

Furthermore, under both the pre-Durham rule and the Durham rule psychiatrists are required to answer questions in the very words of the applicable test: such as whether in their opinion the accused could distinguish between right and wrong, and whether the criminal act was the product of the mental disease. We believe that practice should be discontinued. There is no reason why in cases involving the insanity defense the expert witness should be required to give answers in the words of the legal test of responsibility, whose application is ultimately for the jury. There is no such requirement in other criminal cases, many of which also require the jury to pass on specific states of mind, such as intent to defraud. The legislation which we recommend is intended to provide a fixed test understandable to a jury and applicable to and sufficient for all cases, to give the expert witness freedom to testify as to the mental condition of the accused without being compelled to equate his opinion with the legal test; and to repose in the jury the ultimate function of applying the test.

COMMITTEE ON CRIMINAL RESPONSIBILITY REPORT

The Committee on Criminal Responsibility of the Bar Association of the District of Columbia was created in June 1958 and charged by the Board of Directors with the duty of studying "insanity as a defense to criminal proceedings with the view toward recommending legislation which would define the words "criminal insanity." The Journal of the Bar Association of the District of Columbia, September 1958, Vol. XXV, No. 9, p. 474.

The Committee has conceived its function to be to consider the definition of insanity existing at this time in criminal proceedings in the District of Columbia in comparison with the definition which it replaced and with other existing and other possible definitions, and to recommend a change if and only if the present definition is not satisfactory and a more satisfactory one can be found.