

The Binet Tests in a Murder Trial

Means Used for Determining the Mental Age of the Feeble-Minded

By J. W. MACMILLAN.

The Binet tests, as is coming to be generally known, are the means used for determining the mental age of the feeble-minded. The unfortunates can be graded like children in a school. The difference is that what to a child is a stage of growth is to the feeble-minded a destination. Full-grown men and women are thus classified as "possessing the intelligence of four years," or six, or ten, or whatever it may be.

These tests have been found also valuable in certain forms of insanity, where one of the characteristics is mental deterioration. In this case the victim may be mentally traversing his school period backwards. If the normal child is advancing in intelligence, and the mental defective is stationary, the lunatic may be in the act of retreating.

It happened a few weeks ago that a lunatic of this type committed murder in Wyoming. He was a prisoner in a county jail, and was persuaded by two fellow-prisoners to kill the jailer, seize his keys, unlock the doors and release all three. He carried out the first act of the plan and then apparently forgot the rest. He was found after the crime in his cell running about like some excited animal.

At his trial he was pronounced sane by several physicians. They had examined him and found no signs of acute mania. The people of the community were violently prejudiced against him, for he was a stranger and had killed in cold blood an inoffensive friend and neighbor of their own. It seemed likely that the man would swing.

But justice is administered with due order in Wyoming, and the people of the western States are not adamant against innovations. So the prisoner's attorney was able to persuade the judge and jury to allow the psychologist of the State University to apply the Binet tests in open court. The psychologist, as is fitting in the first State to adopt female suffrage, is a woman.

Up to this point it had been generally thought that the prisoner's stolidity was mere shamming. And, naturally, it was expected that he would continue the same deceitful policy; in which case he would either show no interest in the questions put to him and so avoid answering them; or else he would adroitly disguise his answer so as to prove himself possessed of no more than a child's intelligence. The psychologist had to face this hostile expectation.

She had already examined him in his cell, with the help of a specialist in nervous diseases, and had become convinced that he was suffering from dementia precox, a form of disease which induces a lethargic condition and a general passivity of attention. This explained his stupidity in court. He could comprehend only as a child comprehends. And, unlike a child, his interest was not easily aroused. The long polysyllabic phrases of the lawyers, which they had thundered at him in vain attempts to provoke a reply, had passed completely over his head and left him dazed. It was necessary to attract his interest through voice, manner, and personal encouragement. If her diagnosis was correct she was dealing with the mind of a sick child.

She began with the tests for a three-year-old child. If it had not been a matter of life and death it might have seemed ludicrous to put to this full grown man questions which a child of eight or nine would consider absurdly simple. But he answered with the naivete of a small child. He pointed with perfect gravity to his eyes, nose and mouth, when asked where they were.

One question set down for the four-year-old is: "Are you a boy or a girl?" The questioner varied it a trifle, asking him whether he was a man or a woman. He answered hesitatingly, "I dunno, I ain't thought much about it." When the question was put later in the usual form he answered, "Boy."

One of the Binet tests exhibits the capacity of a child to comprehend what should be done in a given situation. Asked what he ought to do if he were going somewhere and missed his train, he said, "I'd run," and he insisted that he could run any distance.

Another test involves seeing the absurdity in a statement. For example, you ask the eleven-year-old child to point out what's wrong in the statement, "I have three brothers—Paul, Ernest and myself." The average child retorts, "He says he's his own brother." In the cell examination the prisoner answered, "He didn't say how many sisters he had." In the court examination he answered, "That's all right."

The effect of the examination was to demonstrate

conclusively that his mental age was that of a child between six and seven years of age. Only an expert psychologist could have "faked" answers so consistently characteristic of a given mental level. The verdict was "insanity" on the first ballot.

Such a scene in a court-room is not only full of dramatic interest, but suggests some disquieting reflections as to possible failures of justice in murder trials generally. We are assured that at least one-fourth of the inmates of any prison are feeble-minded. But how seldom is such an affliction pleaded before judge or jury!

As one thinks of some of the murders which have startled us during recent years one recalls features of stupidity and reasonless brutality which provoke the suspicion that it might have been better if the psychologist had been called in. It is not right for society to hang a man who has no clear conception of what crimes he has committed.

It is palpable that our criminal procedure thinks too much of deeds and too little of persons. No sound understanding of human motives, and no fair re- dress of human misdeeds, can come from a process of measuring off so much offense and matching it with so much punishment. Back of the deed lies always the nature of the man who did it, and, though a certain leeway on account of the variable element in humanity is provided for, the emphasis in criminal trials is all upon the act rather than upon the man. The man is the real problem. Why did he do it? Whose sin is he bearing that he cannot resist sin? Any anti-social act presents an intricate problem. Society should have developed by this time some better solution for it than just to prove that it occurred and then proceed to retaliation.

It has been suggested that an offender should be given two trials: The first, to discover whether or not he is guilty; the second, to decide what sentence he should receive. Doubtless, this is a counsel of

perfection and is too radical a proposal for immediate adoption, at least. But it is a very acute suggestion, piercing to the very heart of the problem. For conviction and sentence are two essentially different things, motivated quite differently, and requiring quite different processes.

It is necessary to prove that a man has violated law before it is just to deprive him of his liberty and subject him to treatment which differs from that accorded other men. This is true whether the treatment be remedial or retributive. If it is not true anyone of us may be arrested at any time and sent to jail, for none of us is perfect. A deputy-attorney-general might plead with entire validity that both we and the community would be the better for our being sent to a reformatory for a period. Indeed, he could prove his case the more easily in proportion to the blamelessness and nobility of his proposed victims. The saints have been always most conscious of their shortcomings.

Here lies the error of the theorists who would cast all notions of retribution out of jurisprudence. When they bring forward their claim that the one theory which should govern the administration of justice is the reformatory theory they are baffled by the question, "On what grounds would you select those to be reformed?"

The conviction and the sentence of any offender are to be sharply distinguished. It is after conviction takes place, when the culprit is proven unfit for liberty that the question is to be faced, "What shall we do with him?"

That question is as deserving of careful and intimate discussion as the question of his guilt. Instead of sentence being declared then and there, on the basis of the evidence as to the crime, a new investigation, on distinct lines, should be instituted. His whole life should come under review. His heredity, his mentality, the provocation to the crime, his probable responsiveness to treatment—all these and many kindred matters should be considered. Then, and not till then, shall we know whom with severity we should destroy, whom with wisdom we should restrain, and whom with hope we may educate.

The Future of Labor in Canada

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Aside from the war, the cost of living and the labor situation are the biggest problems that Canada faces today. Feverish speculation and intense industrial activity were the outstanding features of 1916. It could only be expected that the withdrawal of almost 400,000 men from active industrial work, together with the unprecedented activity brought by war orders, would make for radical changes in the industrial sphere. In two short years Canada has largely changed its economic output and methods; and in the midst of this industrial upheaval a profound change has come over the labor world. This is made manifest by the greatly increased "turnover" of labor, resulting in the shifting of the workers from one industry to another, and in greatly enhanced prices, not only for the comforts but also for the necessities of life. It seems well worth while, therefore, to investigate briefly the present condition and the future outlook of the working classes.

The figures recently published by the Department of Labor, Ottawa, indicate that wholesale prices have advanced to somewhat over 35 per cent. in Canada, and to a like extent in the United States, as against an advance of 73 per cent. in the United Kingdom. Retail prices have made an even greater advance in the case of food, clothing, lighting, heating and rents; but it is difficult, if not impossible, to secure reliable data showing the actual advances for each of these expenditures in different localities throughout the country. The fact that Manitoba has found it necessary to grapple with this question indicates only too clearly that wages have not kept pace with the mounting cost of living; and if, the pinch is felt in the West, conditions of life for the working man must be even worse in the crowded industrial towns of the East. It is not enough to say that wages have been greatly increased in most industries, for even so they lag behind increasing prices. Moreover, a large class in the community, including teachers, ministers, clerks and municipal employees, and all others working on a salary basis, are, in general, being paid on pre-war schedules. If artisans and skilled mechanics wince under the pressure of the cost of living, the condition of the other classes named must be, and is, much worse.

The working classes in Canada cannot be criticised

for demanding shorter hours and an advance in wages under these conditions, especially when manufacturers and government contractors are drawing down extortionate profits and are cashing in on the war. While many large capitalists are capitalizing their patriotism today, western coal miners and trainmen can hardly be blamed for demanding at least the right to a decent economic existence. It is, therefore, good news that comes from Ottawa to the effect that a survey will be made of Canadian industries to supplement the recent stock-taking of Canada's labor power. The suspicion must not become a reality that in any class in the Canadian community, "Patriotism is the last refuge of a scoundrel."

There has been practically no unemployment of an involuntary nature in the country during the past year; but there has been, as already said, much shifting of workmen from place to place, and therefore much loss of labor power. It is essential that steps be taken now to prevent economic loss from this source, and especially to prevent a general breakdown of Canada's economic organization at the close of the war. It should be freely recognised that as long as wages lag behind increasing prices the workers will be dissatisfied and that industrial upheavals will take place in the labor world. If past experience proves anything it goes to show that there will be no rapid fall of commodity prices at the close of hostilities; but that there will be, on the contrary, a decided advance in certain directions, and especially for those materials that will be needed for the rebuilding of the destroyed economic equipment of northern France, Belgium and Poland. Nor is there any prospect that food prices will fall at the close of the war; for large masses of men will be withdrawn from agriculture for construction work in the mines and on the railroads and other engineering projects of those countries now within the war zone. It remains to be proved, also, whether those men who have lived the open life in the field for two years and more will determine to settle upon the fertile vacant lands of Canada and the other British Dominions. It is probable that, on the contrary, many of them will have had a surfeit of rough life in the open and will be glad to return to their old work in office and factory. However, that may be, it yet remains true that food production is not keeping pace with