

May I suggest that existing—and the proposed—procedures be so modified that jurors be concerned only with the first question of fact; namely, did the defendant commit the unlawful act alleged? If he did, then let the court or another dispositional body obtain, without a jury and in an informal manner, such medical opinion and its bases as may be necessary to assist the court in deciding on the most appropriate disposition of the defendant who has already been found to have committed the act charged. Proper disposition of such a defendant must take account of his particular problems and needs as well as those of society. In fact, it may be argued on philosophical grounds that unless society considers the needs of its members, its own ends are not well served.

If the defendant has a significant mental disorder, it matters little whether it is sufficiently related to his unlawful act to state formally that he should or should not be excused from responsibility for that act. I see no necessity that such a moral judgment be made, certainly not by a jury. It contributes nothing to what is to follow.

Rather, to repeat, I urge that his mental condition be considered by the court without a jury, or by another dispositional body, when deciding where, for how long, and in what manner the defendant who has been found to have committed an unlawful act will be under the management of society. In other words, medical opinion can be more helpful on questions of disposition than on those of commission of an act or of guilt.

The CHAIRMAN. Does this not take this question of insanity completely away from the jury?

Dr. CAMERON. It is my understanding that there have been attempts to obtain this in some of the States and to my knowledge it has not been achieved in any State. It is the common practice in several European countries.

The CHAIRMAN. Thank you.

Dr. CAMERON. The advantages of the concept and procedures proposed are several:

1. The competence of a defendant to stand trial would continue to be determined by the court without a jury after access to medical opinion and its bases.

2. The question of fact as to the commission of an unlawful act would be determined by a jury without the presentation of irrelevant medical issues in an atmosphere of moral judgment. A jury trial could, of course, continue to be waived.

3. Physicians would be spared unnecessary involvements in the adversary process to determine the factual and moral issues. They have no special skills or knowledge to offer on such issues.

4. Physicians would be able to make available to the court or another dispositional body their special knowledge about mental disorders in general, and the mental condition of the defendant in particular, in a nonadversary atmosphere, looking to questions of treatment and rehabilitation, if indicated, rather than to a factual and moral issue already settled.

5. The need for dispositional resources beyond those now available in the District of Columbia, would be highlighted. It is my own belief that persons who have committed unlawful acts and who require separation from society cannot properly be managed, as at present, in