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Psychiatry and the Law

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dictions which have approved some deviation from the absolute rule of immunity will follow the liberal view of the principal case.

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BOOK REVIEWS


From the lawyer's viewpoint, here is a book which may be used in numerous ways.

Before dealing specifically with that evaluation, the uniqueness of the book ought to be noted. This appears to be the first joint effort of a psychiatrist and a lawyer to interpret legal psychiatry, resulting in a presentation of the subject more understandable to either psychiatrists or lawyers — and the public — than a treatment by either alone would have produced. The material written by each seems easily identifiable, but one cannot fail to notice the apparent influence of the one writer upon the other in his presentation. The psychiatrist's special vocabulary is rarely found in this book, and the legal rules and principles are presented in a manner intelligible by the jury — presumably intended to be the public.

The book should have a strong appeal to those lawyers who are interested in improving the administration of justice. Here is the only general book on legal psychiatry which has appeared in this country during the past quarter century during which period psychiatry has been making its greatest progress in both practice and influence. Have these developments been reflected by appropriate changes in the law? A general treatment of this question is found in the book, but the West Virginia lawyer will be more interested in noting how few steps have been taken in this jurisdiction, as compared with procedures elsewhere, to recognize in our law established findings of psychiatry. Often such changes have not been forthcoming because of misunderstanding and mis-
trust between psychiatrists and lawyers; some of the sources thereof are discussed in this book. The writers obviously hope to obtain increased cooperation and progress thereby — suggesting that this could best be accomplished if law students and medical students were given adequate instruction in the fundamentals of the other field of study.

For those lawyers who are interested primarily in "taking the law as they find it", much of this information is included. Unless special investigation has already been made, the average lawyer will learn of many new angles from which mental disorder may have a bearing on his cases. In addition, practical suggestions on many problems are included, such as direct and cross examination of physicians on issues of mental deficiencies. Also advice is given as to avoiding certain legal procedures which may be harmful psychiatrically.

The book is designed as a source book and practical guide on medicolegal psychiatry. Only general information and guidance is found therein, but such is presented in an interesting manner and with ample illustrations by way of summaries of case histories. For those who wish to develop the subject treated in more detail, ample references to other treatises, cases, law review articles, and statutes are included.

The book first describes various categories of mental disorder; the psychoneuroses, manic-depressive and schizophrenic psychoses, psychopaths, sex offenders, organic brain disorders and congenital intellectual deficiency. Approximately 200 pages are devoted to this material. Although most of this part of the book deals primarily with psychiatry, it is not lacking in treatment of legal phases of mental disorder. Further, this part seems essential as background material for complete understanding of the second part of the book which deals with areas where the psychiatrist and the lawyer meet. Here are covered: the psychiatrist on the witness stand, the battle of experts, the patient's right to silence his doctor, committing the mentally ill, mental incompetency (herein of its effect on the making of wills and the handling of property), veracity, and relation of mental disorder to criminal law. There is some duplication between the latter part of this book and Professor Weihofen's earlier book, "Insanity as a Defense in Criminal
Law”. However, those who have used that book will be equally pleased with the expanded and more timely treatment of the subject.

In reviewing this book one is tempted to enumerate instances in which details of our law might be studied in relation to information disclosed by the authors. However, that would require too much space. Those who expect to find the extremes in suggested changes in the law will be disappointed. On the contrary, they will find that many states have already acted to bring their laws in line with the authors’ ideas of proper treatment of the problems. As to many points not already so treated, model acts covering the subject have been prepared; and for other problems, specific proposals are made by the authors.

Finally, this book is one which clearly and sharply draws the contrast between what “ought to be” and what “is” the law on many phases of mental disorder. The book has been written in a style that should appeal to the public generally, and the many case histories should serve well to illustrate and impress the layman with the differences between the “is” and the “ought”. If widely read, though only by lawyers and psychiatrists, improvements in many areas may follow. Even without statutory changes, courts could accomplish much by changed rules of procedure and by re-examining precedents in light of advances in the field of psychiatry.

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The law in the field of municipal corporations is of relatively recent origin, or at least it is of recent origin in comparison to other fields of law such as real property, contracts and torts. Perhaps for this reason there is a scarcity of form books in the municipal corporation field.

As a result of this scarcity the book being reviewed will be welcomed by those having the responsibility of the preparation or letting of municipal contracts. And as a further result of this

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