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CORRESPONDENCE

Correspondents are asked to be brief

Coroner's Power to Commit for Trial

SIR,—Your legal correspondent (26 June, p. 781) has lived right up to the maxim (too little and too late). On the very eve of the Brodrick Committee Report he has come up with the suggestion that the coroner's powers of committal for trial should end. It will, I am sure, come as a great surprise to him to learn that the Coroner's Society of England and Wales made this suggestion to the committee some years ago when the evidence for the report was being collected. As a coroner, and one referred to by name quite frequently in your article, I must say that I whole-heartedly support the evidence on this point given by the society to the parliamentary commission, but in the interim I must act within the law as it exsits.

So far as I am aware, no coroner in recent times has committed for trial any person who has already appeared before the magistrates on that charge, and I must challenge the accuracy of the reported case in Mr. Gill's jurisdiction.

I am aware, however, of many cases of homicide where the Director of Public Prosecutions has decided, in the privacy of his office, that there is not sufficient evidence to charge a person, and only after this decision has an inquest taken place. Often in the course of such an inquest new evidence comes to light, or a new slant is given to existing evidence, and as a result the coroner's jury have charged a person. It is of some interest to note that in many of these cases the person charged has stood trial and has been convicted of the offence charged or of some lesser offence. Until the coroner can adjourn such a case with the instruction that the Director takes action, there is no alternative to coroner's committal. I know, because I have tried to follow such a course, and have been faced with the same case returned after some weeks of deliberation by the director's office. Such a course would lead to the very long delays in inquest that have emasculated the function of inquest in other parts of the world.

Your legal correspondent is correct that I am on record as saying that such cases should not be heard in a coroner's court; that legal aid should be extended to cover such cases if they must be heard in the coroner's court; that witnesses must be protected in the court; that hearsay evidence can only be accepted in a coroner's court in cases where no charge of any sort can result. The only relevant comment omitted from the article was the one in which I suggested that the Director of Public Prosecutions was using the coroner's court as a fishing ground for further evidence, but I am sure that this must have been an oversight.

Regarding the specific case mentioned by your correspondent, it is significant that:

(1) The girl charged by my jury was very ably represented by experienced counsel.

(2) The press were told that the restriction on reporting did not apply to coroner's courts by design, but it would be appreciated if they used discretion in reporting the case. It was counsel's wish that the case be fully reported.

(3) My alleged comment was after the doctor concerned had given a specific answer to counsel in cross examination.

(4) The jury were fully instructed in the law on *novus actus interveniens*. As your legal correspondent knows, the case law on this point is not too recent, and defines such an act as a wrongful act of commission, not an act of omission, intervening between an unlawful act and death.

(5) The case would never have come to this stage if the Director had charged the girl with a lesser offence under the Children and Young Person's Act.

The comments regarding the offence of causing a death by dangerous driving are really very funny. Under this heading no prosecution is likely to succeed unless there is evidence that the driving *per se* was dangerous. Because of this, many cases where defective brakes, steering, and tyres have resulted in a death are prosecuted for "failure to maintain" as the driving itself was not dangerous, only the state of the vehicle. Similarly, drivers with blood alcohol levels far in excess of the statutory limit are merely charged with that offence despite the fact that a death has resulted. I know of many cases where the police authority have decided to take no action under Section 1 of the Road Traffic Act, and a coroner's jury has committed for manslaughter. In these cases, following the inquest, the police have charged under Section 1, and a plea of guilty has followed.

Coroners do not wish to retain the power to commit. They do wish to have an effective alternative so that they can still continue to protect the rights of the dead.

Please let us put our own house in order,