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## SEGREGATION VS. HANGING<sup>1</sup>

HERBERT HARLEY<sup>2</sup>

I wish to call your attention to the fact that the safety of the people of the State of Illinois requires change in a branch of the law concerning which judges and state's attorneys have a special interest and responsibility.

Last week I spent an hour or two listening to testimony in a Cook County murder trial.<sup>3</sup> The defense was insanity. An alienist called by the defense testified that he had examined the respondent shortly after the commission of the murder—a killing which shocked the sensibilities of a community already well hardened to revolting crimes. He had applied neurological and psychiatric tests. He had also used the Binet-Simon intelligence tests. The various tests and their results were related in detail. The alienist testified that the defendant was a victim of dementia praecox katatonia and had defective intelligence. He pronounced him insane. Other witnesses testified that the defendant's mother had been insane, that his father's brother had recently died in an insane asylum and that there was insanity in other near relatives.

The State offered the testimony of another alienist who swore that the defendant was sane. He had applied no tests and his observation was limited to defendant's conduct in the court room. But he appeared to feel positive of his diagnosis.

The case of Frank Zagar, who was hanged in the Cook County jail, for murder, a couple of weeks ago, may illustrate the point even better. Zagar was twenty-one years of age when arrested on suspicion. The State's Attorney sent him to the Psychopathic Laboratory of the Municipal Court of Chicago for examination by Dr. William J. Hickson. He was found to be of fair intelligence but a victim of "dementia praecox katatonia with marked paranoid trends." Investigation showed that Zagar had a record of conflicts in school and subsequent delinquency which brought him to the Juvenile Court and thence to the

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<sup>1</sup>A paper read at a meeting of the County Judges' Association and State Probation Officers' Association, held at Jacksonville, Ill., Oct. 28, 1920.

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<sup>3</sup>The Carl Wanderer case, which was not completed at the time this paper was read. The jury disagreed as to defendant's sanity, but compromised on a sentence of 25 years' imprisonment.

Parental School, as incorrigible, where he spent a year and a half. He then followed a typical criminal career. He was committed to the Cook County Psychopathic Hospital and there received an independent examination by the director, Dr. Neymann, who recorded a diagnosis of "paranoid dementia praecox."

When more evidence against Zagar was obtained he was turned over to the State's Attorney by the Probate Court. Counsel was assigned and Zagar was brought to trial. To the consternation of his lawyer, he not only admitted, on the witness stand, the murder with which he was charged, but also coolly remarked: "I bumped off another guy the same night." Following directions which he gave a search was made and the second corpse was found. It was this unconcerned admission which brought notoriety to this defendant, and not the fact that Dr. Neymann, who had diagnosed his case as "paranoid dementia praecox" in the hospital, pronounced him sane at the trial.

These cases, and various similar ones which might be referred to, are of present interest, not because of a conflict of opinion between expert witnesses, but for the light they throw on the actual working of a rule of law. In laboratory tests, and in a hospital test, a man is found to be mentally unstable and abnormal. He is placed definitely in a class now well known to be extremely dangerous to the community. He is subsequently convicted of murder on the finding of a jury which rests on expert testimony to the effect that he is sane.

There is no intention to suggest a scandal from the fact that the state's expert witness first entered a diagnosis of paranoid dementia praecox and subsequently testified that the respondent was sane. Dr. Neymann presumably did not forget or ignore his hospital examination of Zagar when he testified in court. He meant by saying that Zagar was sane that he was sane within the meaning of the rule of Illinois law, in that he knew the difference between right and wrong, in the doctor's opinion.

In this case the public demanded a conviction and a hanging. It got both. The public is not consciously bloodthirsty, but assumes that the hanging of individuals of this sort is an effectual way to prevent crime.

A vast deal of publicity is given to hangings. An execution is so inherently sensational that it inevitably starts the wagging of tongues throughout the entire community. Not only in the homes and the shops and on the streets are hangings discussed, but in every alley and rathole of a metropolis they are especially relished and discussed.

In fact, the lower the grade of intelligence, the more voluble is the talk.

Now if capital punishment were the capstone to an edifice of criminal law which was reared on solid foundations, and which was yielding undeniably good results, I would be one of the last to suggest any change. I have no ethical qualms about executions as the ultimate penalty in a successful system of penology. When done in a humane manner, they seem more merciful to me, on the whole, than long prison sentences. If the execution of brutal murderers had the effect which it is intended to have, I would offer no objection.

We all know, however, that somewhere along the line there is a practical and lamentable failure. With the most elaborate and theoretically perfect penal system of any jurisdiction in the world, with our juvenile courts and detention homes and parental schools, with our houses of correction, our industrial prisons and our penitentiaries, with our probation and parole systems and our probation and parole officers, something still is missing, for crime of the most horrible kinds does not diminish. It appears, on the contrary, to be on the increase.

Perhaps we do not hang enough victims. Or, perhaps the hangings excite dormant motives in unstable minds in which the craving for sensation and egotistic gratification are dangerous and dominant characteristics.

Perhaps, on the other hand, the deterrent influence of dramatic punishment is entirely lost in the particular individuals in which it is most needed. This should be considered. We must know the nature of these criminals before we can say whether or not they react normally to horrible examples.

One thing appears to be quite certain; it is that the public and their officials make a fearful mistake in thinking that full responsibility is discharged by hanging a murderer. Zagar is dead. But there are others of his precise type and we know beyond a quibble that they will commit the most ruthless murders. It is of little value to the community to hang one Zagar and have new Zagars coming on continually. Punishment does not restore the murderer's victim to life. Punishment and all the vast machinery of the law are worthless if they do not anticipate and prevent crime.

The prevention of crime implies the ability to recognize dangerous symptoms in the individual at a time prior to the commission of a serious offense. The alliance between the established sciences of psychiatry and neurology on one hand, and the more recent discoveries in the field of abnormal psychology on the other, afford us a means

for diagnosing the obscure and unstable types of mind which are potentially dangerous. The new psychological approach to mental derangement of all kinds supplies a means for the rapid examination of large numbers of suspects which was until recently lacking. One who has given a little attention to the results attained in this field readily accepts the new science.

Since the Psychopathic Laboratory of the Municipal Court of Chicago was established there have been more than twenty-five instances of brutal murders committed by young men who were indexed in the laboratory files as individuals with dementia praecox and low intelligence. The examination subsequent to the offense of numerous other individuals who had committed crimes of the most crass kind, such as murder, robbery and rape, has shown that dementia praecox coupled with inferior intelligence may be counted on as practically inseparable from criminal brutality. Very little observation of the personalities and histories of the wretches who pay the supreme penalty of suffering and shame is required to show that very few if any are actually hung except those who classify in this category.

On the subject of intelligence defects the public is already pretty well informed. Popular magazines have published accounts of community surveys. In Indiana ten counties have been surveyed, under legislative authority, and defective stocks, as evidenced by the records of criminal courts, penal institutions and almshouses, have been traced and the relationship of individuals noted. The alliance between defectiveness and delinquency is being investigated actively in Illinois. In most of our numerous penal institutions examinations have been made. The results are not fully in accord, owing probably to the fact that the investigators have not been standardized, but there is abundant proof that the workers are on the right track. There is no longer any mystery about recidivism. We are beginning to understand why our correctional institutions do not correct in a considerable class of cases.

It is now a matter of common knowledge that a large percentage of all criminals are definitely feeble-minded. In fact, the public has been so strongly impressed with this fact that there is a tendency to over-stress it and to ignore even more significant data. The same investigators who have applied the Binet-Simon intelligence tests in the reformatories are forced to the conclusion that feeble-mindedness does not sufficiently account for crime. They find too many inmates of average intelligence, or higher, who are utterly incorrigible.

Now they are coming to the larger field of study. They are seeing that intelligence is by no means the only factor in character and be-

havior. The individual may be said roughly to be of a dual nature. His intelligence is only part of his entire mental stock in trade. We have indeed always known that intelligent power is a great deal less than the sum total of personality. There are elements much more profound, and more obscure, which account for the difference between one person and another.

This common knowledge accords with what is taught concerning brain structure. The seat of intelligence is in the cortex. Any serious defect in the cortex is revealed in intelligence capacity. It may or may not affect conduct to such an extent as to render the individual dangerous to society. While we would expect to find numerous specimens of inferior intelligence among criminals, and do find them, we also know that there are a great many feeble-minded persons who never come into conflict with social rules.

Intelligence is but one factor and it is always conditioned by the emotional or affective element. Personality consists not only of thinking, but of feeling and thinking. And of the two, in normal individuals, feeling appears to be the more significant factor. The best of thinkers habitually employ their intellectual powers to justify their feelings. This is known as the process of rationalizing and it represents the nearest approach of the majority of persons to pure intellectual effort. Now the center of emotion, or feeling, or affectivity is in the basal ganglia. It is biologically much older than intellect. In other words, mankind had a well developed capacity for feelings and emotions long before intelligence became a conspicuous factor.

It is the nature of the affective or emotional centers which largely determines character. We all know this without any data founded on scientific study. We all know a good many persons who have average intelligence but who exhibit unstable emotional reactions. Many of the most interesting and entertaining persons we know are of this sort. Those in who emotional instability is sufficient to cause marked irregularity of conduct or pathological symptoms we rate all the way from mere nervousness to a degree of neuresthenia which borders on insanity. Possibly we have all known progressive cases of this sort, starting as neuresthenia of a mild type and developing eventually into dangerous paranoia. This is the normal history of many asylum cases. In them intelligence is normal for a long time and finally yields only when completely overpowered by the emotional complex.

What we have not until recently understood is that there are a few general classes of emotional defect which have standard stigmata and symptoms and that a means exists for diagnosing these cases long

before the individual has been brought into serious conflict with his environment.

There are, of course, several kinds of emotional defects; those which especially concern the criminologist are the numerous cases grouped under the classification known as dementia praecox. The name for this class is not a fortunate one. As a union of Latin and Greek words it shocks the philologist. The name deceives some inquirers into thinking that it implies intellectual precocity. Rightly understood it has no direct reference to intelligence. The name appears to have been chosen because the disease, or condition, is evidenced in early youth and has a tendency to become more aggravated as the years go by. It is not safe, however, to assume that all cases will be progressive.

So a person with dementia praecox may have normal intelligence. That is the case when the defect is limited to the center of feeling or affectivity in the basal ganglia. Or dementia praecox may be coupled with either inferior or superior intelligence. While the intelligence factor is necessarily very important it is not to be considered as the primary or determining factor. The elementary fact is that emotional or affective characteristics are abnormal. These abnormalities are absolutely certain to be registered in conduct.

The characteristics of dementia praecox are of three kinds. Firstly, character changes, for there is likely to be instability of character, with restlessness often and sudden changes. Secondly, split association processes, which implies that the individual is hampered with respect to coherency of thought. Thirdly, abnormalities in emotion reactions. The individual may show any one of these characteristics, or any two, or all of them. These are outstanding characteristics, more or less observable in the conduct and expressions of the individual; in the more marked cases easily determined by casual observation, but in those of less degree to be ascertained only by subtle tests of a neurological and psychological kind. Five varieties of dementia praecox are recognized and some of these are divided into sub-classes. The five general classes are simplex, hebephrenia, paranoides, paranoica and katatonia.

The question naturally arises whether dementia praecox is insanity. In its worst forms it undoubtedly is. It is stated, in fact, that more than half the patients in insane asylums are dementia praecox cases, though often otherwise classified. In its milder forms, as already stated, it passes for mere eccentricity, or obstinacy, for a variety of asocial qualities and often never becomes anything worse. Between

these extremes there must be a borderland, and the question as to whether a given case will be rated as insane will depend upon the opinion of the observer as to the degree of interference with the free functioning of the will which is present. There must necessarily be difference of opinion on this point. The difficulty of definition is increased in such a situation by the arbitrary and unscientific definition imposed by existing law in respect to responsibility.

The cases which are not so extreme as obviously to suggest insanity are the socially difficult cases. In substance, it may be said, such a person is incapable of experiencing the same feelings as a normal person. The experience which in the normal person arouses such emotions as joy, pleasure, gratitude, generosity, kindness, sympathy, sorrow, may have no similar effect where there is a defect in the emotional center. Such a person is likely to be unresponsive, hard, callous, unsympathetic, possibly entirely devoid of all the range of emotions which are natural to the person of normal affectivity. He may be more or less incapable of fear, of tenderness, of gratitude, of sympathy.

One of the commonest attributes of the dementia praecox case is inability to appreciate moral distinctions. This follows as a matter of course since conscience and morality are so much a synthesis of normal feeling. Everybody with a fairly wide range of association and observation has known individuals who were morally underdeveloped. The investigations of the laboratory, involving heredity and behavior study, as well as psychological testing, have revealed a distinct type of moral defect. This is the fairly common type which has given the norm to our traditional philosophy of punishment, which is founded on a concept of wickedness. Knowing better, the individual has perversely chosen the forbidden path. In recent decades we have acted on the belief that this defect of morals, which is essentially a defect of feeling and emotion, would yield to curative treatment, and our vast structure of correctional institutions, including probation and parole, is founded on this theory.

We have had sufficient experience by this time to make us realize that the theory, when applied to all kinds of delinquents, is egregiously wrong. Correctional treatment does not reform the victim of dementia praecox with moral defect. On the contrary, the moral defect makes the proper functioning of the correctional home all but impossible. He corrupts the feeble-minded inmate who has normal affectivity but is easily deceived and led. Almost any recent number of the *Quarterly*



Institutional Review published by the State of Illinois tells the story of incorrigible inmates of normal or precocious intelligence.

The person of normal affectivity does the right thing more because it is natural for him to do so than because he fears punishment. He takes satisfaction in conduct which is socially good. The opposite fills him with misery. The difference between good and bad conduct is to him a great abyss. We say that he has a conscience. His resistance to asocial conduct is a fixed and permanent asset, sometimes so impregnable that extreme suffering and even death itself is preferred to yielding. In other cases it is relatively smaller so that under extreme provocation of appetite the individual will surrender. Here we have the instance of the normal person who violates law and is temporarily excluded from society. Many will say that he is the victim of environment, and so he is, in the sense that in one instance at least the pressure of appetite exceeded the strength of his moral forces. Such an offender will repent, benefit from corrective treatment and possibly return to society stronger for the lesson. There is no intention in this analysis to underrate the factor of intelligence, which is ever present. Good intellect is added capital on the side of good conduct. Inferior intellect, just in proportion to its inferiority, is an abettor of the anti-social instincts and appetites which war against morals.

The new teaching accords fully with the common observation that some of the notorious criminals have keen intelligence. This type of dementia praecox produces the burglars, automobile thieves, pick-pockets, counterfeiterers and yeggmen. These are the criminals who make hard work for detectives, because they are smart enough to cover their tracks. They band together and make a profitable business of crime. Their intelligence has been a complete disguise, until recently, for their emotional defectiveness. The laboratory tests, reinforced finally by statistical records and a long train of objective facts, places them definitely in the category of defectives, who are all the more dangerous to society because of their relatively high intelligence. They have all the normal appetites, as indeed defectives of every kind are likely to have, but they have no moral inhibitions. The difference between right and wrong, which to the normal person looms like an impassable gulf, is to them hardly perceptible. Or it may be only a distinction which is learned, but not felt, and is acquired only to be violated in the gratification of appetite. These moral defects are virtually free to go as far as their intelligence will permit. But for the evolution of moral qualities in the normal individual we would

all be as ready now, as were our primitive ancestors of the jungle, to take what we wanted wherever we should chance to find it.

The conduct of dementia praecox cases is quite methodically conditioned by the intelligence factor. A first rate intellect, coupled with moral defectiveness, may produce a successful confidence man; a little higher in the scale we find the patent medicine fakir, the conscienceless politician, the shyster lawyer, the quack doctor and the vendor of worthless securities. They are all clever crooks who do not suffer the pangs of tortured conscience.

But it is at the other end of the intelligence scale that the brutal moral defects are found. A bad heredity is not unlikely to result in defects of both the intelligence and the affective centers. Such a combination is known as pfpopfhebephrenia. Here we have the potential low grade criminal, if not indeed the criminal type himself.

With the apparent failure some decades ago of the theories of Lombroso, who was convinced that there was a criminal type, but who could not prove his theory through external physical stigma, the world inclined strong to the belief that there was no such thing as a criminal type. It was comforting to suppose that all men were created equal in moral endowments. We fell back perforce upon environmental control for the reformation of criminals. There was tremendous need for the betterment of environment both within and without prison walls. The great humanitarian movement of our period has accomplished a world of good directly, and by isolating causes and bringing us finally face to face with the central fact of delinquency it has done as much indirect good. But our long experience in this field of environmental correction has demonstrated a fallacy in respect to a fairly homogeneous class of offenders a thousand times over. We have finally isolated the incorrigible offender and he is himself the central problem of criminality. Lombroso's failure was due only to the fact that he did not acquire the psychological approach to obscure mental defects which often are registered in criminal conduct and seldom in external stigmata.

The doubly unfortunate individual who is both mentally and morally defective is almost certain to break down under the stresses imposed by modern competitive living. He has appetites and desires and instincts as keen and as remorseless as the normal, but he lacks moral perception and inhibitions. He is irresponsible. When driven from normal ways of earning a living, because of low intelligence, he resorts to the more brutal forms of crime. The poor devil I once chanced to see in Dr. Hickson's Laboratory is a type of many such.

He had waylaid a peddler in an alley and had brained him with a wagon spoke. Then he had taken about fifteen dollars from his victim's pockets, for his object was robbery. "Did you know this peddler before?" he was asked. "Yes; we lived near him. He was my friend," was the reply. There was no feeling whatever and not enough intelligence to simulate feeling.

The dementia praecox type with defective emotions often get a reputation for bravery. Suffering means little to them, either in themselves or in their victims. They are the "hard boiled guys" of the criminal gangs. They go to the gallows with comparatively little concern. Their histories are all of a kind. They come into conflict with their surroundings early in life. Every attempt at correction, which in the normal is effective in inducing good behavior as a habit, with them is only another step downward. They are brought in finally after committing a crass crime, usually murder in connection with robbery, or murder in connection with rape. Observe the kind of individuals who are hung and you will identify most of them with this type. So uniform in type is their conduct that after following a few such cases one can diagnose the defect with reasonable assurance from the description of the crime, which is always brutal and always stupid.

Since these unfortunate and dangerous persons cannot be reformed it follows that they must be kept under restraint. Their disorder, whether considered as a disease or a condition, is hereditary and incurable. The laboratory finding is always reinforced by extraneous facts concerning the degeneracy of one or both parents or other members of the family stock in the preceding generation. No cure is known. We will doubtless learn in time a great deal concerning the possibility that the dangerous quality will be outgrown in later life, after the disintegrating stresses of youth are past. This will doubtless depend on the individual plus his environment. If some specimens outgrow dangerous characteristics we will be able probably to sort them out with fair accuracy. But now one thing is clearly manifest, and it is that there must be segregation and continued restraint. We must establish farm colonies where the energies of these unfortunates can be given practical and productive scope. The present treadmill of punishment and release inevitably leads to disaster. We must do this partly for the benefit of the unfortunate individual but especially for the purpose of social security. No community is safe in which there is a moral defect of low intelligence, and though the proportion in number is always low, no large community is free from such persons.

It does little good to hang them. The public undoubtedly expects

hanging, and there are many of us who feel little compunction about hanging one who has brutally taken life, but such a practice gets us nowhere. As long as we suppose that we can control the situation by executions after the fact and do not round up and segregate these dangerous defectives, just so long we will continue the ineffective and foolish cycle of disastrous events. The trouble at present is that the public feels a little easier after the conviction and hanging of such a person. This is a wholly unwarranted sense of security.

The segregation of dementia praecox victims who are delinquents, and especially the less dangerous ones, possessing average intelligence, is inexorably demanded for the relief of existing correctional institutions which have great potential value in reforming normals and feeble-minded with the fundamentals of character. It is needed as a safeguard for probation and parole, which break down when applied to persons of emotional irresponsibility. Some of these, we must remember, are shrewd enough to impose upon the authorities and get the benefit of procedure designed to benefit offenders of normal affectivity.

The outstanding fact at present is that these dangerous persons are readily diagnosable at an early stage. The laboratory records prove this incontestably. One could pick out a few cards from the laboratory records and say with reasonable certainty that one from that group will murder without provocation within six months, two within twelve months, three within eighteen months and so on. That would be a very conservative estimate.

The outstanding need today is the prevention of crime, since we can forecast it from psychological and psychiatric tests. Courts will perform but a part of their role in modern life until they are active allies in a campaign for the anticipation and prevention of crime. Since the Laboratory of the Municipal Court of Chicago was established over one thousand dangerous defectives have been committed on its findings to asylums of one kind or another. In some cases the defectives remain under restraint only a short time. But there has undoubtedly been a great deal of crime prevention by the detection and segregation of these thousand and more. At the present time the Laboratory is committing an average of two persons a day to institutional care. They are being put away before they have committed the more serious offenses. The particular offense committed is ordinarily submerged in the need for restraint. The defectiveness and not the criminal culpability of the delinquent is the overshadowing factor. As the courts turn to prevention the older theories of crime diminish

in importance. Practical results, rather than the vindication of legal theory, are demanded.

Many of the persons committed on findings of the Laboratory are not arraigned in a criminal branch and some are not even accused of an offense. The police, after many a terrible lesson, have learned that the dementia praecox case of low intelligence is extremely dangerous. He shoots on slight provocation. Most of the killings of officers are of this type. So the police are becoming alert to pick up all sorts of eccentrics. The crank and the quarrelsome person once looked upon as harmless and mirth-provoking, are now under suspicion. From this class come the dementia praecox cases with sex complexes and those with paranoid tendencies gradually hardening into murderous intent.

One day I chanced to be in the laboratory when examination was insisted upon on behalf of a woman who had a few days before given birth in a public hospital to her sixth child. It was a busy day and the director would have preferred to refuse examination of an irregular case. But he yielded and found a case of paranoia which called for treatment in the Psychopathic Hospital. But for a growing knowledge on the part of officials, and timely diagnosis, there would probably have been in the papers a few days later such headlines as these: "Mother of Six Turns on Gas and Kills Herself and Offspring."

The time is now at hand for putting to practical use the latest assured findings of science. Every case of dementia praecox will doubtless some day be under observation. Those coupled with low intelligence must be kept under restraint, and we must begin in a conscientious and earnest manner to do this at once. The victims of pfpopfhebphrenia are now at large in the community, or else are serving short terms. They are far more dangerous than many of the inmates of asylums. Every one is potentially a dangerous criminal. When their condition is not detected and they are given the benefit of probation, or when released after short confinement, as is customary, they are almost certain to make trouble. Their irresponsible conduct tends to bring the probation law, one of the wisest laws ever written so far as it applies to normals, into disrepute. Occasionally a case of dementia praecox, having possibly average intelligence, imposes on the prison board and receives the benefit of parole. Then there is trouble and the parole law comes in for unmerited abuse.

One of the first great forward steps would be to prevent the victim of pfpopfhebphrenia from getting out of Pontiac. No such case can safely be released if more than fourteen years of age. Before the

end of sentence arrives the mental status of every inmate in Pontiac prison, and similar institutions, including those for females, should be definitely known. The dangerous type must not be returned to society.

The managers of prisons and asylums carry a very heavy responsibility. I chanced to meet recently Dr. A. F. Priddy, who is in charge of an institution at Williamsburg, Va. He was able to tell some interesting facts concerning the paranoiac whose murder of one of New York's leading surgeons startled the country a few months ago. You will remember that the murder occurred in one of the most fashionable churches of the metropolis. The victim was passing the collection plate, and on reaching the madman he was instantly shot, dying shortly after. Dr. Priddy had come into contact with the murderer a few weeks before and would have placed him under restraint but for legal obstacles. The man had previously been an inmate of an asylum at Fergus Falls, Minn. Though extremely dangerous, as the unprovoked murder proved, he was able to travel through a number of states and pass among strangers as a sane person.

Only a well trained and experienced psychiatrist can perform this important duty. There are numerous psychologists who have become familiar with the Binet-Simon tests and who are capable of doing valuable work if they realize the limitations of those tests. They can obtain interesting data in a large number of cases, and especially among backward school children. But the Binet-Simon tests, which have become almost a dangerous fad in recent years, are balked by abnormality of the affective centers. When applied to the case of dementia praecox with average intelligence, a not uncommon type in all correctional institutions, the psychologist is led astray. Just at this time the well intentioned investigators of this sort are bewildered by the apparent fact that there are in the prisons and correctional homes many persons of average intelligence or higher, whose reaction to treatment is negative, whose conduct is incorrigibly asocial, and who have as a group sufficient resemblance of behavior characteristics to justify the belief that they are in a class distinct from normals. These individuals when at liberty are constantly in trouble, and when confined make trouble for everybody within reach. The investigators are locating emotional dementia by a slow and groping process of isolation. They are trying to do the work of the experienced psychiatrist with with none of his ability to employ neurological and psychiatric tests. They are acting on the wholly unwarranted assumption that intelligence is the sole factor in behavior despite the fact that they know; as well

as everybody else, that intelligence is only one factor. In such serious work as protecting society from its dangerous enemies, and protecting these degenerates against the consequences of their own failings, the tests must be made by experts fully acquainted with the abnormalities of the affective centers.

An alienist must, of course, be a thoroughly trained doctor but it does not follow that all capable doctors are able to deal with psychiatric problems. Dr. Llewellys F. Baker, president of the National Committee for Mental Hygiene, himself one of the country's leaders in abnormal psychology, points to a present need in the following words:

"One important task will be to bring conviction first to medical men, and later to the general public, that anomalies of feeling and abnormalities of behavior are as much subject to natural laws as are disorders and defects of the intellectual processes. I have been more than once surprised to find that even neurologists and psychiatrists may sometimes be wanting in this insight; whereas they could readily understand and forgive intellectual defects, they assumed an entirely different attitude toward pathological emotions and the feeble or perverted will. Until our neurologists, psychiatrists and medical men generally come into more agreement concerning the affective life and the conative functions, the origin of motives and explanations of conduct, we can scarcely expect the public at large to bring their ideas of responsibility, of the nature and the purpose of punishment, and of the methods for opposing crime into accord with the conceptions of modern psychiatry."

Lest a false impression be created I must add that the Binet-Simon tests are absolutely necessary. In the hands of the skilled psychiatrist they yield dependable results. But when a lay investigator employs them in a case of dementia praecox katatonia he will rate a person of average intelligence away below par. The same false result will come in the case of the parietic. And numerous cases of dementia praecox with average intelligence will be passed as normal.

The essential elements of this great problem of the defective delinquent are discussed most intelligently and concisely by Chief Justice Robert E. Crow of the Cook County Criminal court. The following is a recent public statement by Judge Crow as it appeared in the newspapers:

"My experience as judge and chief justice of the Criminal Court, actively engaged in the trial of cases, convinced me of the need for legislation to prevent morons from running at large, and thus being a menace to women and children who become victims of their lustful and murderous assaults.

"Take, for instance, the case of Thomas Fitzgerald, who was

hanged for the murder of little six-year-old Janet Wilkinson after he had defiled her, then strangled her, and buried her in a coal pile.

"In the trial of that case before me the fact developed that Fitzgerald had been in court several times before under charges of attempted offenses against women and children, and had been let off with light fines because present laws were not adequate for his punishment.

"I believe that the first time the moron comes into conflict with the law a wall of protection that he can never scale ought to be built between him and our children. We should act before his lust leads him to rape or murder.

"Similar experiences of other judges, confirming my own observation, prompt me to pledge the fathers and mothers of Cook County that I shall make it my business to prepare and to present to the legislature a proposed law under which it would be possible to sentence morons to a farm colony or other humanitarian institution, and thus remove this horrid menace to the safety of our children."

So it appears that not only have judges and police and other officials learned the need for crime prevention and the means for accomplishing it, but the general public also has learned enough so that a campaign plea can be based on the need for segregating the cases of emotional defects coupled with low mentality. That is what the word "moron" has come to mean in Chicago. It appears to have been the only descriptive term employed by psychopathologists which could be accommodated in a newspaper headline.

There is reason for believing that this dangerous type is increasing. Criminal statistics are too incomplete and too incoherent to throw light on this subject. But I would call your attention to the fact that until the last few generations the hardships of the typical environment among northern races have automatically held the defective in check as a factor in breeding. Most defectives perished before they were old enough to propagate. Those who survived to come into conflict with society and law were ruthlessly put to death.

Now all is changed. What we are pleased to call civilization is gauged in large part by its effectiveness in prolonging life regardless of its quality. For two or three generations, and especially in recent decades, the most significant human movement has been devoted to the preservation of every kind of life. All the resources of science are employed to reduce infant mortality, to check disease, to protect food supplies and to prevent accidents. As yet there has been no approach to the control of reproduction. So far as is humanly possible all the ancient checks upon the multiplication of the unfit are removed. A large proportion of the unfit are subject to the same instincts for reproduction as normals. Some of them are even more strongly



impelled, without having the sense of responsibility which is seen to exert a powerful influence on the behavior of normal persons. The result is inevitable. The proportion of emotional defects who are feeble-minded is still small, but is larger than it ever was before. It must be on the increase, as is every other kind of defectiveness which is transmissible.

Not much longer can we hang these degenerates and feel that we have done all that is necessary. It is possible now to identify them after the commission of a minor offense. The law will have to deal with them eventually and the only effective way is to isolate them before they have had opportunity to kill. It is true that this rational course is not entirely dependent upon formulating a new definition of legal responsibility, but probably in some case before long a record will be made which will enable the Supreme Court on review to bring the law's definition of insanity to accord with present day knowledge.

The present right and wrong test is of no practical value. It gets us nowhere in the fight for society's right to be safe. The distinction between right and wrong, as obvious to the normal person as the difference between black and white, is entirely an acquired sense in the case of the moral defect, the person born without a conscience. When this moral defect has low intelligence, an untrained will and brutish appetites the right and wrong test is no more applicable than in the case of the paranoiac. Punishment does not deter him and when he reaches the end of his career on the gallows his fate does not deter other degenerates. For they are known in the gangs as hard-boiled guys; they have reputations to maintain and they do not experience fear, or repentance or remorse. They are society's most ghastly and tragic failures. Possibly we will go on hanging them indefinitely. If so we will have an ever increasing number. But intelligent segregation will afford present safety and protect future generations. Society can afford to forego its lust for revenge as manifested in hangings and turn to the method of treatment which holds out promise for genuine progress.