

The following article, contributed by Mr. Justice Barry, is a review-article based on Lady Barbara Wootton's recent important book, "Social Science and Social Pathology".

## THE STUDY OF SOCIAL PATHOLOGY— SCIENCE OR SCIENTOLOGY\*

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When Alexander Pope versified the philosophical notions of Henry St. John, Lord Bolingbroke, and in 1732 gave to the world the second Epistle of the *Essay on Man*, he expressed epigrammatically in the line,

The proper study of Mankind is Man,  
the changed intellectual and philosophical attitudes that had been in course of development since the Renaissance. Now that the expansive optimism of the 19th century has been succeeded by the apprehensive pessimism of the 20th, some are beginning to wonder whither these attitudes are leading humanity, but it is clear that, even if it were desirable, the process is beyond reversal.

The sentiment embodied in Pope's epigram was widely accepted, and this altered emphasis made possible the emergence of a science designed to gain verified knowledge of man as a social being. In 1837 August Comte gave the new pursuit the name of "sociology" and the 19th century set about the exploration and development of a fresh and exciting field of human inquiry that professes to be specialized and is certainly empirical, and is, moreover, bewildering in the diversity of its aspects and the complexity of its nature.

Since group-living began man has speculated upon the ways of his kind and the reasons for them. The result, compounded of wisdom and error, is to be found in the great literary works, such as the gnomic books of the Bible and of the other great religions, and the psychologically perceptive writings of Shakespeare and other universal dramatists, and in the folk-lore of the various peoples of the earth. But mankind is ever prone to prejudice, fallible in its reasoning processes, and perverse in following error, and superstition and false assumptions have brought in their wake much wretchedness and denied much happiness. Even the philosophy of natural sciences

\* Scientology—see article by "Melbourne Spy" in *Nation* (Sydney), December 6, 1958, p. 14, entitled *Scientology—with a Drop of Guk*. According to "Melbourne Spy", *Time* (U.S.) described Scientology as a compound of "equal parts of science fiction, Dianetics, and jabberwocky".

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evolved, not by a steady, cumulative process, but, as Arthur Koestler has written: "by occasional leaps and bounds alternating with delusional pursuits, *culs-de-sac*, regressions, periods of blindness and amnesia".<sup>1</sup> But to find "causes" in human behaviour by ascertaining the operative connections between external conditions and subjective states, is a task of much greater difficulty than that confronting the physical sciences; the relevant factors are less easily isolated and identified, and they are much more numerous and subtle and complex. Moreover, the human being is not an instrument of any great accuracy for observing, classifying and interpreting his own and his fellows' behaviour. In his pioneer work on the study of sociology, the omniscient Herbert Spencer recognised this limitation.<sup>2</sup> He commented:

In the interpretation of human conduct as socially displayed, everyone is compelled to use, as a key, his own nature— ascribing to others thoughts and feelings like his own; and yet, while this automorphic interpretation is indispensable, it is necessarily more or less misleading. Very generally, too, a subjective difficulty arises from the lack of intellectual faculty complex enough to grasp these social phenomena, which are so extremely involved. And again, very few have by culture gained that plasticity of faculty requisite for conceiving and accepting those immensely-varied actualities which societies at different times and places display, and those multitudinous possibilities to be inferred from them.

In short, when he seeks to classify and explain human conduct, an investigator is much in the position of a man seeking to lift himself by his own bootstraps. But difficult though the task is, and humble though we should be in setting about it, there is no place for despair; the credit side of the balance sheet of man's steadily mounting achievements justifies a belief that even this feat of levitation may not be beyond us, and the urgency of present circumstances makes it imperative that we should accomplish it. The disciplined study of human beings, and of the development and characteristics and laws (in the widest sense) of society, may fairly be taken as within the competence of the human intellect.

The scientific process involves, substantially, three stages: first, accurate observation of a sufficiency of pertinent facts; next, formulation of an adequate hypothesis; and thirdly, the testing of the hypothesis by empirical verification so that it may be determined if its provisional character may properly be exchanged for the status of a law operating universally, or, at least, so close to universally that marginal aberrations may be disregarded for practical purposes.<sup>3</sup> Human limitations imperil the achievement of all of these stages. As Spencer remarked, at each point there may be emotional as well

1. Arthur Koestler: *The Sleepwalkers* (London, 1959), 513.

2. Herbert Spencer: *The Study of Sociology* (1873), Ch. 16, 387.

3. cf. Barbara Wootton: *Testament for Social Science* (London, 1956), Ch. 2.

as intellectual obstacles; the perversion of reasoning by excited hopes and intense fears, sometimes unrecognised; the effect of impatience as a frequent factor in mistaken judgment; and the common barrier to clear reasoning and dispassionate assessment arising from the "conditioning" to which every human being is subjected from the first moment of his earthly being to the time when he goeth to his long home.

It has been this reviewer's self-chosen lot (not in the way of duty, but in a genuine search for enlightenment) to read a great many books about aberrant human conduct, and the causative factors said to lead to it, and the ways in which its mischievous manifestations should be interpreted and controlled. Barbara Wootton's *Social Science and Social Pathology*\* stands pre-eminent among them. Mrs. Wootton (as her academic reputation was gained under that name, presumably it may still be used, though she has recently been appointed a member of the House of Lords as a life peeress under the *Life Peerages Act* 1958 of the United Kingdom) has undertaken a task that urgently needed to be done, and she has done it surpassingly well. Having put on the record in her *Testament for Social Science* (1950) her belief that a social science really conforming to the standards of intellectual discipline is both necessary and possible, she has now brought her qualifications of wide and accurate knowledge, honesty of vision, and clarity of thought to the examination of the present state of knowledge about the deviations from approved conduct that are comprehended under the designations of crime and delinquency. The work is concerned to find out what social science has really discovered about morbid social processes. As she puts it,

we wish that people would not behave in ways that are socially troublesome, and we would like to know why they do and what can best be done to stop them. These are common sense questions which it is plainly worthwhile trying to answer.

In her investigation, she has gone mainly to criminological material for the reason that crime and delinquency and marriage breakdowns are the only fields that have been tilled to any significant extent. She presents the results of her examination in a large and comprehensive volume which owes a great deal of its readable qualities to her lucid prose, sceptical approach, and incisive wit, though it must be said that a display of the last mentioned talent occasionally leads her to oversimplification and to judgments that are too sweeping.

\* Barbara Wootton, assisted by Vera G. Seal and Rosalind Chambers: *Social Science and Social Pathology* (George Allen & Unwin, London, 1959), 1-339; Appendices, references and index, 342-400. Australian price £2/15/6. See also the same author's *Diminished Responsibility: A Layman's View*, (1960) 76 L.Q.R. 224, published since this article was written.

Spinoza observed that possibility narrows as knowledge grows. Human conduct results from the interaction of organism with environment, and our incapacity to predict what an individual will do is no more than an expression of our ignorance of the nature and quality and extent of the forces, subjective and external, operating upon him at the relevant moment,<sup>4</sup> while our inability to say with assurance why his conduct has departed from an assumed normal is due to a similar ignorance. The aim of the social sciences is to lessen this ignorance, and their progress is to be measured by the extent to which phenomena of behaviour, apparently not related, are brought under constantly enlarging and more comprehensive generalizations having the merit of demonstrable validity.

Mrs. Wootton sets out to discover how far the hypotheses commonly offered by criminologists meet this test. As could have been predicted by any sceptically-minded person acquainted with sociological literature (and particularly the psychiatric section of it), the result is not particularly comforting.

The author herself describes the scope of the book in her preface. She claims to have written primarily for the interested layman, but unless he (or she) is one of the survivors of the hardy generation nourished on Mr. Shaw's *Intelligent Woman's Guide*, and the imposing *Intelligent Man's Guide* tomes which Mr. Victor Gollancz published in the uneasy years between the world wars, her purpose is not likely to be achieved. Her book is not a popular exposition; it is something more and better, a challenge to theorists and teachers and students in the social sciences to meet the minimal demands of intellectual honesty and scientific method, and to winnow the precious grains of genuine knowledge from the chaff of unverified speculation.

The book is in three parts; Part I, *A Review of the Contemporary Situation and of Research Findings*; Part II, *The Contemporary Attitude to Social Pathology; The Social Implications of Psychiatry*; and Part III, *Conclusions*. There are two appendices; the first, a *List of Cases found guilty at a London Juvenile Court*, and the second, a penetrating essay by Rosalind Chambers on *Professionalism in Social Work*.

Part I is certainly comprehensive. It opens with a case study of the social pathology of England and Wales, based essentially on available U.K. criminal statistics. The first reflection that occurs to an Australian reviewer is that, whatever their defects, Mrs. Wootton at least had national statistics to work upon. An Australian investigator would not be so fortunate. In this country, there are no useful statistics relating to crime and juvenile delinquency compiled on a national basis. Each State has criminal statistics of a sort, but no competent person would claim they are adequate. Further, the criminal statistics of any State are not capable of any but a crude

4. cf. Chapman Cohen: *Determinism or Free-Will* (London, 1943), 95.

and primitive (and often misleading) comparison with those of the others. The need for a system of uniform statistics relating to crime and delinquency is plain and is generally admitted. Clearly, the States should agree to use uniform methods with a common terminology, and the information thus obtained should be collated processed and interpreted by the Commonwealth Bureau of Statistics. That so obvious a need has not been met furnishes an eloquent illustration of the cynical aphorism that what is everybody's business is nobody's affair. Limits of space prevent a detailed examination of Mrs. Wootton's investigation, but it may be noted that she establishes that the typical offender is not the criminal of popular imagination, but the motorist. Of the 735,288 persons convicted during 1955 in England and Wales, 354,506 were guilty of "offences relating to motor vehicles", and of the tally of motor offences, 139,218 might fairly be described as grave, for they consisted of drunken driving, failing to report or stop after accidents, careless driving and disregarding speed limits. Statistically, violent crime was relatively rare during the same period. In a population of approximately 44 millions, on the basis of crimes known to the police (as distinct from crimes established by conviction), during the same year murders were 3.4 *per million*; threatened or attempted murders, 5.5 *per million*; manslaughter and infanticide, 3.7 *per million*; and indictable offences involving the infliction of physical injury, 177.6 *per million*.

The relationship of social pathology and the social hierarchy is dealt with in three aspects, namely, problem families and the eugenic hypothesis, ecological studies and poverty and social pathology.

Mrs. Wootton remarks, acutely, that if the worst manifestations of poverty have disappeared, it is not because of the relief services of the Welfare State, but because full employment has been accepted by all political parties as the economic norm which a government must maintain under penalty of electoral defeat. But the disappearance of obvious destitution does not mean that true poverty has ceased to be. It exists still among aged and invalid pensioners, among large families where the breadwinner's wages are small and the children in need of nurture, and among workers whose earnings are reduced or halted by sickness or seasonal or other interruptions, and who must make do on social service payments substantially below the wage level.

Twelve cherished criminological hypotheses are next examined. Mrs. Wootton's verdict may be given in her own words<sup>5</sup>:

All in all, therefore, this collection of studies, although chosen for its methodological merit, produces only the most meagre

5. At 134-135.

and dubiously supported generalizations. On the whole, it seems that offenders come from relatively large families. Not infrequently (according to some investigators very frequently) other members of the delinquents' (variously defined) families have also been in trouble with the law. Offenders are unlikely to be regular churchgoers, but the evidence as to whether club membership discourages delinquency is "wildly contradictory". If they are of age to be employed, they are likely to be classified as "poor" rather than as "good" workers. Most of them come from the lower social classes, but again the evidence as to the extent to which they can be described as exceptionally poor is conflicting; *nor is there any clear indication that their delinquency is associated with the employment of their mothers outside the home.* Their health is probably no worse than that of other people, but many of them have earned poor reputations at school, though these may well be prejudiced by their teachers' knowledge of their delinquencies. In their school days they are quite likely to have truanted from school, and perhaps an unusually large proportion of them come from homes in which at some (frequently unspecified) time both parents were not, for whatever reason, living together; yet even on these points, the findings of some enquiries are negative. And beyond this we cannot go.<sup>6</sup>

Theories of the effects of maternal separation or deprivation are analysed in Chapter IV. In this and the next chapter, *Criminological Theories based on the age of the Offender*, an enthusiasm for "debunking" has led Mrs. Wootton occasionally to oversimplification and superficiality. The notion that the development of a child's personality is adversely affected if it is separated from its mother in infancy, or is rejected by her, or loses her affection, is widely accepted. The studies by Bowlby and others did not discover this notion; they merely applied it in the context of their particular investigations, perhaps too enthusiastically and uncritically. It has long been familiar to judges, who, guided by intuition and experience, have acted upon it in custody cases as a rule of prudence and commonsense. In 1865 the Master of the Rolls, Sir John Romilly, observed<sup>7</sup>:

No thing, and no person, and no combination of them, can in my opinion, with regard to a child of tender years, supply the place of a mother, and the welfare of the child is so intimately connected with its being under the care of the mother, that no extent of kindness on the part of any other person can supply that care. It is the notorious observation of mankind, that the loss of a mother is irreparable to her children, and particularly so if young. If that be so, the circumstances must be very strong indeed to induce this Court to take a child from the guardianship and custody of her mother. It is, in point of fact, only done where it is essential

6. Reviewer's emphasis.

7. *Austin v. Austin* (1865) 34 Beavan 257, 263. Compare with *Harnett v. Harnett* [1954] V.L.R. 533, 536.

to the welfare of the child. There are cases of unnatural mothers, and of immoral mothers, where the Court is obliged to take away the child from the mother, finding that a bad mother is worse than no mother at all, but in those cases, it acts solely for the benefit of the child.

After a close examination of the studies concerned with the effects of maternal deprivation, Mrs. Wootton concludes<sup>8</sup>:

that the damage to the personalities of children is life-long or irreversible, that maternal deprivation is a major factor in criminal behaviour, or that the younger the child the greater the risk, all these must be regarded as quite unproven hypotheses.

Her conclusions are sound, and furnish a useful warning against uncritical and unqualified use of the notion, but they do not detract from its value as a practical assumption, even though it has long been familiar. Perhaps its recent proponents have claimed too much for it, but plainly there is enough in it to justify stout resistance to the inveterate bureaucratic inclination to herd young children needing care and assistance into large and soulless institutions where discipline and order are the convenient objectives and love and encouragement are commonly absent. It is one of the functions of the social scientist to see how far new science confirms (or disproves) traditional assumptions, and at least it can be said for the hypothesis that it conforms very largely with what has long been regarded as practical wisdom.

The history of criminological theories (and, for that matter, of traditional assumptions concerning human behaviour) constantly reveals that seemingly novel hypotheses (usually old notions that have received a face-lift and a new twist) are too enthusiastically hailed as the all-embracing explanations for which the human mind hungers. Most of the hypotheses have merit if they are qualified by substituting "some" for "all". Unquestionably the younger age groups predominate in criminal statistics, and the disappearance of a large proportion of them from the figures as they grow older justifies the conclusion that this majority, or most of them, have given up anti-social activities. Sheldon and Eleanor Glueck formulated what they rightly regard as a "highly important conclusion", that

not age, per se, but rather the acquisition of a certain degree of maturation regardless of the age at which this is achieved among different offenders, is significantly related to changes in criminalistic behaviour once embarked upon.

Mrs. Wootton is scornful of this proposition, which she regards as "nothing better than a circular argument" and "a high-falutin' way of saying what has all along been obvious . . . a label has been

8. At 156.

mistaken for an explanation."<sup>9</sup> She is too harsh in her criticism. The concept of "maturation" is too subtle and significant to be equated, as she does, merely to "growing older" [p. 316]. The Gluecks' proposition is not platitudinous, but represents a useful insight into the process in which some (but not all) offenders come to relinquish criminal activity. As a result of practical experience, most persons concerned with penal administration consider that fundamentally dishonest offenders, such as confidence tricksters and persons prone to fraudulent enterprises, pick-pockets and sneak thieves, are persistent and irreclaimable criminals, but that a propensity to crimes of violence disappears, in the overwhelming number of cases, with the lessening of the aggressiveness that accompanies the vigour and heedlessness of youth. But to discuss this matter with the necessary emphasis on precision of definition and on the dangers of over-inclusion is beyond present limits.

The concluding chapter in *Part I* considers the important and promising work that has been done in the field of criminological prediction. As the Gluecks observe in their recent work, *Predicting Delinquency and Crime*,<sup>10</sup> the theory behind prediction tables is the same as that which underlies any kind of actuarial work; it represents objectified and tabulated experience. Those dedicated investigators have devised three alternative tables, but what is known as the *Social Prediction Table* is most generally used. It takes five factors, discipline of boy by father (firm but kindly, lax, overstrict or erratic); supervision by mother (suitable, fair, unsuitable); affection of father for boy (warm, indifferent or hostile); affection of mother for boy (warm, indifferent or hostile); cohesiveness of family (marked, some, none); and assigns a score to each factor. At the extremes of the range, if the subject's score is 150 or less, his chances of becoming a delinquent are assessed as 2.9 in 100; if his score is 300 or over, his chances of doing so (if allowed to go his own way) are 98.1 in 100. The claims for the success of prediction methods are buttressed by cogent evidence, and there is good reason to believe from the work of the Gluecks and of Mannheim and Wilkins<sup>11</sup> that prediction based on statistical methods is far more accurate than intuitive forecasts of persons wise and experienced in penal and probation and parole work. Mrs. Wootton regards, more than any other development, the success in the field of prediction as being a real justification for the claim of the social sciences to be genuinely scientific.

As in other fields cultivated by the social sciences, the use that is to be made of this new knowledge poses problems of enormous human

9. At 163-164.

10. At 18.

11. Hermann Mannheim and Leslie T. Wilkins: *Prediction Methods in relation to Borstal Training* (H.M. Stationery Office, London, 1955).

significance. If it is used as an indicator for genuinely corrective and rehabilitative treatment, so that the psychological factors that must lie at bottom of the revealed delinquent proclivities may be humanely corrected, the knowledge should be an aid to human happiness. But if instead society finds in it justification for indefinite detention or for protective measures indistinguishable from punishment, so far as the subject is concerned, we shall take a long step towards the nightmare world of George Orwell's *1984*.

In *Part II* Mrs. Wootton comes to grips with problems whose immediate importance is matched only by their elusive complexity. She comments<sup>12</sup>:

The most striking changes in public attitude and public policy towards social deviants which have shown themselves in recent history are those due to the growing influence of medical, and in particular of psychiatric, concepts. Indeed, thanks to this development, it would seem that in the course of a couple of centuries some wheels have nearly come full circle. In the 18th century no clear distinction was drawn between the mentally afflicted and the criminal lunatics were treated more or less as criminals. . . . Today, for quite different reasons, the distinction between the two classes has once more been confused; but instead of treating lunatics as criminals, we now regard many criminals as lunatics, or at any rate as mentally disordered.

The task of preserving order and stability in human societies that grow larger and more complex at a terrifying rate is one of huge difficulty. Anti-social behaviour stems from the acquisitive and the sexual impulses—in their simplest forms, hunger and lust—and the eternal problem is to "condition" human beings so that they will of *their own choice* adjust these impulses within the limits necessarily imposed by the requirements of the social instinct. A society cannot be run as a going concern except on the pragmatic assumption of free-will; determinism and ethical neutrality may seem intellectually irresistible, but man can only function by believing he is free,<sup>13</sup> and at our present development society can use its punitive machinery only on the assumption that human beings may justly be treated as subjects for punishment if they disregard the prohibitions of the criminal law. Punishments have, however, usually been of a kind that not only inflict great wretchedness on the offender, but, after they have been suffered, also leave him impaired in his capacity to achieve happiness and self-fulfilment. Uneasiness over the shattering impact of legal punishments and doubts of their efficacy have resulted in the virtual abandonment of the doctrine of maximum severity. But while in general man's capacity for self-improvement cannot be questioned, the assertion that always he is the master of his fate and

12. At 203.

13. cf. Arthur Koestler: *Reflections on Hanging* (London, 1956), 92-102.

the captain of his soul is brave but obviously unconvincing rhetoric. The spirit of the age tends therefore to move away from the absolute assumptions and the destructive punishments of times not so far behind us, and the movement to "de-stigmatise" offenders has made considerable headway. In an ordered and predictable legal system, however, the categories of persons who have done forbidden acts but are to be excluded from conviction, and therefore from punishment, because of some personal characteristic (e.g. immaturity, insanity) or of some factor operating when the act was done (e.g. accident, mistake, coercion, unendurable provocation) must be conservatively described and carefully limited so long as society subscribes to the notion that the threat and infliction of pain and deprivation are permissible means of social control.

The two chapters in *Part II* in which Mrs. Wootton deals with the problems, grave from the standpoint of social control, created by these developments constitute the most valuable discussion it has been this reviewer's good fortune to come upon in the spate of recent writings. In this area, semantic traps and obstacles confront the inquirer, but they are only part of the hindrances, and Spencer's observations, quoted earlier, are pointedly applicable. As the author observes,<sup>14</sup> the impact of psychiatric concepts on the treatment of offenders and social deviants has exercised a very great and desirable humanizing influence, but the medical approach is governed primarily by considerations that relate to the patient as an individual, rather than to the interests of society as a body which must, for its own survival, insist that its members attain to prescribed standards. In the welter of confused pronouncements she finds five propositions underlying the prevailing contemporary views of the connection between mental disorder and anti-social behaviour.<sup>15</sup> In summary, they are (1) mental health and its correlative, mental illness (and defectiveness), are objective in the sense that they do not depend for their existence merely on the tastes and the "value-judgments" of psychiatrists or on the cultural norms of a particular society: mental health is justifiably to be regarded as something closely analogous to and no less "real" than physical health; (2) these objective conditions of mental illness can be diagnosed by criteria that are independent of the patient's anti-social behaviour, so that persons guilty of such behaviour can be separated into those who suffer from mental illness and those who do not; (3) mental illness, when found, will "explain" the deviant behaviour in the sense that the behaviour may rationally be regarded as attributable to the mental condition; (4) anti-social behaviour on the part of those who are mentally ill is excusable by reason of the mental sickness, so that the

14. At 206.  
15. At 207.

patient should not be regarded as morally or criminally "responsible" (i.e., justly subject to social disapproval or punishment); (5) not all, but only some, manifestations of aberrant behaviour are to be outside the ambit of social disapproval or criminal punishment, because the test is not the behaviour itself, but the existence of a recognisable condition of mental ill-health giving rise to or closely connected with the proscribed conduct. Mrs. Wootton takes over two pages of her text to set out twenty-eight definitions (or rather, descriptions) of mental health from experts of eminence. She demonstrates that there is no general agreement as to what it is, and that many of the pronouncements are either words, words, words, or so vague and ambiguous and coloured by the pre-suppositions of the culture to which the particular expert adheres as to belong to the debased currency of political propaganda rather than to the terminology of scientific method. Indeed, one is left with the impression that only a person who finds no difficulty both in subscribing to and practising the precepts embodied in the Ten Commandments, the Beatitudes, and the spiritual and corporal works of mercy can justly claim to be in good mental health, and even he is subject to the qualification that he must also subscribe to approved economic, cultural and sexual assumptions of his national group. But the need for an acceptable definition is not a mere academic question; absence of "mental health" has become a basis for legislative measures. In Victoria, for example, the *Mental Health Act* 1959, sec. 3 (No. 6605, not yet proclaimed), states that:

"mentally ill" means to be suffering from a psychiatric or other illness which substantially impairs mental health.

The author asserts<sup>16</sup> what will be apparent to anyone who takes the trouble to examine them, that whether or not they are true, the five propositions certainly cannot be taken to have been scientifically established and that as yet they supply no firm foundation for social action. The analogy sought to be drawn between physical illness and mental illness is completely misleading. A physical disease or sickness presents to the trained observer some diagnostic signs independent of the patient's assertions or behaviour, but there is no similar confirmation *if the existence of mental illness is to be proved by a harmful deviation from a prescribed standard, and no more*. And, as she points out,<sup>17</sup> if mental illness is to be inferred from aberrant behaviour, instead of from symptoms independent of that behaviour, traditional concepts of responsibility are undermined. Recognition of this leads her to an exposition, far more perceptive than is usually supplied by legal writers, of the socially cogent reasons for retaining the McNaghten formula ((1843) 10 Cl. & F. 200; 8 E.R.

16. At 224.  
17. At 225.

718) as the test to determine whether a person alleged to be insane at the time of the commission of a forbidden act should be held to be criminally responsible. The formula states that an accused person is to be presumed sane and is to be held responsible for his actions unless it is clearly proved that at the time of the committing of the act,

he was labouring under such a defect of reason, from disease of mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong.

As Mrs. Wootton remarks,<sup>18</sup> the strength and the weakness of the formula reside in its "distinctively intellectualist nature; *intellectual* understanding of the nature of one's actions, and *intellectual* grasp of the accepted meaning of right and wrong are the McNaghten criteria of responsibility."<sup>19</sup> No one who has given thought to the formula is really happy about it,<sup>20</sup> but the difficulty has always been to devise a satisfactory one to replace it. It possesses an apparent clarity and precision which endow it with advantages over most of the suggested substitutes. Lawyers are prone to pragmatism; they echo Polonius,

Mad call I it, for, to define true madness  
What is't but to be nothing else but mad?

Accordingly, they look for proof of irrational acts, other than the act charged as the crime, to prove that the asserted mental derangement was genuine. Generally speaking, the accused may be regarded as mad not because of the apparently motiveless act, for the devil himself knoweth not the mind of man; the Courts ask for proof that his conduct before and after the act charged manifested plain symptoms of a disordered mind. It is impossible within presently available limits to undertake the discussion merited by Mrs. Wootton's penetrating and invaluable contribution to a subject of great and pressing importance. The statute book, the law reports, and the reports of Royal Commissions and a variety of special Committees of Inquiry, as well as the writings of psychiatrists and sociologists, all furnish support for her statement,<sup>21</sup> "Revolutionary though the prospect of abandoning the concept of responsibility may be, it is clear that we are travelling towards it". The prospect of what may follow, if persons dubbed anti-social are handed over indefinitely and without constitutional safeguards to experts to be "straightened out" and "reconditioned", certainly cannot be contemplated without grave perturbation. Moreover, it should be remembered that the development of the concept embodied in the legal maxim, *actus non facit reum nisi sit*

18. At 229.

19. Compare with *Willgoss v. The Queen* (1960) 33 A.L.J.R. 510.

20. See generally Richard W. Nice (ed.): *Crime and Insanity* (New York, 1958).

21. At 251.

*mens rea*, has been a shield against oppressive exercise of the regulated brute force of the community expressed through the criminal process.

The notion of moral responsibility may or may not be scientifically tenable, but there can be no doubt that it has been a potent factor in the formulation and maintenance of civilized standards of justice. Part of our difficulty may lie in a failure to give due recognition to the circumstance that the concept of moral responsibility applies not only to the individual, but also to the State in its dealings with the individual. Often the impact of criminal punishments offends moral notions and it is this that gives rise to much of our uneasiness about the postulates of the criminal law. Fundamentally, the case against capital punishment is that it is contrary to sound morality; that human life may justifiably be taken only if there is a genuine necessity to do so, and that in a modern society furnished with adequate maximum security penal institutions, that necessity does not exist. Incidentally, it may be observed that the rise in abolitionist sentiment has paralleled the development of escape-proof prisons.

In her wise concluding chapter, when discussing practical considerations, Mrs. Wootton recognises that there are grave difficulties inherent in contemporary proposals for penal reform emphasizing the reformatory aspect of penal treatment. The basis of the criminal law is still deterrence, and unquestionably deterrence and reformatory methods are often incompatible and usually ill-matched companions. Moreover, the popular attitude that persons who have joined in a crime or who have committed similar crimes should as a general rule receive equal punishment, may stand in the way of the differential treatment that prediction or psychiatric investigations may show to be desirable. It must be remembered, too, that the basis for reformatory action is conviction, and while miscarriages of justice probably are rare, the judicial process, being human, is far from infallible. This may pose an insoluble problem; to punish a man for a crime he has not done is an injustice, but to reform him in respect of an anti-social tendency he has not exhibited, though wrongly adjudged to have done so, is an impossibility. She comments that both psychiatric methods and predictive researches concentrate attention solely upon the convicted person, as though no one else was concerned with his misdoings, and she observes,<sup>22</sup> that "the psychiatrists particularly who write on penal reform seem quite astonishingly unconcerned with the possible repercussions of their proposals upon a wider community". This observation is undoubtedly sound, but it is perhaps a little unfortunate that the "typical example in a fairly extensive body of such literature" which she cites (*The Guilty Mind*,

22. At 336.

New York, 1955) happens to be a valuable essay on psychiatry and the law of homicide, written, not by a psychiatrist, but by a perceptive judge, John Biggs, Jr., Chief Judge of the Third Judicial Circuit of the United States.

Contemporary attitudes in social work are examined in Chapter 9. The 1951 U.K. census revealed there were 22,000 social workers, "slightly more than one social worker to every two barmen or barmaids",<sup>23</sup> and the number has certainly not fallen since then. But there is a grave shortage of trained social workers even in U.S.A., and the need of them is still more acute in the United Kingdom and Australia. In this country, part of the responsibility for this shortage lies with the universities, which have been foolishly indifferent and mulishly resistant to the creation of Faculties of Social Sciences. Private enterprise now looks for social workers, but it is government welfare services that need them desperately, and it is a short-sighted policy if a university whose existence is made possible only by public funds fails to make a respectable effort to meet governmental needs. The attitudes and theories of social workers, who are in the front line in the attack on the manifestations of social pathology, are of crucial importance, and the mischief that ignorant and officious social workers can do makes it essential to see that the risks of harm are at least minimised by a training that can best be given at university level. Mrs. Wootton's acid comment,

The suggestion that complex problems of personal unhappiness or of defiance of social standards can be resolved by a young woman with an academic training in social work is difficult to take seriously,

is sound commonsense, but it is better that they should have some training based on scientific conceptions than that social workers should be drawn from the repulsive ranks of "those who dabble their fingers self-approvingly in the stuff of other people's souls", as Virginia Woolf put it. Unquestionably character and compassion are the elements of which the good social worker is made, and without these no training, university or otherwise, will turn a sow's ear into a silk purse. There is much in this chapter that will infuriate social workers, but it is time it was said, and said honestly and astringently as Mrs. Wootton has done. The pretentiousness and arrogance of the literature is severely criticized. She writes<sup>24</sup>:

Happily, it can be presumed that the lamentable arrogance of the language in which contemporary social workers describe their activities is not generally matched by the work they actually do: otherwise it is hardly credible that they would not constantly get their faces slapped.

23. At 268.  
24. At 279.

In her opinion, conceptions of what is meant by social work have taken a remarkable and unfortunate turn during the past 30 years or so, and she considers that the root of the trouble is in the habit of confusing economic difficulties with personal failure or misconduct. The social worker's fondness for psychiatric interpretation is scarified<sup>25</sup>:

Moral and economic problems alike are reduced to common psychiatric denominators and expressed in identical terms. The probation officer and the psychiatric social worker at the child guidance clinic alike "diagnose" their cases and conduct "therapeutic" interviews with them; and the family case-worker goes one step further still, by using the same terms to describe his dealings with those who come to his notice for no better reason than that they cannot make ends meet. Before we know where we are, in fact, poverty no less than crime will rank as a form of mental disorder.

Mrs. Wootton has no doubts about the value of and the need for social workers; her just indignation is directed at the debasement of what is potentially an occupation of great social usefulness by unwarranted and snobbish pretensions to skills its practitioners do not have and, sensibly, are not expected to have. The governmental and voluntary services now available are many and complex, and the restrictions and regulations governing them are even more so. It is in helping the people who are in need of and entitled to such services, and doing this sympathetically and without arrogant superiority, that the social worker can discharge a valuable and very necessary function. As the author observes<sup>26</sup>:

The social worker who does for the run of ordinary people what confidential secretaries and assistants do for the favoured few is putting a genuine professional skill at the disposal of those who may properly be called her clients, and she is as essential to the functioning of the "welfare State" as is lubrication to the running of an engine. Without her the machinery would seize up.

The concluding chapter is divided into two sections, *Conclusions—Methodological* and *Conclusions—Practical*. Therein Mrs. Wootton proffers her suggestions for the improvement of the social sciences both in their methods of inquiry and in the purposes they should serve. That she has done so is proof of her dedication and her intellectual integrity. Any one of the chapters of her extensive study is adequate for a work of sociological importance. She chose to display her riches generously but compactly, and in her final chapter she does not shirk the challenge to say how the intellectual activities in which she devotedly believes may be shaped so that they may genuinely serve mankind. She insists that the choice of appropriate fields for study, and the selection of appropriate material, are at

25. At 292.  
26. At 296.



present crude and arbitrary; that criminals, delinquents and even prisoners do *not* constitute homogeneous groups, and that the search for distinguishing peculiarities of miscellaneous offenders is doomed to failure so long as investigators disregard the possibility that the aberrant behaviour of an individual "may be due at least as much to what has been done to him as to what he himself has done".<sup>27</sup> Some other comments, chosen at random, may be mentioned. The failure to distinguish between "hard data" directly discernible by the investigator's physical senses, and "soft data", which involve a subjective assessment, leads constantly to error. The lack of agreed definitions creates confusion, and the absence of accepted criteria deprives findings of any claim to conclusiveness. "Weasel words" and genteelisms make for semantic difficulties and are barriers to useful communication. Concentration on individual in disregard of social factors results in lopsided and distorted studies, and academic remoteness produces pictures of humans as unreal and distasteful as the mythical legal personage, the reasonable man, who, as Lord Justice Devlin blandly assures us,<sup>28</sup> is "not to be confused with the rational man", because "he is not expected to reason about anything and his judgment may be largely a matter of feeling". Unhappily, the credulousness of sociological investigators (including psychiatrists) if often taken for granted by practical men of affairs, who would probably incline to agree with the late H. L. Mencken's amusing (but mistaken) comment that all the Kinsey report really proves is (a) that all men lie when they are asked about their adventures in amour, and (b) that pedagogues are singularly naive and credulous creatures.<sup>29</sup> What is needed are real facts in their genuine context, and if neat and pleasing but untrue theories are shattered by them, then so much the better for the progress of science and the welfare of the human race.

Mrs. Wootton's practical conclusions are worthy of careful consideration, but they must be sought in the work itself rather than in a review, even of this length. She challenges the contemporary preference for analysing the infected individual rather than for eliminating the infection from the environment, and the reluctance to embark on the difficult task of remedying the imperfections in our existing institutions. This reluctance means we prefer to bring into being new "clinics" and schools to deal with problems that should be handled within the normal educational system. She criticises the practice of segregating the "maladjusted" child from those who are normal, because the mere fact of segregation denies to him the opportunity to make a success of living in a mixed community, which is, of course, the only test of a recovery from "maladjustment". While she wel-

27. At 307.

28. The Hon. Sir Patrick Devlin: *The Enforcement of Morals* (O.U.P., 1959), 15.

29. *The Vintage Mencken*, ed. by Alistair Cooke, New York, 1955, 121.

comes humane developments in the treatment of socially refractory persons, she suggests pertinently that "clear evidence that reformative measures do in fact reform would be very welcome". This reviewer would add that the traditional assumptions concerning the efficacy of deterrent punishments also require dispassionate examination. Punishment as a means of social control is unquestionably a rational concept, but the history of penal methods shows that punishment by traditional methods has been commonly misapplied and frequently abused, and that it is all too often self-defeating.

She brings her stimulating survey to a close with a passage that demands quotation. Observing that the existing confusion of medicine and morals does no service to science itself, for the success of scientific investigation has always depended, and always must depend, upon the complete exclusion of elements of "value", and of the investigator's preconceptions and predilections, she proceeds:

But be that as it may, it is clear that medicine is ousting morality in two quarters simultaneously, and that in consequence large issues are raised as to the nature and origin of moral judgments. For, on the one hand . . . moral judgments are beginning to be excluded from what has hitherto been the area of their most unchallengeable rule, while, on the other hand, with the invention of what has been aptly called "mental healthmanship", medicine takes upon itself the business of defining the Good Life. Indeed, the struggle between the rival empires of medicine and morality seems to have become the contemporary equivalent of the nineteenth century battle between scientific and religious explanations of cosmic events or of terrestrial evolution. True, the modern battle is much more decorously conducted than was that which agitated the Victorians—so decorously indeed that it is not generally recognised as being a battle at all. But the issues are akin, and the victory seems likely to go the same way. Psychiatrists since Freud have been busy doing for man's morals what Darwin and Huxley did for his pedigree, and with not much less success.

This is a work of great significance. Even when Mrs. Wootton seems perversely she is stimulating. She has placed before us in unmistakable language the challenge of modern developments in certain sectors of the social sciences, and she has provided a humbling account of the deficiencies of those sectors in scientific method. It may be that her book will not win her many friends among the savants and practitioners of the social sciences (though it ought to), but it should certainly influence people.