

SUFFERING FROM A PERVERTED AND DERANGED CONDITION OF HIS MENTAL FACULTIES WHICH RENDERED HIM UNCONSCIOUS OF THE NATURE OF HIS ACT OR INCAPABLE OF DISTINGUISHING BETWEEN RIGHT AND WRONG AND OF KNOWING THAT HIS ACT WAS WRONG; AND EVEN THOUGH HE WAS CONSCIOUS OF THE NATURE OF THE ACT AND WAS CAPABLE OF DISTINGUISHING BETWEEN RIGHT AND WRONG AND OF KNOWING THAT HIS ACT WAS WRONG, HE IS STILL NOT RESPONSIBLE IF HIS WILL, THE GOVERNING POWER OF HIS MIND, HAD BEEN, OTHERWISE THAN VOLUNTARILY, SO COMPLETELY DESTROYED THAT HIS ACTIONS WERE NOT SUBJECT TO HIS WILL BUT WERE BEYOND HIS CONTROL.

*The Nature of the Committee's Study*

The Committee studied some of the voluminous material on the subject; interviewed and met with outstanding psychiatrists; and availed itself of the combined experience of its membership, which included personal experience as counsel, observation of trial and hearings, and current word-of-mouth information from participating counsel in practically every District Court and Court of Appeals proceeding which has dealt with the Durham rule since it was announced in 1954.

There was a sharp difference of view among the psychiatrists with which the Committee met. One group was practically unanimous in the view that the Durham rule is not satisfactory. It was stated that ninety per cent of all persons who commit criminal acts are suffering from a mental disease of a greater or less degree which necessarily contributes in some way to the criminal act, and if the Durham rule were literally applied it would excuse nearly every one charged. Another group of equally distinguished experts was practically unanimous in the view that the Durham rule is working satisfactorily, pointing out that it conforms more closely to the realities of modern psychiatric discoveries and has at last permitted psychiatrists to