THE MEDICO-LEGAL ASPECTS OF SELF-INFlicted WOUNDS ON ACTIVE SERVICE.

By Colonel J. S. WARRACK, A.M.S., T.D., M.D., M.A., D.P.H., BARRISTER-AT-LAW.

In this paper dealing with this subject, I propose to confine myself to wounds self-inflicted under active service conditions, where the inflicter survives, and not to take up the differential diagnosis between homicidal and suicidal injuries, which may be studied in any textbook of "Forensic Medicine." Now the self-inflicted wound may be simply defined as one which has been inflicted by an individual on himself. It excites an attitude of suspicion at once, by its situation, and by the manner and circumstances of the infliction.

The self-infliction may be, first of his own volition, with the motive and intention of substituting a lesser danger for a greater, and so removing himself from a position of great personal risk, to one of comparative security, or for some other reason equally cogent to his mind; second, by negligence, handling familiar or unfamiliar weapons or ammunition in a careless way, regardless of the consequences to himself or his comrades, or by forgetfulness of the dangerous nature of the objects of his investigation; third, by accident which means the occurrence of the event independently of the will of the individual and excludes the above.

Therefore, in dealing with cases of self-inflicted wounds these must be distinguished otherwise injustice will be done to the individual, or the State will be prejudiced, or the moral of his service be impaired, should the inflicter escape the penalty of his action.

Now the branch of the Service which is most concerned in seeing that the whole matter be put in the proper light to those in authority is the medical branch. The medical officer is bound to be called in sooner or later to express an opinion as to the means by which the wound was sustained, either by the nature of the wound itself, or by inference from the observations of eye-witnesses, or of the circumstances of the occurrence. It is, therefore, essential that he should see as early as possible the wound, the weapon with which inflicted, the place where it was inflicted, and if this is impossible, and in any event, should the exigencies of the Service permit, he should interview the eye-witnesses or read their statements of what occurred. His description of the wound must be accurate, and he should have knowledge of the action of the weapon and of the effect of the missile. His report will be of the greatest possible value in deciding the question of disciplinary proceedings. There are certain principles which

1 Paper read before the Naval, Military and Air Force Group of the Society of Medical Officers of Health, January 30, 1925.
he must have in mind, and he must bring his diagnostic acumen to bear on the case.

The wound deliberately self-inflicted will be on an extremity, the arm, the leg, the hand, the foot. It may be blackened, but if the shot was fired through a sand-bag, or other obstacle, blackening may be absent; or it may have been inflicted in various ways, ingenious or otherwise, or by the agency of a comrade, but it will not be of a character designedly dangerous to life, unless the motive was suicidal. The negligently, or accidentally self-inflicted wound may be anywhere on the body, and to form the correct opinion other evidence may be necessary, such being that of the eye-witness or evidence of motive. It may be very difficult on active service to secure the eye-witness, and if secured to get him to speak the truth. Wounds may, of course, be self-inflicted by cutting as well as by bullets. Having these things in mind the medical officer will write a concise description in his field report book, giving name, number, unit, place, date, sign the report, have a carbon copy. He must not trust to the field medical card as the only record, as this document is very easily lost; indeed, its loss would be most suspicious, and moreover, it might be altered or varied. The original notes taken by him at the time will be valuable evidence when produced by him later at an inquiry or trial, and could be used as evidence, if he became a casualty, should the Court hold them to be admissible.

The following quotation from the "Manual of Military Law," p. 70, para. 56, 1914 edition, states the law concisely:—

"A statement, written or oral, or an entry which it is a duty of a person to make in the ordinary course of his business, or professional employment, is admissible as evidence after his death, provided it is made contemporaneously with the act to which it relates. But it is only admissible to prove these facts which it was the duty of the person making the statement or entry to include in it, and of which he had personal knowledge."

The best witness then should be the medical officer who saw the casualty first, and he should be in a strong position to help the course of justice.

In getting out a report, he should see the original weapon, or one of similar pattern, and the same principle applies to the missile. He may be required to do some experiments with the weapon, or quote from recognized authorities and produce the books on the point. Should he be able to visit the locality he should reconstruct the positions of all concerned as far as possible, and if practicable, get the eye-witnesses to show him what happened.

Having then obtained all the data possible he should make a clear and concise statement of the facts that have come to his knowledge, and give an accurate opinion based on them, drawing the proper inferences and avoiding qualifications.

If then, the accused is to be tried, the evidence of the medical officer will be ready, there will be no delay. His statement with those of the
other witnesses will be sent to the defence, and the Court will not allow new matter to be brought in for the prosecution at the trial without previous notice to the defence. The defence are not obliged to disclose their case. The accused is presumed to be innocent until proved guilty, and it is for the prosecution to bring his guilt home to him. The medical officer must remember that he will be liable to cross-examination by defending counsel or prisoner's friend, and that the defence will endeavour to prove accident, or failing that, negligence. Therefore what he says in examination-in-chief he should stick to, but if he has anything which may be in favour of the accused, he should say so. He should not volunteer statements but confine himself to answering relevant questions, using plain language, giving as candid and clear answers to the defence as to the prosecution, and avoid any semblance of partiality or bias. He will be entitled to refer to his notes to refresh his memory, but if he does produce in the witness box anything in writing, or print, either side may require him to hand it to the Court for inspection and subsequent questioning.

Under the Army Act, prosecutions as regards officers are taken under Section 16, which reads, “Every officer who, being subject to Military Law, commits the following offence, that is to say, behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by court martial, be cashiered.”

Prosecutions of soldiers for disgraceful conduct are taken under Section 18, and for self-inflicted wounds Sub-Section 2. The offence must be wilful, and wilfulness must be proved by evidence. Prosecutions for negligence are taken under Section 40: “Every person subject to military law who commits any of the following offences, that is to say, is guilty of any act, conduct, disorder or neglect, to the prejudice of good order and military discipline, shall on conviction by court martial be liable . . . .” (here follow the penalties).

I will now give an illustrative case in which I was concerned as Counsel, where a misdescription of the wound and an erroneous deduction therefrom were of material assistance to me in upsetting the evidence for the prosecution and so securing an acquittal. This is the story, and I will call the accused H., the first medical officer R., the second medical officer C. and the locality F. The event occurred at the beginning of October, 1916, and the facts were as follows:—

H., a captain in the Royal Flying Corps, S.R., had enlisted as a private, and had served in South Africa in the De Wet rebellion, and then in German South-West Africa. His character was good. He had suffered from sunstroke and was liable to headaches. He came to England in September, 1915, was commissioned as an aviator, obtained his aviation certificate, did a good deal of flying in England, including night-flying over London, until September, 1916, when he was ordered to France. He arrived at a place called F., where he commenced further instruction in flying, he used a Sopwith plane and learned the use of a Vickers gun on
the ground. He did several practice flights both as pilot and as observer. On October 1, 1919, the following events occurred:

At 11 a.m. he obtained a Colt automatic pistol, had it loaded, put it in the pocket of a plane and left it there. It was found impossible to use that plane, so it was arranged that he should go up in a Sopwith plane. At 2 p.m. he produced the same pistol to a witness, inquired if it was loaded, received some instruction in its working, which he said he did not know. He then proceeded to get into the plane, he had the weapon in his hand, but I elicited that he put it in the left-hand pocket of his leather coat, and accused in evidence said that it was his practice so to do, and other witnesses said that this was not unusual. At 2.20 p.m. he left the ground without a passenger. As regards the Vickers gun, which at that time was the defensive and offensive armament of certain planes, he had asked not to have this loaded, and it was unloaded for him. At, or about, 2.25 p.m., some men playing football in a field about four miles away, saw a plane come down in a swaying manner. It reached the ground, and in a few minutes' time, attracted by curiosity, they went to have a look. The plane had got on fire, and this they put out. Then they saw an airman standing on the left side of the machine, he was wounded in the left arm and blood was running down the sleeve of his leather coat profusely. He was dazed, made some disjointed statements, so they laid him on the stubble, an R.A.M.C. man, one of the players, gave him some brandy, put on a first field dressing and sent for the medical officer.

The first medical officer, R., came on the scene at 3 p.m., saw and redressed the wound in the left arm, and asked a few questions as to what had happened. Accused replied that he had gone up to see the line and the country, he had seen a hostile aircraft, tried to fire at it, but his gun was slow in starting, and just then something happened, and he could remember no more about it. Some other general remarks passed, and R. reported that accused was quite rational. Then, in his statement, R. found on examination "that the accused was suffering from a compound fracture of the left forearm, which appeared to have been caused by a bullet entering on the inner side of the arm, and passing out on the outer side, he had not lost much blood, but that the shock and loss of blood might explain the temporary aberration of memory, that the accused had looked round the machine and appeared satisfied." Then R. went on to state "that there was nothing in the wound to cause a suspicion that it had been self-inflicted, but that it was obvious that it had passed from the inside to the outside." He did not see the accused subsequently. All this was sent to the defence.

At 4 p.m. the plane was examined by a party from the unit, and certain discoveries were made. At 9 p.m., some officers of the formation arrived, the witness R. was with them, and they all came to the conclusion that the shot must have been fired inside the fuselage. There was found a hole in the fabric on the left side of the pilot's seat, the pistol was found fully
cocked under this seat. There was a round in the chamber of the pistol, and five rounds in the magazine, which left one round unaccounted for. The shell was not found. The leather coat had two holes in the left sleeve. The Vickers gun was unloaded, and had not been used.

Therefore H., the strange officer who had only been with the unit a short time, had told an untrue story.

To go back to R., he sent a note later to his colleague C., in which he said that he was of opinion "that this officer's injury was probably self-inflicted."

A Court of Inquiry was held, at which H. was not present, but he was questioned at his bedside, and could say nothing to explain what had happened, he could not recall what had happened in the few minutes he was aloft. He was then arrested for trial by court martial, and was charged under Section 16, with "scandalous conduct, etc.," and under Section 40, "negligence," so that if he was not caught under the first he might be brought down by the second. He was sent to my unit to await his trial, and I was asked to defend him.

Now, what had to be got over was this statement about trying to fire at hostile air craft, and other remarks, and it is possible that the effects of the brandy and shock, together, might account for it. It was quite clear that the wound was self-inflicted and in the plane; therefore it must be accounted for by accident which accused could not help. The evidence of the combatant witnesses was quite straightforward, as to the condition of the plane, the weapon, and the unloaded and unfired Vickers gun, but in cross-examination, all the mechanics and armourers were anxious to say, and did say, that Colt automatic pistols were dangerous weapons, and went off very easily. One witness saw H. put the pistol in his left-hand pocket as he got into the plane, and another loaded the pistol in court, and a cartridge went straight into the chamber, the safety catch went to "danger" with a touch, the members of the court became most uncomfortable, and a good effect was produced for the defence by the demonstration of this exhibit.

Previous to the trial, I took an afternoon off to look at a Sopwith plane, and tried to reconstruct the accident. I searched round for a Colt pistol, and this was produced by the dentist, and also a leather coat. So we went to the aerodrome together, and I put him in a Sopwith plane with his left hand on the joy-stick, got him to take the pistol out of the left hand coat pocket, and on withdrawing it, the muzzle pointed straight at the left forearm.

Now, as to the actual condition of the injury, the scars were there, and so the statement of R. could be checked. This was the actual condition: "There were two scars, one on the anterior surface of the forearm, midway between elbow and wrist, towards the radial side, and one on the posterior surface over the ulnar side. The first was circular and healed, the second larger and not quite healed. It was slightly further down from
The inference was, that the entrance was in front, and the exit behind, the arm partly pronated, with the elbow flexed. It was put to the medical witnesses, and to the court, that this was consistent with the accidental discharge of the weapon, on the assumption that it had been taken out of the left-hand pocket of the leather coat low down when the accused was sitting in his seat, by means of the right hand, the left being on the joy-stick, and that this accounted for the injury. Moreover, R.'s description meant that the arm must have been in a most unusual position for a man guiding a plane. R. was then shown the scars, and asked to explain his statement that the wound was from inside to outside. He could only say that he was using popular language. Asked also to explain why he said that it was probably self-inflicted, when he had not made a careful examination, and why he had changed his mind he had no answer. The theory of accident was then put to him, and he was forced to admit the possibility. His colleague, C., at the hospital, was a better witness. He described the injury accurately, said that it was consistent with accident, and with the use of the weapon as above mentioned.

The accused gave evidence. He had a good military record, and testimony from two of his commanding officers, one of whom was in court, and also some evidence from two of the men who were playing football when the plane came down. He was able to say what had occurred previous to the flight only, and his cross-examination was directed to suggest that he knew a good deal more about what happened in the plane than he chose to say. During his examination-in-chief, he was directed to put on his leather coat, sit down in a chair, the pistol in the left-hand pocket, to put his left hand on a stick to represent a joy stick, and to draw the pistol from his pocket. On this being done, the muzzle pointed directly towards the hole in the sleeve. The end of the trial was, that he was acquitted of both charges.

The case goes to show how a prosecution can be upset by an inaccurate and hasty examination by a medical witness, how any inferences drawn are worthless, and how divergent statements by medical witnesses can be used by the defence to support their side, and how valuable it is to reconstruct as far as possible, the events, and then see how far they point to an accurate and logical conclusion.

In all cases under these sections of the Army Act, where wilfulness is an essential ingredient, there must be evidence of motive. Motives can be inferred from previous overt acts, conduct and words. The mere fact of a man being in a potentially dangerous position is not enough. To bring guilt home to the prisoner motive must be proved, and the chain of circumstances must be such as to lead to a conviction of guilt in the minds of those trying him. The officers of the court martial are both judges and jury. They have the assistance, where possible, of counsel sitting as assessors with them, and the prisoner has the benefit on conviction of having his case afterwards reviewed for confirmation or
J. S. Warrack

revised by higher authority. It would be an advantage if an experienced medical officer, preferably with a legal training, were a member of the court, or at any rate of the reviewing authority, in important cases where the death penalty, penal servitude, or cashiering is involved.

Note.—This paper has dealt with procedure under the Army Acts. The rules of evidence in all courts martial, whether naval, military, or air force, to be followed, are those adopted in courts of ordinary criminal jurisdiction in England.

DISCUSSION.


Sir William Willcox said: The determination as to whether a firearm wound was self-inflicted was often extremely difficult. In 1916 some experiments with the Service rifle were carried out by me at the request of the War Office. The results of these experiments were published in June, 1916, in the Journal of the Royal Army Medical Corps. In 1908 a paper on the medico-legal importance of wounds produced by firearms was read by me before the Medico-Legal Society. When the muzzle of the firearm is near to the body fired at the character of the wound will often indicate the actual distance of the muzzle from the object. It is necessary to know the weapon used, and also the type of bullet and the powder, and whether ordinary gunpowder or smokeless powder. Preliminary experiments made by firing at white cardboard at distances of 3, 6, 9, 12, 18 and 24 inches respectively are helpful. The presence of blackening, scorching and pepperling or tattooing around the inlet wound will generally enable one to form a fairly accurate opinion as to the distance of the muzzle from the object, assuming that this is under two feet. Also the character of the wound itself, and the presence of powder in the deep tissues is of importance. The direction and the situation of the wound are also obviously of great importance. When all these factors are carefully considered, the possibility or probability of a wound being self-inflicted is made clear. Usually collateral evidence is necessary before a definite opinion can be formed, also the mental condition of the suspected person is of great importance. A wound may be purposely or accidentally self-inflicted and the determination of this is one of great difficulty. In the case quoted by Colonel Warrack there did not appear to have been any sign of blackening or tattooing on the surface of the coat through which the bullet passed, it therefore appeared that the distance of the muzzle was probably over one foot from the inlet puncture in the coat. This being so, the probability is that the wound was accidentally self-inflicted. Colonel Warrack's paper was of great interest since
the mental condition of the accused person undoubtedly was an important factor in the case. It would be of interest to know if the accused person had ever suffered from epilepsy, or if there was any family history of this disease. The lack of memory occurring at the time of the accident suggested the possibility of a post-epileptic state, or a condition such as larvated epilepsy. The trial of a person accused of self-inflicted wounding on active service was one of great difficulty, and few medical officers were willing to state that a wound must be self-inflicted, and still less say that it was wilfully self-inflicted. In cases of this kind the scientific evidence and deductions should be placed before the court martial, and the decision based on the facts available left with them. In Colonel Warrack's case a correct verdict was, in my opinion, obtained.

Major-General Sir Wilfred W. O. Beveridge gave some experience of some self-inflicted wounds among the Indian Expeditionary Force during the war. He also stated how rare suicide was in the late, as compared to the South African, war.

Air-Commodore David Munro stated that in the Indian Expeditionary Force other methods adopted to avoid service in the trenches were the causing of conjunctivitis by the introduction of foreign bodies into the eye, as well as the production of an abscess of the leg by introducing a needle fouled with fecal matter. This latter method was accidentally discovered by the finding of a piece of thread.

Surgeon Commander Shaw, R.N., said that during the war he had spent some time in the North Sea, the rigorous conditions of which were only too well known, but in spite of this fact, in his experience, self-inflicted wounds were comparatively rare in the Navy.

Colonel Warrack, in his reply, stated that he had gone into the question of epilepsy with the accused, and that this was denied. As regards blackening, none was found on the coat of the accused.