

the definition of "mental disease" by those experts who appear most frequently as witnesses in this jurisdiction. They suddenly reclassified psychopathic (sociopathic) personality as a mental disease in *In re Rosenfield*, 157 F. Supp. 18 (D.D.C. 1957); they reclassified emotionally unstable personality as a mental disease in *Campbell v. United States*, *supra*; they reclassified narcotics addiction as a mental disease in *United States v. Carroll*, Criminal No. 383-62 (D.D.C. June 28, 1962) and *United States v. Horton*, Criminal No. 59-62 (D.D.C. July 12, 1962). I think it obvious that the new classifications were made by the doctors for clinical purposes only, for demonstration is not needed to make it plain that these conditions newly called "mental diseases" are not such in the legal sense. Until now, this court has allowed the shifting wind of expert nomenclature to control its decisions.

In *United States v. Spaulding*, 293 U. S. 498 (1935), the Supreme Court said, at page 506:

"The medical opinions that respondent became totally and permanently disabled before his policy lapsed are without weight. . . . [T]hat question is not to be resolved by opinion evidence. It was the ultimate issue to be decided by the jury upon all the evidence in obedience to the judge's instructions as to the meaning of the crucial phrase, and other questions of law. The experts ought not to have been asked or allowed to state their conclusions on the whole case. . . ."

I think it follows from the foregoing that psychiatrists may not testify as to their conclusions as to the ultimate questions of insanity and causality which must be decided by the jury. Any lawyer or judge with trial experience will know how an expert witness can be properly questioned to elicit admissible information which will help the jury in reaching its decision, without asking him for his conclusion on the ultimate jury question.

The majority have made a worthwhile effort to clarify the confusion engendered in the minds of trial judges by