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Criminal Responsibility

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CRIMINAL RESPONSIBILITY

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If one is to be convicted of a crime, criminal intent must be established. The law presupposes sanity and so one is presumed to intend the natural and probable consequences of his act. A wrong or harm that is committed as the result of a serious mental disease cannot result in the conviction of a crime.

Criminologists say that our rules of law remain hampered by early views of psychiatry. Some say, however, that the rules of law are not affected by modern views of psychiatry—that it is only a problem of semantics. This is in conformity with Judge Cardozo's statement that words are only symbols of things and ideas. In other words, legal rules may be so interpreted, without being changed, as to give effect to modern psychological and psychiatric views.

In language, the most important rule of law (in this connection) is simple. To reiterate preliminarily, if the perpetrator of a wrongful act is insane, the requisite criminal intent is lacking. The rule was succinctly set forth in England about 100 years ago in the *McNaghten* case and even that statement merely reviewed the well-recognized rule. A person is deemed insane if, when committing a wrongful act, he was laboring under such a defect of reason that (a) he did not know the nature and quality of the act he was doing or (b) if he did know the nature and quality of the act he was doing, he did not know that he was doing wrong. (See N. Y. Penal Law, Sec. 1120)

Medical men have criticized the *McNaghten* rule and those of the legal profession have given thought whether to try to bring about its revision.

People v. Caruso,[1] involved a defendant whose infant child had died. At the time it appeared to the defendant that the attending doctor had laughed at the occurrence. The defendant thereupon choked the doctor until he fell to the floor, then took a knife and stabbed him twice in the throat—so killing him. The crime was committed as a result of rash impulse and headlong fury and while the defendant was in a state of overwhelming grief. In his uncontrollable rage, defendant did not know what he was doing. There was the intent to kill, but there was no premeditation and deliberation—terms which imply a capacity to think and reflect, a will to make a choice, and time to over-

1. 246 N.Y. 437.

come hesitation and doubt and to form a definitive purpose. "Heat of blood," like drunkenness, does not absolve one of all consequences of crime, but these factors mitigate the degree of crime; and so in the *Caruso* case the defendant was not deemed guilty of murder in the first degree. The conviction of first degree murder was reversed and a new trial was ordered.

In *People v. Moran*,[2] feebleness of mind or will—even though not so extreme as to justify a finding that the defendant was irresponsible—was accepted to determine whether there was premeditation and deliberation. Actually, this was but dictum in the *per curiam* opinion because the evidence was not so strong as to require a finding by the jury that the defendant was irresponsible. He knew the nature and quality of the act and knew that it was wrong. The judgment upon a verdict convicting the defendant of the crime of murder in the first degree was, accordingly, affirmed. Moran was a psychopathic inferior, with low and unstable mentality and there was possible epilepsy, too. The dictum in the *Moran* case reflects a progressive attitude with respect to the query, if "heat of blood" (sudden and uncontrollable emotion) and intoxication may be considered by a jury to determine whether there was premeditation and deliberation, why should not a deficient mental state be submitted for the jury's consideration. The question of relative intelligence has a bearing on mental capacity. A mental defect or disorder may certainly reduce the offense charged against the defendant to one of lesser degree.[3]

In the Supreme Court of the United States, in 1946, an important decision was rendered in the *Fisher* case.[4] There the trial court charged

2. 249 N.Y. 179.

3. A recent decision by the N. Y. State Court of Appeals (*People* v. *Ford,* decided July 15, 1952) should provoke fruitful discussion. The defendant was convicted of murder in the first degree. The judgment of conviction was affirmed. The facts are contained in Judge Desmond's dissenting opinion, concurred in by Chief Judge Loughran. Two psychiatrists who examined the defendant testified as defense witnesses. Neither thought there was insanity in accordance with the common law test as embodied in Section 1120 of the Penal Law. They testified, however, as did other psychiatrists called by the prosecution, that the defendant was a "psychopathic personality." Defendant's psychiatrists were of the opinion that he was incapable of premeditation or deliberation. There appeared to be no "reasonable motivation" for the brutal homicide. From defendant's history there was much "to mark him as a man who had little judgment or intelligence, and made little use of what he had." In a desire to show defendant's "limited mental capacity," testimony of one of the defense psychiatrists was offered with respect to an interview with the defendant after the injection of sodium amytol—commonly called "truth serum." The trial court refused to receive the testimony. Defendant's claim of error was not recognized by the majority of the court. The dissenting opinion pointed out the distinction between a psychiatrist's testimony as to the factual basis for his opinion (after the use by him of sodium amytol to "produce drowsiness and uninhibited disclosures," thus testing mental conditions) and the bare use of a "lie detector" test (which was refused in *People* v. *Ford*, 279 N. Y., 204) to report on whether the truth was told.

4. 328 U.S. 463.

premeditation and deliberation in the traditional manner. It refused to charge that the jury was to consider factors of psychopathic aggressive tendencies, low emotional response and borderline mental deficiency (that is, partial responsibility). The refusal to charge was not regarded as erroneous by the majority of the Court. The majority's viewpoint appears to be less progressive than the dictum expressed by the N. Y. Court of Appeals in the *Moran* case in 1928—20 years before the decision in the *Fisher* case. Justice Murphy's dissent (Justice Frankfurter dissented as well) points out, however, that between sanity and insanity is every shade of disordered or deficient mental condition and that low mental powers (though one is not insane) may make a person incapable of deliberating and premeditating.

In considering the sociological aspects of criminal responsibility, it must first be noted that a concept of society must reflect the doctrine of benefits and rights and reciprocal duties and responsibilities. Our society could not function unless one is held responsible for his acts.

The word "responsibility" is used by criminologists in two different senses. In one sense, it relates to a power that one has over his own fate. There is the assumption of a free will which most criminologists deny. That concept of responsibility has been criticized as mere inference or rationalization. From a strictly scientific point of view, praise or fault cannot be attached to any individual act. When one's conduct is examined it must be, at least, in terms of heredity and life experience.

While that first notion of responsibility is being refuted, we must hold to some other concept of responsibility if society is to continue to function. This leads to the other aspect of responsibility. A person must be held accountable for his personal behavior. That is the sociological point of view. It is necessary to society's functioning. It is the key to human relations in the progress of our civilization.

To refute the concept of free will does not relieve an offender of accountability, that is, responsibility. This theory has found expression in the gradual acceptance by our community of a theory of protection in lieu of punishment that is merely vindictive in character.