

have to contend with, when asked to decide the mental condition of a prisoner at a few hours' notice. What shall he said of the jury, who must give a verdict based upon conflicting opinions, and not upon personal knowledge of the condition of the accused? Some time ago the Commissioners in Lunacy in Britain wisely recommended to the government that "If, upon the occasion of the trial of an indictment, the plea of insanity be set up, we are disposed to think that the question should be tried and determined by the court after taking medical and other evidence, and not by the common jury to try the facts."

An eminent English expert (Bucknill) says :

Generally the physician giving evidence can almost say that he paid *two* or *three* visits to the accused, and conversed with him in his *cell* in prison. In case of concealed delusions, or of disease affecting the propensities, no medical man ought to give an opinion on such shallow grounds. I am not ashamed, he continues to say, to acknowledge that I have observed patients *daily* for *several weeks* without being able to detect existing delusions.

The Court has too high an estimate, of the discerning power of the members of the medical profession. It must be remembered, that there is no well-defined line between sanity and insanity. No man can tell where the one begins, and the other ends. That belongs to omniscience, for we can only infer from manifestations what are the pathological conditions of the brain, and mental disturbance consequent therefrom. A witness should never give a positive opinion in obscure cases, for it must be remembered that while it is unjust to punish an irresponsible person who breaks the law, it is also not desirable that a cunning scoundrel should escape the just penalty of his crimes, under a false plea sustained by medical evidence. We are not allowed to state as to a man's responsibility. The Court decides that important point. Here lies a wide gulf between law and medicine, and, because of its existence, truth has suffered. No formula can cover all the phases of insanity, nor can a measure be found that is sufficiently accurate to map out the boundaries of responsibility, and say to it "hither shalt thou come and no further." All the conditions, physical and mental, of each individual must be known before the springs of action can be gauged with certainty in the shadowy borderland of insanity. "Is there insanity?" asks the Court of

the medical witness. "Is he responsible?" is an enigma for the judge and jury to solve.

Bucknill, in his monograph on Lunacy, quotes a vigorous writer in the *London Times* on this point :

Nothing can be more slightly defined, than the line of demarkation between sanity and insanity. Physicians and lawyers have vexed themselves with attempts at definition, in a case where definition is impossible. There has never yet been given to the world anything in the shape of a formula upon this subject, which may not be torn to shreds in five minutes by any ordinary logician.

Make the definition too narrow, it becomes meaningless; make it too wide, the whole human race are involved in the drag-net. In strictness, we are all mad when we give way to passion, to prejudice, to vice, to vanity; but if all the passionate, prejudiced, vicious, and vain people in this world are to be locked up as lunatics, who is to keep the key of the asylum? As was very fairly observed, however, by a learned Baron of Exchequer, when he was pressed by this argument, if we are all mad, being all madmen, we must do the best we can under such untoward circumstances. There must be a kind of rough understanding, as to the forms of lunacy which can't be tolerated. We will not interfere with the spendthrift, who is flinging his patrimony away upon swindlers, harlots and blacklegs, until he has denuded himself of his possessions and incurred debt. We have nothing to say to his brother madman, the miser, who pinches his belly to swell the balance at his banker's—being seventy-three years of age and without family—but if he refuses to pay taxes, society will not accept his monomania as pleadable at the bar.

Dr. Forbes Winslow, in his "Anatomy of Suicide," says :

A man may allow his imagination to dwell on an idea, until it acquires an unhealthy ascendancy over his intellect. Surely, if under such circumstances, he were to commit a murder, he ought to be held as a murderer, and would have no more claim to be excused than a man who has voluntarily associated with thieves and murderers until he has lost all sense of right and wrong; and much less than one who has had the misfortune, of being born and bred among such malefactors.

This wide definition could not be of practical benefit, because bias, confirmed habit, hereditary wickedness, oddity and peculiarities, may be