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Part I.—Original Articles.

THE TWENTY-SECOND MAUDSLEY LECTURE: PSYCHIATRY IN THE CRIMINAL COURTS.*

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THOSE responsible for these lectures took their courage in both hands when they chose me to follow in the line of the eminent doctors and lawyers who preceded me. For I am in no way a Very Important Person. I held the lowest of judicial offices, though in my opinion one of the most important. But while emphasizing your courage, I want to assure you very sincerely that I am fully conscious that it is a great honour to be selected for this task. Indeed, I am somewhat overawed, but I can only try my best.

This paper will, I gather, be classified as one of the "popular lectures" for which Dr. Maudsley so wisely and generously provided. But I should warn you that most of the opinions that I shall express will not be at all popular in my own profession; I must not be regarded as typical of either lawyers or metropolitan magistrates. Only one of your specialists could explain why early in my professional career I began to doubt many of the assumptions and beliefs in which I was legally nurtured and why, as a magistrate, I was not content with traditional methods of dealing with law-breakers, but explored new fields, where I found modern psychology. Because I thus ploughed a lonely furrow, I had many difficulties to face and at times became unpopular with my elders and betters. However, Lord Macmillan, a great lawyer of our times, said this in his Maudsley Lecture of 1934:

> "The prophet has always been greeted with a volley of stones, for, to quote Prof. Whitehead, 'routine is the god of every social system.' He who would upset that routine is treated as a heretic and blasphemer."

While I make no claim to be a prophet, I accept the label "heretic," if applied to my magisterial methods, because in my low-lying field I tried to leave my work in a better condition than it was when I began.

* Delivered before the Royal Medico-Psychological Association, 12 November, 1948.

A great lawyer of the previous generation, Mr. Justice Fitzjames Stephen, once wrote this: "I think it highly desirable that criminals should be hated, that the punishments inflicted upon them should be so contrived as to give expression to that hatred."* This, of course, is the antithesis of the teaching of psychiatry; but to a large extent this is still the attitude of our criminal courts and of the law itself. Happily some big changes have taken place. Thus in regard to offenders under the age of seventeen, the law to-day prescribes that "every court in dealing with a child or young person . . . shall have regard to the welfare of the child or young person and shall in a proper case take steps . . . for securing that proper provision is made for his education and training."† This is the opposite of the view quoted above, and possibly Stephen himself would have been willing to make this exception to his general rule. While I think that Juvenile Courts have sometimes been too weak and sentimental with delinquent youths, I rejoice, and I am sure that you do also, in the principle thus expounded. While offenders of 17 to 21 have no such protection, the general aim of the authorities is to keep them out of the ordinary prisons. The recent Criminal Justice Act shows clearly that this is so. So far the courts have not accepted this aim, for the latest report of the Prison Commission states that in 1946 no less than 2,726 youths and 391 girls were sent to prison; of these 33 per cent. of the youths and 28 per cent. of the girls were not known to have had previous convictions.

It would be difficult to deny that for adult offenders the principles of Fitzjames Stephen still have much force. But to some extent they have been modified, mainly by the probation system, which is the most hopeful and constructive, and incidentally the cheapest way of dealing with offenders. With the exception of murder and a few such like offences, all criminal courts have the power to place all offenders on probation. This usually means that they remain with their friends and their relations, continue at work and are placed under the supervision of Probation Officers, who befriend them, but bring them back to the court if they do not make good use of the opportunities thus given them; then the courts still have the same powers of punishment that they had at the trial. Countless offenders have found their way back to a useful life in this way.

For those adults whom courts cannot deal with in this way Stephen is still apt to rule. Judges, Recorders and magistrates may be forgiven, I hope, if they have feelings of hatred towards some of the offenders who come before them; for the deeds that are unfolded in court sometimes reveal the depths of degradation, and many offenders seem unrepentant, and even defiant. Possibly, if all those on the criminal Bench were psychoanalysed they would succeed in becoming entirely impersonal and imperturbable. But I doubt whether a Bench thus raised high above the general level of humanity would receive the respect of the public, unless, of course, everybody could receive the same treatment. Judicial anger at deeds of great evil can be tolerated and viewed with sympathy. But what does not deserve either tolerance or forgiveness is such anger at the time of passing sentence. At that stage

* *History of the Criminal Law*, **2**, 179.
† Children and Young Persons Act, 1933, s. 44.

hatred, if still existing, should have been transferred from the evil-doer to the deed.

The prime weakness of our criminal system, one which the new Criminal Justice Act did not attempt to touch, is that sentence is so often passed within a few minutes after the decision about guilt. There are exceptions, among which are in general the Courts of London and some of the bigger cities. But in most parts of the country—at Assizes, at Quarter Sessions and at Magistrates' and even Juvenile Courts—sentence follows verdict too quickly. Thus information about offenders, both social and, where necessary, medical, has usually to be obtained from inquiries made before trials take place. It has always seemed strange to me that our criminal courts have tolerated such inquiries, for one of the main principles upon which our criminal law is based is that an accused person is innocent until he has been proved guilty. To me it has long seemed intolerable that police and probation officers make investigations about home conditions, the nature of employment and the record at work of an accused before the courts have decided whether he is guilty of the crime alleged against him. Such pre-trial inquiries are usually superficial, so that the information given to the court, when a verdict of guilty has been pronounced, becomes inadequate. Thus courts are led to form their own impressions of the state of an accused person from watching him during the trial. A more dangerous method of obtaining an opinion could scarcely be imagined. An elementary knowledge of the principles of psychiatry would deter those on the Bench from making such assessments of human personality. If an accused appears truculent, the reason may be what psychiatrists term a " reaction character trait " ; and the same can apply to other types of accused.

This matter is so important that I hope that you will bear with me when I take a brief glimpse at the methods of each kind of court.

Number 11 of the Rules made under the Children and Young Persons' Act prescribes the following procedure when guilt has been established :

> " The court shall, except in cases which appear to it to be of a trivial nature, obtain such information as to the general conduct, home surroundings, school record and medical history of the child or young person as may enable it to deal with the case in his best interests, and shall, if such information is not fully available, consider the desirability of remanding the child or young person for such inquiry as may be necessary."

So the official Rules themselves authorize the obtaining of the necessary information before the question of guilt has been decided. But at least they do direct the mind of the Bench to the wisdom of having this information before the decision of the court is made about the future of the defendants. But what are the results in practice ? Miss Winifred Elkin wrote, in 1938, an excellent book on the methods of Juvenile Courts. In this book she stated that " the home inquiries are made and the school reports sent up before the case is heard, and, unless there are special circumstances that make a remand advisable, the Bench reaches its decision on the child's first appearance in court." This is still true to-day. In the best courts such adjournments are made as a general rule, but such courts are the exception.

The position in adult Magistrates' Courts is much the same, except that there are no official Rules to govern their procedure in this matter. But in doing their work in this way magistrates are but following in the footsteps of their betters. For most Courts of Quarter Sessions and Assize Courts also act in the same way. Many Courts of Quarter Sessions and Assize Courts last for no more than a single day, even part of a day. Thus there is no time for inquiries after findings of guilt.

Sections 25 and 26 of the new Act deal with the power of Magistrates' Courts to adjourn cases after conviction and before sentence. There is now express power to do so " for inquiry into physical or mental condition." Such remand may be on bail, and while an offender is on bail there are now powers to enforce his attendance for medical inquiry. The reports of the doctors making the investigation may be submitted to courts in writing, subject to objections from the offender. But please do not believe that these sections will at long last bring about the conditions that we want. There is very little that is new in them ; in fact I and others have for a long time been doing almost everything that these sections permit. Again, these sections are optional. The Act contains nothing to prevent a court from continuing in the old evil ways and passing sentence without any medical or social inquiry quickly after the finding of guilt. Courts will still need to be educated about the wisdom of only passing sentence with full information about the offender. The burden of that education must to a considerable extent rest with those expert in abnormal conduct.

How strange can be the methods of even our highest courts, when left to themselves, is clearly shown in the official volume, *Criminal Statistics*, for the year 1938. Therein a comparison was made between the proportion of cases placed on probation at the Assizes and at the Central Criminal Court, which is the Assize Court for London and parts of the Home Counties. And here may I remind you that probation gives the best opportunities for psychological treatment ? At Assize Courts outside London the percentage of young offenders was 19 per cent., while at the Central Criminal Court it was in the same year as high as 42 per cent. The percentage in regard to ***adult*** offenders was 4 per cent. at Assizes and 16 per cent. at the Central Criminal Court. These are startling figures, especially as the very same judges who preside at Assizes all sit in turn at the Central Criminal Court, and thus set the tone for the other judges at that court. Why are judges more prone to use the probation system in London than at Assizes ? The answer is that in London there is enough work to make the sessions last for some weeks, and thus there is ample time for adequate inquiry, but many of the Assize Courts sit for but a short time, sometimes a single day. Thus adjournments after verdict are inconvenient, perhaps impossible.

Until the time-table of all courts is so arranged that there is time for ample inquiry after verdict, there can be only limited opportunity for enlisting psychiatric aid between verdict and sentence. Until this change takes place there will be inadequate time for the offenders to appreciate the harm that they have done, both to the community and to themselves, and thus to recognize that their sentence is deserved ; there will also be insufficient time for judicial anger to abate. Finally, there will be a continuation of the present system

whereunder the sentences of our courts, whether of punishment or treatment, are not likely to be scientific, and, therefore, such as to render further crimes unlikely.

I have just used the words punishment and treatment. I do not regard these two as necessarily alternatives. The psychiatrists who helped me with my cases freely admitted that punishment has its place in treatment. As I wrote in my book, *Crime and Psychology*, wise punishment can satisfy the unconscious needs of the delinquent. He understands punishment and if his punishment is such as to win his approval, as it should, then he is on the road to rehabilitation. I am fully aware that there are some offenders whose psychological condition is such that punishment is dangerous. Hence the vital importance of the examination of offenders at the stage between verdict and sentence. When dealing with cases with some psychological abnormality, it is important that the sentence of a court shall be understood and accepted by the offender, for, as Dr. Ian Suttie wrote, " the efficacy of a prohibition is the greater, the more the prohibitor is loved as well as feared."* It may seem absurd for those on the Bench to aspire to be loved by the offenders whom they sentence, but with certain types of case this is not impossible.

Unfortunately, and mainly for the reasons that I have given, a high proportion of the sentences passed are fixed in accordance with the crime and not with the criminal. This means that the courts put to themselves the question, " What has the accused done ?," not " What is the accused like ? " As I will show, this to some extent is inevitable in the present state of society. Public opinion is highly unpsychological. When serious crimes are committed, the mood of the public is that of Fitzjames Stephen. Those who followed the discussions, both in Parliament and in the newspapers, on such subjects as capital and corporal punishment during the long pilgrimage of the Criminal Justice Act, which originally came before Parliament in 1938, can have little doubt that this is true. Courts cannot leap far ahead of public opinion. When I was dealing with cases, particularly sexual cases, on lines laid down by psychiatrists, I had to face some opposition. I remember the father of a boy who had been the victim of an indecent assault, protesting to me in court when I placed the offender on probation and arranged for his treatment at the Institute for the Scientific Treatment of Delinquency. He said that I cared more for the criminal than for his son. He would have been satisfied if I had sentenced the man to imprisonment for six months, for he could not foresee the danger to other boys that that man might become after his sentence.

When courts pass severe sentences of penal punishment, they undoubtedly satisfy the public ; possibly those on the Bench satisfy their own feelings as well. Under present conditions such sentences cannot be totally avoided, for not all offenders are suitable for treatment. Some will reject the opportunity if it is offered to them ; a few will begin treatment and fail to continue. But have we not to admit that there are crimes which, for the protection of society, have to be punished severely, even if this is against the offenders' own interests ? The fraudulent financier or solicitor, the railwaymen, lorry-drivers, postmen and others who have in their temporary custody valuable

* *The Origins of Love and Hate*, p. 99.

goods belonging to others, but who steal from them; the policeman who accepts bribes; the man who defrauds the income-tax authorities, and many others; surely the most ardent supporter of psychiatric treatment will admit that many such cases must suffer punishment. Otherwise, how are the companions of such men and the general public to learn that crime does not pay? If all offenders were dealt with according to their needs, why obey the law when we do not like it? Why not chance our luck? The most efficient police force cannot be a hundred per cent. successful.

Nevertheless, there are many crimes which in themselves indicate the necessity for psychiatric treatment. Such are all cases of sexual crime, arson and others; I am not competent to make a list: psychiatrists are. My fifteen years in the London courts have taught me that many first offenders and most second or third offenders should be offered psychiatric examination and, where necessary, treatment, whether on probation, in some institution, or, if they are dangerous, in prison.

That our criminal courts are not succeeding in separating the cases that require treatment from those that must be punished is easily shown by statistics. Of those found guilty in 1946 at Assizes and Quarter Sessions of indecent assaults on females 51 per cent. were sent to prison; so were about the same proportion of those found guilty of "indecency with males." In the same year 84 were found guilty of what the law calls "unnatural offences," and 71 of these went to prison. In regard to exhibitionism, an offence only triable in Magistrates Courts—and still dealt with under an Act of 1824—the percentage of imprisonments was better, namely, 16 per cent., but a further 57 per cent. were fined, which is also an unconstructive penalty, though sometimes inevitable.

It is interesting to note that Sir William Norwood East and Dr. W. H. de B. Hubert, in their joint report to the Home Secretary in 1939, stated that "only a psychiatrist of wide experience can exercise a wise discrimination in any particular case as to whether psychological treatment can be recommended with a reasonable chance of success, if unaided by imprisonment."* For me to say that my experience was different may tempt you to regard me as a frog blowing itself out like the ox. But in all due modesty, I did find that, without the so-called aid of imprisonment, exhibitionists were some of the most suitable subjects for probation combined with psychotherapy. I have handled scores of these men in this way, even persistent offenders. Several cases are cited in my book *Crime and Psychology*. There I described the case of an exhibitionist who had served five sentences of imprisonment for this offence before he appeared before me. This man was single and aged 58. His last act of exhibitionism lasted so long that there was time for a policeman to be fetched. This policemen became, of course, a valuable witness for the prosecution, for he, too, saw what was happening. It was difficult to use the probation system, since one of his previous appearances in court had resulted in the making of a Probation Order. But as that Order had not included any term about treatment, the Probation Officer and I clenched our teeth and decided to enlist psychiatric aid. This was during the pre-war years, when

* *The Psychological Treatment of Crime*, para. 49.

unemployment was rife, and unhappily this man had lost his work by reason of his many appearances in court. We arranged for him to stay at a hostel and to attend the Institute for the Scientific Treatment of Delinquency. He was willing to be treated. The early reports from the Institute were not encouraging, but we had to remember that our patient was nearing the age when treatment is often regarded as impracticable. After much hard work the Probation Officer was able to persuade his previous employer to engage him again, a fact that obviously facilitated the treatment, which continued for about six months. When the term of probation ended, this man had made excellent progress and the psychiatrist was hopeful, though naturally he could not go further. In fact we were able to follow the man up for two and a half years and, while he could certainly have been described as a persistent offender, all was well. I make no claims that this man was cured; courts are not clinics and we do not aim so high as expecting cures. But he was definitely better than when we first saw him and this was as far as we could go. Our goal was to prevent our cases from repeating their offences. If we could do that, we felt that we had reason to be content.

Seeing that sexual offences can in their effect be like delayed action bombs, I learned to avoid imprisonment in every case. When offenders refused to accept psychiatric help I inflicted upon them as serious a warning as I could and then imposed a fine. But I was able to put the balance right by succeeding in tactfully persuading several men whom I was forced to acquit, owing to defective evidence, to undergo treatment.

I am sorry to have to say so, but I have been driven to the belief that our criminal courts are not, with their old-time methods, adequately protecting the public. At present they are filling our prisons so successfully that the Prison Commission has had to report that many cells, constructed for one prisoner, are now occupied by three. This is a horrible state of affairs. But even this might perhaps be tolerated, if the sentences of the courts had the desired effect of deterring offenders from continuing in a life of crime. Unhappily this is not so. Our courts do not pay adequate attention to the undisputable fact that all sentences, even life sentences, come to an end at some time.

Most calendars of busy Assize Courts or Quarter Sessions reveal cases where offenders have already undergone many sentences to prison and yet appear again on charges of serious crime. I have sent for trial countless cases of this kind. Many such cases are set out in detail in such books as Dr. Hermann Mannheim's *Social Aspects of Crime in England Between the Wars*, and Sir Leo Page's *The Sentence of the Court*. Here is a case that I have included in an article in the current number of the *Quarterly Review*:

> "I would cite a case chosen at random, a man found guilty on two charges of stealing and on one of possessing house-breaking implements by night; he was thirty-eight. As a youth he had been sent to an Industrial School for stealing; this may have indicated that his home surroundings were bad. After his discharge, he was sent to a Borstal Institution for burglary and stealing. When released, he committed a further crime, was found guilty and returned to Borstal. When finally discharged he continued his life of crime. When next before a court he was sentenced to prison for

three months. Later the same year a court of Quarter Sessions sent him to prison for another crime for eighteen months. He was now twenty-eight years old. Then followed two sentences, each of three months, three sentences of six months and three more sentences, each for terms not exceeding three months. Then another court of Quarter Sessions inflicted a sentence of twenty-one months. He was by this time thirty-four. When again at liberty, there was a pause, whether due to an absence of crime or to the fact that he was not caught, history does not relate; but then came a sentence of six months and in the following year he was sent to penal servitude for three years. The next time that he appeared in court he was sentenced to one year's imprisonment and given that rather absurd title, which dates from 1824, of 'Incorrigible Rogue.' Up to this time nearly all his crimes had concerned property. But in a short time after he was discharged, he was sent to prison for nine months for committing 'grievous bodily harm.' Then came a fine, with the alternative of fourteen days in prison, for the offences of taking and driving away a car and stealing a torch from it. Within a year he was sent to prison by two other courts for three and four months respectively. Then finally the sentence recorded in the calendar for his latest crime was one of five years' penal servitude."

If that is how our courts deal with their difficult cases, are not those expert in psychotherapy entitled to demand a right to help?

It is useless to try to apportion the blame between Parliament, for not providing an adequate criminal law and procedure, and the courts, for not enlisting scientific help. But the fact is that the public have time after time to suffer from the depredations of the same men and the police have to track them down almost equally often.

Will the new Criminal Justice Act bring about better conditions? That, of course, depends upon the willingness of the courts to use their optional powers. Apart from sections 25 and 26, which deal with adjournments for inquiry, there is the power, set out in section 4, dealing with the insertion in a Probation Order of a requirement about mental treatment. Leaving out some of the words, this section provides this:

> "Where the court is satisfied, on the evidence of a duly qualified medical practitioner appearing to the court to be experienced in the diagnosis of mental disorders, that the mental condition of an offender requires treatment, the court may, if it makes a Probation Order, include therein a requirement that the offender shall submit to treatment."

The treatment may be by a single psychiatrist or as a resident patient, or as a voluntary patient under the Mental Treatment Act, 1930. So far as the Probation Order is concerned, treatment may not last more than a year. Some have objected to this limitation, but it has seemed to me that the doctors carrying out the treatment should be able, where necessary, to persuade the offender to continue the treatment as a free agent. Another important qualification is that treatment can only be required by a court with the consent of the offender (s. 3 (5)). As regards Probation generally, I have never regarded consent as a factor of value; if my choice were between probation and six months in prison, I would eagerly consent to probation. But as regards

medical treatment, this consent is vital, though I hope that the necessity for it will not be construed as meaning that the offender must admit his offence. Willingness to be treated should be sufficient.

Valuable as these powers undoubtedly are, they are not new, for under the old Probation Act of 1907 there was an omnibus power, which some magistrates, including myself, employed to bring in psychiatric treatment. But now that this possibility is set out in an Act of Parliament, we may reasonably hope for more extensive progress, though not for any rapid improvement. Psychiatry has yet to secure the confidence of the generality of lawyers and laymen on the criminal Bench. If courts do not make adequate use of these powers, it is to be hoped that psychiatrists will do what they can to inform enlightened opinion of their failure ; they must not be timid, for they now have the support of express words in an Act of Parliament.

But there is another task of great importance in the criminal courts that psychiatrists should undertake. Hitherto they have for the most part been content with giving help to the courts concerning their cases, when asked to do so. The time is overdue when they should take their courage in both hands and go further. Every step that is taken, both by the police and by the courts, when anyone is suspected of crime, is a subject for the consideration of psychiatrists, as well as of those immediately concerned. From the moment when the police first approach a suspect to the moments when an offender is found guilty and sentenced, psychiatrists have both the right and the duty to investigate our present procedure. For far too long the lawyers have had a monopoly. What a policeman is permitted to say to a suspect, how the charge is read to him, the methods adopted by the courts when dealing with him, the construction of the court, all this needs investigation from the psychological angle. There is an urgent need for a thorough and detailed examination by a group of psychiatrists—preferably of different schools—into the whole of criminal procedure. I have already referred to one vital matter about which the help of psychiatry is essential, namely, the interval between verdict and sentence, and the use that should be made of it. Many other matters await inquiry. In such inquiry psychiatrists will find much that is admirable, for criminal justice is no " Lawgean Stable," if I may borrow an old witticism. But constructive criticism from well-informed psychiatrists can help to convert the good into the better.

The traditional conception of a trial in our country is too much like a sporting contest in which prosecution and defence wrestle according to judicial Queensberry Rules, with the Bench acting as referee. Our system has the inestimable virtue that the conviction of an innocent person is extremely unlikely and in any proposals for reform, this virtue must in no way be tarnished. But our system undoubtedly results also in the acquittal of numbers who are a menace to the public ; it offers too many loopholes through which the guilty can slip and thus, with the help of clever lawyers, escape their deserts and their chances of constructive treatment. Our system places too high a value on advocacy. Biographies of famous advocates usually tell with pride of the cases where verdicts of " Not Guilty " were obtained in circumstances where the evidence seemed to point to conviction. It is safer to speak of the past. Here is a

quotation from the memoirs of the first Chief Magistrate under whom I served, Sir Chartres Biron :

> " Geoghegan's technique was masterly. Without any material he would manage to create an atmosphere of suspicion round your case which, as it was entirely baseless, was very difficult to dispel. . . . He was a master of the supreme art of diverting an issue."

Sir Chartres then set out a case where, in his own words, " the case was very clear. To the evidence there seemed no answer." But Geoghegan introduced a completely irrelevant point and, to quote again, " this he did with such skill that he made this fact seem an essential point in the prosecution." He secured a verdict of acquittal and Sir Chartres comments : " It was an amazing verdict, a legitimate triumph of advocacy at its best."* This is not an exceptional case ; there always are several Geoghegans.

Without in any way endangering the innocent, more could be done to bring the guilty to justice. Lawyers may well be content with an acquittal against the balance of the evidence, but to psychiatrists this may appear as a failure to provide treatment for one who is a danger to the community. When, for instance, a man who has sexually assaulted a child is acquitted through clever advocacy, directed to the difficulties of young children in court—and these are not unusual happenings—psychiatrists will see a failure of opportunity to treat a dangerous man and the consequent peril for other children.

In their inquiry into the working of our criminal procedure, psychiatrists will need to remember that our courts can decide the facts when accused people strenuously deny the charges made against them and even when they and their witnesses lie heavily with the object of defeating justice. I know of no psychological method of doing this, though some day, perhaps an improved encephalogram may be able to compete with the courts. Until this happens, the main study of the psychiatrists will be how, while retaining ample protection for those who deny the accusations made against them, to find sound reforms which will provide greater protection for the community and be more likely to change the attitude of those who have committed serious crimes. It is possible that, when psychiatrists have made their examination into the practical working of our penal system, they will come to agree with Dr. R. D. Gillespie when he said :

> " The impression that a psychiatrist is apt to get of court proceedings is that of a ' fact-finding commission ' . . . a commission whose scope of reference is unsatisfactory and limited and whose recommendations as to treatment in consequence are likely to suffer from as grave defects as would the prescriptions of a doctor who is forbidden to have any knowledge of his patient's constitution."†

Psychiatrists will quickly discover, if they do not know it already, that our offenders are sentenced in all courts by those who have had no training for this part of their duties. This fact was realized many years ago, among others, by Dr. R. M. Jackson, in his book *The Machinery of Justice in England*. There he stated :

* *Without Prejudice*, pp. 126–7.
† *Medico-Legal Review*, April, 1939.

> "An 'experienced' judge means one who is well used to trying defendants and who, generally speaking, makes an excellent job of that side of his duty. But when we come to the passing of sentence, our 'experienced' judge is experienced merely in making up his mind and delivering sentence with complete composure."*

A Royal Commission has recently recommended the training of magistrates. Where is the man who will be bold enough to recommend the education of judges and recorders? So one of the matters that will be on the agenda of our inquiring psychiatrists will be the wisdom of transferring the sentencing power to an expert Treatment Board, or of combining the services of such a Board with the sentencing powers of the courts, as is now being proposed by the Federal Judges in the United States of America.†

Among the other fields for inquiry will be the following: (*a*) The duty of the police, under what are called the Judges' Rules, to caution a suspect when he begins to explain his actions. This caution often results in the silence of the suspect and, therefore, his trial becomes more difficult. (*b*) The better selection of magistrates, about which the Royal Commission just mentioned, has reported. Probably the experience gained during the war in the selection of officers will provide much help in this quest. (*c*) The position of experts who give evidence about the mental condition of accused persons. Possibly better results would be achieved, if such experts could be called by the courts and thus be available for cross-examination by both prosecution and defence. Such cross-examination would probably be less bitter than at present, when experts are called by one side. (*d*) The practical working of the law of evidence and the extent to which it can be used for the suppression of facts. (*e*) The fitness of juries to decide questions of self-responsibility and whether the issue of insanity should not be dealt with by experts before a trial takes place. (*f*) The possibility of placing courts in certain cases under an obligation, when guilt has been proved, of obtaining social and psychiatric reports. For this there would have to be compulsorily the delays between verdict and sentence for which I have pleaded.

These are but samples of the problems of the tasks that would lie before a body of psychiatrists in their investigations into criminal procedure. In carrying out such a task psychiatrists must be prepared for some lack of sympathy, and even active opposition, from those who preside or plead in criminal courts. But the present large numbers of recidivists would place them on strong ground, and if they remember the words of Lord Macmillan, which I quoted in opening, they can take courage and pursue their self-appointed task. They will be supported by a considerable body of opinion outside the law and may receive some help from those within.

I would end with a brief glimpse into the distant future, when full use is made of the science of psychiatry in the task of dealing with those who break the criminal law. In proportion as constructive treatment is accepted and the use of penal punishment diminished, those who have committed crime will be more likely to admit their offences. It is largely the fear of punishment

* *The Machinery of Justice in England*, p. 178.
† See my article in *Quarterly Review*, July, 1946.

that to-day deters offenders from confessing and encourages them to seek the aid of lawyers skilled in advocacy. When the prospect before them is treatment, and not blind punishment, they may well be frank with police and courts; we may even reach the stage when offenders themselves will realize that their acquittal is contrary to their own interests. When this somewhat utopian era is reached, will there not be a far greater protection for the public? Then the question may arise whether for those who admit their offence, any public appearance in court will be necessary. Such prospects may alarm those who earn their living in the defence of accused people. But if they, too, move with the times, and study psychiatry as well as law, they need not fear ultimate unemployment, for the sentencing authority, whoever they may be, may still need help in learning of the facts of the offence and of the condition of the offender. Besides, it is a human need to seek help in times of trouble. Again, there are likely still to be those who deny their offence and those who have been wrongfully accused; they will need the services of the legal profession more or less as now. No, I can see new fields opening up for my profession and no prospects of its extinction.

As a final thought I would say this: Psychiatry will in the future, as it has done in the past, make slow progress. If any of my audience are the proud parents of a newly born baby, I do not think that that fortunate child will live to see a system of criminal law and procedure that will be in complete accord with the tenets of psychiatry. But do not be deterred by the distance that you have to travel, nor by the opposition that you are likely to face. There is so much to be done, for psychiatrists should regard themselves as those who, in the words of Milton—

> "by due steps aspire
> To lay their just hands on that golden key,
> That opes the palace of eternity."

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