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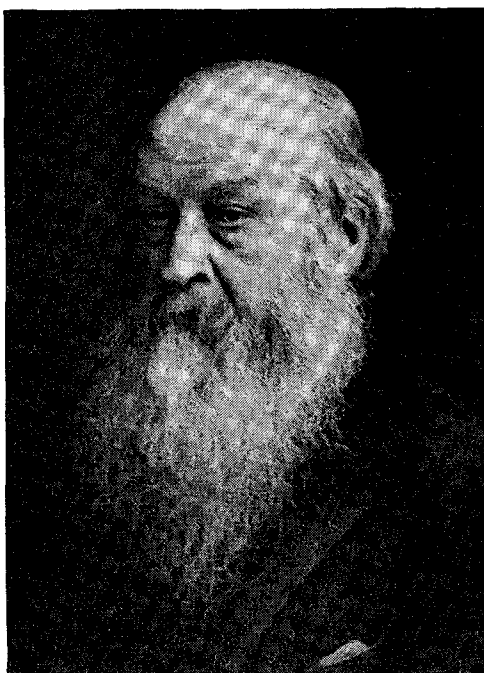
XI. Henry Maudsley (1835-1918)

PETER SCOTT

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There must be some misgivings as to what Henry Maudsley would have thought of this attempt to evaluate his contribution to criminology. In his view the historian of an eminent person "is very apt, if not pretty sure, to misjudge." In defensive mood he stated that "it is obvious ingratitude and folly . . ." to despise the knowledge of the past as worthless and its errors as contemptible . . . for these very errors had their place and value to promote the evolutionary process of which it is the outcome." He deplored a proud and sympathetically self-interested generation which shall count invaluable the treasures, records, portraits and relics of its prominent members, for this would be "certainly egotistic egoism in excelsis." Furthermore, though it was inevitable that Maudsley's erudite and wide ranging mind should have enquired into mat-

ters criminological, this was not his primary interest nor the direction in which his contribution was greatest. "Let it be our prayer", he wrote, "that when . . . this generation comes up for critical judgment as a historical study before the tribunal of posterity, it may be said justly of it, that it has done as much for the progress of mankind as some of the generations upon which the wisest of us are apt to look



HENRY MAUDSLEY

back with indulgent compassion, and the unwise among us with foolish scorn." Surveying the progress in this field since his day, we must surely adopt a more humble judgment than he had feared; we have indeed small grounds for mightily magnifying our own superiority.

Henry Maudsley was born near Settle in Yorkshire in 1835 at a farmhouse called Rome in the parish of Giggleswick. He seems to have had a drab childhood; his memories of his mother, soon to die, were chiefly of a suffering invalid. His father, naturally silent and much affected by the loss of his wife, had hardly a word for his sons "except when absolutely necessary." Maudsley writes of this time as a succession of sombre and dreary years.

In the year of his birth, and in the same county, Hughlings Jackson was born. Darwin was in the 'Beagle', Pritchard published his "Treatise on Insanity"; at about this time too, Lombroso was born. Gardiner Hill might have been preparing his lectures on the total abolition of restraint in the treatment of the insane, Malthus would be planning his book on the principle of population, Isaac Ray his "Medical Jurisprudence of Insanity," and Mayo proposing the establishment of a hospital-prison, while Elliotson would be disturbing University College Hospital by his introduction of 'mesmerism.'

Maudsley proceeded through a formal and unimaginative education to a brilliant medical career. In 1856 at the age of 21, he graduated, M.D., at London and was honoured as "University Medical Scholar" of his year. In later years he exchanged the ten gold medals of his studentship for a watch "which I leave behind me to tick when my heart shall cease to tick." At only 23 he was appointed Medical Superintendent of the Manchester Royal Lunatic Asylum. At 27 he was editing the "Journal of Mental Science," and at 29 and 34 respectively he was appointed Physician to the West London Hospital and Professor of Medical Jurisprudence at University College.

The period between Maudsley's 20th and 25th years was a stimulating one. He must have been thrilled by the physiological work of Helmholtz and Fechner, and by Darwin's "Origin of Species." Bain produced his handbook on "Emotions and Will" at this time, and Bucknill and Tuke their famous "Manual of Psychological Medicine." While Broca was initiating the Anthropological Society of Paris (1859) we know that Lombroso was conceiving his "*L'Uomo Delinquente*." Another book which influenced him much was Morel's "*Des Dégénérescences*," and of course, Maudsley's future sparring partner, the McNaughton Rules, had just appeared. Matthew Davenport Hill, the famous Recorder and reformer in Birmingham, published his "Practical Suggestions to Founders of Reformatory Schools." The Industrial Schools Act (1857) was passed, and in the same year the penal colony at Point Puen in Tasmania was closed.

Maudsley's considerable influence in forensic matters, with the exception of his "Responsibility in Mental Disease" (1874) was as much through his general works, and especially through translations of them into many different languages, as through works specifically devoted to the subject. Of the latter, his articles of 1863 and 1864 on "Homicidal Insanity" and "Insanity and Crime" were the first. In the 1870's, besides his major work on responsibility, he published an article on stealing as a

symptom of general paralysis as well as his book in French, "*Le Crime et la Folie*," which was reprinted six times. In those days, book reviews offered an opportunity to the reviewer to voice his own opinions and Maudsley's review of "*Female Life in Prison*" runs to eighteen pages. The discussions of learned society meetings were more lively then, and some of those in which Maudsley took part make racy reading.

As to style, Maudsley frequently inveighed against "ventosities of inflated verbiage," yet himself was hardly concise. His contemporary, Havelock Ellis, wrote "An artist as much as a man of science, master of a sombre and weighty style, illuminated by vivid flashes of imagination, Maudsley by his numerous works popularized the new ideas, and is justly regarded abroad as a pioneer of criminal anthropology." Maudsley loved to use metaphors which, he considered, bespeak a deeper unity with nature and more vital value than science can formulate; within the space of one book, besides various plants and flowers, he uses metaphorically no less than forty-four different kinds of animals, from protozoa to pachyderms, from the parsimonious emmet to the nautilus. Though fully aware of the value of detailed case studies, he happily does not burden his books with them. While his style is pleasing, his learning admirable and his ideas stimulating, his inconsistency is bewildering. He himself held that "consistency signifies prejudice and stagnation." To be sure, only a humbug would deny the inevitable inconsistency of his feelings toward criminals, so that it is not surprising to find the forthright Maudsley more inconsistent in his writings on this subject than on any other. The policy adopted in this paper is to sample his hottest and coldest rather than to concoct a lukewarm compromise which would reveal nothing of the man.

HIS ATTITUDE TOWARD CRIME AND CRIMINALS

"Criminals are extremely unlovable beings . . ." he wrote, not they but "the honest workman who prefers partial starvation to the yielding to temptation" deserves our zealous expression of sympathy. But, in general, his attitude is a tolerant one, not sentimental but seeking for causes. He agrees with Plato "that the wicked owe their wickedness to their organization and education, so that not they, but their parents and instructors should be blamed." Criminals "go criminal, as the insane go mad, because they cannot help it." In such generalizations he is handicapped, as we are, by the lack of any adequate classification of criminals, and tends to assume too readily at times that there is a valid entity—the criminal. Sometimes his tolerance seems to over-reach itself—"Vice, crime, disease and death are just as natural and necessary events as virtue, health, growth and life." "I can conceive a murderer being a nobler animal than a saint of the Pecksniffian sort. The murderer on a big enough scale, big enough to despise the fools whom he uses and sacrifices for his ambitious ends—what is he? Why, he is a hero!"

His occasional evident identification with the underdog perhaps helped him in his outspoken criticisms of the forensic practice of his day. "In the delays, prolongations, complications and technicalities of legal proceedings, the great criminal has always a fair chance of escape which the perpetrator of simpler crimes has not." In attacking alike judges, barristers and solicitors, he does not pull his punches. The most eminent advocates, he says, provided the fees are available, will defend most fraudulent

doings, "special deceits are sanctioned as legitimate customs" and "the poor man must suffer without remedy." A large proportion of crimes, he held, were not prosecuted "because the injured party will not be at the pains, cost and worry of a prosecution likely to end in a compassionate acquittal or a nominal conviction" how often do we hear just this criticism of our juvenile Courts. He particularly loathed the "foul and unwholesome atmosphere of the Divorce Court" where he found perjury to be a daily practice, "tacitly accepted as normal, if not natural, sometimes even treated as excusable."

In prophetic and balanced vein he wrote "With a better knowledge of crime we may not come to the practice of treating criminals as we now treat insane persons, but it is probable that we shall come to other and more tolerant sentiments, and that a less hostile feeling towards them, derived from a better knowledge of their defective organization, will beget an indulgence at any rate towards all doubtful cases inhabiting the borderland between insanity and crime."

RELATIONSHIP OF CRIME AND INSANITY

His attention to this borderland between insanity and crime stands much to his credit. Certain cases "may be reckoned insane or criminal according to the standpoint from which they are looked at." In the following he seems to anticipate the 'pre-disposition,' 'susceptibility' and 'earlier emotional dissatisfactions' of modern writers. "Now it is only a question of degree and kind of fault how far antisocial feeling, thought and conduct, passing through their divers forms of degeneracy, must go before it becomes madness or "crime." "Crime is a sort of outlet in which their unsound tendencies are discharged; they would go mad if they were not criminals, and they do not go mad because they are criminals." He not only visualizes some as hovering "between crime and insanity, near one boundary of which we meet with something of madness but more of sin, and near the other boundary of which something of sin but more of madness," but also as sometimes frankly alternating between crime and madness, especially epileptic madness.

CRIME AND EPILEPSY

Maudsley's keen observation and capacity to apply knowledge from other fields to that which engaged his interest, shows to advantage in his writings on crime and epilepsy. He spoke of some individuals, "impatient of restraint" "exploding" into a criminal act. "The convulsive energy of the homicidal impulse is sometimes preceded by a strange morbid sensation, beginning in some part of the body and mounting to the brain, very like that which, when preceding an attack of epilepsy, is known in medicine as the *Aura epileptica*." He observed, too, that "the epileptic convulsions may cease to occur in one who has been subject to them, and that in their place attacks of moral derangement with more or less maniacal excitement may appear." Parallel with Hughlings Jackson, Maudsley understood that there may be convulsion of ideas instead of convulsion of muscles. Such knowledge makes his well known dictum on the legal responsibility of epileptics rather surprising, "at the outset we may declare unhesitatingly that an epileptic person may be quite as sane as one who is not so affected, and, in the event of his doing murder, quite as responsible." In children Maudsley stated that night terrors sometimes develop into epilepsy and

that "frenzied children" who take subtle advantage of a sympathetic audience and develop what would now be called temper tantrums at the least opposition may have a kinship with epilepsy.

Some habitual offenders he noted to be epileptic or from families in which epilepsy, insanity or 'other neurosis' existed. Perhaps influenced by Lombrosian theory or by Grohmann, who, long before Lombroso was born, had described criminals with defective development, prominent ears, projecting cheek-bones, large lower jaws, deeply placed eyes or a shifty, animal-like gaze, Maudsley, too, tended to link epilepsy with physical stigmata of degeneration and thus with crime.

"DEGENERACY"

In general Maudsley developed and stated his ideas remarkably early in his career, subsequently restating them in his various books and being decreasingly influenced by the work of others. His views on degeneracy in relation to crime offer something of an exception to this rule. In his day criminal anthropology was all the rage, and carried to excessive lengths by the Italian school. It must have seemed that the tape and rule were replacing the tawse and rod as the primary criminological tools. An opinion on degeneracy would be essential for one in his position. At first, perhaps following Mayo's concepts, he regarded the criminal as "branded by the hand of nature" as having an original deficiency of moral sense. Later he seemed clearly influenced by Morel's conception of crime as one of the manifestations of individual or family degeneration. Morel's definition of degeneration was loose enough in all conscience—"a morbid deviation from the normal type of humanity" caused by intoxications, famines, social environment, industries, unhealthy occupations, poverty, heredity, pathological transformations, moral causes, but at least it escapes from the rigidity and hopelessness of the strict 'anthropological' school. In this sense he wrote that crime and madness were both antisocial products of degeneracy. By 1895, perhaps in response to Lombroso's extreme views, he rather uncertainly modified his opinions "To say that there is a criminal nature which is degenerate is one thing, a true thing; but to go on to say that all criminals are degenerate and bear on them the stigmata of degeneracy is another and, I believe, quite false thing. I do not see for myself why crime should necessarily be degeneracy." But he clung to his picture of the extreme of degeneracy presenting "a precocious prodigy of evil proclivities," a description which is rather reminiscent of a very recent writer's "poor protoplasm poorly put together," and about as useful a concept.

ENVIRONMENTAL CAUSES

Maudsley repeats over and over again (yet not too often) in almost identical words, that "the external factors and circumstances count for much in the causation of crime. Time and chance happen to all men, and no criminal, to my mind, is really explicable except by a full and exact appreciation of his circumstances and nature and of their mutual interaction." He appreciated clearly the double handicap of nature and nurture—"To add to their misfortunes, many criminals are not only begotten, and conceived, and bred in crime, but they are instructed in it from their youth upwards, so that their original criminal instincts acquire a power which no subsequent efforts to produce reformation will ever counteract." This is pessimistic

perhaps, but no more so than many writers on 'psychopathic personalities' (a term which mercifully had not then arisen) of the present day. And again, "it is exactly in those persons who show the stigmata of morbid heredity that the most serious damage is done"—the larger proportion, if handicapped only in one of these two directions, escapes. Maudsley did not labour, as many subsequent writers did, under a starry-eyed belief that correcting immediate faults necessarily puts all to rights. In his recognition of extensity as well as intensity he was, in this field, ahead of his time. "The effects which are in existence cannot, it is evident, be done away with by removing the causes, for they have become causes and will go on working through successive effects; but by removing the causes in present operation, the production of future effects of a like kind will be prevented."

Maudsley was aware of Quetelet's work and quoted his dictum that society prepares the crime for the criminal to carry out. He emphasised society's responsibility in these words "It is open to the present generation by the institution of systematic education, by bringing classes more closely together, by a general system of moral and physical hygiene . . . to change the character of the society of coming generations." As to cultural factors in the aetiology of crime he indicts the steady drift of the Western world to Socialism, the rude abolition of a nation's customs with consequent loss of cohesion and stability in families, tribes and nations. Advancing civilisation, he claimed, has disrupted the "potent and useful" fictions and superstitions which formerly held antisocial impulses in check. "Heaven and Hell" he seems regretfully to say "are not the vivid realities that they were."

INHERITANCE

With typical Shakespearean flavour Maudsley writes "There is a destiny made for a man by his ancestors, and no one can elude, were he able to attempt it, the tyranny of his organisation." This was his basic belief, but he appreciated that hereditary factors do not operate in vacuo—"a single case . . . thoroughly well observed and described, would be of more value than ten thousand general observations going no further than to establish the existence of hereditary influence."

A great believer in the essential inequality of man and in the concept of bad stock "which counts more than environment in the personal struggle of life," Maudsley seeks eugenically to shed society's encumbrances: "if it does not want them because they are detrimental, it must contrive to forego their production." Yet he sees with admirable clarity the difficulties of eugenic action. "Qualities which on first sight look bad are no wise always the unmitigated and uncompensated evils which they appear to be in their day and generation" they may work well in different circumstances or "in the constitutions of persons in the next generation." "Eugenic rules of breeding, if put into force, might . . . not turn out to be entirely eugenic in their consequences; to get rid of all the qualities in the species which are thought bad might be to pluck up the very tap-roots of its vitality and effectually emasculate it."

PSYCHOLOGICAL CAUSES

It has been said that the only psychological causes which Maudsley recognized were overwork and over exertion, and that he favoured a "physiological rather than a psychological point of view." Yet Maudsley, in this respect rather ahead of his time,

wrote "it is the wear and tear of emotions, not of work, that is the real hurt." At various places in his works Maudsley mentions the following psychological motivations of crime—frustration, being teased and irritated, imitation, instigation and coercion (the 'cat's paw'), provocation of circumstances, illegitimacy, bodily abnormalities and oddities. If he visualises these "moral commotions and mental overstrains" as acting organically, in his favoured phrase "by breaking the molecular ties of the nerve structure and so injuring or destroying its vital elasticity," this does not detract from the credit due for his recognition of and attention to environmental and emotional factors.

The following description of stealing as a symptom of general paralysis, however, rather suggests that Maudsley did not grasp the many ways in which psychologically motivated crime may resemble that occurring in organically damaged individuals, in other words the extent to which (borrowing a neurological term) a crime may be the final common path of widely differing disturbances. "The stealing (of the general paralytic) is often done in a stupid way, without any adequate motive or without the outlook of any gain thereby, apparently in obedience to an impulse to possess springing up in a mind in which the sense of right and wrong has been weakened or extinguished. In some cases the patient makes no attempt at concealment; but in other cases there lingers a remnant of the sense of right and wrong which, too feeble to contend with the stealing impulse, leads to bungling attempts to hide the petty larceny."

At moments Maudsley's acceptance of the criminal's motivation by forces of which he was not aware, seems to anticipate the Freudian concept of the Unconscious. He writes of the criminal "who has such a strong interest in deceiving himself"; "The genuine criminal is not thoroughly conscious of his crime." Out of the "unlit depths" of the individual's nature "from time to time come faint airs and floating echoes of an infinite past . . . which determine present moods and, more often than we think, present acts." But his distrust of introspection does not allow him to progress far: to judge mental processes by the exclusive study of their partially conscious manifestations, without taking notice of their necessary physiological antecedents and mostly subconscious workings, is, he says, much like what a policeman might do who should think to watch what is going on at night in a whole town while scrupulously keeping himself within range of a particular gas-lamp's light. Whence, he asked, do criminal impulses, so forgetful of self-interest, despite the remembrance of retribution for past sin, come? "One thing is certain, that moral philosophy cannot penetrate the hidden springs of feeling and impulse; they lie deeper than it can reach, for they lie in the physical constitution of the individual, and, going still further back, perhaps in his organic antecedents."

PUNISHMENT

Maudsley often seemed opposed to the harsh punishment of criminals—"The makers and administrators of law ought really to have some pity for these defective beings suffering, as they do, under an irremediably bad organisation; but so far are they from showing compassion for them that they punish them angrily, not with the hope of reforming them, seeing that experience has shown that to be impossible, nor with the hope of warning or improving others like them . . . but in retaliation

for what they have made society suffer by their wrong doings." He understood, too, that beyond certain limits the infliction of punishment actually provokes "more unreason and violence." "Why," he continues rather naively, "should a lame mind provoke any more anger than a lame body?"

At times, however, he expressed views so diametrically opposed to such tolerance and forbearance as to make the nonplussed reader cast about (alas unsuccessfully) for evidence of sarcasm or irony. "The public punishment of the whipping post, the stocks, and the shameful exposure on the pillory to public scorn and abuse, and still more the terror of the scaffold when executions were public, were primitive measures effectively employed formerly to teach social responsibility. The open disgrace of them appealed directly and forcibly to the understanding and feeling of the offender and the lookers-on, which more humane methods yet fail to do. To use flogging now as a proper punishment for a particular crime is to deprive it of much of its educational value as a preventive when the flogging is done in secret: the public gives the criminal the painful benefit of it, but does not give him or itself the instructive social benefit which might be obtained from its edifying exhibition." What would Steinmetz, and other opposers of punishment as an effective measure for criminals, have had to say to that?

Even with children he could be very hard. Writing of the thoroughly antisocial children who resist "admonitions, persuasion, appeal, example, entreaties, threats and punishments," he held that they must be "allowed to suffer the uttermost pains and penalties of their misdeeds: so long as they are again and again saved from the just penal consequences by the solicitous affection of fond parents or the more anxious dread of a public exposure of the family disgrace, they will go on sinning; but if they are allowed to touch the bottom of misery the sharp lesson may here and there teach one of them self-control. . . ." Again, his attitude to childish masturbation was surprising: for this he recommended "stigmatisation of it as 'bad form,' dirty, base and degrading, which will not fail, if continued, to betray itself in the face and manners," favouring appeals to vanity rather than moral strictures and giving no evidence that he knew of any alternative to these two approaches. Yet elsewhere he writes ". . . it is certain that a more open dealing with a natural (sexual) function would dispel much hurtful ignorance, do away with a great deal of enforced hypocrisy, and prevent an incalculable amount of secret and anxious suffering at the critical period of adolescence. . . ."

He sums up the matter as follows "Punishment, therefore, is properly inflicted, not out of revenge for the wrong done, which would benefit nobody, nor many times with any reasonable expectation of reforming the wrongdoer whose radically unsound nature would often need to regenerate, but as a stern admonition to others not to do wrong and incur a similar fate; for which purpose the severities and cruelties of past punishments may not have been entirely unnecessary and useless, inhumane or inhuman as they are called now." Justice, he said, must be prompt, stern and summary, inspiring "a wholesome fear" in the criminal. "The good of society is a larger interest than the good of the individual . . . it is he who must suffer in the larger interests of society."

His argument suffers through his inability to differentiate control from punish-

ment, his clinging to the unreal concept of "the criminal," and his failure to grasp that even though society may first have to be served yet there is still a duty to help the offender to regain a position of self-respect.

In reading his works one is forced to recognise and allow for his obvious failure to reach a reasonable balance in certain matters, especially love and hate, good and bad, and in his consideration of punishment. Love he disparaged—"at bottom . . . there is nothing particularly holy about it." Yet elsewhere he wrote "love can never be extolled enough by human beings nor ever sufficiently revered as divine." But he is only able to revere it if it is first "spiritualized in its most refined expressions, embellished with all the graces imaginable." "How then is love to live and thrive with no store of hate to sustain it, no resistance for it to react against?" Concerning goodness and badness he wrote "It was plainly well for the human race in the divine order of things that moral goodness did not prevail in the past seeing how much human progress has owed to its lower nature: avarice, ambition, emulation, envy and other selfish passions, along with the grosser animal appetites and desires, having been as necessary and useful factors in its progress as its higher moral qualities." Bearing this in mind we know from his autobiography that he was a tormenting critic of himself and that "I have always thought and said that the paternal and maternal were never vitally *welded* in me, but only *rivelled*." According to his famous contemporary, G. H. Savage, Maudsley had himself claimed to be "a man of two temperaments, two distinct and original differences." It seems reasonable to suppose, therefore, that his inconsistent views on punishment were at least to some extent symptomatic of his personal difficulties.

RESPONSIBILITY

In April 1874 Maudsley published his book "Responsibility in Mental Disease" which ran to 2nd and 3rd editions in the two succeeding years. This subject was as much or more debated then as it is to-day. In 1864 a Royal Commission had been set up "to inquire into the provisions and operation of the laws under which the punishment of death is now inflicted in the United Kingdom, and the manner in which it is inflicted, and to report whether it is desirable to make any alteration therein." Maudsley, who had the preceding year demonstrated his interest in the subject through an article, published in the "Journal of Mental Science," entitled "Homicidal Insanity," may have taken part in the arguments thrashed out by the Association of Medical Officers of Hospitals and Asylums for the Insane which body, through Dr. Harrington Tuke, reported to the Commission.

In the ten years before the publication of his book, three Bills had been introduced to Parliament with the intent to gain recognition of degrees of murder. The McNaughton Rules had been formulated some 30 years previously and were still being hotly argued. Daniel McNaughton, to quote from the clinical records of Bethlem Hospital (now linked to the hospital which bears Maudsley's name), at the age of 29, was admitted from Newgate on March 13th 1843, having been found to be insane at the Central Criminal Court. "His crime created great commotion at the time. In mistake for the late Sir Robert Peel he shot Mr. Drummond as he was going into the Treasury or some other Government office, and that time imagined that the Tories were his

enemies and annoyed him." McNaughton remained at Bethlem, solitary, retiring and averse to conversation, deluded, sometimes requiring to be fed with the stomach pump, until his transfer to Broadmoor 21 years later.

Of the early authorities, Hale, in the seventeenth century, believed in a total insanity and a partial insanity. Those suffering from the latter "are not wholly destitute of reason, and this partial insanity seems not to excuse them in the committing of any offence for its matter capital, for doubtless most persons that are felons of themselves and others, are under a degree of partial insanity, when they commit these offences: it is very difficult to define the indivisible line that divides perfect and partial insanity." Hale held that the judge and jury must consider the circumstances of each case, and "the best measure that I can think of is this—such a person as labouring under melancholy distempers hath yet ordinarily as great understanding, as ordinarily a child of fourteen years hath, is such a person as may be guilty of treason or felony. . . ." Hale wrestled hard to classify mental disorders; he writes of accidental dementia, whether total or partial, which may be distinguished into that which is permanent or fixed (phrenesis), and that showing certain periods, vicissitudes or lucid intervals (lunacy). Certain famous trials (usually trials in which the victim was a man of high station) such as that of Arnold in 1724 for shooting at Lord Onslow, show that, well into the eighteenth century, the view was held that mental illness should not excuse a criminal from responsibility unless he is "totally deprived of his understanding and memory, and doth not know what he is doing no more than an infant, than a brute or wild beast." At best the test was the ability "to distinguish whether he was doing good or evil, and understood what he did." It was the French alienists, Pinel, Georget and Esquirol, who, championing their forensically awkward concept of monomania, led the revolt against the legal preoccupation with insanity as an intellectual matter.

Before Erskine's famous speech at the trial of James Hadfield for shooting at George III, in which he demolished Hale's test and introduced the concept that "delusion . . . where there is no frenzy or raving madness, is the true character of insanity", despite some capacity to reason, and long before Prichard's work (1842) "On the different forms of insanity in relation to jurisprudence," John Johnstone (apparently not known to Maudsley) had written his admirable and too little recognised "Medical Jurisprudence" (1800). In it Johnstone ridiculed Hale's perfect and partial insanity. He wrote that "it is necessary to have recourse to a chain of evidence to do full and impartial justice"; the findings "before and soon after the commission of any action of consequence may offer a link in the chain of the accused's insanity." This might be compared with the wording of part of the Summary of Conclusions and Recommendations of the recent (Gowers) Commission on Capital Punishment (p. 276) on the subject of diminished responsibility—" . . . the underlying abnormality of the brain may have provided a link in the chain of causation which led to the crime." Johnstone continues with remarkably advanced understanding "madness is not always distinguishable from manner—for it assumes the form of the character, whatsoever that may be." And in the following passage he seems to realise the importance of the early environment in forming character: "For by reiterated imitation, by slow yet certain steps, we acquire habits, which

not only fix the moral character of man, but frequently produce the most pernicious and incorrigible diseases, both of body and mind." And then with admirable honesty he states his belief that "cases exist, in which there is such an obscure disease of understanding, as will not appear in common life, or in common observation, yet under the influence of which, great crimes may be committed. But on this insanity, human agents are not competent to decide, and in such cases the law must take its course. Unless indeed in some future stage of the progression of science, the matter may be made so obvious . . . as entirely to clear up all doubts Of this stage of human knowledge, the dawn is at present so obscure, that hope alone can tinge the dark clouds that hang over the future, with any of her golden hues." In style and directness this might almost have been written by Maudsley himself.

This was the state of knowledge and opinion on matters of criminal responsibility when Maudsley considered the subject—all the main arguments and tests, especially the equation of delusion and insanity, were already on the scene so that he was historically and prophetically correct in stating "there is little to be said that has not been said over and over again; for, notwithstanding that the legal test has been considered by eminent judges and that it has no foundation in science, it still flourishes in full vigour." Nearly all the main arguments which appear in the "Gowers" report are in his pages also. He might have said, were he able to read that report to-day, what he said in quite another connection to the students of University College, "Good Heavens! . . . have you in all that time gained no new experience?" His function was to marshal the facts and put forward his views forcibly, fearlessly and strikingly. "Consciousness of, is deemed to be the same thing as power to, control the impulses of a disordered mine. . . ." "The (McNaughton) test is based on wrong observation and bad psychology, upon self-observation by sane minds." The test assumes that reason not feeling is the motive force of human action. "The psychology which finds the motive force of action in reason, is very much like a science which should find the active propelling force of a steam boat not in the engine room, but in the captain's orders or in the steersman's arm;" . . . "reason without feeling is impotent to act, feeling without reason being tyrannical in act."

As to the effect on the jury he claims that the juryman will inevitably understand the test in broad and ready fashion to mean that he (the criminal) knew what he was about and that therefore he ought to be punished. "Why, then, maintain a test which is so hard to understand, so easy to misunderstand, so false in science and so uncertain in application, so often interpreted by different judges in different ways, so seldom, I was going to say, interpreted twice in the same way by the same judge? Why bias wrongly the minds of the jury by a prejudgment of facts all of which ought to be left impartially to them?" "What right has the judge to lay down a particular test of disabling mental disease? . . . A particular test of disabling insanity is no more a matter of law than the test of a particular poison."

It might be said that in these views Maudsley leans towards idealism and over-estimates not only the abilities and consistency of juries, but also the public willingness to forego its beloved concept of the avenging agency of the law. Maudsley, like many reformers, is perhaps pre-occupied with the goal to the detriment of the steps by which it may be achieved. But in the following none can deny that his

recommendation is highly practicable "Abolish capital punishment, and the dispute between lawyers and doctors ceases to be of practical importance"; this obvious solution is at last in sight.

During the 50 years before 1949, 45.7 percent of death sentences in England and Wales were commuted or respited and this has been taken as evidence of community disapproval of the sentences of the Court. Maudsley also considered that the conscience of the community tacitly rebels against the present system "For when a person whose insanity is suspected is condemned to death . . . competent medical skill is then called in to give competent and impartial help which ought to have been given at the time of the trial, and, in fact, to undo quietly in private what has been done, with all the pomp and parade of justice, wrongly in public." He blamed the rules, too, for the fact that sometimes an insane person accused of crime is not tried at all, and therefore deprived of his "most blessed privilege." He illustrates nicely the impasse to which the rules may lead, by quoting the case of Buton, aged 18 years, who killed a boy and was tried at Maidstone in 1863. Buton had stated . . . "I had made up my mind to murder somebody" and that he did it because he wished to be hanged. His counsel said that his vehement wish to be hanged was the strongest proof of insanity. Counsel for the prosecution said that his having done murder in order to be hanged, showed clearly that he knew quite well the consequences of his act, and that he was therefore criminally responsible!

He demolished the popular notion that a really insane person acts without motive: he observed in 'homicidal mania' the most careful planning of crime and noted "exceeding danger of recurrence of the attacks"; "... a person does not, when he becomes insane, take leave of his human passions nor cease to be affected by ordinary motives, and when he acts from one of these motives he does not, by doing so, take leave of his insanity; . . . at the most, we must admit an insane responsibility, such as is recognised in the management of asylums, where the insane are worked upon by ordinary motives, but are not punished as fully responsible agents when these motives fail to hold them in check . . ." Maudsley thus tended towards supporting a diminished responsibility.

As to the giving of evidence he writes of the "popular suspicion" which the psychiatric witness draws upon himself and, rather bitterly, adds that "it is not difficult for ignorance, appealing to the prejudices of ignorance, to raise an empty laugh against a truth of which there is not the least comprehension." He thought that the medical witness should be allowed to instruct the jury "fully and truly concerning the particular form of mental disease in question, the nature of it, the bearings of it, and its damaging effects on the mind." The Court might obtain such evidence in one of two ways, both of which have their proponents to-day. It might be called by the Court itself, or by appointing a competent medical authority to act as assessor; in either case the ignominious spectacle of medical witnesses opposing one another would thus be avoided. "Some, though urgently asked, refuse to give evidence so that those who 'press forward to give evidence' are heard. Psychiatric evidence is, I am afraid, the most discredited of any kind of evidence given in Courts of justice." Presuming that he means 'expert' evidence this statement is without doubt equally true to-day.

In 1895 Maudsley as an old but intellectually active man, was, as Dr. Nicolson then said, "drawn from his privacy" to give the results of his accumulated experience and thought on this matter of responsibility. At that time he said "to me it seems that the conflict between law and medicine might soon end if words and theories were swept aside, and the facts dealt with on their merits. Let the lawyers renounce unreservedly their discredited test of disabling mental disease, and submit all the facts in a particular case impartially to the jury. Medical men on their side should discard the notion of insanity in the abstract, and leave off talking of it as if it were something definite or constant which annulled all responsibility. To place before the Court as plainly as possible all the facts of the particular form of mental derangement in the case; to explain what they mean according to the best scientific information, and how far they affect the mind; and to leave it to judge; that is our proper function."

CHILDREN

Maudsley's attitude to children was certainly not sentimental; he rather looked upon them as little animals whose natural tendency to develop into big animals, rather than into responsible human beings, must be countered by an active process of education. "The thoughts, feelings and habits of boys and girls when they are together and not under suspicion of supervision are hardly such as a prudent person would care to discover in order to exhibit proof of the innate innocence though he might watch them curiously as evidence of innate animality of human nature. Only by a patient, systematic and constant culture begun from the beginning of life, infused by the social atmosphere, enforced by social usages, instilled in the language slowly learnt, and applied deliberately in the long and tedious process of education, are the lower tendencies repressed and the higher faculties developed and fixed." Applying these methods, we are not surprised that he finds that advances are "gained with difficulty and lost with ease." Although he does, occasionally, show a rather more enlightened view of education, bearing in mind that Pestalozzi and Froebel had long preceded him, Maudsley's views on this subject were better matched with his times than with his reputation as a thinker.

In common with his generation he had little conception of the importance of the parent-child relationship, especially in the early years of a child's life. He writes at one point of the over-attentive affection of an anxious and fidgety mother as the cause of disturbed behaviour in her child and he realised the "impossibility of teaching her insulted affection," preferring rather to remove the child from home to the care of some calm and sensible person. This is as far as he pursues the intricacies of the parent-child relationships and, furthermore, he seemed positively to turn away from such enquiries—"Especially repugnant is any positive research into the early origin and nature of the moral sense which the scientific enquirer cannot choose but make."

What would Maudsley have had to say about our large problem of juvenile delinquency? He would not have approved the term and would have been sceptical of our approach. "Why 'delinquency,' why not 'crime'?" he might have said, and actually did write "polite feeling stubbornly ignores the truth, shrinks from plain

speaking and gladly uses some decent euphemism or circumlocution to designate the ugly fact . . . By robbing crime of its proper name they rob it of its ugly horror."

He might have said that much juvenile crime is comparable to the vast amount of minor undetected but concealed immorality practised by adults in most walks of life, for he was much aware of the magnitude of "common trade morality which is actually an immorality."

He might, were he here to-day, point again to "the more complex and luxurious conditions of present civilised life, which for the most part mean greater physical comforts and conveniences, less patient endurance and self-denial, more desires and indulgencies" a self conservative instinct tending to become more and more self-gratifying, an individual self-regard prevailing selfishly over the interests of the species. He might even have pointed to our social ills as similar to those "infecting corruptions which accompanied and hastened the ruin of former civilisations (and which) are plainly not lacking in modern civilised nations," for he seemed to enjoy a good sonorous prophecy of death and destruction.

And if, in 1916, he decried "the growing tendency to put the burden of supporting the children of the poorer classes on the State, in stolid disregard of sapping parental self-reliance and of the possible peril to the family and injury to society which may be the consequence," he would surely have been alarmed and despondent at the trend of our modern welfare state. His phrase "the State is not a self-replenishing and inexhaustible source of wealth to be drawn on perpetually" might have come from a recent copy of Hansard.

The gentle art of 'child-saving' had of course been strongly established long before Maudsley's birth; he might have been acquainted with the work of Jacob Doepler, August Demetz, John Wickern and his mother, Auguste Frank, John Falke, Mary Carpenter, Captain Brenton and many others, but he does not actually indicate that he was so acquainted. "Some benevolent persons," he writes, "it is true, who have conducted the appropriate experiments, assert that decent citizens can be made of children of degraded parents living in squalid surroundings if only the young creatures be caught soon enough and trained aright, although others who have made similar experiments in the same social medium are not equally confident."

He makes some specific observations upon juvenile offenders—"the child (who) cannot be trusted always to distinguish between facts and fancies, may be accused of inventing the story which it tells and perhaps punished as a liar. The truth is that it does not distinguish between the very vivid images of real things which its intense imaginations are, and the perhaps less vivid images which realities appear to it." "The children who become juvenile criminals, do not evince the aptitude of the higher industrial classes; they are deficient in the power of attention and application, have bad memories and make slow progress in learning. . . ." He notices rare cases of children born into good circumstances and having every advantage of education but cannot be trained or made to learn, display no affection whatever for parents or siblings, have no real appreciation of the difference between right and wrong, are inherently vicious, steal and lie with a skill hard to believe, cunning and self-gratifying, hopeless pupils, bound to be expelled." All eventually, he says, are constrained to admit defect to what at first seemed simple badness. In such cases enquiry shows "that they come of families in which insanity or some allied neurosis prevails."

While appreciating the importance of family solidarity, the childless Maudsley directs his most devastating and impotent criticism in that direction—"Family feeling, in fact, like individual feeling, can be so keenly self-regarding as to be anti-social. . . . Even the refined joys of parents in their children are self-gratification, though the selfishness be called divine; the protection they give to appealing and confiding weakness pleases their sense of power, exalts their sense of self, and projects a like affection outwardly to that which they feel inwardly. The renunciations, anxieties, sacrifices, cares and pains they undergo for their sakes are pleasing because undergone for those who, sprung from the rapturous fusion of their dear selves and being renewals and memories of themselves, are still united to them by impalpable rhythms of subtilest feeling. . . . Were it not that love of offspring is the vital principle of the family, which hitherto has been the solid base and cement of society—the real social unit—it would be positively antisocial, almost ferocious sometimes, in its exclusive selfishness. . . . When all is said parents do not ask themselves any more than animals do whether they do their offspring a service by begetting them; they gratify a present lust without the least regard to possible consequences."

TREATMENT

With characteristic breadth of vision Maudsley did not neglect simple social measures in the treatment and prevention of crime. How many persons in a large city, he rather cynically asked, are moral (act morally) simply because of the strong ally which gas-light is to morality? "Human nature needs the support of good social conditions to hinder it from running back to barbarism. . . ." Not for him was the equation of all criminality with mental illness; he had no impractical visions of a vast army of 'soul-physicians' treating criminals.

"Crime is not (however) . . . always a simple affair of yielding to an evil impulse or a vicious passion, which may be checked were ordinary control exercised; it is clearly sometimes the result of an actual neurosis which has close relations of nature and descent to other neuroses, especially the epileptic and the insane neuroses; and this neurosis is the physical result of physiological laws of production and evolution." Would he then in the many criminals in which no such 'actual neurosis' can be demonstrated or suspected wash his hands of the problem as purely a social one? It would seem rather that he would prefer the physician to cooperate with those working in the social field and that he would have been disappointed, had he viewed the scene to-day, to observe those who study criminals gathered into several independent camps; the insignia of one group may mean little to the others, nor are they organised under a common leadership or professorship. Maudsley gave £30,000 towards the establishment of a hospital for the treatment of mental disorders; in that hospital, to-day, there coexist in fruitful amity widely varying psychiatric opinions and practices. We clearly need another to do for criminology what Henry Maudsley did for psychiatry.

Maudsley was very pessimistic about the prospect of treating criminals successfully. "How can that which has been forming through generations be reformed within the term of a single life? Can the Ethiopian change his skin, or the leopard his spots?" So impressed was he by the intractability of criminals that his logical mind naturally sought the remedy along three lines which may be summarised as

further investigation, isolation and education. Among these, psychotherapy was not envisaged, nor was there a place in his scheme for the advice, assistance and friendship of the Probation Officer or Supportive Clinic.

Over and over again he stresses that only by full investigation of the criminal and his background can we hope to make advances in treatment. "The time is come when we ought to use our prisons, as we do our hospitals, not for the cure and treatment of their inmates only, but for the advancement of knowledge and the improvement of man's estate." He evidently gave considerable thought to the position of the prison in the scheme of things. "Prison officials who perceive them (habitual criminals) to be mentally weak and irreclaimable, and know how surely they will resort to their criminal ways when they are free, would gladly see a way to some means of detaining them in a special establishment at the end of their terms of punishment or immediately after conviction, but as they cannot certify them to be actually insane or imbecile in the legal sense, no such protection is given."

This question of 'protection' is carried a stage further in his expressed wish to get rid of the problem of the chronic offender "altogether by excretion or to render it harmless by isolation in a morbid capsule or in a special morbid area", a solution which to-day is receiving increasing attention under the term "special communities for the handicapped", not so much with the intention of banishment or of dissociating from an uncomfortable problem, as in the realisation that some individuals cannot compete unless in a simpler type of society—a policy which would aim not so much at changing skin and spots as sending Ethiopians to a hot dry climate and leopards to forests.

Relinquishing the hope of dramatic cures for chronic offenders, and knowing the futility of advice (for he found that the criminal invariably rejected it if it ran "counter to his affinities") he relied upon a long and patient course of re-education; whether this could be held to bear any resemblance to what has since been called 'relationship therapy' seems very doubtful. He recommended what was in effect his own philosophy of life—a gradual education and continued exercise of the will in relation to the circumstances of life. He clearly placed less hope in education as a curative than as a preventative measure, for "whosoever would transform a character must undo a life history."

Strength of will, he believed, can overcome hardship—what is controllable with its aid is otherwise expressed as insanity or crime. But "a man can no more will than he can speak without having learned to do so," and the best education is one that will "teach man to understand himself, and to understand the nature which surrounds him. . . ." "The formation of a character in which the thoughts, feelings and actions are under the habitual guidance of a well fashioned will, is perhaps the hardest task in the world, being, when accomplished, the highest effort of self-development." He presented this pursuit of self-culture as an aim in life—a hard, long, weary way of counter-acting the causes of insanity and crime. Will, he held to be the supreme function of mental organisation, "the most determined event in all the wide world, the last consummate issue of its long organic travail . . . nature come to self-consciousness in man, striving with deliberate purpose to better itself."

Is this the conclusion of a man strongly influenced by his own long, hard and

successful struggle against great personality difficulties, of a man who called himself a "lame minded sceptic", or is it the balanced conclusion of an exceptionally clear-sighted individual? There is enough of the former to justify a most careful examination of his opinions (and to which writer does this not apply?) and enough of the latter, even after so many years, to make it valuable and stimulating to read his work.

Though his prophetic abilities led him to foresee so many advances, for examples, the rationale of leucotomy, convulsive therapy, the elective affinities of different nervous centres for particular poisons, the utilization of the condensed energies of the "quietly unlocked atom", yet, apart from foreseeing a greater tolerance towards criminals, he made no forecasts in relation to forensic psychiatry. Perhaps a little affected by his pessimism, we may believe that there was no positive prophecy to make, and that there will be no spectacular advance in treating the main mass of criminals as we know them to-day. Should we not, therefore, as he suggested, be turning our attention to the building of character, "the sincere and thorough development of the intellectual and moral nature", and to the prevention which this implies, by all the means that the scientists of child development, the psychologists, psychiatrists, sociologists and pedagogues have put at our disposal?