

BOOK REVIEW

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A Review of Lawyers, Psychiatrists, and Criminal Law

REFERENCE: Huckabee, H. M., *Lawyers, Psychiatrists, and Criminal Law*, Charles C Thomas, Springfield, IL, 1980, 203 pages.

The author has served the Tax Division of the United States Department of Justice for two decades as an advocate in cases involving the insanity defense. As a guide to the author's identification and orientation, the Goldfine case is presented in detail as an example of the successful use of lay evidence to contradict an initial finding based on psychiatric testimony offered to establish incompetency to stand trial in a federal court.

Huckabee is critical of the "battle of the experts" and sees psychiatrists as divided into two groups: One group is treatment-oriented, the "Determinists," and the second group, which he describes as "Objectivists," are believers in the concept of the "Free Will."

An initial chapter reviews the four current tests of criminal responsibility: the McNaghten rule, irresistible impulse, the Durham rule, and the American Law Institute's statements on critical appraisal. Dr. Huckabee presents the basic assumption in law that man is able to make a choice between the good and the evil. Quoting liberally from Diamond, Pollack, Zilborg, and Alan Stone and tempering his writings with those of Justice Warren Burger, Professor Roscoe Pound, and Judge Bazelon, the author asserts that psychiatrists have moved "beyond what is authorized by the legal framework." He defines the liberal psychiatrists who contribute to "determinism" as treatment-oriented and, in contrast, advocates the "free will" cornerstone of criminal law as both traditional and proper. He presents marked resistance to proposals to substitute mens rea for traditional tests of responsibility.

Huckabee is most unhappy with Dr. Bernard Diamond in the development of the diminished capacity defense; he calls it "an end run by determinists" and is further concerned that "Dr. Diamond is waiting in the wings for another major push by Determinists in an attempt to break the remnants of traditional criminal law."

While not prepared to "say that psychiatrists should be kept out of the courtroom," Huckabee is reluctant to take a position on whether psychiatry is really a science.

Huckabee stresses the need for standards and guidelines and proposes that psychiatrists be trained in legal concepts and the lawyer educated in psychiatric concepts. To this end he refers to the 1977 study of the Forensic Sciences Foundation, "Assessment of the Personnel of the Forensic Science Profession," as germinal in the rapprochement between psychiatry and the law and further refers to the current Forensic Sciences Foundation Study under Jonas Rappoport, "Utilization of Psychiatric and Psychological Assessments by Criminal Court

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Judges," as expedient. With the American Board of Forensic Psychiatry, he sees these studies as major steps in the "right" direction to bring objectivity to forensic psychiatry.

The major contribution of this brief volume centers on emphasizing the importance of the use of lay evidence. Huckabee correctly stresses the importance of a full history, that the full history be presented to the court as admissible evidence. He is in agreement that the psychiatrist have access to evidence concerning a defendant's function in all areas of his life as an essential basis for arriving at an opinion on mental responsibility.

The book is well written. The first chapter on the various aspects of criminal responsibility is terse and inadequate; the remaining chapters reflect a conservative attorney distressed by the orientation of the "Determinists" and expounding the objectivity of the proponents of "Free Will."