his office first of all. By an ordinance of the city the chief dispensary physician is likewise the chief physician of the jail, and before the present commission became active he was the chief psychiatric expert of the State in all such cases in which a plea of insanity was brought forward, or in cases where insanity was clearly present in the first instance. It is obvious that the proper time to consider the question of mental responsibility is before the trial takes place, and not at the trial where the defense of insanity becomes not a medical question but partakes of the character of an *ex parte* appeal to the jury. It became the first object of the commission to have the question of a prisoner's sanity decided if possible before the formal processes and trial took place.

For many years the most common defense in major criminal cases was that of insanity, and for the organization of this defense the defendant hired such experts as the size of his purse would allow to testify to his insanity; the State opposed to this the testimony of the jail physician who was not at all trained in psychiatry nor even interested in its problems. As a result of this method expert testimony became prejudiced, illogical, and was given not upon the question but as a defense or prosecution argument. Nothing need be said concerning the average quality of the expert testimony in

regard to mental questions in the criminal courts, suffice to say that neither judge, jury nor lawyers were impressed with its weight. The idea of the present commission arose from a knowledge of these conditions and the conviction that better methods would in the long run help to create better standards which could not be disregarded. The preliminary steps in the organization of this commission will be omitted here, mention merely being made of the valuable aid given to us by the present chief dispensary physician, Dr. Scherck, whose assistance and encouragement have made possible the experiment of which this paper treats. A scheme for the improvement of expert testimony and examination of prisoners suspected of being insane was drawn up and presented to the two judges then sitting on the criminal benches. This memorial was as follows:

1. The Courts and jail physician should appoint a body of three experts who are to be specialists on nervous and mental diseases with knowledge and training sufficient to enable them to speak with authority on these subjects. The jail physician by virtue of his office and his interest in the charges under him is to be the fourth member of this body.

2. One member of the body is to be appointed a chairman. His duty will be to apportion the work to be done and to be the representative of the body whenever such representation shall be necessary.

- 3 Whenever in the opinion of the circuit attorney, the jail physician, or the presiding judge there is committed to the jail a prisoner in whose case there is any suspicion of mental disease either past or present which has any bearing on the case whatever, such a prisoner before coming to trial should be examined by this body of experts either singly or collectively, as the case demands, for the purpose of determining his responsibility, his irresponsibility, degree of irresponsibility, and his final disposal if his irresponsibility is established.

4. The decision of this body is to be submitted in writing to the judge before whom the prisoner is to be tried. If the decision is not unanimous a dissenting opinion can likewise be submitted.

5. This body or any part of it will be at the service of the

court to present their findings to the jury, or in any other way to assist the court to arrive at a just opinion in regard to the sanity or insanity of a prisoner.

6. Each member of this body will agree to serve without compensation.

7. The jail physician or the court can add to this examining body at any time physicians who, in their opinion, can aid them in arriving at a decision. In this way no one can be deprived of the services of experts who are not members of this body. It is recommended, however, that if such additions are made, only those who have the requisite knowledge should be appointed.

8. A room is to be set apart in the jail building in which prisoners under observation can be studied under the best possible conditions.

9. A record of the work of this body is to be kept with great care so that its services to the courts of justice and to the community may be used as an argument in favor of the permanency of such a body, if this method of arriving at a just solution of this part of criminal procedure should find favor with those who can set about making this into a law.

As a result of this memorial the commission was created embodying the provisions as set down, by the two presiding judges in the criminal courts, with the consent and approval of the circuit attorney. It is to be observed that this commission as at present constituted has no legal nor official position, and exists merely as a matter of convenience to the court. It is and remains an arm of the criminal courts in regard to the elucidation of questions pertaining to the mental states of prisoners in the jail awaiting trial. The commission consists of four members, the jail physician being the *ex-officio* member. The other members are Drs. Fry, Graves and the writer. The method of procedure is as follows: Any prisoner in the city jail before he is brought to trial and in some instances before he is arraigned, in whom is found the slightest evidence of mental abnormality is examined by the commission, and a written report of its findings is transmitted to the circuit attorney. If the commission finds evidence of insanity the prisoner is sent to an asylum either permanently or until he has so far recovered as to be in a mental condition to stand

trial. At that time then the question of his mental state at the time the crime was committed is considered. If a defense of insanity is made by the prisoner's lawyers, and if the commission's report of sanity is not accepted by the defendant's counsel, then the findings of the commission are taken to be the State's attitude in the matter, and the members of the commission are expected to present their testimony as experts at the trial which follows. Naturally, the defense has its own experts, and the old method of *ex parte* testimony must in the nature of things be made use of. The advantage over the old system lies in the fact that the findings of the commission have been arrived at from an absolutely unprejudiced standpoint and are based upon clinical evidence uninfluenced by the legal aspects of the case. If the prisoner is found insane either the prosecution is allowed to cease and the prisoner is sent to an insane asylum, or the prisoner is declared to be insane by the jury before whom he was to have been tried. Whatever the final conclusions of the commission might be, its report being without bias or prejudice gains a certain weight and dignity before the judge and jury.

In submitting its reports, some of which were to be used in actual trials before the average juries such as are commonly found in the criminal courts, the commission was confronted with the fact that its reports must be as untechnical as possible and must avoid all complicated discussions which might be concerned with the strictly scientific side of the subject, and must show nevertheless that the important questions which might be brought out at the trial were amply considered. For these reasons the reports were of two different sorts, one contained a simple opinion without explanation, and the other contained a short review of the case aiming to give the jury a clear idea of the case from the standpoint of the examining body. Of course if the case were once brought to trial the report of the commission might not be accepted as evidence, and in this instance the opinion of the commission might be used to help the circuit attorney in his work of prosecuting the case. A little experience in criminal trials in which insanity is brought forward as a defense makes it quite clear that the question really resolves itself into the consideration of responsibility, not in the psychological sense,

but in the sense of which responsibility is used in the law.

Correct diagnosis is not so important as a careful consideration of the criminal's ability to appreciate the nature of the crime committed, its consequence to himself and society, and his ability to distinguish right from wrong in the ordinary sense. From the point of view of the psychiatrist this is unfortunate, but if he is to be of service to the State he must find a way to reconcile these divergent points of view so that he may approach as near as possible to that absolute justice which the ideal of the law holds forward. The idea kept constantly before us was to make our examinations with all possible care, and to use all ordinary means to arrive at a correct clinical decision of the case, and from such data to consider the individual from the standpoint of the law. In doing this the avoidance of mooted points and the uselessness of long discussion upon the complicated psychology likely to be present in such cases was made necessary. It was a surprising experience to us to find how simple our task became when the limits of our problem were so plainly set down. By starting out without previous opinion and by trying simply to find out if a given individual is responsible for a deed committed, is not nearly so difficult a task as to be asked to aid the defense or prosecution of the same individual on some theory advanced by the lawyers of either side in regard to the question of sanity.

In the course of the year we have had to consider a number of cases of complicated mental disease, but in no single instance did we fail to satisfy our conscience on the question at issue. In one single instance we refused to intervene in a case of murder when the individual was obviously a type of degenerate criminal, for whom further examination would have done little, since he was condemned to be hung and had already been declared responsible by one jury. The recognition of our limitations and the feeling constantly before us of the responsibility in each single case kept us always within the bounds of logical inquiry, and prevented us from yielding to the temptation of viewing our problem as merely one of mental diagnosis. I need scarcely add that we always availed ourselves of all the means of physical examination at our disposal, the data derived from careful personal and

family histories, and such other aids as are commonly used in neurological and psychiatric examination. Such data naturally were rigorously excluded from the reports submitted to the circuit attorney.

The following two reports illustrate the foregoing remarks:

The first case refers to an alleged robbery with assault performed by a nurse employed in a quack cancer cure establishment. The nurse, one Blanche Somerset, when discovered by the police was found tied with curtain ropes and considerably scratched and cut by some blunt instrument. She denied having any recollection whatsoever of the occurrences which led up to the crime for which she was arrested. This case had attracted considerable attention on account of a diary belonging to the prisoner, and which the police gave to the newspapers, and likewise because more than one of the newspaper alienists had expressed the belief that the crime was a result of some uncontrollable impulse. The report of the commission is as follows: In accordance with the instructions contained in your letter we have examined into the mental status of Blanche Somerset, a prisoner at the City Jail, on charge of grand larceny.

Realizing the importance of the case, its publicity and the fact that an opinion had already been expressed as to her sanity, we felt that any decision that we might reach must be based upon facts and deductions from them, and not upon theories which any of us might hold in regard to the mooted questions of psychology always present in cases of this kind. Our opinion as given below is therefore based upon the following sources of information.

1. A complete serial history of the life of Blanche Somerset for the five years preceding the commission of the crime, relating to the chief events in her life. Data in regard to her family history in respect especially to the question of mental and nervous heredity.

2. A careful study by each one of us of a diary kept by her and containing almost daily notes for three or four months before the commission of the crime. The last note was made the day before she was arrested. Clippings chiefly relating to suicide and murders and note books on various subjects. (These were kindly furnished by the police department).

3. Interviews by one of us and examination made by the whole commission.

4. A physical examination as complete as circumstances would allow with especial reference to the nervous system.

A careful consideration of the facts so ascertained leads us to the following opinion in regard to the mental state of Blanche Somerset:

We find first of all that the prisoner has an absolutely reasonable and normal conception of the nature of the crime she is charged with. She is perfectly aware that such a crime is punishable, and furthermore she is perfectly aware that whatever her punishment may be, that it is the logical outcome of her guilt. We find that the crime itself was deliberately planned, and that there was a well defined motive or motives for its performance, namely financial necessity and dislike and jealousy of the individual robbed.

We find that at the present moment the prisoner shows absolutely no trace of mental disease. She is logical, intelligent and remarkably self-controlled and perfectly aware of her surroundings and her part in their causation.

We find that for a period of three or four months immediately before the commission of the crime she was as normal mentally as she is now.

We feel justified, therefore, in saying that for this period before the robbery, and during the commission of the robbery, and since that time there has been no evidence weighty enough to cause us to question either the legal or the medical aspect of her sanity.

We have carefully considered the possible influence of functional diseases of the nervous system as bearing upon the prisoner's responsibility. We have found, however, no sufficient evidence for the diagnosis of either hysteria, neurasthenia or allied conditions. There have been at least two instances of what may be considered imperative acts. The addiction to the use of drugs, especially morphine and alcohol, might be used to justify the assumption that this individual was the subject of various uncontrollable actions. If, however, these facts be carefully analyzed it will be found that they have little or nothing to do with the question at

issue. They cannot in any way be so interpreted that they would weaken her responsibility before the law.

Our opinion, therefore, is that Blanche Somerset is not insane, and that she is mentally responsible for her actions, and that from a medical point of view she is responsible for the crime which is charged against her.

The second report is concerned with the study of a young man who ran amuck in the streets of St. Louis and cut a number of women in the thigh and back, inflicting only slight wounds in each case. This man was soon given the name of Jack the Stabber and attained a great deal of newspaper notoriety. The alienists who find the daily press their best public, advanced a number of theories to explain the acts of this man, and it was pretty well believed that his crime was the act of an insane individual acting under the influence of some mysterious power which the papers only hinted at.

It can be seen from this that the report of the commission would have to meet an opinion already created in the press by the alienists, so-called, who made public their ideas before the case had been seen by anyone. Inasmuch as our report would not be accepted by the prisoner's lawyer we were forced to render our decision in more technical language than usual.

The following is our opinion in regard to John Lawrence Brady, a prisoner in the City Jail, charged with felonious wounding:

We find that John Lawrence Brady shows no evidence of insanity at the present moment. He is to be considered as mentally responsible within the meaning of the law, and he is sufficiently intelligent to undergo trial for the offense he has committed. Owing to the fact that his crime has no apparent motive we suggest the following in explanation:

The crime may have been the result of one or a combination of these four conditions: 1. Sexual perversion; 2. Imperitive act; 3. Epilepsy; 4. Alcoholic temporary excitement.

For the first there is not the necessary evidence. The second seems to us insufficiently proven by the facts obtained. There is absolutely no data upon which to base the third. The fourth either alone or as a complicating factor in the second opens the possibility of a reasonable explanation.

We suggest, therefore that John Lawrence Brady be tried as an individual mentally responsible, and that the possibility of alcohol being the exciting factor be left to be determined by the facts as elicited in the trial of the case.

These two reports are sufficient to illustrate the manner of placing our opinion before the circuit attorney.

It is difficult to set down in a definite way the results of the first year's activity of this commission, because it is highly probable that its effect, if any, will lie in directions not at present discernable. An effort like this has many ways of making itself felt, and it cannot be determined just where and how it will eventually work out. This much can be said with perfect fairness. The judges and most of the lawyers whose work brings them in contact with the criminal courts have encouraged us to persevere in the work we have started. We have not received any special encouragement from the legal profession as a whole, or, at any rate, from such of them as have been consulted about the matter. They see in the activity of such a commission an infringement of the right which is given them by law and custom of summoning such witnesses, expert or otherwise, as may prove of strength to their side of the case without reference to the strictly medical aspect. To place the decision as to the defense of insanity altogether in the hands of a group of unprejudiced experts belonging to the court itself would be a serious infringement on the pleader's prerogative.

In no single instance has the report of the commission been rejected, and in those cases in which the defense has refused to accept the judgment of the commission and have brought the case to trial, the report or rather the opinion of the commission has finally prevailed. I believe that this result has been obtained not through any remarkable work on the part of the commission, but solely because the opinion of the commission has impressed the jury and the judge as being absolutely impartial, and as being concerned only with the facts of the case as brought out in the examination of the accused.

Omitting the advantages which each individual of this commission has obtained in work of this nature, unhampered as it is, the chief effect, I believe, so far obtained can be found

in the better opinion which expert testimony on mental subjects has been able to exert in the Criminal Courts. For the first time they are in a position to hear testimony on the subject of insanity and allied questions which bears no relation to the defense or prosecution, but is concerned only with the question at issue. In this way perhaps a better standard has been set which may afterwards bear fruit. The one tangible result has been the establishment of a small observation ward in the jail hospital for the use of the commission in the study of cases suspected of insanity.

As was said before, the commission has no legal standing as at present constituted, and it can be dissolved at a moment's notice if the judge should refuse to consult with it or if the circuit attorney should decline to respect its decision. Its precarious existence has been the subject of some debate as to the possibility of passing a State law establishing such a commission legally with the proper standing before the courts. We have up to this time opposed any such effort, for we fear that if it becomes a State institution the question of politics will enter into its activities, especially if its services are to be adequately paid. We are content at present to let the work it is doing effect in as large way as possible the procedure of the courts in respect to the employment of expert testimony, and leave the solution of the permanency of such a commission to other hands.

In conclusion it may be said that the voluntary and unpaid service to the State has appealed to us as being in line with the larger view of civic responsibility which physicians feel bound to share, and from which until of late there has been considerable shrinking. It is a part of a widespread movement which is tending to remove the isolation which the profession has held to the community of which it is a part.