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## ON REDUCING TENSIONS AND BRIDGING GAPS BETWEEN PSYCHIATRY AND THE LAW

BEN KARPMAN

This article is a topical continuation of a recent study<sup>1</sup> published by the author. Dr. Karpman is well known as a member of the staff of St. Elizabeths Hospital in Washington, D. C. He has been a frequent contributor to this JOURNAL.—EDITOR.

### LEGAL AND PSYCHIATRIC CONCEPTS

There are tremendous differences between legal and psychiatric concepts of insanity. The law has taken it upon itself to define insanity. Without wishing to reflect in any way upon the intelligence and ability that have gone into the making of laws, it must be remembered that, from the standpoint of psychiatry, the men who make our laws are laymen. A trained psychiatrist would give a most inclusive definition of psychosis without using the expressions "differences between right and wrong" and "irresistible impulse," which, to him, are meaningless. To the psychiatrist, psychosis is an all around entity involving all sorts of factors, including lack of adaptation and broken adjustment. The problem of right and wrong and that of irresistible impulse may be included, but this is not at all necessary.

### INSANITY VS. PSYCHOSES AND NEUROSES

In practice, law has but one term—insanity—to cover mental abnormalities. Psychiatry is more differential and offers a number of divisions, which may have subdivisions. Among other advantages, this does greater justice to the individual.

### CRIME VS./AND/OR THE CRIMINAL

The law attacks the particular crime, virtually disregarding the criminal. Psychiatry approaches the crime by way of the criminal. It attacks, not the crime, but the criminal behind the crime. Allow me to quote myself from a previous study with reference to this situation.<sup>2</sup>

One of the severest limitations in law is the concept that rigidity separates the *deed* from the *doer*; that is, the crime from the criminal. This situation often develops absurdities. A man who steals a case of whiskey (retail value \$65.00) is charged with grand larceny, a felony. The defense, however, successfully contends that the wholesale price is only \$48.00, making the crime petty larceny, which is a misdemeanor. Nothing, however, is said of the thief. His intent was to get the case of whiskey, be it grand or petty larceny. In all reason he should be charged on the basis of the executed criminal intent rather than on the size of the crime. The law, however, emphasizes the result of crime rather than degree of intent. In any criminal indictment, while intent is recognized, degrees of intent are less emphasized than degrees and gradations of crime. . . . Take the case of John A., who fires

<sup>1</sup> *The Iniquities and Inconsistencies Existing in Criminal Law and Psychiatric Testimony*. ARCHIVES OF CRIMINAL PSYCHODYNAMICS, Vol. 1, No. 2, Spring 1955, pp. 397-460.

<sup>2</sup> The quotations given here are adaptations and excerpts from a previously published study of the author: "An Attempt at Re-evaluation of Some Concepts of Law and Psychiatry". The JOUR. OF CRIM. LAW AND CRIMINOL., 38, Sept.-Oct., 1947, pp. 206-217.

several shots at William B. with the obvious intention of killing him. He only succeeds, however, in injuring him. He is charged with aggravated assault and sentenced to, say, five years. Had he succeeded in his original aim, he would have been charged with first degree murder and punished accordingly. His full intent was to kill; it was by sheer accident that he failed. Yet the punishment is neatly differentiated on the basis of results. . . . Why should we be concerned with the doer instead of dealing merely with the deed at its face value? After all, is not society's prime concern with results, with acts as they affect the community? The effect is the same whatever causes the act. What, indeed, is the relationship, if any, between deed and doer? It is our contention that it is no more possible to treat the deed satisfactorily without considering the doer than it is possible to treat a symptom without considering the disease that produces it. The deed has the same relationship to the doer as a symptom of a disease has to the disease as such. In early days, medicine was obliged to treat disease by symptoms only, for it did not know the underlying pathology. Modern medicine, however, attempts to treat the disease that causes the symptoms. From this point of view, the symptom is merely the particular point at which a great many factors, each having an origin and significance of its own, become confluent. Obviously, to do away with a symptom, one must consider all factors that have gone into its making. Thus, one hundred years ago we used to treat headache (a symptom) by a few established home remedies (and to some extent we continue to do so). This was "stab in the dark" treatment; sometimes it worked, sometimes it did not. Now, however, we know what a complicated symptom headache may be: it may be an expression of some inflammation of the coverings of the brain, of some eye disorder, of some disease of the internal matter of the brain or its blood vessels, or of some particular psychological difficulty when the *head aches* with conflicts. To treat all these headaches in the same manner would obviously be fallacious. If we know the basic cause of the headache we can by rational treatment cure it and thus stop it altogether. . . . In like manner, psychiatrists view the deed as the surface expression of a large number of factors, for the most part entirely internal and having a long history. No deed can be understood unless the psychology of the doer is understood. Society will never accomplish the abolition of criminal deeds as long as it deals with deeds only. Under the system of punishing the deed and not the doer crime has never abated and never will abate. A radical change is needed.

#### GROSS VS. MINUTE PATHOLOGY

There is altogether too great a tendency in legal proceedings to emphasize gross pathology rather than a more implicit and subtle type of pathology. The court is not well versed in human psychopathology and therefore, like all laymen, is impressed only by the grosser aspects. This is clearly seen in the murder cases presented in one of the author's previous papers. Two of the cases, having shown gross pathology, were judged insane and declared not guilty by reason of insanity. Their lives previous to the crimes appear to have been clear of any significant pathology; at least, none was elicited. A third man was the most obviously ill from a psychiatric viewpoint, over a long period preceding the criminal act, but he did not show such overt pathology in court; he was sentenced and must still face a prison term upon discharge from a mental hospital. although another jury found him insane a few months afterward.<sup>3</sup>

#### INTENT VS./AND MOTIVE

The law emphasizes intent, largely disregarding motive. Psychiatrists look upon intent merely as the surface expression of underlying motives.

In criminal law, just as the deed is regarded as more important than the doer, so causation is considered more important than motivation. Causation refers chiefly to factors external to the individual. We speak of the causative effect of physical, economic, and related factors in crime. Motivation, on

<sup>3</sup> Op. Cit., pp. 207-210.

the other hand, refers chiefly to inner psychological mainsprings in human behavior. External factors give us no clue as to why one of two men living in the same community under apparently identical social conditions becomes an habitual criminal while the other develops into an upright citizen. Only a study of their inner lives could reveal the true reasons for their differing behavior and help us to understand the meaning of crime for the criminal and the community. Be it a question of causation or motivation, little more is sought in any criminal trial than the most immediate cause or motive. It is an established principle in law that motive is not an essential ingredient in any crime, though it may be inquired into. Neither failure to prove any motive, nor even proof of a good motive, will prevent conviction.<sup>4</sup>

#### INSANITY, A DISEASE OF THE BRAIN?

The legal definition of insanity is both redundant and tautological. Insanity is defined in law as unsoundness of mind, madness, mental aberration or derangement. In one reference the word "derangement" is defined as "mental unsoundness." "Madness" is not defined in a law dictionary, but the reader is referred back to the word "insanity." Each word is defined by means of another, and back again in a circle. Such definitions defy the basic laws of logic, yet upon such unsatisfactory definitions depend the lives of men.

Law textbooks and dictionary definitions imply that insanity is due to a disorder of the brain. Any psychiatrist will tell you that that is not necessarily so. It is doubtful whether even the most competent jurist could decide what law books mean by disease of the brain. We know that in some way mental functioning depends on brain activity, but except in the most general way the connection between the two has not been demonstrated. For many years we shall have to expound mental reactions in terms of mental factors. Jurists can therefore be assured that modern psychiatry does not regard all psychoses as brain diseases. Even where there is a demonstrable brain disease with an associated psychosis, it is believed that the latter is often just as much the result of underlying and hertofore submerged psychic difficulties brought to the surface by the organic process as of the organic process itself.

#### DEFINITION OF PSYCHOSIS

The author believes that the following definition of psychosis would be accepted by most psychiatrists. Psychosis is a severe mental disease involving extreme disorganization of the personality in all fields and leading to profound disturbance of all forms of adaptation; the disease is usually without demonstrable organic basis and is little affected by organic factors, even when such are present. As yet we are without sufficient knowledge with respect to its etiology.

Common to all psychoses are intellectual and emotional disturbances, particularly reflected in poor judgment, with consequent disturbances in moral and ethical behavior, for which reason intellectual disturbances appear to be primary, though they are basically emotional in their genesis. Though physical and psycho-physical manifestations abound, the total reaction is interpreted by dynamic psychiatry as the result of extreme inner preoccupations and luxurious phantasy formation. Characteristic of these cases is their lack of insight, or inability to profit by insight when such is present.

<sup>4</sup>Op. Cit., p. 210.

Disturbances in judgment are a striking characteristic of psychoses. The ability to form judgments involves the capacity to draw correct conclusions from material acquired by experience. In logic, if a premise is correct, the conclusions drawn from it may also be correct. However, if the thesis is incorrect, the conclusions must be incorrect, although they may be logical within the original framework of the thesis. This is essentially the problem with the psychoses known as paranoia and paranoid states. These patients have come to accept as true certain ideas which must be characterized as delusions. Starting with such delusions as premises, the conclusions they draw are wrong, though they seem entirely correct if we could only grant the original premise. Thus, if an individual conceives that some particular person is trying to kill him, it is entirely reasonable for him to try to protect himself against his supposed enemy, even to arm himself and assault him. Yet it is wrong because his judgment is drawn from false premises.

Psychoses may be divided into two general groups. One includes the schizophrenic psychoses, in which intellectual and emotional disturbances lead to various degrees of intellectual and emotional deterioration, the extreme form spoken of as dementia. The other includes the affective psychoses characterized chiefly by the predominance of vivid affects with fluctuations considerably below and above the normal base line and expressed in various degrees of elation and depression. Full and permanent recovery is rare, the condition usually eventuating in deterioration in cases of schizophrenia, or in affective psychoses leading to repeated emotional upheavals that disturb the otherwise normal life course of the individual.

#### DEFINITION OF NEUROSIS

Let us now consider the definition of neurosis or psychoneurosis. According to Black's Dictionary, psychoneurosis is a "mental disease without recognizable anatomical lesion, and without evidence and history of preceding chronic mental degeneration. Under this head comes melancholia, mania, primary acute dementia and mania hallucinaria. (Cent. Dict.). 'Neurosis,' in its broadest sense, may include any disease or disorder of the mind, and hence all forms of insanity proper."

This is news indeed! For more than thirty-five years the writer has been under the impression that melancholia, mania, acute dementia and mania hallucinaria belong to psychoses. And where does Mr. Black get his authority for the statement?

The writer's definition of neurosis follows: Neurosis is a psychic disorder characterized mainly by a vivid display of many emotions in which insecurity, anxiety, depression, hostility, guilt, and frustration are most frequent; these, along with other emotions, usually appear in many varied combinations. Symptomatically, neuroses may be expressed by certain compulsions, obsessions, fears, phobias, discomfitures of various sorts, along with many fleeting and frequently changing psychosomatic complaints. Unlike the situation in psychoses, the personality remains fairly intact and integrated. The disorganization is only partial and there are no primary intellectual disturbances. The multitude of conflicts that besets the neurotic patient makes him ineffective as an individual and as member of the community, necessitating his erection of all sorts of defensive measures which in turn often grossly distorts his behavior.

## LEGAL VS. MORAL INSANITY

The law attempts to make a neat distinction between "legal insanity," as a disorder of intellect, and "moral insanity", which is defined as a disorder of the feelings and propensities. Yet one need only go to a mental hospital ward to observe that disturbances of feelings and propensities are universal in psychoses. Law says that in moral insanity there is no derangement of intellectual faculties. But is not the immoral act in itself good evidence of intellectual disturbance? Law neatly divides human behavior into acting, thinking, and feeling; psychiatry recognizes that what we call morality and immorality are the net result of all sorts of emotional constellations and that it is impossible to separate the emotions involved in immoral behavior from the behavior itself. What the law calls moral insanity, psychiatry speaks of as psychopathy.

## DEFINITION OF PSYCHOPATHY AND MENTAL DEFICIENCIES

Dynamic psychiatry regards psychopathy as a profound mental disorder characterized chiefly by antisocial behavior based on a marked defect of judgment and inability to learn by experience in spite of otherwise superior intelligence. Emotional immaturity, emotional instability, impulsiveness, and thoroughly selfish behavior are characteristic. Psychopaths appear to be lacking primarily in the moral sense; guilt reactions, so characteristic of normal human beings, and of neurotics and psychotics as well, are virtually absent. The origin of the psychopathic reaction has been traced to rejections and privations in earliest years of life.

Psychopaths are given to reactions of irritability, excitement, or depression, usually due to frustrations in their attempts to indulge in their particular form of behavior. At times these reactions may simulate psychoses or neuroses, except that they lack depth and are entirely transitory, disappearing as soon as the frustrating situation is removed. To be carefully distinguished from psychopathy are neurotic reactions which on the surface appear to be psychopathic in that the sense of guilt, though present, is hidden by the presence of a large hostility component.

Mental deficiency is a mental disorder, usually associated with some organic defect of the nervous system, resulting in a lowering of all functions of intellectual and emotional life. Mental defectives may superficially resemble psychopaths in behavior that is influenced by primitive urges poorly controlled by intelligence. They are distinguished from psychopaths by the presence, in proportion to their limited intelligence, of moral and ethical rules and some felt need to control their behavior.

Because of basic limitations in intelligence, mental defectives are unable to grasp adequately the social meaning of right and wrong. Like neurotics, they live nearer than do normal individuals to the instinctive and lower emotional level, not, however, because of any conflicts as with the neurotics, but because they are unable to reach higher.

## PARTIAL REACTIONS

The inadequacy of the legal conception of insanity is exemplified in the legal discussion of partial reactions. Hysteria is regarded as a partial reaction and not recognized as insanity; yet, anyone who works in a psychiatric hospital knows that many

cases of hysteria are deeper and more involved than some psychoses. The law does not accept epilepsy as a form of insanity, the presumption being that between convulsive seizures the individual is normal. But any dynamic psychiatrist recognizes that epilepsy is the expression of a particular personality that is just as sick between convulsive periods as it is during them. The law regards alcoholic drunkenness as voluntary and no excuse for crime. Psychiatry has many valid proofs that alcoholism is a mental disease and that intoxication is not at all a purely voluntary affair. Law emphasizes the presence of "insane delusions" in psychoses, yet in many insanities delusions are entirely absent, as in simple schizophrenia, or so deeply hidden as to be impossible of elicitation. Closely related is the doctrine of partial insanity. If the court decides a delusion has not contributed to the criminal act it should be ignored as an excuse for the act. No psychiatrist could accept this. Even where it does not appear to have contributed overtly to the act, the psychiatrist would insist that delusion is not a part experience. It involves the entire personality, even if it does not appear so at first glance.

#### RIGHT AND WRONG; THE PROBLEM OF RESPONSIBILITY; THE IRRESISTIBLE IMPULSE

Another ancient and obsolete legal concept is that of knowing right from wrong as a test of insanity. Many insane people, and sane individuals as well, know perfectly well intellectually the difference between right and wrong, yet persist in committing the wrong because they do not appreciate the difference emotionally. The drive of the emotion behind the wrong act is indeed the irresistible impulse which the individual is unable to restrain himself from expressing. In some jurisdictions, to the words "between right and wrong" there is added "and can abide by it." But it is precisely the inability to abide by it that differentiates the abnormal from the normal individual.

The law argues for deliberation and premeditation, assuming that the insane person does not premeditate. This is not true. Many insane persons, especially of the paranoid type, will sometimes plot for months. On the other hand, the premeditation and deliberation of the so-called normal criminal are more apparent than real. The kleptomaniac will plot for weeks, yet careful studies have revealed him to be a neurotic driven to steal by unconscious motivation. Many habitual criminals are in truth unrecognized kleptomaniacs.

The knowledge of right and wrong and the feeling of responsibility are human expressions that have a history and evolution as long as the development of the individual himself. In our view, it is not sufficient to say that the defendant knows or does not know right from wrong (and, in some jurisdictions, whether he can adhere to the right), that he is guilty, not guilty, partly responsible, or not at all responsible; it must be determined whether he can choose emotionally right from wrong, why and to what extent he is guilty and responsible. . . . Total or even partial guilt and responsibility as viewed by law can be determined only in the light of the individual defendant's own history and development. Regardless of his present knowledge of right and wrong, of his apparent guilt or responsibility when charged with crime, we must discover what sort of guilt feelings and sense of responsibility he had long before the commission of the crime, and what were the forces that controlled their expression, at times blocking the operation of his conscience and guilt sense and allowing the commission of the crime. From the time of Beccaria and Bentham, we have been guided by the principle of "let the punishment fit the crime." We submit as a more correct formulation, "let the punishment fit the criminal", or even "let the treatment fit the criminal," for punishment is only

one of the many treatments possible, and by no means the most effective or deterrent in many instances. . . . It is particularly with reference to knowing right from wrong that the psychological differences between non-criminal and criminals, and more particularly between different groups and types of criminals, come to the fore. The law presumes the criminal to be as normal and sane as the noncriminal. Criminal responsibility is allowed for in instances of "insanity," when presumably the individual is unable to distinguish right from wrong. To the criminal psychopathologist, however, this conception is too static, not sufficiently differential, and, above all, it fails to consider the psychology behind criminal acts. He cannot agree that the criminal is normal and sane, because he sees that the criminal is guided by much the same unconscious forces as the neurotic and psychotic, the criminal act being a symptomatic manifestation which the criminal cannot control and cannot understand in its deeper sense. Nor can criminal psychopathology accept the rigid, quantitatively constant and qualitatively undifferentiated legal concepts of right and wrong. It maintains that right and wrong are psychological attitudes rather than intellectual concepts; that these attitudes vary greatly both quantitatively and qualitatively among normal people; and that such variations are even more evident in criminal groups and types.<sup>5</sup>

#### PREMEDITATION VS. IMPULSE

Law assumes that criminality is willful, deliberate; that the criminal is wicked, maliciously bent on being bad. Psychiatry submits that criminality is an expression of an inner drive rather than something willfully premeditated; that it represents impulsive behavior; and that the criminal is more often weak than vicious. Punishment is not a deterrent of crime.

A normal individual may profit by punishment. Knowing right from wrong, he realizes that in each offense he has deserved punishment and therefore accepts it. Criminal procedure and penology assume that the criminal, being normal, will profit by punishment. Since the criminal is not normal and does not know right from wrong in the same sense that the normal individual does, punishment of various types of criminals must fail. The neurotic criminal, driven by an irresistible impulse to commit a particular crime, on realizing the gravity of his offense, may be willing to accept punishment, but the punishment will fail to reach the source of his crime. Thus, even if the man carries a strong sense of guilt and regret about his crime, we almost universally see the repetition of the act, the individual having failed to profit by experience because experience fails to reach the unconscious motivation. . . . In the case of mental defectives, punishment cannot increase the individual's intelligence; therefore, his grasp of situations remaining the same, his reactions necessarily remain the same. He is likely to repeat his criminal behavior because punishment does not reach the lack of intelligence which lies back of his criminality. . . . The psychopath, lacking a complete appreciation of moral values and the sense of right and wrong, is likely to indulge in criminal behavior regardless of the number of sentences he has served.<sup>6</sup>

#### INTELLECTUAL VS. EMOTIONAL KNOWLEDGE

In all discussions of right and wrong, and responsibility, there is a tacit assumption that the motives we deal with are entirely at the intellectual level, that every member of the community, unless definitely insane or feeble-minded, has an inborn perfect knowledge of right and wrong and responsibility.

Modern psychiatry challenges this conception. Overwhelming clinical evidence has proved that human behavior is basically emotionally conditioned and that intellectual activities are emotionally determined. An individual reared in Maine in the best Republican traditions can offer cogent arguments proving beyond doubt that the Republican party is the mainstay of our country. Likewise, a man reared in the South and steeped in traditions of the Democratic party can easily

<sup>5</sup> *Op. Cit.*, pp. 211-213.

<sup>6</sup> *Op. Cit.*, p. 212.

furnish valid intellectual reasons why Democratic principles are superior. Yet can any dispassionate observer doubt that in both these gentlemen the intelligence is merely a vehicle through which is expressed the language of underlying emotions? That which is trained in us from childhood becomes emotionally fixed, structuralized; it is virtually impossible to change such an influence except perhaps through other very powerful emotional influences.<sup>7</sup>

#### BREVITY OF PSYCHIATRIC EXAMINATIONS

For the purpose of demonstrating the presence of insanity, upon which a man's life may depend, psychiatric examinations of prisoners awaiting trial are altogether too brief. A one or two hour examination barely elicits the more immediate information. No patient reveals immediately all the information which the psychiatrist desires. Sometimes he does not understand what is sought. Often, he is quite inarticulate and great ingenuity is needed to get the necessary information. With a prisoner the psychiatrist often obtains only a few clues and hints, nothing really decisive, and no time is left to go into his background. To accomplish the task properly, it would be desirable, even necessary, for the psychiatrist to interview people who later appear as witnesses. A sister testifying in court about her brother, who is facing the electric chair, is likely to be on the defensive and wittingly or unwittingly will give information that may be useful to her brother, or deny what may be injurious. Seen in the privacy of a physician's office, with the assurance that everything possible will be done to help the defendant, the psychiatrist might well obtain material from her which might otherwise be unavailable to the court and which might have a significant bearing on the psychiatric evaluation of the defendant.

So far as the writer knows, little social service work is done in prisons and with prisoners awaiting trial. The report of a prison social worker in court could make a significant contribution to the knowledge about the prisoner, especially with respect to the home situation and conditions immediately preceding the crime. The setting in which the crime was committed is often an excellent indicator of criminal dynamics and may shed light on the basic origins of the criminal behavior.

When a cause of crime is sought, the emphasis is on immediate rather than remote motivation, and a specific individual motivation at that. Yet, very often, single and specific motivations in criminal behavior cannot be found, but rather there is an accumulation of many minute influences which, in totality, produce the effects noted. In the words of many patients, the influence is general and "atmospheric." For that matter, the development of the personality traits of normal persons can not be traced to specific environmental situations and effects, but rather to subtle and continuous influences that pervaded his environment and development.

#### QUALIFICATIONS OF PSYCHIATRISTS

According to accepted standards, if a physician has been practicing psychiatry from three to five years, he is qualified to testify in court as an expert. Consider the following situation, however. The overburdened psychiatrist worked in an understaffed municipal psychiatric hospital and had to see three to four thousand patients a year. He could give at most an hour to each patient. How much information of real psychiatric significance could he thus obtain from any one patient? The report he is

<sup>7</sup>Op. Cit., p. 213.

obliged to make under these conditions hardly contributes to the understanding of the defendant. Only a psychiatric examination which permits the reconstruction of the patient's entire life history, including emotional development, can enable a psychiatrist to report properly to the court. Such an examination would require at least twenty-five to thirty hours. It would be better yet if the defendant could be sent to a psychiatric hospital for detailed study. It is not sufficient to send a man to a psychiatric hospital and expect that, merely by staying there a few months, the necessary information would be obtained. Often when a prisoner is sent to a State Hospital for study during a period of three to six months, he is seen once or twice by a ward psychiatrist and once or twice by the superintendent, who usually depends on the ward physician's and nurses' notes. The superintendent's testimony may then give the court the misleading impression that the defendant is of sound mind. The writer has seen individuals sentenced to the electric chair when his own detailed studies of the cases revealed them to be profoundly sick.

If a prisoner is to be sent to a psychiatric hospital, it should be specifically for a complete study, meaning a thirty to fifty hour study at least by a psychiatrist competent to elicit psychodynamic material—not merely observational and descriptive material.

When a man has been sentenced and shortly afterwards becomes insane, the case against him should be *not prossed*. If a man develops insanity at the time of trial and is sent to a mental hospital, he should not have to stand trial upon recovery. Insane at the time of trial, not insane at time of crime—a psychiatric absurdity, because insanity at time of trial must have existed long before. Overt and obvious manifestations of insanity may develop overnight, but the insanity itself has been developing long before that sudden manifestation. The fact that a man may seem sane at the time of trial and sentence, even at the time of the crime and before, is clearly seen in cases which, after arrival at penitentiaries, develop a psychosis associated with organic brain disease, such as general paresis, which obviously could not develop in the brief period between the crime and the sentence. Our entire system of trial, conviction and imprisonment is badly in need of a thorough overhauling.

#### SUMMARY AND CONCLUSIONS

The conceptions of law with respect to insanity are outmoded and bear little relationship to the present reality of the situation. They should be replaced by psychiatric definitions.

Law generally ignores implicit and subtle types of pathology and emphasizes only gross pathology. The defendant's past, which may have exhibited numerous indications of pathology, is largely disregarded, and consideration is given only to his apparent condition at the time of the crime.

Law focuses exclusively on the crime, emphasizes intent, and virtually disregards motive. Psychiatry is concerned with the criminal behind the crime, and regards intent merely as the manifestation of underlying motives. Psychiatry deplores the legal concept which rigidly separates the deed from the doer, the crime from the criminal. No deed can be understood apart from the psychology of the doer; and criminal deeds can never be abolished so long as society continues to consider the deed

alone. Criminal motivation is considered by law only in the light of attendant external or physical factors, whereas the important factors to be considered spring from the inner life of the individual.

Law assumes that the insane do not deliberate or premeditate. This is not true. A normal individual sometimes commits a deed impulsively, while an abnormal individual may commit a crime with apparent and persistent deliberation. Further, law disregards all mental abnormalities except those which come within its own narrow definition of insanity, whereas psychiatry recognizes numerous differential classifications of mental and emotional disturbances which may lead to crime, but which are not included within the limits of restricted legal definitions. The difference between "legal" and "moral" insanity, as defined by law, represents utterly outmoded and abandoned concepts of psychiatry, which now recognizes so-called moral insanity as psychopathy, a specific and distinct disease entity.

Legal definitions of insanity are confined to the ability to differentiate right from wrong and the question what constitutes irresistible impulse. Psychiatry views the total personality reaction of the individual in the light of his environmental adaptation and his ability to adjust to changing circumstances.

The legal concept of right and wrong fails completely to take into consideration the fact that an intellectual knowledge of right and wrong may be obliterated by internal emotional forces which render the individual incapable of exercising such a power of distinction. The legal concepts of right and wrong are too static, not sufficiently differential, and fail to investigate the psychology behind criminal acts. The law assumes that a distinction between right and wrong may be determined by a consideration of motives at the intellectual level, a concept which is challenged on the basis of overwhelming psychiatric clinical evidence. In short, law takes no cognizance of the individual's mental or emotional condition existing over a long period of time, but concerns itself solely with the condition judged to have existed at the specific period represented by the crime itself. It is submitted that law is not competent to judge insanity; the matter should be turned over to psychiatry.

The law regards hysteria and epilepsy as partial reactions, a point of view not consistent with current psychiatric knowledge. A similar situation exists with respect to chronic alcoholism. The law's attitude toward delusions—that they may affect only one aspect of the psychotic's personality—is one which no psychiatrist can accept.

Legal considerations view criminality as a willful attitude and recognize none of the dynamic forces which lie back of criminal behavior. For this reason the administration of criminal law fails to prevent repetitions of antisocial behavior, for the punishment of the criminal does nothing to alter or correct the emotional drive behind the crime.

Psychiatric examinations of prisoners awaiting trial are entirely too brief to supply the courts with needed information, and unfair to the defendant who is legally innocent until proved guilty. Prisoners requiring psychiatric inquiry should be sent to a mental hospital for a period of time sufficient to provide a detailed study of their cases.

The development of insanity in a prisoner would result in dismissal of the criminal charges against him and he should be committed to a mental hospital. The existing

practice of compelling him to serve his sentence when and if the hospital pronounces him recovered is both unjust and illogical. If he was insane at the time of his trial, or became insane after he was sent to prison, he was insane at the time of his criminal act. And it is both absurd and unfair that an individual having been found insane at the time of the trial and sent to a mental hospital for treatment, should, on recovery, be sent back to stand trial.

Finally, it is suggested that law schools should provide adequate courses in psychiatry and each student should be required to study in detail a number of cases including insane individuals and criminals distributed among the chief types of offenses. In undertaking the teaching of psychiatry, law schools should not depend upon medical schools, but should create their own fully budgeted departments of psychiatry.

Jurists who sit in criminal courts and District Attorneys in charge of criminal cases should be required to study psychiatrically a certain number of prisoners other than those who have previously come before them.

In an effort to diminish present differences between them, and to render an enlightened justice, it is recommended that representatives of the legal profession who specialize in criminal law and members of the psychiatric profession who have had wide experience in criminal cases should get together and work out details of criminal law enactments which would embody the best current knowledge of both professions. It is believed that such efforts would go a long way in reducing the incidence of crime.