

I. N. Perr,¹ M.D., J.D.

Alcohol and Criminal Responsibility

The tradition of the law has long frowned on criminal behavior performed in association with alcohol intake; courts have been most hesitant to provide any exculpation for drug and alcohol intake. The hostility of courts to a defense of intoxication is shown in *State v. Noel* [1].

The law is not the creation of such barbarous and insensible animal nature as to extend a more lenient legal rule to the case of a drunkard, whose mental faculties are disturbed by his own will and conduct, than to the case of a poor demented creature afflicted by the hand of God.

The general rule is that voluntary intoxication is no defense to a criminal charge based on acts committed while intoxicated [2]. The act of drinking is considered to be a voluntary act, and a person would be held responsible for all consequences of the voluntary act, even if indeed the behavior is a product of a mind seriously affected in its functioning by alcohol or other drugs. This social policy is reflected both in long-held public attitudes towards drinking and in the belief that public morality requires such a legal stance, perhaps because the problems of proof might be considered insurmountable if the rules were relaxed [3].

Despite the long history of legal concern, the problems of alcohol abuse continue to confuse and perplex legal, medical, and psychiatric practitioners. These problems have been compounded by changing attitudes towards alcoholism, which for many purposes is increasingly considered to be a disease rather than a personality disorder. Thus, courts have eliminated drug addiction and alcoholism as being crimes per se and have let stand criminal sanctions against unauthorized possession or unacceptable behavior which may occur in association with such status [4]. The trend is to no longer punish for public intoxication alone [5,6]. Various states have taken steps by statute to decriminalize drunkenness and to foster treatment systems. These changes have at least raised questions as to their potential effect on criminal responsibility. Johnson [7] discusses the new state of Washington statute which considers alcohol abuse a disease for the purpose of dealing with a public inebriate but a voluntary act for criminal prosecution, but the statute contains ambiguous language dealing with responsibility: "nor shall evidence of intoxication affect, other than as a defense, the application of any law, ordinance, resolution, or rule of conduct otherwise establishing the elements of an offense."

The complicated decision in *Powell v. Texas* [8] left standing the general principles of

Presented at the 28th Annual Meeting of the American Academy of Forensic Sciences, February 1976, Washington, D.C. Received for publication 18 March 1976; accepted for publication 12 April 1976.

¹Professor of psychiatry and professor of community medicine, Rutgers Medical School, College of Medicine and Dentistry of New Jersey, Piscataway, N.J. 08854.

responsibility. The U.S. Supreme Court decision more or less terminated, at least temporarily, the possible changes which had been threatened from the line of decisions deriving from *Robinson v. California* [9], which precluded punishment for the status of drug addiction.

Numerous legal writers have reviewed the complexity of the alcohol defense and the disease concept, for example, Tao [10], Duke Law Journal editors [11], Greenawalt [12], and Fingarette [13]. Over the years, however, little has changed. Intoxication alone is not a defense; intoxication to the extent that it renders one unconscious, unknowing, or without will may mitigate or reduce the charges. For example, in most jurisdictions a state may allow a finding of second degree murder rather than first degree or, in a few states, manslaughter. This has been formalized by the use of the expression "diminished capacity." Some courts make a distinction between those crimes requiring specific intent as compared to general intent. If specific intent is required, and alcohol negates that specific intent which is one of the elements of the crime, then the perpetrator has not committed any crime at all. In addition, those psychoses traditionally considered to be within the realm of the criminally insane and which meet the criteria of the *McNaughten* or other local rule will also exculpate.

The complexities and technicalities of a defense based on drug and alcohol intake are demonstrated in Estrin's discussion [14] of the Kelly case [15] in California where a concept called unconsciousness may be utilized as a complete defense. The Kelly case involved assault with a deadly weapon by an 18-year-old who had been on drugs for three years, with 50 to 100 episodes of mescaline and lysergic acid diethylamide (LSD) use in the two months prior to the assault, and who had been found wandering through the Los Angeles Airport the day before. The court rejected a defense of unconsciousness, which reflects a situation where the person commits an act without being conscious of it. Where unconsciousness is due to voluntary intoxication, it may be a partial defense; however, intoxication may be accompanied by reactions such as panic reactions, toxic psychosis, or a true psychosis. In the Kelly case, the court accepted a defense based on insanity. In prior cases, such insanity had to be both "settled" and "permanent," but here the court indicated the former alone would suffice.

The contradictions of the law are shown even in the title of the California statute, "Drunkness No Excuse for Crime: When It May be Considered" [16]. The code states

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such a condition. But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute any particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act.

Another theoretical exculpation is a state of intoxication when a man is made drunk against his will. Davidson [17] also discussed the difficulties of pathological intoxication where there may be complete amnesia within the framework of well-organized behavior: "He will show premeditation, planning, and an effort to escape—all of which suggest that he has full responsibility even though his amnesia is genuine." The defendant with *delirium tremens* is in no condition to plan, deliberate, weigh consequences, or understand the quality of an act.

Quen [18], in his article on Isaac Ray and drunkenness, reports many of the legal and medical opinions of the past century. Ray believed that drunkenness was accompanied by organic changes confirmed by autopsy studies. Inebriety was considered by Ray to be a form of insanity which might wholly dominate, defeat, or neutralize the will [18].

Neither does drunkenness any more than strong passion exempt from all punishment;

for the plain reason that in each case the impairment of moral liberty is the voluntary act of the individual himself. The fact of mental unsoundness admitted, it always remains to be determined whether it is of the person's own immediate procuring or is the result of circumstances over which he has no control.

Samuel Woodward said

The truth is, the criminality consists in its [alcohol's] moderate use; and intemperance is a disease; a man is no more to blame for intemperance . . . than for the gout, diseased liver, insanity and delirium tremens—which the use of spiritous liquors also produce.

There is free will only in moderate or temperate use. Benjamin Rush felt that drunkards should be held criminally responsible, though he saw the drunkard as an insane man who had lost freedom of choice and drank from compulsion. Kirkbride referred to reasonable differences of opinion as to whether such situations should be classified as instances of mental unsoundness or simply as examples of a confirmed vice. Compare these early medical opinions with early judicial opinions. Coke stated that "a drunkard who is *voluntariously demon* hath no privilege thereby; whatever ill or hurt he doeth, his drunkenness doth aggravate it." In 1828 Justice Story noted

Had the crime been committed while the defendant was in a fit of intoxication, he would have been liable to be convicted for murder. As he was not then intoxicated, but merely insane from an abstinence of liquor, he cannot be pronounced guilty of the offense.

Hall [19], in 1944, reviewed the harsh early laws with the focus on specific intent. At that time most states allowed such a defense only as far as premeditation, and a minority of states included the problem of legal provocation. The distinction between specific and general intent was recognized as a fictitious distinction creating confusion.

Many articles discuss the confusion of concepts while others dogmatically make simplistic statements [20–24]. Knecht [25] points out that involuntary drunkenness is a theoretical defense that for practical purposes does not exist. Davis [26] states that "the law takes no note of the cause of insanity. If actual insanity in fact supervenes as the result of alcoholic excess it furnishes as complete an answer to a criminal charge as insanity induced by any other cause," but he adds that the rule applies to chronic insanity, not temporary insanity. He quotes Mercier ("Crime and Insanity") as asserting, "It is literally and exactly true that drunkenness is insanity: that as long and as far as a man is drunk, so far and so long he is insane." Yet it has been noted that even delirium tremens do not necessarily excuse criminal behavior [27].

Herzog [28], many years ago, stressed that there may be mitigation where malice, intent, or deliberation is required as an element of the offense but refers to a federal district court that ruled that where intoxication is used to blunt moral responsibility, it aggravates the culpability of the crime.

Johnson [7] has reviewed the concept of responsibility and alluded to another concept periodically encountered: the theory of automatism. He refers to intoxication of such a degree that the person involved could not exercise the restraint necessary to avoid the act and intoxication that was the product of an inability to control the intake by reason of chronic alcoholism.

Slough [29], in another review of the legal principles of alcoholism and responsibility, states that 10% of heavy drinkers have alcoholic psychoses which could affect responsibility. Reaser [30] indicates that amnesia may be associated with the ability to carry out apparently purposeful activity.

Thompson's view of pathological insanity [31] is that

Subconscious motivation absolves a person of criminal responsibility. Stated neurologically, a person who has a subconscious wish to commit a crime and who commits a crime is not

legally responsible. The cortex of the brain is legally responsible; the basal ganglia and mid-brain are not.

He also discussed the relationship of psychopathy, psychomotor epilepsy, and electroencephalographic changes.

Antisocial behavior is often associated with intoxication [32]. McCaghy [33] studied three groups of child molesters: those who denied the molestation, those who admitted the acts but blamed them on the use of alcohol, and those who admitted the acts without implicating alcohol. The drinkers and deniers did not consider themselves molesters. The data suggested that as long as offenders can maintain a normal self-image through displacement of blame onto alcohol, they are essentially similar to deniers.

This problem of displacement of blame onto alcohol is very significant in dealing with attempted treatment of those alcoholics who project and deny and who do not see themselves as responsible. Frame [34] points out that crimes committed under alcohol are not necessarily caused by alcohol. He, like Perr [3], stresses that blood alcohol measurements are not a sufficient test of degree of impairment. Other articles dealing with various aspects of the problem review some of the aspects previously discussed [35-37].

International Aspects of Alcohol and Criminal Responsibility

A review of attitudes towards some of the problems of alcohol and responsibility has been presented. To provide a broader perspective, a number of foreign publications which have been abstracted are reviewed; as a group they show that universal problems exist in handling the terrible and complex problem of crime related to alcohol intake, particularly in terms of attribution of blame, management, and social policy.

France

Michel [38] states that drunkenness aggravated crimes in ancient Greece and during the Middle Ages. In France, there are three levels of intoxication: (1) simple drunkenness, (2) "complicated" intoxication, and (3) pathological intoxication. Complicated intoxication, compared to simple drunkenness, involves more violence and a marked decrease in intellectual functioning, but contact with reality is maintained. Here responsibility is attenuated. Pathological intoxication includes "twilight" and "confusional" drunkenness. Twilight drunkenness refers to lack of relation to the environment, liberation of murderous tendencies, extreme anxiety, ideas of persecution, hallucinations, delusions, and amnesia. Confusional drunkenness involves personality disorganization, numerous swiftly changing hallucinations, and motor disorders. Amnesia may occur with abortive acute alcoholic deliria.

A case of uncertain nationality [39] reports the homicide by a 36-year-old man of his son. The man was on disulfiram and had a blood alcohol level of 0.20%. The situation was reconstructed after the man had 18 days of disulfiram treatment with clouding of consciousness; a finding of reduced responsibility resulted.

The Germanies and Switzerland

Joachim [40] has discussed the influence of drugs used concurrently with alcohol and the resultant effects on behavior and possibly responsibility, particularly traffic offenses. Some drugs such as disulfiram and antidiabetics cause alcohol intolerance; some increase the effect of alcohol (barbiturates and tranquilizers); some change the

effect (isonicotinic acid hydrazide and certain antibiotics); and some counter the effect (caffeine). One case is reported where a person charged was acquitted because of the effects of alcohol and analgesics; in another case the offender was held liable as long as alcoholic intoxication was one cause of the offense regardless of a possible combination effect with medication.

Schlichting [41] presented the issue of the use of a drug taken to counter the effect of alcohol and concluded that a drunken driver who took the drug ("Sangrita") in the belief that it restored his driving skill will not be absolved because he should have made certain that the treatment was effective in his individual case.

Rommeney [42] discusses the concept of "total intoxication" in which there is a complete lack of ability to understand the deed, solely because of alcohol intake. A total intoxication is present when the total personality is so changed through the use of alcohol that consciousness is greatly narrowed and the assertion of will through reason is precluded. Total amnesia is not required.

Heinitz [43] stresses that difficulties lie in the subject itself and this cannot be done away with by changing a law. One unusual report dealing with exculpation and mitigation due to alcohol dealt with a study of 119 people arrested for anti-Semitic utterances. Of these, there was a high blood-alcohol concentration in 61 persons tested and a high degree of drunkenness in another 35 [44].

East Germany [45] recognizes the concept of diminished responsibility; Hinderer estimates that 30% of crimes occur under the influence of alcohol.

Mivelaz [46] reports alcohol is a factor in 50 to 60% of crimes. Alcohol tolerance tests have been used in studies of acting-out behavior under the influence of alcohol [47].

Great Britain

In 1867 in Scotland, weakness of mind was accepted as a defense, lowering a charge to culpable homicide, the equivalent of manslaughter. An example is given of a case of a man who killed his wife after having eleven drinks. Now under current English law, self-induced intoxication is a complete defense where it negates specific intent, which is required to be proved [48].

One English report notes a successful defense on a drunken driving charge where a physician claimed that he was made unknowingly intoxicated when two nurses "tipped gin" into his stout [49]. East [50] observed that alcohol may be taken deliberately by criminals to facilitate crimes by loosening their emotional controls. On the other hand, the problem of pathologic intoxication has been reviewed in England and elsewhere [51]. The combination of alcohol, epilepsy, and amnesia is similarly reported [52]. In England, the use of a defense of intoxication is usually unsuccessful, although in a 1748 case the decision was that of "mistake of fact" when an accused put a child into a fire, allegedly mistaking him for a log of wood [53]. These commentators discuss the relevance to British law of alcoholic insanity, delirium tremens, or intoxication where one would reasonably not anticipate the effect, such as one's drinking for the first time. Similarly, the rules might be applied to reactions resulting from trickery or from a course of treatment.

New Zealand and Australia

Temm [54] reports that drunkenness is an acceptable defense only if intoxication was extreme enough to prevent the accused from forming the intent to commit the crime. Such a defense is rarely used. In murder cases in which the defense is provocation by the victim, the influence of alcohol on the behavior of the accused is disregarded. Drunkenness is likewise an inapplicable defense in cases of manslaughter when an unlawful act or omission has caused death.

A New South Wales [55] study covering a three-year period indicated alcohol addiction in the following different crimes: murders, 22 of 85; assault and robbery, 59 of 100; breaking and entering, stealing, 598 of 1221; false pretenses, 46 of 340; and sex offenders against females, 96 of 425. Of 2171 serious crimes, 821 had a history of heavy drinking.

Canada

Roussel [56] indicates that in Canada a person is fully responsible for acts committed while intoxicated, and a contract or will would not be invalid. The public attitude is reflected in the fact that automobile insurance would not be in force at that time (1958) if the driver was intoxicated. Beck and Parker [57] conducted a survey of this problem in 1966.

Armstrong [58] pointed out that with intake of alcohol, narcotics, and barbiturates, limitation of mental capacity is rarely total.

The problem of impairment, even when only partial, is that a pattern of behavior may emerge, due to disturbances in perception, judgment, and coordination which is grossly deviant from that of the individual in a sober state and does not represent his desire or intent in that state.

The extent to which this person is addicted and the extent to which permanent brain damage exists also influence the degree of manifest disturbance where alcohol and drugs are used.

India

While in Rome, drunkenness could be placed in mitigation, and in England in aggravation, India will allow exculpation for involuntary drunkenness, but simple intoxication neither mitigates nor aggravates. The effect on intent can be used to ameliorate punishment, which is determined by the degree of drunkenness and seriousness of the crime [59].

South Africa

Bennet [60] reports that a review of legal systems shows that there are four groups of opinions as to responsibility and alcohol: (1) alcoholic intake is irrelevant, (2) it is grounds for aggravation, (3) it affords complete exemption, and (4) it provides for mitigation of punishment. The common law system is a combination of unsatisfactory compromises. Voluntary intoxication is not a defense, but insanity as a result of intoxication may be upheld. Similarly, drunkenness may render the accused incapable of intent where the offense requires intent. Bennett feels that the variety of rules and the emphasis on the punitive and deterrent approach neglect compulsory treatment as a mode of social management.

Kenya

There are four alcoholic "insanities" to consider in criminal behavior: delirium tremens, acute confusional insanity, Korsakoff's disease, and alcoholic dementia. The first three usually lead to the fourth. The most common type of case in Kenya is the sexual jealousy crime. Women do not kill but are involved in crimes of mutilation; bite wounds and the ripping of pieces of lips or ears are common [61].

Brazil

According to Art. 24 of the Penal Code of Brazil, 1940, intoxication was not admissible as a means for escaping responsibility. An alcoholic should know beforehand

that drinking will destroy control and judgment. People are responsible for anticipating the effects of their actions. Nonetheless, such facts may be ameliorative where drunkenness was due to causes beyond the control of the individual with a resultant lack of understanding the criminal nature of his acts [62].

Japan

Japanese laws follow principles similar to those of the western countries in establishing degrees of responsibility. Most offenders claim a failure of memory. Konuma [63] describes three categories of drunkenness. Normal intoxication does not result in criminal behavior. He suggests "ruptured" drunkenness as a new category to cover those situations where there is a low tolerance for alcohol (though higher than for pathological intoxication) or where normal attitudes and behavior break down under alcohol intake. He thinks that this condition should have limited responsibility. Pathological drunkenness is often accompanied by physical and emotional illness and leads to impulsive behavior which is inappropriate to the circumstances and is not remembered by the person.

Netherlands

While alcoholics are overrepresented in aggressive crimes and have a high recidivism rate, the aggressive criminal stands a better chance of conditional sentencing and probation if he drinks before committing his crime [64].

Poland

Pionkowski [65] reports that in a group of mentally ill people who committed crimes, 46% of the men and 28% of the women had diminished responsibility because of alcohol intake. In addition, 32% of the men and 10% of the women had total lack of responsibility. Thus, alcohol often plays a direct or indirect role in inducing crime in persons who are mentally incompetent or of diminished competence. Another report [66] studying delinquent alcoholics indicated that of 30 patients, those who were alcoholic for longer periods had committed more crimes. Of the 30, 9 had no criminal record, but 10 had a history of skull or brain trauma. Three had psychoses, 2 had meningitis, 4 were mentally defective, and 2 were epileptic. Ten were considered responsible, 17 had limited accountability, and 3, with a history of psychosis, were found not responsible. Uszkiewiczowa [67] has criticized the concept of diminished responsibility.

Yugoslavia

Julius and Bohacek [68] report that 60 to 80% of crimes in Yugoslavia are associated with alcohol ingestion. They report 48 cases (including 19 murders) of persons with alcohol intoxication, pathological intoxication, chronic alcoholism, delirium tremens, alcoholic paranoia, and alcoholic hallucinosis. One can confirm pathological intoxication by a clinical test in which hallucinosis and paranoia will be precipitated.

Hungary

In addition to simple intoxication in which there is responsibility and pathological alcoholism in which there is not, the Hungarian Supreme Court in 1969 recognized a transitional type which it has called "abortive pathological alcoholism" [69,70]. Huszar

and Iranyi [71] have studied sex offenses in association with alcohol and recommend that a first episode may be considered for exculpation or limited responsibility but repeated episodes justify imposition of responsibility.

Czechoslovakia

Alcoholic intoxication may be a mitigating factor in the commission of a crime, but the intoxication itself is punishable [72].

Stuchlik [73], in discussing pathologic intoxication, distinguishes between a first episode and repeated episodes. Pathological intoxication is a disturbance of consciousness or a state of sudden intoxication which entails loss of judgment. Those criminal acts occurring for the first time should not confer responsibility because of the lack of predictability; with recurring events, the average person should know the consequences.

U.S.S.R.

Russia, too, has been concerned about the problem of responsibility and intent [74]. A detailed description of alcoholic syndromes and their effect on responsibility is given by Rozhnov [75], which has been translated into English. The Russians view alcohol as a narcotic but follow the universal policies regarding alcohol [75].

According to the Fundamentals of Criminal Legislation of the U.S.S.R. and article 12 of the Criminal Code, in which it is stated that a person who has committed a crime while inebriate is not relieved of criminal responsibility, all criminal offenders in a state of simple (including severe) inebriation are to be considered legally responsible.

Testimony that a given crime is extremely brutal and does not fit the personality of the subject may be used as a base of a claim of pathological inebriation which is a brief, "temporary," acute, mental disorder (hallucinations, delusions, disordered consciousness, and aberrant behavior) which may relieve one of responsibility. Such cases are rare ("only a few tenths of a percent"). It is qualitatively different from simple inebriation and is a psychotic state in which alcohol is only one, albeit the main factor, of many possible causal factors. Many physical and stress factors may be also associated with such a state which occurs independent of dose; this is similar to our concept of pathological intoxication. Usually there is *not* total amnesia but rather a fragmentary recollection. Motor function is intact, and the individual does not try to defend himself or conceal a crime. Two forms are distinguished: (1) delusional (or hallucinatory-paranoid) and (2) epileptoid. The latter can be confused with the behavior of a drunken psychopath who may give an erroneous impression of a twilight state.

With chronic alcoholism, although personality changes occur, the slight disturbances in intellectual capacities and character aberrations do not deprive one of his ability to account for his actions. However, under the Penal Code, anti-alcohol therapy may be recommended. Where there is dementia, particularly in the elderly, responsibility may be excluded. Nondelusional jealousy will not exculpate.

The irresistible urge to drink (dipsomania) is distinguished from pseudodipsomania, which refers to episodic excess drinking that occurs in chronic alcoholics. Other conditions to consider are delirium tremens, alcoholic hallucinosis, and alcoholic paranoia. One major problem is the attribution of a past alcoholic psychosis to a later criminal act when the psychosis is not longer present. Alcoholic paranoia is one of the more treatable conditions, but advancing dementia ultimately lessens the social danger of those who have been delusional. Where "misuse of alcohol reaches the point of chronic alcoholism in persons suffering from any other mental disease, etc., the problem of . . . responsibility or competence is decided on the basis of the primary disease" [75].

Thus, in the Soviet Union the complexities of evaluation, arbitrary but ambiguous legal policy, and the need for careful psychiatric analysis are more or less the same as in the United States.

Commentary

This paper reviews a number of papers dealing with varying concepts and attitudes towards alcohol and legal responsibility. No attempt is made to clarify and simplify legal attitudes which defy such arbitrary handling, nor is there exploration of the very detailed and complex subjects of behavior disorders and criminality and the many facets of alcoholism, particularly in the light of current knowledge and classifications. Many of the referenced papers have been studied at the abstract library of the Center of Alcoholic Studies, Rutgers University, New Brunswick, N.J., in English summary rather than in their original language.

The foreign abstracts reflect the fact that other countries have been confronted by the same kinds of problems as the United States and have attempted to reach an adaptable and reasonable compromise in circumstances where arbitrariness and intellectual confusion are inevitable. The difficulties and ambiguities in establishing such a compromise seem to be an international phenomenon rather than solely reflective of the American legal system.

Similarly, the use of alcohol does not represent a unitary or simple phenomenon. Alcohol is a chemical intoxicant, a poison with acute and chronic effects and with many social or cultural determinants. Even definition is difficult; one common meaning of alcoholism includes the broad concept of the excess use of alcohol to the point where it causes social, occupational, physical, or psychological problems for the individual.

Psychiatric nomenclature covers the gamut from simple intoxication or drunkenness to episodic excessive drinking, habitual excessive drinking, and alcohol addiction. Alcoholism may be involved in a number of physical and mental diseases of varying severity and crippling effects. To state that alcoholism is a disease is to state little; it is also many other things. The use of alcohol to the point of behavioral effect refers to a multiplicity of events and disabilities.

Alcoholism is a reflection of social custom and individual tolerance. Alcoholism is a character or personality disorder. Alcoholism involves an acute reversible poisoning of the brain, or it may involve a spectrum of permanent brain damage. Alcoholism is involved in a group of disorders considered to be severe mental illness or psychosis such as delirium tremens, Korsakov's psychosis, alcoholic hallucinosis, alcohol paranoid state, alcoholic deterioration, pathological intoxication, Wernicke's syndrome and cerebral atrophy.

Alcohol aggravates an array of personality disorders, brain damage from other causes, explosive personality (with its varied meanings), episodic dyscontrol, epilepsy, schizophrenia, and almost every other mental or neurologic disease. The use of alcohol may result in head injury (falls and accidents). It may cause amnesia, blackouts, and grayouts. It may cause cirrhosis, malnutrition, esophageal varices, and varied neuropathies. Alcoholism is compounded by other drug and chemical intake, other illnesses, and the use of medication. Even when alcoholism is chronic, with fixed physical damage, it is characterized by transient events which are not demonstrable at a later time when evaluation is necessary. Alcoholism is compatible with the many facets of criminality in an associative rather than a causative fashion. At the very least, it interferes with ordinary judgment and neurological integrity.

Evaluation of alcoholic problems is therefore one of the most complex problems facing the medical-psychiatric examiner who is called on by the legal system for a clinical appraisal and who is asked to communicate findings in a reasonable, pragmatic fashion.

The sociolegal use of these data must remain, because of other issues, in the hands of the law and social policy makers whose decisions may be guided by a number of factors, not the least of which is a judgment of what is best for a society concerned with inimical behavior, its control, and its prevention.

This review of legal, social, and psychiatric factors involved in the use of alcohol and its effect on criminal responsibility attempts to paint a broad picture of the present and the past and the multiplicity of factors to be considered by all who are confronted with this immensely complex and almost insoluble subject.

References

- [1] *State v. Noel*, 102 N.J.L. 659, 694, 133 A. 274, 285, (1926).
- [2] Grad, F. D., Goldberg, A. L., and Shapiro, B. A., *Alcoholism and the Law*, Oceana Publications, Dobbs Ferry, N.Y., 1971.
- [3] Perr, I. N., "Blood Alcohol Levels and 'Diminished Capacity'," *Journal of Legal Medicine*, Vol. 3, No. 4, April 1975, pp. 28-30.
- [4] Tao, L. S., "Alcoholism as a Defense to Crime," *Notre Dame Lawyer*, Vol. 45, Fall 1969, pp. 68-88.
- [5] *Driver v. Hinnant*, 356 F.2d 761 (4th Cir., 1966).
- [6] *Easter v. District of Columbia*, 361 F.2d 50, (D.C. Cir., 1966).
- [7] Johnson, F., "Note," *Washington Law Review*, Vol. 50, June 1975, pp. 755-776.
- [8] *Powell v. Texas*, 392 U.S. 514 (1966).
- [9] *Robinson v. California*, 370 U.S. 660 (1962).
- [10] Tao, L. S., "Alcoholism as a Defense to Crime," *Notre Dame Lawyer*, Vol. 45, No. 1, Fall 1969, pp. 68-88.
- [11] "Constitutional Law: Criminal Punishment of Alcoholic for Public Drunkenness Held to be Cruel and Unusual Under the Eighth and Fourteenth Amendments," *Duke Law Journal*, 1966, No. 2, Spring 1966, pp. 545-561.
- [12] Greenawalt, K., "'Uncontrollable' Actions and the Eighth Amendment: Implications of *Powell v. Texas*," *Columbia Law Review*, Vol. 69, No. 6, June 1969, pp. 927-979.
- [13] Fingarette, H., "The Perils of Powell: In Search of a Factual Foundation for the 'Disease Concept of Alcoholism'," *Harvard Law Review*, Vol. 83, No. 4, Feb. 1970, pp. 793-812.
- [14] Estrin, P. A., "*People v. Kelly* and the M'Naughton Rule: Should Drug-Induced Madness Constitute a Complete Criminal Defense?" *University of West Los Angeles Law Review*, Vol. 6, Winter 1974, pp. 71-91.
- [15] *People v. Kelly*, 10 Cal.3d 505, 516 P.2d 875, 111 Cal. Rptr. 171 (1973).
- [16] Cal. Penal Code, S.22 (West, 1970).
- [17] Davidson, H. A., "Orientation to Forensic Psychiatry," *Archives of Neurology and Psychiatry*, Vol. 57, 1947, pp. 730-755.
- [18] Quen, J. M., "Isaac Ray on Drunkenness," *Bulletin of the History of Medicine*, Vol. 41, 1967, pp. 342-348.
- [19] Hall, J., "Intoxication and Criminal Responsibility," *Harvard Law Review*, Vol. 57, No. 7, Sept. 1944, pp. 1045-1084.
- [20] Baird, E. G., "Science and the Legal Responsibility of the Drunkard," *Quarterly Journal of Studies on Alcohol*, Vol. 5, 1945, pp. 628-646.
- [21] Kirbens, S. M., "Chronic Alcohol Addiction and Criminal Responsibility," *American Bar Association Journal*, Vol. 54, 1968, pp. 877-883.
- [22] Tao, L. S., "Legal Problems of Alcoholism," *Fordham Law Review*, Vol. 37, No. 3, March 1969, pp. 405-408.
- [23] Yelton, G. E., "Alcoholic Insanity as a Defense to Crime," *Tennessee Bar Journal*, Vol. 4, 1968, pp. 17-24.
- [24] Rostow, E. V., "Intoxication in Mitigation of Homicide," *Quarterly Journal on Studies of Alcohol*, Vol. 2, 1941, pp. 396-405.
- [25] Knecht, J., Jr., "Aspects of Alcohol Intoxication," *Delaware State Medical Journal*, Vol. 28, 1957, pp. 298-311.
- [26] Davis, O. C. M., "Alcoholism and Its Relationship to Crime," *Medical Press*, Vol. 213, 1945, pp. 134-136.
- [27] Morse, H. N., "Law and Medicine: Legal Views on Delirium Tremens," *Journal of the American Medical Association*, Vol. 203, No. 10, 1968, pp. 265-266.
- [28] Herzog, A. W., "Medical Jurisprudence" in *Inebriety*, Bobbs-Merrill, Indianapolis, 1931, pp. 528-547.

- [29] Slough, M. C., "Some Legal By-Products of Intoxication," *Kansas Law Review*, Vol. 3, March 1955, pp. 181-220.
- [30] Reaser, E. F., "Pathologic Conscious States," *West Virginia Medical Journal*, Vol. 45, 1949, pp. 136-140.
- [31] Thompson, G. N., "Legal Aspects of Pathological Intoxication (Alcoholic Insanity)," *Journal of Social Therapy*, Vol. 2, 1956, pp. 182-187.
- [32] Moore, R. A., "Legal Responsibility and Chronic Alcoholism," *American Journal of Psychiatry*, Vol. 122, 1966, pp. 748-756.
- [33] McCaghy, H., "Drinking and Deviance Disavowal; The Case of Child Molesters," *Social Problems*, Vol. 16, 1969, pp. 43-49.
- [34] Frame, M. C., "Alcoholism: Some Medicolegal Aspects," *Journal of Forensic Medicine*, Vol. 2, 1955, pp. 151-163, 170-172.
- [35] Walsh, C. D., "Drunkenness, A Review," *Naval Medical Bulletin*, Vol. 44, 1945, pp. 740-743.
- [36] Foreign Letter: "The Electroencephalogram as Evidence Against Criminal Responsibility," *Journal of the American Medical Association*, Vol. 122, 1943, p. 190.
- [37] Baird, E. G., "The Alcohol Problem and the Law," *Quarterly Journal of Studies on Alcohol*, Vol. 4, 1944, pp. 535-566; Vol. 5, 1944, pp. 126-161; Vol. 6, 1945, pp. 335-383; Vol. 7, 110-116, 271-296; Vol. 9, 1948, pp. 80-118.
- [38] Michel, B., "The Problem of Penal Responsibility in Different Forms of Alcohol Intoxication," *Revue de l'Alcoolisme*, Vol. 4, 1957, pp. 181-186.
- [39] Uerberschlag, H., Planques, J., Grezes-Rueff, C., Librun, M., and Moron, P., "Medicolegal Aspects of a Case of Disulfiram Poisoning," *Annales de Medicine Legale*, Vol. 46, 1966, pp. 45-47.
- [40] Joachim, H., "The So-Called Combination Effect of Alcohol and Medicaments; Forensic and General Medical Discussions," *Zeitschrift fuer Allgemein-medicin*, Vol. 49, 1973, pp. 1448-1451.
- [41] Schlichting, E., "Absorption-Retarding Agents and Legal Responsibility," *Blutalkohol*, Vol. 7, 1970, pp. 354-358.
- [42] Rommeney, G., "Medical Expertise of Crimes Under the Influence of Alcohol in the Light of S.330A of the Penal Code," *Deutsche Zeitschrift fuer die Gesamte Gerichtliche Medizin*, Vol. 44, 1955, pp. 520-537.
- [43] Heinitz, E., "The Juridical Difficulties in the Interpretation of S.330A of the Penal Code," *Deutsche Zeitschrift fuer die Gesamte Gerichtliche Medizin*, Vol. 44, 1955, pp. 509-519.
- [44] Redhardt, R., "Anti-Semitic Utterances Under the Influence of Alcohol," *Deutsche Zeitschrift fuer die Gesamte Gerichtliche Medizin*, Vol. 62, 1968, pp. 129-132.
- [45] Hinderer, H., "On the Tasks of the Fight Against Alcoholism According to the Penal Code of the German Democratic Republic," *British Journal of Addiction*, Vol. 66, 1971, pp. 9-17.
- [46] Mivelaz, M., "Alcoholism and Delinquency," *Medicine et Hygiene*, Geneve Vol. 23, 1965, pp. 456-460; Source of abstract: *Excerpta Criminologia*, Vol. 6, No. 539, 1966.
- [47] Ritter, K. F., "On the Medicolegal Significance of the Alcohol Tolerance Test," *Deutsche Gesundheitswesen*, Vol. 8, 1953, pp. 175-181.
- [48] Edwards, J. L. J., "Diminished Responsibility" in *Essays in Criminal Science*, G. O. W. Mueller, Ed., Sweet & Maxwell, London, 1961, pp. 301-341.
- [49] "Driving Under the Influence of Drink or Drugs," *British Medical Journal*, Vol. 2, 1959, pp. 1413-1414.
- [50] East, N., "Medicolegal Aspects of Alcoholism," *British Journal of Addiction*, Vol. 45, 1948, pp. 93-111.
- [51] Blair, D., "The Medico-Legal Problems of Pathological Alcohol Intoxication," *Medicine, Science, and the Law*, Vol. 9, 1969, pp. 94-98.
- [52] "Drink, Epilepsy, Murder, and Amnesia," *British Medical Journal*, Vol. 1, 27 Feb. 1960, pp. 656-657.
- [53] Caplan, L. and Hobson, J. A., "Addiction and Criminal Responsibility," *British Journal of Addiction*, Vol. 58, 1962, pp. 65-85.
- [54] Temm, P. B., "Alcohol and the Law," *New Zealand Medical Journal*, Vol. 79, 1974, pp. 607-611.
- [55] McGeorge, J., "Alcohol and Crime," *Medicine, Science, and the Law*, Vol. 3, 1963, pp. 27-48.
- [56] Roussel, J. M., "Alcohol—Its Medicolegal Aspects," *Union Medicale de Canada (Montreal)*, Vol. 87, 1958, pp. 286-289.
- [57] Beck, S. M. and Parker, G. E., "The Intoxicated Offender—A Problem of Responsibility," *Canadian Bar Journal*, Vol. 44, 1966, pp. 563-609; source of abstract: *Excerpta Criminologia*, Vol. 7, No. 1940, 1967.

- [58] Armstrong, J. D., "Responsibility and Addiction," *Canadian Psychiatric Association Journal*, Vol. 11, 1966, pp. 116-122.
- [59] Malkani, R. M., "Drunkenness," *Indian Journal of Medical Science*, Vol. 18, 1964, pp. 98-100.
- [60] Bennett, T. W., "Alcohol, Drugs, and the Criminal Law," *South African Law Journal*, Vol. 90, 1973, pp. 69-85.
- [61] Ribiero, A. L., "Medico-Legal Aspects of Alcoholic Intoxication," *Medico-legal Journal* (Cambridge), Vol. 31, 1963, pp. 95-99.
- [62] Pereira de Melo, L., "Intoxication and the Brazilian Penal Code," *Criminalia*, Vol. 7, 1951, pp. 217-218.
- [63] Konuma, J., "Some Topics on Forensic Psychiatric Studies in Offenses During Drunkenness," *Japanese Journal of Studies on Alcohol*, Vol. 4, 1969, pp. 6-20.
- [64] Pittman, D. J. and Vander Wal, H. J., "Alcoholism and Criminal Behavior: A Study of Stereotyping," *Nederlands Tijdschrift voor Criminologie*, Vol. 9, 1967, pp. 187-199; also as "Alcoholism and the Legal System in the Netherlands," *British Journal of Addiction*, Vol. 63, 1968, pp. 209-219.
- [65] Pionkowski, J., "Influence of Alcoholism in the Delinquency of Subjects with Mental Disorders," *Neurologia I Neurochirurgia Polska*, Vol. 15, 1965, pp. 875-879.
- [66] Salwa, W. and Chlipalaka, J., "Problems of Common Delinquency in Alcoholics as Evaluated in a Psychiatric Outpatient Department," *Przegląd Lekarski*, Vol. 26, 1970, pp. 607-612.
- [67] Uszkiewiczowa, L., "Remarks on the Projected Penal Code," *Neurologia I Neurochirurgia Polska*, Vol. 6, 1956, pp. 941-952.
- [68] Julius, D. and Bohacek, N., "The Alcoholic Psychoses in Forensic Psychiatry," *Neuropsychiatrija*, Vol. 1, 1953, pp. 21-26; source of abstract: *Zentralblatt fur die Gesamte Neurologie et Psychiatrie* (Berlin), Vol. 128, 1954, pp. 317-318.
- [69] Racz, G., "The Position of the Supreme Court on Abortive Pathological Alcoholism," *Alkohologia*, Vol. 1, 1970, pp. 36-38.
- [70] Angyal, L. and Szobor, A., "The Psychiatric Expert and the Legalisation of Alcohol Intoxication," *Orvosi Hetilap* (Budapest), Vol. 110, 1969, pp. 351-354.
- [71] Huszar, I. and Iranyi, C., "Problems Relating to Sex Offenses Committed Under the Influence of Alcohol," *Annales de Medicine Legale*, Vol. 46, 1966, pp. 255-261.
- [72] Knoblochova, J. and Nezkusil, J., "Legal-Psychiatric Expertise in Connection with Crimes Committed During Alcohol Intoxication," *Prakticky Lekar*, Vol. 36, 1956, pp. 522-525; source of abstract: *Zentralblatt fur die Gesamte Neurologie et Psychiatrie* (Berlin), Vol. 141, 1957, p. 381.
- [73] Stuchlik, S., "Significance of Pathological Intoxication in Forensic Psychiatry," *Ceskoslovenska Psychiatrie*, Vol. 66, 1970, pp. 289-292.
- [74] Beisenov, B. S., "The Problem of Establishing Responsibility for Offenses Perpetrated in a State of Drunkenness," *Voprosy ugovnogo Prava u Protsessa, Akad. Nank Kasahskoi SSR, Alma Ata*, Vol. 7, 1963, pp. 3-36.
- [75] Roshnov, V. E., "Alcoholism and Other Drug Addictions" in *Forensic Psychiatry*, G. U. Morozov and I. A. Kalashnik, Eds.; English translation, International Arts and Sciences Press, White Plains, N.Y., 1970, pp. 343-376.

Rutgers Medical School
 College of Medicine and Dentistry of New Jersey
 Piscataway, N.J. 08854