Some remarks may be in order concerning the rôle of psychiatrists in assessing the punishability, the accountability, or the responsibility, as it may variously be termed, of the individual who offends against the criminal law. The mental state of the offender has long been of interest, both in the Continental and the Anglo-Saxon systems of law. *Ulpian*, the great commentator, who wrote soon after 200 A.D., stated that the madman, or the child, is not to be held accountable, "since a wrong is only able to exist by the intention of those who have committed it." In general, it may be said that the attitude of the Continental law was considerably broader and less restricted than has been the case in the Anglo-Saxon law. In the Belgian and French Codes, for example, it is held merely that the offender has not committed a crime if he was in a state of mental aberration (démence) without attempting to define the nature or extent of that aberration. The Swiss Penal Code has been somewhat more restrictive, stating (Section 10) that the offender is not punishable who by reason of mental illness, idiocy, or grave alteration of consciousness, did not possess at the moment of the action the ability to appreciate the illegal character of his act, or to conduct himself in accord with that appreciation. It is of interest to an American to note that the Swiss Code recognizes diminished responsibility, a concept which has only lately been scatteringly recognized in American law.

Another aspect of psychiatric testimony in the Continental law, as distinguished from the Anglo-Saxon, is the rôle of the psychiatrist as an advisor to the court rather than as a partisan. I shall speak more of these distinctions later on. It might be pointed out, however, at this point that the rôle of the physician has not always been clearly recognized as one of competence in this field. *Johannes Weyer's* views, which to us sound modern, were dismissed summarily by the Saxon Code in 1572, with the statement that since he was "merely a physician and not a jurist" his views were important, and *Weyer's* archenemy, *Jean Bodin*, made a virulent attack on him, even accusing him of being an instrument of the devil. *Paolo Zacchias*, however, the Protomedicus of the Papal Court, in the early 1600's, maintained that only a physician could evaluate for the courts the mental condition of an accused. On the other hand, *Immanuel Kant* and *J. C. Hoffbauer*, the eminent legal writer of the 18th Century, believed that the proper testimony on such topics should be given by a philosopher rather than by a physician.

I have mentioned very briefly some of the aspects of the Continental law regarding responsibility, merely to emphasize a few of the distinctions between the Roman and the Anglo-Saxon traditions.

The earliest systematic treatise in the Anglo-Saxon law is that of *Bracton*, who wrote in the 13th Century. He subscribed to the doctrine laid down by *Ulpian* much earlier; namely, that the madman and the infant are not to be held accountable for their offenses, unless there was an intent to injure. His statement is often quoted to the effect that the madman (furiosus) "does not know what he is doing, is lacking in mind and reason, and is not far removed from the brute." Starting with *Bracton* and coming down largely to the present day, it has been characteristic of the English and American law that judges in handing down their decisions through the years have attempted consistently to specify the type and degree of mental disorder which would exculpate the offender. The criteria of "insanity"; that is, of mental disorder which would excuse, varied, as was to be expected, from time to time with what little advance there was in those days of the knowledge of mental mechanisms. Lord *Coke* and Lord *Hale*, writing in the 17th Century, emphasized criminal intent as important, considering that if the mental disorder abolished this intent, then a crime had not been committed. There were distinctions at that time between total and partial insanity. Lord *Hale* suggested the test of understanding as being that possessed by a fourteen years' child. A century later we find the knowledge of good and evil required, but it should be pointed out that this meant good and evil in the abstract sense and not necessarily as applied to the act in question. At about this time, in 1724, the "wild beast test" was introduced. In 1800, delusion was laid down as the important test [1], but this test did not receive much later attention. The tendency in the English law seems to have been toward a broadening of the test, but any trend of this sort was nullified by the very strict interpretation given by the Judges of England in the case of M'Naghten in 1843[2]. In this case the defendant, obviously deranged, had been acquitted by reason of insanity after having killed the clerk of the Home Secretary. As a result of public furor, the House of Lords asked the *Judges* of England to state what the proper instructions to the jury would be in a case of this sort. The Opinion of the *Judges* has had a