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Winfred Overholser

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TEN YEARS OF CO-OPERATIVE EFFORT*

WINFRED OVERHOLSER†

The meeting of this section in Buffalo, New York, ten years ago, marked the beginning of a new era in the history of the criminal law and of psychiatry, an era of mutual understanding and sympathy. At that time a Committee, consisting of Professor Rollin M. Perkins (Chairman), Mr. Louis F. Cohane and Mr. Alfred Bettman, was appointed to work with a similar Committee of the American Psychiatric Association in studying the proposals of the latter Association regarding medico-legal problems, this committee to report the following year. It would be folly, of course, to claim that the appointment of such a Committee came as a "bolt from the blue." Significant steps in progress result from the fermentation of ideas, and these ideas, in turn, originate in the minds of progressive individuals. The history then of this Committee and of the attitude of mind which its appointment signifies is one of ideas and of personalities.

There is nothing new in the recognition by the law of the significance of the mental state of an offender, and the changing concepts of contemporary medicine have been reflected to some extent in the changing criteria of criminal responsibility. It is likely that at least until the McNaughten case, the various so-called "tests" kept pace to a considerable degree with the psychological theories of the physicians of the times. For some reason or other, however, it has appeared that many courts have seemed to take the attitude since then that the opinions of the judges in 1843 were the last word and that no further progress in psychology and psychiatry need be considered. The Lord Chancellor of England in 1862, for example, spoke of the "vicious principle of considering insanity as a disease" and objected to the "introduction of medical opinions and theories into the subject."¹ (Indeed, as recently as 1924 the Lord Chancellor, in vigorously opposing any modification of the McNaughten

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† M.D., Supt., St. Elizabeth's Hosp., Washington D. C. Chairman, Committee on the Legal Aspects of Psychiatry and Chairman, Section of Forensic Psychiatry, American Psychiatric Association.

¹ Hansard's Debates, 3rd series, vol. 165, p. 1297.

Rules, referred to psychology as "a most dangerous science to apply to practical affairs!"²) There were judges, however, who realized that progress was being made in the medical field and that it should be reflected in the law. The Chief Justice of Delaware in 1864 referred, for example, to the "improvements which had been made in medical jurisprudence and the more enlightened views as to the effect of disease upon the human mind,"³ and Judge Cox, who presided at the trial of Guiteau, made the following pronouncement: "Courts have in former times undertaken to lay down a law of insanity without reference to and in ignorance of the medical aspects of the subject when it could only be properly dealt with through a concurrent and harmonious treatment by the two sciences of law and medicine."⁴ Even longer ago, namely in 1847, we find that the Supreme Court of Georgia referred to the changes which had been introduced since the time of Lord Coke in the rules governing the plea of insanity, and added that the "improvements in the science of medical jurisprudence—have relaxed the cruel severity of the earlier doctrines."⁵ As a striking contrast to this progressive attitude, we find the Supreme Court of the same state in 1934 referring to the 1847 decision with approval, and remarking that "that ruling has been consistently followed by this court!"⁶

The discrepancies between the points of view of law and medicine have been dramatically emphasized through the years by the wide publicity given to certain notorious criminal trials in which the plea of insanity was offered. Spectacles of widely known psychiatrists testifying for opposite sides, their differences being greatly emphasized by the adroitness of the questions asked by counsel, have caused much unfavorable comment on the part of the public, the legal profession and psychiatry. Psychiatrists, though far from being the only group of experts, and not always the group furthest apart in their apparent differences of opinion, have realized the difficulties of their situation and have considered ways in which they could be relieved of some of the onus, much of which is undeserved. In 1924 the American Psychiatric Association set up a Committee on the Legal Aspects of Psychiatry. This organization, the oldest national medical body in the United States, and representative of

² Parliamentary Debates (Lords), vol. 57, p. 473 (in discussing changes proposed by Commission in Command Papers No. 2005, 1924).

³ *State v. Danby*, 1 Houston Cr. Cas. 166, at 171, 172.

⁴ *Guiteau's Case*, 10 Fed. 161, at 166, 167.

⁵ *Roberts v. State*, 3 Ga. 310.

⁶ *Hargroves v. State*, 179 Ga. 722.

the psychiatric profession of the country, thus recognized the importance of giving consideration to the numerous points at which the psychiatrist comes in contact with the law. The first report of the Committee, published in 1925, recommended, among other things, changes in the laws relating to criminal responsibility, and to expert testimony; the unification of commitment laws; the compilation of statistics and information on the psychiatric aspects of crime and on penological technique; and education of the public regarding the medico-legal situation of the psychiatrist.⁷

The following year the Chairman of the Committee, Dr. Karl A. Menninger of Topeka, came before this section with the extensive report of his Committee. So far as the American Psychiatric Association is concerned, it is Dr. Menninger to whom the credit for initiating this significant work should go. His foresight, his energy and his keen interest in the field entitle him to credit in which your Committee shares. At the time that Dr. Menninger appeared before this section the group was not entirely unacquainted with the psychiatric attitude. The American Institute of Criminal Criminal Law and Criminology had for fifteen years been giving attention to such problems as expert testimony and criminal responsibility: their committees had already evolved the Keedy bill, for example, and proposals for psychiatric examinations and what we now refer to as "treatment tribunals."⁸ In 1922 the late Dr. Herman M. Adler, then State Criminologist of Illinois, had presented an address before this section, "The Interest of the Psychiatrist in Criminal Procedure,"⁹ contrasting the viewpoints of law and psychiatry. He pointed out then that in those few instances in which psychiatric considerations were applied in paroling prisoners, the average length of the prisoners' stay had been increased from two to five years, and he emphasized that "treatment based on the need of the criminal is much more likely to have some logical relation to the real situation, than to a set of rules." In 1924 the appearance of Professor Sheldon Glueck's masterly volume, "Mental Disorder and the Criminal Law" had attracted wide attention in legal circles by its exposition of the inadequacies of the present law relating to mental disorder, and of the need for a progressive and realistic attitude on the part of the makers, practitioners, and interpreters of the law. At the meeting of the Section in 1926, at which Dr.

⁷ American Journal of Psychiatry, 5: 306.

⁸ See: 7 Journal Criminal Law 484; 10 Journal Criminal Law 184.

⁹ 47 Reports A. B. A. 629.

Menninger appeared, Judge Oscar Hallam had made certain recommendations concerning changes in the law relating to the plea of insanity, and Mr. Charles A. Boston in his address had remarked, "I think we all know that the legal concept of mental responsibility is utterly inadequate and probably utterly false."¹⁰ Despite, however, the fact that some of the members of your section were, to some extent, sensitized to the needs of the situation, it speaks very well indeed for the tolerance of the group that after hearing Dr. Menninger's very forward-looking report, the Section the following year, arranged for no less than *three* addresses by psychiatrists! Dr. Menninger's underlying theses were that the psychiatrist is primarily interested in human behavior, and that that particular type of abnormal behavior technically denominated as criminal comes within the sphere of psychiatry, although not necessarily exclusively so; that crime can be scientifically studied; that a consideration of the factors in personality is involved; and that the qualified psychiatrist is able to direct the attack, in some cases to cure the abnormal behavior, or to foresee the possibilities of maladaptation, or even in some instances to detect potential criminality; that such concepts as "responsibility" have no relation to the psychiatrist's terminology and that he should be relieved from the necessity of pronouncing on them; that a machinery of criminal trials should be developed adequate to the requirements of the psychiatric point of view; that the idea of treatment should be substituted for that of punishment of the offender, and that the incurably inadequate, incompetent and anti-social should be permanently segregated. Other practical steps advocated were the setting up of standards for medico-legal experts (a proceeding in large part realized by the establishment of the American Board of Psychiatry and Neurology), and the teaching of psychiatry and criminology in law schools, a practice which is now slowly spreading. As for techniques regarding expert testimony, the Massachusetts procedure generally known as the Briggs Law was recommended as the most practical. That such is still the case is probably true, even though unfortunately the Massachusetts Department of Mental Diseases, which administers the law, has recently fallen under political domination; whether a politically-operated professional department can long continue to hold the respect and confidence of the courts and the public is a question which hardly requires debate. The entire document is worth reading carefully,

¹⁰ 51 Rep. A. B. A. 691 (Hallam), 701 (Boston).

particularly in view of the subsequent activities of the Committee of this Section, which has been guided to a very large extent by the theses laid down by Dr. Menninger.¹¹

The 1927 meeting of the Section found on the program three outstanding psychiatrists—Dr. Adler, speaking on “The Biological and Pathological Aspects of Behavior Disorders”; Dr. Menninger on “The Medico-Legal Proposals of the American Psychiatric Association,” and the late Dr. William A. White, the beloved and distinguished head of St. Elizabeth’s Hospital in Washington, on “The Need of Cooperation Between the Medical and Legal Professions in Dealing With Crime.” Dr. White indicted the present system but held out hope for the future in the following words: “The present system, I feel, is an anachronism . . . Much of it, it seems to me, is ineffectual and inadequate, much of it is stupid. Is it possible by a union of the learned professions to find better solutions? The psychiatrist believes that one direction in which to seek is towards a better understanding of the criminal in all that that means, his heredity, his physical and mental makeup, his social and family backgrounds, his motives, their conditioning and objectives, and the possibilities for their modification.”¹²

The Committee which was appointed by your Chairman, Dean Justin Miller, set about their duties earnestly and with a sincere desire to bring about practical improvements in the manner in which consideration may be given by the law to the mental condition of the offender. The attitude of mind which they have manifested throughout is well illustrated by the following words in a review of the Committee’s work presented by one of the members, Mr. Cohane, in 1932: “Let us not by a slavish adherence to the forms of criminal law and procedure which were adopted for and adapted to an age long since past, be behind the times in our methods of handling the modern crime problem and criminals.”¹³ Reference to the 1928 report of Dr. Menninger’s Committee, for example, indicates that your Committee as a preliminary asked some extremely searching and pointed questions as to the scope of psychiatry, its standing as an exact science, and suggestions as to pre-trial treatment of the offender.¹⁴ Your Committee was continued, and in 1929 presented a report which to my mind is one of the most significant documents on the relationship of psychiatry to criminal procedure

¹¹ 51 Rep. A. B. A. 751.

¹² 52 Rep. A. B. A. 477 et seq. at 509.

¹³ 11 Mich. State Bar Journal 219.

¹⁴ American Journal Psychiatry 8: 381.

ever issued. As a psychiatrist I should have hesitated to propose to a legal group so sweeping a proposal as this one which was put forth by a group of practitioners of the law. Furthermore, these proposals were adopted, not only by your Section, but by the American Bar Association. The recommendations were as follows:

- “1. That there be available to every criminal and juvenile court a psychiatric service to assist the court in the disposition of offenders.
2. That no criminal be sentenced for any felony in any case in which the judge has any discretion as to sentence until there be filed as a part of the record a psychiatric report.
3. That there be a psychiatric service available to every penal and correctional institution.
4. That there be a psychiatric report on every prisoner convicted of a felony before he is released.
5. That there be established in every state a complete system of administrative transfer and parole, and that there be no decision for or against any parole or any transfer from one institution to another without a psychiatric report.”

The Committee was directed to call the attention of the various State and local bar associations to these recommendations, with the request that they in turn secure the cooperation of their respective state and local medical associations.¹⁵ In the same year (1929) the interest of the American Medical Association was likewise enlisted, and the House of Delegates of that Association passed a resolution offering to the American Bar Association “its assistance and cooperation in promoting the passage of appropriate legislation, and in bringing about suitable changes in court procedure with reference to medical expert opinion evidence.”¹⁶ A committee was appointed under the Chairmanship of Dr. H. Douglas Singer of Chicago, which has met regularly with your committee and that of the American Psychiatric Association. The snow-ball, it will be seen, was steadily increasing in size as it rolled.

As the study by the committees progressed, it became apparent that, in spite of various surveys which had appeared, notably under the auspices of the National Crime Commission, relative to the use of psychiatry in courts and penal institutions, there was still a very considerable amount of factual data which would be helpful in fur-

¹⁵ 54 Rep. A. B. A. 56.

¹⁶ Journal American Medical Association 93:290 (1929).

ther deliberations. In 1930 I had the honor to address this section on the topic, "What Practical Contribution Can Psychiatry Make to Criminal Law Procedure?"¹⁷ and in the course of my remarks I urged that consideration be given the possibility of securing from some interested foundation the necessary funds to carry on a survey which could be of practical value to the committee. This suggestion was favorably acted upon by the Section and the Association, and a request was directed to the Social Science Research Council. Further impetus was given to the interest of the public in the matter by the publication, in December, 1930, of the report of the subcommittee on Medical Aspects of Crime of the National Crime Commission.¹⁸ Consideration, too, had been given to the topic of Psychiatry in Criminal Procedure at the International Congress of Mental Hygiene, held in May, 1930, and The American Prison Association, in their Declaration of Principles, adopted in October, 1930, had advocated revision of the laws regarding mental disorder in its relation to crime, "in order to bring them to a more complete conformity with the demands of reason, justice and humanity."¹⁹ This year also witnessed the inauguration by the United States Public Health Service of psychiatric facilities in the Federal penitentiaries.²⁰ Such were some of the developments of 1930.

Unfortunately the Social Science Research Council found it impractical to grant the request of the American Bar Association. They did, however, hold a three-day colloquium in 1931 which was attended not only by members of the American Bar Association and by psychiatrists, but as well by psychologists, probation officials and sociologists. The colloquium had to do with the individualization of penal treatment and was suggested by this request of the Association. In 1931 the New York City Court of General Sessions, the largest and oldest criminal court of superior jurisdiction in the country, after several years of effort to overcome political obstacles, established a psychiatric clinic, which is still functioning.²¹ The work of the committee continued, among other activities compiling a digest of the laws relating to insanity in criminal cases, and in 1932 the report contained a number of abstracts illustrating the practical bearing of psychiatry on criminal procedure. Mrs. Frances L.

¹⁷ 55 Rep. A. B. A. 594 (resolution p. 27).

¹⁸ Press release for publication June 4, 1928.

¹⁹ Proc. 60th Annual Congress, 1930, p. 253.

²⁰ For a discussion of this work see Reprint 1668. U. S. P. H. S. Reports, 1934-35.

²¹ See Thompson, C. B.: *New Aspects of the Psychiatric Approach to Crime.* Mental Hygiene 20:529. Oct., 1936.

Roth, now a member of your committee, presented in 1932 a paper on the "Present Development of Psychiatric Technique in the Criminal Process," pointing out that the psychiatrist is rapidly finding his real place in criminal procedure, not so much as an expert in the trial as in the rôle of court consultant.²² In 1933 the Section and the Association adopted a resolution reaffirming the expression of the desirability of a survey of the use of psychiatric service in dealing with crime and the offender, and renewing their request for funds.²³ Unfortunately this request likewise could not be met, and the survey in question still remains to be done. This need was reaffirmed late the same year at a meeting of representatives of the American Psychiatric Association, New York Bar Association, the Society for Medical Jurisprudence, and the New York Academy of Medicine (your committee-members were unable to attend), in New York City, all of whom were agreed on the desirability of pooling opinions and interests in the field of psychiatry and law, and the desirability of obtaining a paid Secretary as a liaison officer.²⁴ In 1934 several developments of interest took place. The American Psychiatric Association, recognizing the increasing importance of psychiatry in the field of the law, set up a Section on Forensic Psychiatry, under the Chairmanship of Dr. William A. White, for the special consideration of the problems of delinquency and conduct disorder.

Mention has been made earlier of the need of qualifications for experts. This need was emphasized by the Committee on the Legal Aspects of Psychiatry in its report for 1931.²⁵ In his address in 1933 as President of the American Psychiatric Association,²⁶ Dr. James V. May, then Commissioner of Mental Diseases of Massachusetts, urged strongly that a qualifying board be set up to certify specialists in psychiatry and neurology, stressing the urgent need of such certification as a means of eliminating the inadequately trained pseudo-expert who has done much to discredit expert testimony. The qualifications as set by the courts are hopelessly inadequate (too often the mere possession of the degree of M. D. is enough) and furthermore the court is hardly a competent judge of medical fitness anyway, it was argued; let the properly accredited representatives of the profession say who is fit to be known as a

²² 57 Rep. A. B. A. 595.

²³ 58 Rep. A. B. A. 69.

²⁴ American Journal Psychiatry 14:421.

²⁵ American Journal Psychiatry 11:375.

²⁶ American Journal Psychiatry 13:1.

psychiatrist. In 1934, the American Psychiatric Association, acting in conjunction with the American Medical Association and the American Neurological Association, set up the American Board of Psychiatry and Neurology. So far three hundred and seventy-two physicians have been certified, on the basis of experience or examination, as specialists in psychiatry (172), or neurology (19), or both (181). There would seem to be no reason now for a court to be strongly influenced by any self-styled expert who does not hold a diploma from this Board, or indeed for any attorney to present a non-diplomate as an expert psychiatric witness, at least in localities where such diplomates are available. At least, any diplomate of the Board may safely be considered qualified.

The 1934 meeting of the Committees (American Bar Association, American Psychiatric Association, and American Medical Association) which was attended also by representatives of the New York Academy of Medicine, gave particular consideration to the question of the manner in which consideration may be best given to abnormal mental states exhibited by the offender at the time of his trial. The group recommended that "it is desirable to keep within rather narrow limits the kind and degree of mental disorder which will entitle the defendant to an acquittal, and to readjust the machinery after the point of conviction to the end that mental disorder which is not sufficient for an acquittal may result in treatment other than that provided for persons who are not mentally disordered."²⁷ The Committee felt that the introduction of various technical matters relating to mental disorders during the trial tended merely to confuse the jury and not materially to assist either the offender or society. It recognized, as it did in its 1929 report, the desirability of individualized treatment, and for this reason suggested the change in machinery necessary to give special treatment to offenders not legally classified as insane, but nevertheless recognizably disordered mentally. If such a procedure were in effect, there would be less criticism than there is at present of the legalistic, but entirely non-realistic, dichotomy of defendants into wholly responsible and wholly irresponsible.²⁸ Considerable attention has been given in the discussions of the Committee to the desirability of

²⁷ 59 Rep. A. B. A. 641. See also Perkins, R. M., "Partial Insanity," 25 Journal Criminal Law 175, July, 1934.

²⁸ For striking judicial decisions see: *Comm. v. Szachewicz*, 303 Pa. 410; *Comm. v. Miller F. Clark*, 198 N. E. 641 (Mass.).

For discussion see Gausewitz, A. L.: Considerations to a New Penal Code, 11 Wisc. L. R. 346.

the so-called "treatment tribunal," a matter which has received considerable lay and legal support. Consideration, also, has been given to the possibility of providing psychiatric service for the police courts, that is those courts dealing with the so-called "minor offender," it being recognized by the Committee that many of these offenders are in persistent conflict with the law on account of mental deviation of one sort or another.

Such, in brief, are the accomplishments of your Committee on Psychiatric Jurisprudence, as found in the records. The influence of the Committee, however, has been far wider than the published reports would indicate. The fact that the outstanding legal and medical organizations of the country are engaged in a cooperative enterprise with the aim of bringing about a closer union of law and psychiatry has done much in itself to activate interest both in the legal and medical groups. Any of you who have not already read it, should read the eloquent address that Mr. Justice Cardozo, then Chief Justice of the New York Court of Appeals, made before the New York Academy of Medicine in 1928. It is entitled, *What Medicine Can Do for Law*, and is to be found in his volume of addresses entitled, *Law in Literature*. He makes a plea for cooperation between the professions in the following words: ". . . the students of the life of the mind in health and disease should combine with students of the law in a scientific and deliberate effort to frame a definition and a system of administration that will combine efficiency with truth. If insanity is to be a defense, let us say so frankly and even brutally, but let us not mock ourselves with a definition that palters with reality. Such a method is neither good morals nor good science nor good law."²⁹ Some of you, too, undoubtedly have read in the American Bar Association Journal the address of Jerome Michael before a joint meeting of the New York Neurological Society and the Section on Psychiatry and Neurology of the Academy of Medicine in 1934.³⁰ At this time Professor Michael presented the legal point of view of the relationship of psychiatry to the law and Dr. Bernard Glueck, one of the outstanding criminologists of the country and a member of the Committee on the Legal Aspects of Psychiatry, presented the psychiatric point of view; his address I commend to your attention.³¹ Various local medical groups have had joint meetings and appointed cooperative

²⁹ New York, 1931. P. 108.

³⁰ 21 A. B. A. Journal 271 (May, 1935).

³¹ Journ. Nervous & Mental Dis., 81:192. Feb., 1935, No. 2.

committees, and reference to the indexes of legal and medical periodical literature indicates a steadily increasing interest in the field. Among significant publications I mention the very stimulating and instructive studies which have been made by Professor Sheldon Glueck and his wife, Dr. Eleanor Glueck, of the Harvard Law School. They have studied closely the lives of ex-prisoners in several of our penal institutions and have learned much about the factors which make for reformation and for recidivism. In their latest volume, entitled, *Later Criminal Careers*, they state a rather startling finding—namely, that the most significant single factor in the failure of offenders to reform is mental deviation as noted at the time of serving the sentence. Most of these diagnoses were made at the Massachusetts Reformatory by Dr. Guy G. Fernald, who started his pioneering work in psychiatry as applied to correctional institutions in 1914. Now, ten years after the sentences of these nearly 500 offenders have expired, it is found that the deviation noted was the most important single factor in determining the failure of the ex-prisoner to reform.³² Such a finding indicates the soundness of the original recommendation of your Committee regarding psychiatric services in penal and correctional institutions.

What is the status today of psychiatry in the courts and penal institutions? Unfortunately, very few up-to-date facts are available. In 1934, Dr. James L. McCartney reported forty-eight full-time psychiatrists in the prisons of this country, or 27 3/10% of the institutions, admitting 41% of all the prisoners. Of these only 7% stated that their recommendations were fully carried out by the officials. Dr. McCartney summarizes by saying that no institution has thoroughly tried out the psychiatric methods of procedure.³³ In 1928 a survey by the National Crime Commission indicated that of 1168 courts, 9 4/10% report themselves as served regularly by a psychiatrist.³⁴ One cannot say, of course, how many courts discontinued these services during the depression, or how many more courts have provided themselves in this manner, but from such information as is available it seems safe to say that these clinics, both in the courts and penal institutions, are serving a useful purpose. Worthy of especial note is the establishment by the United States Public Health Service of a psychiatric panel of experts (all diplomates of the American Board of Psychiatry and Neurology) for

³² New York, 1937. P. 128.

³³ Arch. Neurology & Psychiatry, 32:442, Aug., 1934, No. 2.

³⁴ Mental Hygiene, 12:801, Oct., 1928, No. 4; and 13:800, Oct., 1929, No. 4.

the use of the Federal District Courts. This system was first set up in Boston, and is now being extended to other jurisdictions.

Recently, in several sections of the country, the occurrence of sensational "sex-crimes," a number of them culminating in murder preceded or accompanied by rape or attempted rape, have focused public attention on the administration of justice. The psychopathic nature of these offenses is now fairly generally recognized, and it is significant that a demand is being voiced for the mental examination of those guilty of sex offenses against children, and against adults if associated with violence, and for their permanent segregation. It is quite possible that the publicity given this type of offense may result in a wider use by the courts of psychiatric facilities, and possibly too in at least a modified adoption of the principle of individualization as expressed in the "treatment tribunal."

So far I have invited your attention to the activities and accomplishments of your Section in the field of psychiatry in its relation to the law. There are other extremely important fields of medicine which are intimately related to the administration of justice, and of this fact your Section has been actively aware. In 1929, by vote of the Section, a Committee on Medico-Legal Problems was appointed, under the Chairmanship of Dean Albert J. Harno; Dean Harno although remaining on the Committee, was succeeded as Chairman in 1936 by Dr. William C. Woodward. This Committee has done excellent work in educating the bar, and in proposing definite means whereby medicine may serve the law. Their reports have discussed such matters as narcotic addiction, eugenic sterilization, crime and psychopathy, euthanasia, the coroner, and medico-legal institutes. Particular emphasis has been laid on these institutes by the Committee, and their establishment has been strongly urged. Such institutes are in active and effective operation in many European countries, and the Scientific Crime Detection Laboratory of Northwestern University in Chicago has given a practical demonstration in this country of some of the ways in which science may aid in the detection and suppression of crime. A complete organization, as proposed by the Committee, would include a division of medical laboratory science, to aid the coroner (or preferably medical examiner) and prosecutor in cases of homicide, as well as in such cases as rape, sexual perversion, bastardy, and abortion; another division, of chemical medical science, would render unbiased expert opinion to prosecutors and courts, while the division of police science would train officers in the scientific aspects

of their work, maintain facilities for the identification of criminals (finger-prints, ballistics), and otherwise aid in more efficient police work. Dean Harno, for the Committee, has drawn a model expert testimony bill which merits your serious attention. It is now under consideration by the Commissioners on Uniform State Laws, and it is to be hoped will be approved by them and generally adopted.³⁵ It would do much, if enacted, to solve the distressing problem of expert testimony, not only as it applies to medicine but to all the multifarious and multiplying fields in which persons with specialized knowledge are called in for the purpose (sometimes, alas! not accomplished) of aiding the understanding of the court and jury.

The work of our committees is not done; progress in the law is always slow, and it is quite likely that none of us will live long enough to see enacted into law and procedure some of the changes which we believe to be highly desirable for the bringing about of a truer justice toward the offender, and for the better protection of society. There is no doubt that further factual data are necessary as a basis for activities. The American Psychiatric Association has authorized the Committee on Legal Aspects of Psychiatry to make representation to some of the foundations requesting funds for study along lines relating to our mutual interest. It is my earnest hope that this Section with the authority of the American Bar Association, will see its way clear to join in such a request. Such a request emanating from two associations of national scope would assure serious consideration by any foundation to which it was directed. The resolutions passed by your Section in 1930 and reaffirmed in 1933 were to the effect that "it is highly desirable for a survey to be made of the present state of psychiatric service as an aid to courts and to penal and correctional institutions, so that complete data thereon may be available to all interested, . . . in order that the results so far achieved may encourage more widespread use of psychiatric service as an aid to the solution of the crime problem." This statement is even truer today than when it was first put forth. In addition, the medical-legal situation in the various parts of this country might well be analyzed, and the laws relating to mental disorder call for study. Sheldon Glueck in his volume on *Mental Disorder and the Criminal Law* and Henry Weihofen, more recently, in his volume *Insanity as a Defense in Criminal Law*, have given much valuable information concerning the state of the law which

³⁵ See Program, Section of Criminal Law, 1935, pp. 18-28. (Adopted Sept., 1937, by Commissioners on Uniform State Laws).

would be valuable as a basis for further investigation. Studies might well be made of the classification of mental disorder and the possibility of setting up a better one than now exists for use in examining offenders. Much might be done toward educating the public on the medical-legal situation and on the psychiatric aspects of crime, and suitable steps might be taken toward securing the enactment of desirable legislation, perhaps based on the Briggs Law of Massachusetts or other practical procedures. In view of the mass of literature appearing, a real service could be rendered by publishing annually a compilation of pertinent references and abstracts in the fields of law, medicine, sociology, psychology and the like. Depending upon the scope of the project outlined, and the training required for personnel, it is likely that about \$15,000 annually would be adequate to commence such a project. Already, as we have seen, much has been done toward orienting your profession and the public with regard to the possible contribution of psychiatry to a wiser and more effective administration of the criminal law. Psychiatry has no illusion that it possesses the ability to take over the entire field dealing with human behavior. It does feel, however, and with some reason, that by its knowledge of the motivation of behavior, particularly that behavior denominated as criminal, it can aid, provided the frame-work of the law will permit it, in suiting the penal treatment to the needs of the individual and so providing for the realization of the ideals set up by Dr. Menninger and his Committee in 1926; namely, the protection of society; the rehabilitation of the criminal, if that be possible; the safe disposition or detention of the offender if rehabilitation be impossible; and, finally, the detection and prevention of the development of criminality in those predisposed. For the sympathetic and helpful attitude of your Committee and of this Section in bringing nearer the realization of these ideals somewhat, the psychiatric profession of this country is everlastingly in your debt.