

finer defect as a "condition which is not considered capable of either improving or deteriorating and which may be either congenital, or the result of injury, or the residual effect of a physical or mental disease." Ibid.

"Disease or defect" are the terms commonly used to designate serious mental abnormalities. They are the terms employed in the test of criminal responsibility proposed in the Model Penal Code of the American Law Institute (A.L.I., Model Penal Code, Tentative Draft No. 4, Section 4.01). They are the same terms contained in the proposed statute recommended in New York by the Governor's Conference on the Defense of Insanity. We think these terms are intelligible to laymen. Certainly they are no more vague or incapable of precise definition than others juries are regularly called upon to apply, such as "reasonable man."

The majority report repeatedly stresses the uncertainty of psychiatric knowledge and the disagreements among psychiatrists when called as experts to testify. It is clear that "So long as the defense of irresponsibility by reason of insanity is recognized in any form, the law needs to be aided in its administration by expert psychiatric testimony." (Interim Report of Subcommittee of The Governor's Conference on Insanity, New York, May 29, 1958, mimeographed draft, p. 5.) We are well aware that psychiatry has many limitations and that there is no precise, universally accepted terminology. It is also true, of course, that in some cases psychiatrists differ in their diagnosis and conclusions. But psychiatrists are certainly not unique in this respect among experts who appear in Court. The disagreement tends to be exaggerated by the techniques of certain trial counsel. There is virtually no disagreement among psychiatrists in cases involving individuals suffering from a "mental defect" (e.g., idiocy). There is likewise almost no disagreement in cases involving organic brain disorders. Psychiatrists also rarely differ in cases involving prolonged schizophrenia. Disagreement may and does exist in cases involving psychopathic personalities and various borderline cases.

To the extent that disagreements among psychiatrists exist,