

before clear criteria can be laid down, but it is certainly premature to abandon the concept altogether and pass the buck to psychology. One important difference lies in the motive of the observable behaviour: even the unconscious or infantile motivations are different.

The chapter on homosexuality is perhaps the least satisfactory of the psychology section, though well handled in the second or moral section. It is somewhat surprising to find in the final chapter that it is apparently still necessary in some circles to defend dynamic psychology and the value of psychiatry.

E. F. O'DOHERTY

THE CRIMINAL PROSECUTION IN ENGLAND. By Patrick Devlin. (Oxford University Press; 15s.)

It is beyond dispute that the atmosphere in which law and order are maintained, and the type of relationship which exists between the police and public, are of vital importance to all self-governing communities. One of the crucial issues for every democracy is the way in which its legal system guards the liberty of the subject and yet at the same time solves the problem of how persons suspected of serious crimes shall be brought before the courts. Central to all this is the extent to which the criminal courts can influence, advise, direct or control the police in their tasks of investigation, interrogation and arrest and charging of suspects. It is precisely to the ways in which these problems have been tackled in England that Lord Justice Devlin turned his attention in the Sherrill Lectures given at the Law School of Yale University in 1957. The clear and dispassionate way in which the issues of criminal prosecution are discussed by such a brilliant mind as that of Sir Patrick Devlin ensures that these lectures are in themselves an outstanding contribution to the legal aspects of law enforcement in this country.

The value of the revised and fuller treatment of the subject now published under the title, *The Criminal Prosecution in England*, is enhanced by its appearance at a time when the level of serious crime in this country is so high, and when there is so much public uncasiness as to the state of the police service that a Royal Commission has been appointed to look into the whole subject. The purpose of the lectures themselves and the present book is not so much to ascertain whether or not there is a case for any radical innovation or major reform of our legal system as to examine, in an objective and critical manner, the way in which the methods of prosecution are carried out today. Sir Patrick rightly stresses that in England, where there is no written constitution and where the behaviour of those concerned with the administration of the criminal law is so much more influenced by tradition than by legal rules, a proper understanding will only be obtained by observing the various legal processes in the light of their historical development. The author's superb style and mastery of his subject enable him to conduct the reader briefly and effortlessly through more than seven centuries of change in the institutions concerned with the prosecution of offenders: one sees the rise and fall of the Grand Jury, the development of

and the changing functions of the magistracy and, finally, the emergence in the nineteenth century of the police system; thereby setting the stage for a detailed consideration of the procedure followed today. In discussing the contemporary scene it was perhaps fortunate that one of Her Majesty's judges, in delivering the original lectures, was addressing a foreign audience, in that Sir Patrick thus found it necessary to explain, as it were from the inside, many of the subtleties and complexities of the English law, its procedure and administration. These so often tend to perplex the foreigner and to lead to over-simplification by the rationalistic or impatient reformer. With great dexterity the reader is then led to consider the procedure in prosecution of offenders in relation to such important matters as the rights of the citizen relative to the duties of the Crown, the powers of the Home Secretary and his influence on the police, the powers of search and the conduct of identification parades, the functions of the Attorney-General and of the Director of Public Prosecutions, the powers of the different criminal courts and their control over the detention of suspects before trial, the method of appointing judges, the relationship between the Bar and the Bench and the advantages of the division of the legal profession into barristers and solicitors.

An outstanding contribution is the full discussion on the interpretation of the Judges' Rules and the problems confronting the police in the interrogation of suspects up to the point at which the necessary caution is administered. 'The real significance of the caution is that it is, so to speak, a declaration of war . . . the suspect has formally become the accused.' The learned author points out that the English system prides itself on having nothing to do with inquisitorial methods designed to get the accused to convict himself. 'The balance on which the English system works is that it combines the suspect's right to silence with the opportunity to speak.' And although Lord Justice Devlin agrees that in this country the law is weighted in favour of the accused, he is also aware that the system operates reasonably well; firstly, because 'the average criminal is not a strong, silent man and has a tendency to talk', and, secondly, because very frequently 'silence tells against the accused'; psychologically it is difficult to imagine an innocent man not protesting and arguing on being arrested. Therefore, provided that the police act properly—and Lord Justice Devlin has a great confidence in the fairness of the police—the dilemma in which the English law puts the accused as to whether it is safer 'to speak or not to speak' is regarded as a perfectly just one.

The police have two functions to perform in criminal cases; the first stage of the inquiry is to ascertain the guilty person, while the latter part of the inquiry is to assemble the evidence to prove the case against him. Detective novels are usually concerned only with the first stage whereas in reality, if the case is contested, the second stage is more difficult. The author rightly points out that 'it is only because there is a general sense among policemen that the accused ought to be fairly treated that the English system works at all', and further that 'there is a convention that the police will act fairly and that the judges are the guardians of it'. Public approval or

disapproval will have a general influence on the conduct of the police, but it is important that it can also be expressed more directly by the judge, dealing with a specific case, who may in certain circumstances exclude evidence from the trial, whether it is legally admissible or not, because it is unfair to the accused. Lord Justice Devlin shows that under the English system 'what the judge disapproves of, the Bar is unlikely to do, and if the Bar will not do it the police must conform'. In the last resort therefore the police are governed by the power of the judges to 'make their views felt'.

It was perhaps deemed as being outside the scope of these lectures that fuller consideration was not given to the conditions under which the ideal of fairness is fostered and maintained in the English police service. This is a crucial issue and the present difficulties of recruitment and of maintaining adequate conditions of service have an important bearing on it. The Royal Commission on the Police will see, it is hoped, the desirability of the police service being accorded the proper status that the work requires and that the country deserves.

This book deals with fundamental issues of justice; it is, therefore, recommended not only to all those who are in one way or another engaged in the administration of the criminal law, but to the many citizens upon whose informed opinion our democratic way of life depends. Those who are inclined to feel that fundamental reforms are required in our legal system will benefit enormously from this deeply informative and objective study. It will, I am sure, make many consider that it is better 'to bear those ills we have than fly to others that we know not of'.

F. H. McCLINTOCK

THE CAMPDEN WONDER. Edited by Sir George Clark. (Oxford University Press; 18s.)

This analysis of the evidence concerning the Campden mystery of 1660 consists of a brief introduction followed by Sir Thomas Overbury's *True and Perfect Account*, which was first published in 1676. Then come the accounts of John Paget and Andrew Lang dating from 1860 and 1904. These are followed by two brief chapters entitled 'New Evidence', and by notes put together by Lord Maugham, which are careful and have value. The points of psychological interest set out by Dr Russell Davies do not seem greatly to advance our knowledge of the problem.

The mystery has two aspects which are in effect distinct. The first relates to the execution of Joan Perry and her sons John and Richard for the alleged murder of William Harrison, steward to the Dowager Viscountess Campden. John Perry was the steward's servant and accused his mother and brother of this murder; it would seem that he did not realize that his action would involve his own execution as their accomplice.

The second and true mystery is concerned with the whereabouts of William Harrison during his two and a half years' disappearance from Campden in Gloucestershire between 1660 and 1663. His tale, that he was captured at the age of seventy by men who carried him to Deal and