

are expert in classifying certain persons as "psychotic" or "insane"? If these terms mean extreme and irrational deviation from social norms; for instance, being a social nuisance, is such labeling by a psychiatrist more or less sound than that by an intelligent jury?

4. Does psychiatry include expert skill in elucidating such terms as "right," "freedom," "justice," "punishment," and "responsibility"? What is the special competence of psychiatrists? What is the significance of a deterministic premise when employed (a) in physical science, (b) in psychiatric research, (c) in therapy, (d) in deciding whether a person should be held criminally responsible for a harm he committed?

5. The history of legal tests of insanity should be explored to ascertain their relationship to the contemporaneous medical and psychiatric knowledge, moral ideas, and views of "human nature" and, also, to evaluate certain recent statements, e.g., that the M'Naghten rules were merely the product of political pressure, that a "wild beast" test was ever actually a rule of law in England in the implied literal sense, and that lawyers have usually impeded the march of scientific progress while doctors have facilitated it.

6. Important, also, is a comparative study of American, English, and continental law, especially with reference to the "irresistible impulse" test as a complete alternative to the cognitive (M'Naghten) test. On what grounds has the Report of the Royal Commission, 1949-53, so highly praised in this country by critics of M'Naghten, been criticized by English judges, for instance, Justice Devlin? In the study of continental codes, the meaning of the word "or" needs to be scrutinized to determine whether its significance is disjunctive or conjunctive. Continental cases should be studied to determine whether the position so vigorously urged here by very articulate psychiatrists—that a person's cognitive faculties may be quite normal or even superior but, nonetheless, he may be unable to keep from committing the most serious harms—is actually accepted in European law. If it is found to be recognized to some extent, is this the effect of the early 19th century psychology of separate faculties, which has been everywhere discarded, or is it currently supported by able European psychiatrists?

7. In the study of such social problems, the most difficult question often is: What is the question or the proposal that is made? This requires logical analysis of various arguments. For example, is it consistent with the psychology of integrated personality (that man functions as a unit) to argue that M'Naghten should be abandoned? Is it consistent with that theory of psychology to argue that the volitional function can be seriously disordered but, at the same time, the cognitive functions remain normal? Is it consistent to assert that psychiatry does not deal with human freedom, right and wrong, responsibility, and justice, and to assert also that the right-and-wrong test is a vestige of superstition and that psychotic persons understand the difference between right and wrong? Logical inquiry can also disclose the areas where no assured answer can be given to certain questions, e.g., whether punishment deters, whether psychiatrists can rehabilitate criminals, and so on. If "experts" in behavioral disciplines and psychiatrists do not have all the desired answers, what is the role of intelligent laymen in dealing with such problems, and what of the legal and ethical standards developed by thoughtful persons in the course of many centuries?

8. The characteristics and requirements of a democratic legal order should be studied especially in relation to the role of unfettered officials, unfettered experts, and unfettered juries. Are the prevailing conceptions of human nature, individual responsibility, freedom, right and wrong, as traditionally expressed in the rules of law which guide judges and juries, to be subordinated to the theories of psychiatrists and, if so, to which ones—Freudian, neo-Freudian, anti-Freudian, Jungian, Adlerite, existentialist, organicist, neurologist, Reikian, Frommian, or eclectic?⁸ Should the selected experts be permitted to present any theories or opinions to juries who receive no guidance from judges or laws?

9. There are still unsettled questions about "punishment" to be studied; they involve questions of public policy, ethics and free discussion. There are distinctions to be drawn between reforms, utopias, and the relation of punishment to freedom and social responsibility. There are issues which concern hospitali-

⁸ "We are forced to conclude that the psychologically minded psychiatrist and his organicist colleague, though often members of the same professional organizations, do not talk the same language and do not have the same interests. It is not surprising, then, that they have nothing good to say to each other, and that when they do communicate it is only to castigate each other's work and point of view," Szasz, "The Myth of Mental Illness," 93 (1961).