Correspondence

The Plan of the Medicolegal Department of the Journal

To the Editor:—I beg to call your attention to an error of omission in THE JOURNAL, November 18, so serious as to render substantially incorrect the article in which it occurs. Under the heading of "Validity of Provision for Medical Examination and Treatment of Prostitutes," you state that the Appellate Division of the Supreme Court, First Department, holds constitutional the enactment for the medical examination and treatment of prostitutes (Sec. 79, Inferior Courts Act). This is correct as far as it goes, but you fail to state that in June of this year, the case to which you refer, *People ex rel. Barone vs. Fox*, 129 N. Y. Suppl. 646, was reversed by the Court of Appeals, the court of last resort in this state, and that the enactment referred to is, therefore, now held unconstitutional, and that the medical examinations under it have been discontinued since June. In giving this decision the court did not hand down an opinion, but reversed the Appellate Division on the dissenting opinion of Judge Clarke in that court. I speak with some authority on this subject, as I was the attorney for the relator in the case mentioned.

May I further call your attention to a slight inaccuracy in your argument? It was never contended by the persons opposed to this law that the health department or other proper authorities should not have full power to deal with venereal diseases as with any other contagious or infectious diseases. Our contention was simply that in dealing with this disease they could no more isolate certain victims of it and subject them to special treatment, than they could isolate certain persons afflicted with small-pox, allowing other persons so afflicted to be at large. You state further "that public prostitution applies only to women, and every person convicted of public prostitution is within the act." Our argument was that, although the laws of New York State recognize the existence of the male prostitute as a criminal, yet he was not placed within the operation of this act.

BERTHA REMBAUGH, New York.

[COMMENT.—Our correspondent seems to misapprehend somewhat the scope of the Medicolegal Department. The argument to which she takes exception was not ours, but that of the court. THE JOURNAL simply states—as correctly as it can in the limits of the space available—what the courts say and decide on the point or points that are deemed of interest to our readers. If we have anything to say about any decision, we say it in the Editorial Department, or else plainly separated by brackets from the abstract itself.

Taking up the first point raised by our correspondent. THE JOURNAL, in its Medicolegal Department, occupying approximately a page a week, gives as nearly as possible the new and most important things that the higher courts are deciding that physicians as such, as members of boards of health, etc., want to know. Occasionally, practically the full opinion is given, although generally, even in the fuller reports, the matter is selected and put into as readable form as it can be without sacrificing accuracy of statement.

Decisions of intermediate appellate courts are treated the same as those of courts of last resort, when reported in the advance sheets for the National Reporter System, because they then become, for whatever they may be worth, a part of the recognized and available case law of the land. They have a certain value of their own, regardless of whether some of them are subsequently directly indorsed or rejected by reviewing courts.

It would be impracticable to try to keep track systematically of their future history. He who wants it must look for that for each individual case in its appropriate place. The only exception is when the affirming or reversing decision comes to the attention of THE JOURNAL with something in it that at the time it is thought should be reported for its own sake.

Neither are the reports in the Medicolegal Department augmented by search for, or use of, information extraneous to the advance-sheet or official reports from which they are prepared.

Along these lines, in something over a column, THE JOURNAL gave in its Medicolegal Department, Nov. 18, 1911, what it thought its readers would be most interested in from a six-page decision of the First Appellate Division of the Supreme

Court of New York in the case of *People vs. Fox*, or, more fully, *People ex rel. Barone vs. Fox*, 129 N. Y. S. 646, which had a three-page dissenting opinion attached. And at the date of the receipt of the above communication, a special search failed to show that any official or other report had been received, or was discoverable, showing the reversal stated, although the memorandum report of that may come later.

The last paragraph of the discussion in the opinion from which quotation criticized was made reads: "It is also claimed that this act relates to women only, and not to men, who are suffering from these diseases. But it was clearly a question for the legislature to say whether the public interests or the public health required that a woman afflicted with a venereal disease should be treated differently from a man. But public prostitution only applied to women, and every person convicted of public prostitution is within the act. Nor do I think this can be said to be an unreasonable exercise of the police power." —EDITOR.]

The Petition to Restore the Canteen

To the Medical Profession of America: In THE JOURNAL of the American Medical Association, December 16, was published in full (but, of course, without the 275 signatures of leading medical men all over the country) a petition to Congress to pass the Bartholdt bill restoring the canteen in the Army. The petition explains fully what the canteen really is.

My own position in the matter is this: I never place wine on my table on any social occasions whatever; I did not do so even at the weddings of my daughters and I never partake of it at any dinner or on other social occasions. If I had autocratic sway in America, I should nail up the doors of every saloon and put on them a placard "TO RENT for some decent business"; and yet I am in favor of allowing beer (and be it noted that beer only would be provided in the canteen) to be sold to the soldiers. As a surgeon I am bitterly opposed to mutilating the body of any fellowman by amputating a leg, but when I have met with the alternative that the man must either lose his leg or lose his life, I have unhesitatingly sacrificed the leg in order to save the life.

It is by a precisely similar course of reasoning that I have reached the conclusion that the canteen should be restored. As I have read over for some years the reports of the Surgeon-General of the Army I have been deeply stirred by the recent enormous increase in the prevalence of venereal diseases to nearly 20 per cent. of the army annually. In my personal relations as a surgeon I have known no less than five of my warm professional friends who have suffered from an innocent syphilitic infection which has destroyed their health or their lives. My old friend, the late Dr. Nevins Hyde of Chicago, when I was discussing the matter with him one day told me that he had at that moment seven physicians under his care for an accidental syphilitic infection, and he mentioned several cases of physicians of his acquaintance who had committed suicide as a result of such an infection.

The wives and the children of our soldiers are much more subject to accidental and innocent infection than physicians. Many of their wives are inevitably infected either with gonorrhea or syphilis and their lives made miserable and the community deprived of healthy child-bearing women. Many of their children are doomed to blindness from gonorrheal infection in the very act of birth, many of them are rendered hopeless and wretched subjects of inherited syphilis; and in turn both father, mother and children may infect others.

When I read in the *North American Review* of March, 1911, an article by the Hon. James H. Blount summarizing and collecting much of this information, I was not content simply to raise my eyes to Heaven and piously sigh "What a dreadful state of affairs!" and go to sleep; but I asked myself at once "What is my duty as a citizen, a surgeon, and a Christian toward the men in the Army, toward their wives and children, and toward the community?"

After thinking the matter over very carefully and again referring to the Surgeon-General's Reports, I concluded that there was laid on me a duty to try to influence Congress to repeal the bill prohibiting the sale of beer in the Army posts and that the most powerful influence I could bring on Congress