SOUTH-EASTERN DIVISION.

The Spring Meeting of the South-Eastern Division was held, by the courtesy of Dr. Barton, at the Surrey County Asylum, Brookwood, on April 30th, 1902.

Present: Drs. Barton, Bolton, Bower, Chambers, P. Campbell, Cappe, H. Corner, W. I. Donaldson, C. Edwards, F. H. Edwards, C. Stanley Elliott, Lieut.-Col. J. W. Evans, Drs. Edridge-Green, France, Fee, Gayton, Gardiner Hill, Haynes, Hyslop, Robert Jones, Kerr, Moody, Mott, Macmillan, A. S. Newington, Peeke Richards, Steen, Shuttleworth, Grimmond Smith, Stoddart, R. J. Stilwell, F. R. P. Taylor, E. W. White, and Boycott (Hon. Sec.).

After luncheon a meeting of the Divisional Committee was held. During the morning the grounds and asylum buildings were inspected, and at 2.45 p.m. the General Meeting of the Division took place, Dr. Barton being voted to the chair.

The minutes of the last meeting were read and confirmed.

The following gentlemen were elected ordinary members of the Association:—Frederick Cairns Blakiston, M.R.C.S.Eng., L.R.C.P.Lond., Assistant Medical Officer, Herts County Asylum, Hill End, St. Albans (proposed by Drs. Boycott, Grimmond Smith, and McConaghey); Percival L. Langdon-Down, M.B., B.C. Cantab., Normansfield, Hampton Wick (proposed by Drs. T. S. Tuke, R. Langdon-Down, and Boycott); Robert Serjeant, M.R.C.S.Eng., L.R.C.P.Lond., Assistant Medical Officer, Camberwell House (proposed by Drs. Edwards, Lavers, and Boycott.

Official Recommendations.

Dr. A. Norman Boycott was nominated as Honorary Secretary to the Division for 1902–3.

Drs. Everett, Gardiner Hill, and T. S. Tuke retired by rotation from the Divisional Committee, and Drs. Wolseley Lewis, Amsden, and F. H. Edwards were elected in their places.

The name of Dr. Mott was suggested to the Council to fill the vacancy on that body at the next Annual Meeting.

Next Meeting.

An invitation from the Drs. Tuke to hold the Autumn Meeting of the Division at Chiswick House in October, 1902, was unanimously accepted.

Dr. N. H. Macmillan read a paper on "The Treatment of Colitis" (see page 509).

At the close of the discussion on this paper the following resolution, proposed by Dr. E. W. White and seconded by Dr. Mott, was unanimously carried:

"That this Division of the Medico-Psychological Association approves of the register for recording cases of dysentery and diarrhœa in asylums, and will do its utmost to further the carrying out of the same."

The Chairman regretted that time did not permit Dr. H. Corner to read his paper on "Melancholia as the Expression of Physical Disorder."

A hearty vote of thanks was accorded to Dr. Barton for entertaining the Division at Brookwood, and also for presiding in the chair.

The members afterwards dined together at the Café Monico, Regent Street.

RECENT MEDICO-LEGAL CASES.

Reported by Dr. Mercier.

[The Editors request that members will oblige by sending full newspaper reports of all cases of interest as published by the local press at the time of the assizes.]

Welsh v. *Duckworth and others.*

This was a remarkable action brought to recover damages for conspiracy and false imprisonment. The plaintiff was sergeant in the Liverpool Police Force, and the defendants are superior officers in the same service. As far back as 1891 plaintiff was employed at the docks, and it was admitted that while so employed

https://doi.org/10.1192/bjp.48.202.591-a Published online by Cambridge University Press

he had on various occasions obtained sacks of corn-sweepings, bundles of cigars, and perhaps other things of small value for the defendants, Chief Inspector Strettell and Chief Clerk Sperrin, under whose orders he was. He had never got anything for the defendant Duckworth. It was proved that the corn-sweepings were often given away at the docks for nothing as worthless, and that on some occasions the plaintiff had been paid 10s. per sack for these sweepings. It was admitted that the two officers had occasionally received cigars from the plaintiff, but as to a number of other articles alleged by the plaintiff to have been procured for them the defendants denied all knowledge, and the plaintiff adduced no corroboration of his statement, though he said he had had a large number of letters, which he had destroyed, with respect to them. Of all the letters he had kept but three, and these dealt with corn-sweepings, cigars, and tobacco only. As far as can be judged from the evidence, the plaintiff had on various occasions, from nine to eleven years ago, obtained from ships' stewards and such people small quantities of tobacco and cigars, which he had given to the defendants Sperrin and Strettell, and that seems to have been the full extent of these dealings, of which a very great point was made at the trial.

It appears from the evidence that the plaintiff was not liked in the force, that he was charged with being addicted to drink, and that he was a man of intensely suspicious nature. He frequently complained that as an Irishman and a Catholic he could not get justice, that his nationality and religion retarded his promotion and excited prejudice against him; and in this he persisted, although there are many Irish Catholics in the Liverpool Police Force, and although, in order to abolish his grievance, he was actually transferred to the section of an inspector who was an Irish Catholic. When he was reprimanded for drinking and for small faults, he would get very excited, and suggest that there were plots against him. He declared that he could never get fair play; he talked mysteriously of the misdeeds of his superiors, and of the conspiracy against him until the matter came to the ears of the watch committee, and they investigated his complaints. He was called before them, and submitted a written statement to them, on which he was examined. The examination seems to have been patient and thorough, and the committee came to the conclusion that plaintiff's charges were baseless, a conclusion in which they were confirmed by a written statement by the plaintiff himself that he had no charges to make. The upshot of the investigation was that the committee decided to obtain medical opinion upon the state of the plaintiff's mind, so that if it were disordered, as they evidently suspected, they might award him a pension. Otherwise he must have been dismissed. On the instruction of the committee, the head constable had the plaintiff examined by the police surgeon, Dr. Dawson, whose evidence was that the plaintiff complained of insomnia, indigestion, general nervousness, and breakdown, caused, as he said, by the persecution and tyranny of his superior officers. Asked if he could give any reason for, or show any proof of this persecution, he said he could not. He said that even the tramway officials were set to spy upon him and to see that he paid his fare.

Dr. Lowndes, another police surgeon, also examined the plaintiff, who complained that he was being persecuted because he was an Irishman and a Catholic.

Dr. Wiglesworth also examined the plaintiff, who complained of being persecuted by practically all the members of the force. He did not single out any officer or any two officers as his persecutors; it was a general charge against practically the whole of the Liverpool Police, that they were conspiring to deprive him of justice. Witness pointed out the improbability of his statements, and said that at any rate the chief constable would do him justice. Plaintiff said that the chief constable was as bad as the rest. Witness pointed out how incredible it seemed that a gentleman in the position of the chief constable should be banded together with all the other officers of the force for the purpose of injuring plaintiff, and asked for proofs, but could get no mention of any proof whatever. "I consider," added Dr. Wiglesworth, "that he was absolutely unfit to continue duty as a police officer, that he was suffering from delusions of suspicion and persecution, that he was insane, that he might develop dangerous tendencies, and that he ought to be placed under care and control."

Upon the reports of these three medical men, the plaintiff was arrested as a dangerous lunatic, taken to the workhouse, and placed in a padded room. This was the false imprisonment complained of. Here he was examined by Mr. Stewart,

https://doi.org/10.1192/bjp.48.202.591-a Published online by Cambridge University Press

the stipendiary magistrate, by Mr. Henry Peet, J.P., and by Drs. Smart, Alexander, Bickersteth, and Barnard, the result of their examinations being that he was discharged. Of these, all but Mr. Stewart gave evidence at the trial, and stated that in their examinations of the plaintiff he made allegations against Strettell and Sperrin only, and these allegations he supported by showing the letters from them which have already been referred to, asking him to procure certain articles for them. The grounds that they had to go upon were therefore quite different from those upon which Drs. Dawson, Lowndes, and Wiglesworth formed their opinions.

The judge summed up the case with the care and impartiality to which we are accustomed from Mr. Justice Wills, the gist of his charge, as it concerns readers of this JOURNAL, being as follows:—His lordship impressed upon the jury that they were not trying whether the doctors arrived at a right conclusion or not as to the plaintiff's mental condition, but were trying whether their action, erroneous though it might be, was brought about by the fraudulent and wicked malpractices of the three defendants. In his opinion it seemed quite clear that the responsibility for the removal of Welsh to the workhouse rested upon the chief constable, who did not attempt to shirk the responsibility. The question was whether or not the proceedings were within the statute. There he thought the defendants were in considerable difficulty, and a verdict against them on this part of the case would not involve any kind of imputation upon them. If the chief constable had acted wrongly, the officers who acted upon his directions were not protected by his orders. It was a cardinal principle in English law, and a very good one, that an order given by a superior, which he had no right to give, did not protect his inferior. Therefore, if the chief constable had no right to send plaintiff to the workhouse, the defendants were not protected by having acted under him. His lordship proceeded to deal with Sections 13 and 20 of the Lunacy Act, 1900, and pointed out that "under proper care and control" must be such care and control as would be proper if a man were a lunatic, or the Act would have no meaning. He would ask them whether Welsh was under proper care and control. But there was another question, which constituted the real difficulty of the defendants upon this part of the case. He agreed with counsel for the plaintiff that the meaning of the words "if a constable is satisfied that it is necessary for the public safety or for the welfare of the alleged lunatic that he should be placed under control" then steps might be taken, was that a constable must exercise some independent judgment, and not shelter himself by simply saying that he had no responsibility in the matter—simply adopted whatever the doctors said. Did the chief constable honestly satisfy himself that the plaintiff ought to be kept under care and control? It went without saying that he honestly believed that he was doing right and was fulfilling his duties under the section. It was for the jury to say whether that was done according to the view of the law that he had explained. In a subsequent discussion between his lordship and counsel on the legal question, the judge repeated his ruling that it would not do for a constable simply to make himself the mouthpiece of a doctor without exercising any judgment of his own. If he had the opinions of doctors and honestly came to the conclusion in his own mind, that would be honest satisfaction; but if he exercised no judgment at all, and simply sheltered himself behind the doctors, that would not do.

The questions left to the jury were, first: Was there a conspiracy to procure the dismissal of the plaintiff and his imprisonment as a lunatic? To this the jury answered, "No." The other questions were: Was the chief constable honestly satisfied, when he gave the order to remove the plaintiff to the workhouse, that it was necessary for the public safety or for the welfare of the plaintiff that he should be forthwith placed under care and control? and, Was the plaintiff under proper care and control? As to these questions, it does not appear whether they were categorically answered, but upon the written reply of the jury being handed to the judge, his lordship said, "On the question which relates to false imprisonment you find in favour of the plaintiff?" To which the foreman answered in the affirmative. "Then," said his lordship, who does not seem to have been prepared for this result, "you have to say what damages." These were assessed at £200. Counsel for the defendants asked for a stay of judgment, to which the judge assented, remarking that he was very anxious to get this Act of Parliament definitely construed.—Liverpool Assizes, Mr. Justice Wills.—*Liverpool Courier*, May 10th, 12th, 13th, 14th, 15th, and 16th.

https://doi.org/10.1192/bjp.48.202.591-a Published online by Cambridge University Press

The sections of the Lunacy Act, 1890, to which the judge referred were as follows:—"Every constable . . . who has knowledge that any person within the district . . . is deemed to be a lunatic, and is not under proper care and control, . . . shall within three days after obtaining such knowledge give information upon oath to a justice (Sect. 13).

"If a constable . . . is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable . . . may remove the alleged lunatic to the workhouse. . . ." (Sect. 20).

These proceedings are parallel to those of the judicial reception order, and of the urgency order in private cases, but no actual documentary order is required for the immediate removal of the alleged lunatic to the workhouse, nor is any statement required of the reasons for this step, such as is required in the case of the urgency order. The trial turned upon the point whether the chief constable, who was not a party to the action, was *satisfied* that this step was necessary. If he were so satisfied, his subordinates were justified in acting upon his orders, which in that case were legal, and the action would not lie. If he were not so satisfied, then the judge ruled that his order to remove the patient was illegal, the defendants were not protected by it, and the plaintiff must have his verdict upon this part of the case. The evidence upon which the chief constable acted was made up of (*a*) his own observation of the plaintiff, (*b*) the reports of his subordinate officers, and (*c*) the reports of Drs. Dawson, Lowndes, and Wiglesworth, who testified that the plaintiff was a lunatic who might develop dangerous tendencies, and that he ought to be placed under care and control. It is unfortunate that the actual terms of the certificates or rather reports, for they were not, and did not need to be, certificates in the form prescribed by the Act, are not given in the report of the trial, but the purport of them is given in the evidence. As described, they do not state that the plaintiff was a dangerous lunatic at the time of the examination, but that he might develop dangerous tendencies; and there does not appear to be sufficient warrant in this statement for the instant arrest of the plaintiff, his removal forthwith to the workhouse, and his incarceration in a padded room. If the chief constable were satisfied of the necessity of this action, it must have been from the evidence (*a*) and (*b*), and not from the medical reports. Dr. Wiglesworth explicitly stated in court that the confinement of the plaintiff in a padded room was unjustifiable, and therefore there could have been nothing in his report to justify this. It should be stated that this step was taken on the order by telephone of the workhouse medical officer, who had received information by telephone that a dangerous lunatic had been admitted. Examination of the evidence of the chief constable and of his subordinate officers does not reveal any act or threat on the part of the plaintiff that indicates the necessity for such instant action, and it is probable that this was the ground upon which the jury arrived at the conclusion that the chief constable was not "satisfied" within the meaning of the Act that such action was necessary. The case has been reported at length because it is one of considerable importance, and indicates how very necessary it is that the terms of the Act should be observed in the letter and in the spirit.

Rex v. *Simmons.*

Edward George Simmons, 36, was indicted for the murder of Hettie Stephens at Melcombe Regis, on March 27th.

Prisoner was steward of a club, opposite to which was the bar at which deceased served. Prisoner was a married man, but had paid great attention to the girl, and had given her presents. Shortly before the murder he had told the employer of the deceased that she was robbing him and that she drank. The employer, both at the time and at the trial, scouted the accusations as absurd. On the evening in question prisoner went into the bar and had some private conversation with the deceased over the counter. Deceased was heard to say, "I don't want anything more to say to you, Mr. Simmons;" and to some other observation of the prisoner, "No, not after what you said about me." Prisoner then fired three shots at the girl with a revolver, killing her on the spot, and a fourth shot into his own mouth, which gave him but a slight wound. A man who was in the bar seized the

https://doi.org/10.1192/bjp.48.202.591-a Published online by Cambridge University Press