Medico-Legal Notes.

INTERESTING information arrives from America, relating to a proposed revolutionary alteration in criminal procedure, which has been brought forward by Governor Alfred E. Smith, of New York State. The scheme may be summarized as follows: (1) The jury, in a criminal trial, should determine only the guilt of the accused person. (We presume that this means the determination of the commission of the act. For, in America, as in this country, the establishment of a criminal intention, technically known as *mens rea*, is essential if the act is to constitute a crime.) (2) The jury having returned a verdict of "Guilty," the duty of passing sentence is to be taken out of the judge's hands and given to a special State board. This board will consist of legal experts, psychiatrists and penologists. The members of the board are to be whole-time officials, and will be paid at the rate of £5,000 per annum each. (3) The board will determine whether the convicted person should go to a mental hospital, or to a prison. In the latter event, the board will decide the length of the period of imprisonment, and the conditions of possible release on parole. These proposals involve a change in the State constitution. Pending such change, Mr. Smith recommends that funds should be provided by the legislature, in order that a full investigation of the question may be taken in hand.

The establishment of such a procedure has often been advocated by American psychiatrists and criminologists. But we believe we are correct in claiming this as the first occasion upon which such a scheme has been sponsored by a prominent and responsible politician. Mr. Smith is a possible candidate for the United States Presidency.

We shall watch, with great interest, the reception of his proposal. It will be noted that the decision, as regards the treatment of a convicted offender, is not placed solely in the hands of a body of medical scientists. The proposed board would consist, in part, of legal members. This should go some way to meet the objection, which is certain to be made, that psychiatrists desire to usurp the functions of courts of law. Assuming that the scheme is adopted, its success will naturally depend upon the composition of the board. The mention of a jury would appear to imply that the operation of the scheme is limited to more or less serious cases, such as are, in this country, tried at Assizes and Quarter Sessions. But it would only be an extension of degree to apply a similar procedure to cases which are dealt with by minor courts.

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SOME reports of a recent trial at Los Angeles, California, have reached us. The accused, William Edward Hickman, was indicted for the murder of a young schoolgirl, named Marian Parker. In a confession made after his arrest, Hickman stated that he kidnapped the girl in order to extort a ransom from her father, the money being wanted for the purpose of defraying the expenses of a college course. After keeping the girl in his apartment as a prisoner for two days, he murdered her, and disarticulated the body. He stated, further, that the murder was due to a sudden impulse. But he was aware that a thorough search for the missing girl was in progress, and this fact must be kept in mind. At the trial an attempt, which appears to have been unsuccessful, was made to set up a defence of insanity (dementia præcox). The usual battle of opposing experts was staged. One psychiatrist, called by the defence, informed the court that he would require to preface his evidence with a lecture, two hours in length, on the subject of dementia præcox. We are not told whether this request was granted.

There was, however, one curious incident during the trial. Dr. Paul E. Bowers, called for the prosecution, testified that Hickman was sane, and was not suffering from dementia præcox. This conclusion was based, in part, on the absence of dermatographia. The witness was called upon to repeat his test in court. "Hickman was stripped to the waist, and Dr. Bowers, with his thumb-nail, marked a large 'H' on Hickman's back and chest, explaining that in a true case of dementia præcox the scratch marks would get very red, and would stay red. Hickman was then walked up and down before the jury for several minutes, and the scratch-marks grew red, but the witness explained that they would fade away quickly. The fading did not occur, and an hour and a half later, when photographed in Hickman's cell, the marks were as red as ever." The witness then explained that the sign was confirmatory, but not certain. This public exhibition of physical diagnosis in a criminal trial is unusual, if not unique. The practice, if it became generally adopted, might have some striking extensions!

REX *v.* JAMES GILLON.

THIS man, æt. 30, was tried for the murder of his sister before Mr. Justice Horridge at Lewes Assizes on December 12. The prisoner and the deceased woman had been fellow-servants at a house near Horsham. There had been a quarrel because the sister had refused to get breakfast ready for the prisoner. He had cut her throat, and had divided her spinal cord, the two injuries resulting from separate wounds.

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The defence was that of insanity. Dr. F. R. P. Taylor, medical superintendent of Hellingly Mental Hospital, stated that he considered the prisoner to be a high-grade mental defective; he had an inferiority complex; and he had "definite symptoms of delusion and persecution." The witness considered that the prisoner probably knew that he was doing wrong legally, but had thought he was doing right morally. In answer to the judge, the witness said that he thought the prisoner knew that he was taking the woman's life. The report does not state whether the evidence of the prison medical officer was given. The jury found the prisoner guilty, and he was sentenced to death.

Rex *v.* Fred Fielding.

This case was tried at Manchester Assizes, on November 5, before Mr. Justice Finlay. The prisoner was charged with the murder of a young woman named Eleanor Pilkington. They had been "walking out" for three years. There was a quarrel between them. Shortly after this the accused went to an ironmonger's shop, and said to another customer, "I am drunk. I have got a murder to do, and have come to buy a knife." On the following night he broke the window of the girl's bedroom. Her father came down, and the accused then said, "If I do not see Eleanor, you will be without a daughter in about a week." Soon after this the accused cut the girl's throat, while they were walking together. He than gave himself up to the police. The defence took the line that the crime should be reduced to manslaughter, on account of the accused's condition as to drink. He was found "guilty," and was sentenced to death. The case came before the Court of Criminal Appeal on December 19. The Lord Chief Justice, in dismissing the appeal, stated that there was evidence that the man had something to drink before committing the act; but it was no excuse for crime that a man was under the influence of drink; it was a different matter if the man was so completely under the influence of drink as to be incapable of forming a criminal intent.

Rex *v.* Enoch George Wilfred Dix.

This case was originally tried at Bristol Assizes, before Mr. Justice Shearman. The accused was charged with the murder of a game-keeper, it being suggested that he shot the game-keeper deliberately, in order to avoid being arrested for poaching. The defence was that the shooting occurred accidentally. The accused was found guilty of manslaughter, and was sentenced to 15 years'

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