# Part IV.—Notes and News.

## THE ROYAL MEDICO-PSYCHOLOGICAL ASSOCIATION.

THE usual Quarterly Meeting of the Association was held at the Rooms of the Medical Society of London, 11, Chandos Street, W. 1, on Tuesday, November 17, 1925, Sir Frederick Mott, *K.B.E.*, M.D., F.R.S., President, in the Chair.

The Council and Committees met earlier in the day.

### MINUTES.

The minutes of the last quarterly meeting, having already appeared in the Journal, were taken as read and approved, and signed by the Chairman.

### RETURN OF DR. J. CHAMBERS, THE TREASURER.

The PRESIDENT said he was sure all the members were glad to see their old friend and valued member and Treasurer, Dr. J. Chambers, back after his illness.

### FUTURE STATUS OF THE ASSOCIATION.

The PRESIDENT announced that the Association had received permission from His Majesty to have affixed to its title "Royal," so that in future it would be known as the "Royal Medico-Psychological Association." It was hoped that the application which had been made for a Charter would be successful.

### THE GASKELL PRIZE.

The PRESIDENT said the Gaskell Prize had this year been awarded to Dr. W. S. Dawson. Two other candidates had also shown great merit and would receive some recognition.

### MATTERS WHICH HAD BEEN BEFORE THE COUNCIL.

The question had arisen of the appointment of two delegates to attend before the Departmental Committee on Superannuation of Employees of Local Authorities, and the subject was before the meeting for discussion. (There was no response.)

The next matter which concerned the meeting was the question of the Association moving to other and more convenient quarters. The Council had decided to give to the Medical Society of London the agreed six months' notice of the intention to leave. It was felt that there would be many advantages in having, as the Association's home, the new house of the British Medical Association. No action, however, would be taken until further inquiries were made and agreements put in writing.

### THE SEVENTH MAUDSLEY LECTURE.

The PRESIDENT said it was left in the hands of the President, the Secretary and the President-Elect to appoint a Maudsley Lecturer, owing to Sir John Macpherson not being able to fulfil this engagement.

[As we go to press, we are informed that Prof. G. M. Robertson, M.D., F.R.C.P. has accepted the President's invitation to deliver this lecture.—EDS.]

### OBITUARY.

### THE LATE DR. LANGDON DOWN.

The PRESIDENT said he was sorry to have to announce the death of Dr. Percival Langdon Down. He asked Dr. Cole, who knew the deceased member intimately, to say a few words about him.

Dr. R. H. COLE said that Dr. Percival Langdon Down was known to him, as he, the speaker, visited quarterly the institution with which he was connected. The deceased and his brother Reginald were old members of the Association, and they had done valuable work in connection with mental deficiency, being distinguished sons of a very distinguished father. It was much to be regretted that

Dr. Langdon Down had been cut off in this way in the prime of his life, leaving behind him a wife and family. He did not doubt it would be the wish of members present that a vote of sympathy and condolence should be sent to the family.

This was accorded by members rising in silence in their places.

### Election of Candidates as Ordinary Members.

The President nominated Dr. Brooks Keith and Dr. R. Eager as scrutineers of the ballot. The candidates were all duly elected as follows:

McManus, Hugh Charles, M.B., Ch.B.Vict. and Liverp., D.P.M., Assistant Medical Officer, Lancaster County Mental Hospital and Park Prewett, Basingstoke.

Littlejohn, Mary Victoria, M.B., Ch.B.Aberd., D.P.M., Assistant Medical Officer, County Mental Hospital, Hatton, Warwick.

Scott, Francis Leonard, M.R.C.S., L.R.C.P.Lond., Assistant Medical Officer, Kent County Mental Hospital, Maidstone.

Heron, John, M.B., Ch.B.Edin., Assistant Medical Officer, Kent County Mental Hospital, Maidstone.

Lascelles, William James, M.B., B.Ch.Belf., D.P.M., Cane Hill Mental Hospital, Coulsdon, Surrey.

The President, having an unavoidable appointment elsewhere, expressed his regrets, and having to leave the meeting, Dr. Percy Smith then took the Chair.

### Discussion on Insanity and Crime and the Atkin Report.

Dr. John Carswell, in opening the discussion, said that it could be taken that, at least in form, the McNaughton Rules had received such fresh support as to preserve them in being for another generation. Yet the medical profession would not admit that the controversy was ended; indeed, there seemed a desire for adjustment of the medical and legal points of view. The rule recommended by the Atkin Committee read as follows:

> "It should be recognized that a person charged criminally with an offence is irresponsible for his act when the act is committed under an impulse which the person was by mental disease in substance deprived of the power to resist."

The committee added: "It may require legislation to bring this rule into effect," and later, "We have no doubt that if this matter were settled, most of the criticisms from the medical point of view would disappear."

Members of the Association, Dr. Carswell said, would acquit themselves as medical men acquainted with the clinical aspects of disorders of mind of expressing their ideas as to what they might regard as the test of criminal irresponsibility in these terms, which were lawyers' terms, and, indeed, all the trouble had arisen in that way. Did the accused know what he was doing? And if he knew, did he know that it was wrong? These were the formulæ framed by lawyers, and the psychiatrist had no responsibility for them. Fitzjames Stephen, in his *History of the Criminal Law*, vol. ii, p. 174, after considering Maudsley's observations, said:

> "I understand by the power of self-control the power of attending to general principles of conduct and distant motives and of comparing them calmly and steadily with immediate motives. Diseases of the brain and the nervous system may cause definite intellectual error, and if they do so, their legal effect is that of the innocent mistakes of fact. Far more frequently they affect the will by either destroying altogether or weakening to a greater or less extent the power of steady, calm attention to any train of thought."

Dr. Carswell went on to say that a series of cases in recent years were available to show that judges had charged juries in the sense indicated, and even in the much debated Ronald True case Mr. Justice McCardie left three questions to the jury: the first two were in the terms of the McNaughton Rules, and the last was expressed in these terms:

> "Even if the prisoner knew the physical nature of the act, and that it was morally wrong and punishable by law, yet was he, through mental disease, deprived of the power of controlling his actions at the same time? If yes, then, in my view of the law, the verdict should be 'Guilty but insane.'"

Dr. Carswell said the point he wished to make was the following: All the judges who delivered charges in the sense he had quoted agreed that uncontrollable impulse could be read into the McNaughton Rules—*i.e.*, the rules were logically insufficient unless some such idea could be incorporated with them. The recommendation was not based upon any unproved or doubtful category of mental disorder, nor upon any principle of criminal responsibility not already recognized. His object in this communication had been to start a fresh discussion of the problem of insanity and crime from what he understood to be the point of view of the Atkin Committee, with the hope of reaching some points at which medical men could agree that the legal conception of responsibility of the insane was more in accordance with the clinical facts as they were known to psychiatrists than at present was the case.

Dr. BARKER SMITH said that people were responsible in various degrees for what they did, and that was largely proportional to their education and culture. Many men acted with the same quick, unreflective impulse as lower animals. This question of responsibility in a particular person was a question for the medical man, not for the lawyers.

Sir H. BRYAN DONKIN said Dr. Carswell seemed to think that the conception of irresistible impulse was implicit in the McNaughton Rules—a very strong statement to make in his, the speaker's, view. And he did not see that any practical result could arise from it.

Dr. D. K. HENDERSON said he did not know that the term "irresistible impulse" had ever been properly defined, yet it was due that this Association should have a definition of it. In medico-legal cases the question of responsibility constantly came up, and if this question of irresistible impulse was likely to be brought into them, the issue would be more complicated than at present. Another important kind of case was that in which a prisoner's state of mind was questioned, and sometimes the man would be sent to a criminal asylum without having been tried —*i.e.*, without the question having been decided whether he had committed the crime or not. He suggested it would be well to try to arrive at that point in the cases in which there was a certain amount of doubt.

Dr. G. D. MCRAE said it was difficult, in dealing with such a subject, to stick to the point of the author of the discussion; but, like Dr. Henderson, he had felt that various points arose which afforded an opportunity of ventilating one's ideas.

Was an insane man criminal, whatever he might do? If an insane man committed an act, was he guilty? What did guilt mean? It was cruel to say that a man who was ailing in his mind could be a subject of guilt in anything he did. A man's insanity, in anything he did, freed him from guilt. The expression "criminal lunatic" was archaic. He suggested that the individual should be tried, to ascertain whether he committed the act or not. If he did commit the act and was found to be insane, the verdict should be "Proven but insane," not "Guilty but insane." If one mentioned to a lawyer that the prisoner was insane, but that the act should be proved, he would say an insane man could not instruct his lawyer. An offence could not be proved against a man if he was not in a position to help himself out of his difficulty by instructing counsel. These points gave one food for thought.

A further point was that recently in this Association there had been an attempt to believe in the doctrine of partial responsibility. What had to be settled was, Did it concern medical men whether a person was responsible or not? Was not that a legal matter? The medical man had to say whether the person concerned was sane or not, and leave the responsibility to the legal people when he was tackled on the point. It was said that medical superintendents admitted partial responsibility in the way they conducted their institutions; that they placed a patient on parole, and that he might escape or might abuse his parole. His answer to this was that this was not partial responsibility; if a patient was placed on parole and granted privileges, it was as a test as to whether he could be considered responsible. If the test was found to be a failure, then the patient was not fit to be considered responsible; the medical superintendent was responsible for such a man until he, the latter, satisfied him that he could be considered responsible. The speaker considered that there was no such thing as partial responsibility. If a man was insane, he was not to be held responsible for any act committed by him.

Dr. T. B. HYSLOP regretted he arrived too late to hear the paper, but from

what he had heard of the debate which followed it he gathered that the question centred around the subject of responsibility, and as to how it was dealt with at criminal trials. He thought that until the medical profession woke up to the fact that it gave evidence on a question which was not at issue, namely, on the question of insanity, whereas the Judge charged the jury on the question of responsibility—a different matter—they would always be playing at cross-purposes, and would be working under the heading of that absurd McNaughton ruling which had been a cause of grave injustice. Of that one might cite innumerable examples. There was the case of a man who murdered four people in the same room, and after he had done the act he went to seek for two others on a sofa in the same room. The case came for trial, and it was proved that during service out in the East he had had epileptic seizures. Here was a case in which no insanity was observable, but he had a post-epileptic furore. This evidence was brought out before the Lord Chief Justice in the Higher Court of Appeal, and the speaker gave evidence. They said they did not know such things, they did not possess the knowledge which was possessed long before Tut-Ank-Amen, therefore they saw no reason to alter the decision, and in due course the man was hanged. That might be good law, but it was very bad medicine. Until it was realized that there was a big fight, that the medical witness must give evidence on the question of responsibility, not much progress would be made. It was only right that medical men should see to it that they were examined and cross-examined on the question at issue, not that the Judge, after hearing the medical witness on insanity, should turn round and charge the jury on the question of responsibility, which had not been dealt with in the slightest degree. He thought the McNaughton ruling would always be rotten and a source of grave injustice in individual cases so long as a case was tried on one point and the jury were charged on another.

Dr. W. C. SULLIVAN said he thought members would be willing to join with him in thanking Dr. Carswell for his opening speech. It was necessary to recognize that the McNaughton Rules were in reality founded upon a contradictory and unjustifiable view of the jury. They assumed such a degree of stupidity of the jury that it was necessary for the medical evidence to be filtered through the strainer of the McNaughton Rules. The doctor giving evidence had no opportunity of expressing his views in full, and in the clinical terms with which he was familiar, because it was supposed that the jury could not understand it until it was translated into the complicated phraseology of the McNaughton Rules. And then they assumed the jury to be so extremely gifted and intelligent that they could appreciate moral and legal values. It was assumed that the jury would be able to distinguish exactly between whether an act was unresisted or irresistible. The remedy was not to give a complicated analytical rule with various details on which the medical man had to give an opinion—very often when nobody else could give it. These defects in the Rule had the result of excluding the jury from having a fair issue placed before them, and left the question in the hands of the Judge. If strictly interpreted, the McNaughton Rules, as laid down by the Judges, would probably involve most of the criminal lunatics in the death sentence. Trial in a case involving insanity was not a trial by jury, but trial by a single judge, who might have peculiar views on the subject. Sometimes the Judge took a common-sense view. To do this, on account of the McNaughton Rules, he had not only to give a subtle metaphysical explanation of them, which made them include the irresistible impulse element, but he also had to define the medical evidence. There was a case tried at the beginning of the century; it was one of dementia præcox, who died after a few years. He murdered his mother because he wanted to leave home and make a fresh start, and he felt he could not do so without being liberated from the family restraints. The case was tried before Justice Grantham, who was not distinguished for any great regard for medical evidence. Two medical witnesses were called and strictly examined according to the McNaughton Rules, and they both said—having the fear of Grantham in their minds—that the man, who clearly knew what he was about and what he had done, could not be regarded as exempt from punishment, in fact one of them said, before he was asked, that the man was responsible. Mr. Justice Grantham then charged the jury, stating that medical and legal opinions on insanity were different, and then said, "This man is sane and responsible; use your own common sense; look at the man!" It was not a very dignified spectacle, and it was one in which weak-willed medical witnesses could easily get into.

He wished to point out that it was possible to use the McNaughton Rules, but in that case the only question on which the medical man could give evidence was the sanity or insanity of the prisoner, but if he gave it in the form of a complete report, he could be examined and cross-examined. The jury had to decide whether he was so insane that he should be hanged or not. The jury were the representatives of the public in the matter, and it was conceivable that, under certain circumstances, certain types of crime might be more leniently treated than others, and a jury in a particular case might find that a man more or less abnormal might be properly hanged. There were very few murderers in whom one could not find something which was defective or abnormal, and which could be magnified by medical witnesses so as to produce a verdict of "Guilty but insane." But if it were left to the jury, they would form their own opinion on the facts of the prisoner's mentality, and on the history of the various episodes in the prisoner's antecedents, and their view of the value of the medical evidence. They would use their own common sense as to how far it was likely a man was a desperate homicidal lunatic from his birth, and yet should have been able to attain to considerable eminence in his profession; and how another man, though an epileptic, should carry on his work as a steeple-jack.

Dr. T. C. MACKENZIE asked whether Dr. Carswell regarded irresistible impulse as operative in sane people as well as the insane. Was sanity altogether immune from the working of irresistible impulse? Or where was the dividing line to be drawn? The whole question of reflex or instinctive behaviour was important, and it was bound up with the question of self-control. He thought much might be learned on the point he had raised from Dr. Rivers's book, *Instinct and the Unconscious*, a remarkable piece of work, which was instructive for the legal as well as for the medical profession.

Dr. D. Ross said he was reminded by this discussion of an article by a Frenchman, in which an attempt was made to frame a standard of responsibility. In one or two departments of France they had done their best to institute a sliding scale, and that author concluded that it was chaotic, and that it could not be otherwise. He said one could not frame a standard, and that the whole crux of the matter was as to whether the man or woman was sane or not.

Mr. DONALD CARSWELL (Barrister-at-Law) said that many hard things had, as usual, been said about the McNaughton Rules, but the difficulty which occurred to him was this: He agreed with the hard things which might be said about them, and he had said a few himself. But they were there, and how were they to be got rid of? It was easy to make out a case, but they were the law, and he would say, speaking as a lawyer, that there was not the slightest chance of the lawyers ever departing substantially from them. In those circumstances it seemed to him only reasonable that no opportunity should be lost of trying to find, however imperfectly, and however open to theoretical criticism, some concordat with the legal profession. It could only be done by agreeing with one's adversary, and in this case it was suggested that the Atkin Report afforded an instance of one's adversary "being in the way." It was worth while following that up; it might be with no result, but it was worth considering.

He had no love for the term "irresistible impulse," and he agreed with Dr. Henderson that the lawyers should define what they meant by it. There were three senses, as far as he knew, in which the expression "irresistible impulse" was used by lawyers. There was, first, the obvious sense of reflex or instinctive action. In a case like that, he thought, one clearly came to the McNaughton Rules, for where a man acted instinctively or blindly, it could not, in any reasonable sense of the word, be said that he knew what he was doing; he might know immediately before, or immediately after, but there was, one might suppose, some brief interval in which he did not know. Consequently, it was not necessary to drag in irresistible impulse at all. He noticed that Lord Justice Atkin had some difficulty on that point; it would be difficult, Lord Atkin thought, to distinguish between sane and insane irresistible impulses, but he stuck to his guns and made the recommendation, because where a man's mind did not accompany the act, it was immaterial whether he was sane or insane. And to narrow the benefit of the rule down, as Lord Atkin did, to a case where the irresistible impulse was due to mental disease, seemed very much like conferring irresponsibility on a man provided he had red hair or a long nose, for the insanity had nothing to do with it. The second case was the ordinary sort of irresistible impulse which one saw expressed

by many judges, for example the present Lord Chief Justice, when they were dealing with the plea of irresistible impulse. The third made the irresistible impulse really an abuse of terms. Yet, for some strange reason, many lawyers seemed to have used irresistible and uncontrollable impulse in a sense which was very wide. When one looked at Stephen's and Justice Bray's charges, one saw there was no question of impulse at all. Mr. Justice Bray simply said the man was not a person who was able to regulate and order his conduct; that was not the same thing as talking of controllable and uncontrollable impulse. But it seemed that there were two schools among lawyers—one who wanted to take control of impulse in the wide sense, and that of Lord Justice Atkin, who would take it in the narrower sense. And they were always playing fast and loose between them, which was inevitable, but in a committee composed as the Atkin committee was composed it ought not to have been done.

He was not very hopeful about legislation, and that seemed a bad way of dealing with it, unless there could be agreement. And, on the other hand, the outlook in court was hopeless. Judges, he thought, were rather disingenuous on this point. Lord Alverston said that when the time came they would not shrink from the duty of pronouncing on this important question; judges did not say the time never could come because the Crown had no right to appeal against acquittal. Cases were referred to showing very liberal charges by Judges, then the Court calmly said they were not in point, because the finding of the jury negatived the plea put forward by the prisoner, and so it was unnecessary for the Court to decide. Therefore it was impossible to look for assistance from the Court of Criminal Appeal. What would help the medical profession in that way he did not know.

Dr. J. G. SOUTAR said that after all the discussion which had taken place he was still of the same opinion which he had held all through. It was that he had never yet seen a case in which he could say that irresistible impulse was the only evidence of mental disorder. When this plea of irresistible impulse was suggested, investigation often showed—not then perhaps, but later—that a definite idea preceded this particular act, that in many cases it was a premeditated act, that under certain circumstances this act, which was looked upon as impulsive, was the one which would be committed. One could find other indications of mental disorder in those persons who had what was supposed to be an irresistible impulse. Among the community in any mental hospital it was common to find that impulsive acts were committed; they were only incidents in the course of a general mental disorder, and it would be difficult to stand up and plead that simply because a person committed an impulsive act, therefore he was insane and irresponsible. The case which had been quoted he did not regard as irresistible impulse; it was not entirely automatic, and the person did not know what was the nature of the act. It was well known that impulsive acts were committed by quite sane people, and the impulse, in that sense, was by no means an indication of mental disorder. And if it was widely recognized that impulsive acts were characteristic of sane people, he did not see why, in particular circumstances, it should be said that impulsiveness was an indication of mental disorder and irresponsibility. His feeling was that this interpretation of impulse could not be read into the McNaughton Rules or findings, and that was the great stumbling-block in regard to the evidence. If the McNaughton finding could only be wiped out and the requirement that all medical evidence must come within that finding could be done away with, medical witnesses would be in a better position in cases of this kind. The medical witness had to testify to the facts as evidence in every case, and then it must be left to the judge and jury to say whether the facts testified to by skilled observers were indicative of that degree of unsoundness of mind which rendered the person irresponsible for his act.

The CHAIRMAN (Dr. PERCY SMITH) said he did not intend to traverse the debate, but he wished to say that the Association had done the best it could to show that the McNaughton Rules were obsolete, or that they should be done away with, and that every case should be tried on its merits, with the fullest possible evidence. It was true that if McNaughton had been tried by these rules he would have been hanged. As it was, he was an ordinary case of insanity, who murdered a man by mistake, whom he believed was the centre of the organization against him, and he was sentenced as a criminal lunatic, and he remained as such until he died. But the speaker feared the McNaughton Rules were now, as it were, tied tightly round the necks of professional men by the verdict of the Court of Appeal in the

"True" case. In spite of that, as members knew, the Home Secretary was able to get further evidence of True's condition, and True was placed under care.

With regard to Dr. Henderson's remark that there were patients who had not been tried and yet had been put away as criminal lunatics, or sent to asylums before trial, the late Mr. Trevor said that on visiting Broadmoor he frequently heard inmates who had been found insane when awaiting trial say that they never had been tried, and that it had never been proved they committed the crime with which they were charged.

The point made by Dr. McRae about the parole of patients in mental hospitals was a very important one. In that case, as Dr. McRae said, it was the medical superintendent who took the responsibility, therefore if a patient escaped while he was on parole, he was still regarded as insane, and any act he might commit then he was not fully responsible for.

Dr. J. CARSWELL, in reply, said he had been greatly struck by the steadiness of the Association. It had committed itself and given evidence, and none more pointedly than Dr. Percy Smith, and it was turned down by the Atkin Committee. The Association's Committee said what Dr. McRae and others wanted them to say; they said that the business of the medical witness was to testify to the state of mind of the accused person, and, having said so, all the questions concerning responsibility were purely legal, and the lawyers could settle them for themselves. Having established that a man was insane, the medical witness considered that his duty was ended, and the Court should say whether they thought the evidence meant the man was insane, or not. The Association stood by that position, and he was delighted to find to-day, in spite of his efforts to lead members on, that they still stood firm. That was the only sound and logical position. But they were not dealing with logic just now; they were dealing with Lord Justice Atkin and his Committee, and with a public opinion, which was very far from being logical. And, reading between the lines, he, the speaker, concluded that Lord Justice Atkin was all the time indicating in his Report, "Do find us a way out." The speaker thought that was a reasonable position, seeing that the legal and the public opinion were so hostile to the frank abandonment of the MacNaughton Rules altogether, and that, at any rate, it was up to the Association to discuss—and perhaps they could profitably discuss for five or ten years—what there was in Lord Justice Atkin's suggestion. On reading the Report carefully and re-reading it, and reading the charges of judges to juries and the cases, one was forced to the conclusion that, without admitting it, they wanted to find some formula which would practically nullify the McNaughton Rules. If this was the lawyers' way of getting out of it, could not the medical side help them? Discussion would reveal the futility of much of the position. The lawyers had not defined irresistible impulse; in fact there was one passage which would interest Dr. Ross, which showed the fearful entanglement that such an acute mind as Lord Justice Atkin's got into when it started with this irresistible impulse idea: "We appreciate the difficulty of distinguishing some such cases from cases where there is no mental disease." Evidently there ran in his Lordship's mind cases in which there was mental disease undoubtedly, no mental disease except impulse, and went on to illustrate what he meant by the kind of impulsive conditions not associated with mental disease, such as criminal acts of violence, or sexual offences, where the impulse at the time was actually not merely uncontrolled, but uncontrollable. That answered Dr. Ross's question, and stated that ordinary people had uncontrollable impulses. The suggestion contained in the middle of the sentence quoted, about sexual offences, probably gave the clue to what was in Lord Justice Atkin's mind. There were certain conditions in which things happened which were seriously regarded, and Dr. Carswell supposed his lordship would call that uncontrollable impulse.

The CHAIRMAN said he thought the Association was greatly indebted to Mr. Carswell for having printed in his book the Report of Lord Justice Atkin's Committee and the whole of the True case, so that it would be there for reference whenever the question should come up again—perhaps in twenty or thirty years' time.