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Book Review

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Book Reviews

Reviewed by Irwin N. Perr, M.D.*

CRIME AND INSANITY—Edited by Richard W. Nice. Published by The Philosophical Library, New York; 280 pages; 1958.

The problem of responsibility for one's actions is one that has troubled mankind throughout the ages. It has been examined and elucidated by lawyers, theologians, philosophers, psychiatrists, social scientists, and the man in the street. Not only is there little agreement between the various schools of thought, but each group within itself is split violently asunder.

Crime and Insanity, contains a variety of articles dealing with various aspects of the problem as reflected in the opinions of a hodge-podge of authors. Striking, in this book, is the great variation in the quality of the articles. Clearly the poorest part of the book is that by the editor who, curiously, is the only contributor not even partially identified as to professional background. Each author reflects the vocabulary, thinking, and mores of his own background. This is likely to be quite confusing to one who is not at least superficially versed in law, criminology, psychiatry, sociology, etc.

Henry Davison, a psychiatrist known for his book, *Forensic Psychiatry*, has tried to correlate the concept of irresistible impulse with compatible psychiatric conditions. His suggestions in this regard offer a fairly clear, logical, and reasonable utilization of a concept which more often than not is a symbol of sheer nonsense, as reflected so well in the bestseller, *Anatomy of a Murder*.

William Haines, not clearly identified as to profession, and John Zeidler, a penologist, review the handling of problems of non-responsibility as reflected by the laws of the various states. An example of the chaos is this: Ten states require commitment to a mental institution when one is acquitted because of insanity; eight states give the court discretion, seven states require further investigation; eleven states may order a defendant confined if he is considered dangerous to public peace and safety.

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Three states require a second jury trial to decide if insanity still exists; seven require the original jury to decide this; one state has no provisions at all. In Massachusetts and Michigan, the governor has to pardon those found not guilty by reason of insanity in capital cases in order to obtain release from a mental hospital, and in North Carolina, an act of the General Assembly is required. This sampling supports the authors' contention that a uniform criminal code is required.

Judge Simon Sobeloff comments with great clarity of thought on the McNaghten¹ and Durham Rules, as does Henry Weihofen, a Professor of Law, who has written much on this subject.

Various sociologists, penologists, philosophers, psychologists, and psychiatrists cover many aspect of criminology and sociology. There is much repetition in the book, which is to be expected in a volume that was apparently hastily thrown together. There are numerous misspellings and printing errors, some erroneous references, and other consistent mistakes which reflect poorly on the publishers.

Despite the criticisms, there is much material for one interested in crime and insanity. Its disorganization is partially a strength in that one is exposed to many points of view, even if, in some cases, the point of view is merely a self proclamation of expertness.

Many legal problems are discussed. In addition to the majority McNaghten Rules and the minority Durham Rule, two alternate suggested rules which have been promulgated by the American Law Institute in its Model Penal Code are presented.

Basically, our present handling of insanity is based on the free will concept of antiquated theologians and has little relevance to the actual mental functioning of human beings. The McNaghten Rules are so inherently unworkable that juries and judges are allowed to use discretion. Newer, more definitive suggestions, though more rational scientifically, may well be quite difficult to apply in a court of law. As one English psychiatrist is quoted (p. 160): "To put it in rather a bald way, the present rules are such nonsense in many cases that the people can exercise their own common sense, whereas with more precise rules more rigidly interpreted, the ultimate effect would not be as good as the present ones."

Thus the proponents and the opponents are well represented.

¹ See 45 A.B.A.J. 762 (1959) for a discussion of the various spellings of this name.

The fine expressions of those who have delved into this topic, and disagree, merit closer examination than a mere book review can give. It is intriguing that a problem which, in essence, is not a very major one as far as society is concerned, can arouse such violence of feelings, bitterness, and antagonisms. Perhaps it reflects our own feelings of discomfort in accepting responsibility for our own actions.

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*Reviewed by Donald F. Harrington**

FREEDOM TO TRAVEL—Report of the Special Committee to Study Passport Procedures of the Association of the Bar of the City of New York. Published by Dodd, Mead & Company, New York, N. Y.; 144 pp.; 1958.

The Bar Association of the City of New York appointed a Special Committee of distinguished lawyers to examine passport controls, State Department procedures, and the various grounds for denial of passport. This book sets forth in clear and concise language their findings, conclusions and recommendations. Well-sprinkled with footnotes and case comment, it is excellent as a ready reference.

The majority of the court decisions relating to the issuance or denial of passports on an individual basis date from 1952 and can be considered of "cold war" origin. Most of these cases were decided on procedural points. From the general tone and synthesis of the cases, the Committee found that the courts agree that the issuance and revocation of passports to individuals are in the area of foreign affairs by statute and thus not subject to judicial review, *but* that refusal to issue or revocation, without adequate review, violates the due process clause of the Fifth Amendment.

As to the general freedom to travel, the Committee recognizes the necessity for some restrictions upon the absolute freedom to travel. Nevertheless, they believe that the right to travel is closely related to the First Amendment freedoms and that the

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