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Book Review

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portance" should be mentioned. Writers on ethics, if they are writing for the ordinary man, could be more effective by using more illustrations. Footnotes appear at the end of each chapter. Presumably, this is a publisher's gimmick to attract the ordinary reader. A book with footnotes will probably be read by a scholar or a well-informed layman, and they want the footnotes where they belong—on the same page. Finally, the index is the weakest feature of the book; it consists entirely of proper names.

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*Reviewed by Irwin N. Perr**

CRIMINAL PSYCHOLOGY, edited by Richard W. Nice. Published by Philosophical Library, New York, N. Y., 284 pp., 1962.

This book arouses many of my prejudices—not only against some of the opinions expressed but also against the very structure of the book. Firstly, the book is entitled "Criminal Psychology." Rather than being a discussion of the psychology of criminals, it deals more specifically with the interrelationships of psychiatry and the law and some of the problems of penology. Certainly the semantic swamp is likely to entrap some readers. The book muddies the distinction between psychiatry and other professions, an effort not unique to this book. Psychiatry is that branch of medicine dealing with mental disorders and encompasses medical, neurologic, biochemical, psychologic, sociologic, hereditary and other factors. Psychiatry has also been called medical psychology and, indeed, in the past the American Psychiatric Association was known as the American Medico-Psychological Association. Today the corresponding English group of psychiatrists publishes its journal of "medical psychology." Medical psychology or psychological medicine thus is a part of medicine, not a part of the vastly different professional entity called psychology. Literally, for centuries, psychiatrists have been entrusted with the treatment of patients, with accompanying responsibility under the various medical practice acts, and have acted as experts when medical issues involving mental status have arisen. The

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psychologist cannot diagnose, treat or prescribe, he does not have a medical training or education and is thus a member of a separate profession, both by training and attitude. If psychiatry covers a vast area, so too does psychology. It is where the two professions overlap to some degree that friction, smoke and confusion have resulted. I make these remarks because this book deals primarily with psychiatric problems and includes many areas not particularly in the area of professional competence of the psychologist.

I have another criticism to level against this book. When I read a symposium, I appreciate having each contributor clearly identified as to his professional background. In the first book by Mr. Nice (*Crime and Insanity*, reviewed in the 8 *Cleveland-Marshall Law Review* 574 [1959]), the editor himself was not identified even though many contributors were. We now find that Mr. Nice is a psychologist with an M. S. degree who is on the staff of the New Jersey State Reformatory at Bordentown, New Jersey. Of the eight other contributors, five are psychiatrists, two are lawyers, and one is a social worker. One of the attorneys is David W. Louisell, Professor of Law at the University of California whose article deals with the legal status of the psychologist and the problems of legal recognition of his expertise. Especially in matters of testing (e.g.—measurement of intellectual capacity), the psychologist has a merited claim as an expert. However, problems may easily arise when the psychologist attempts to enter into more clearcut areas of medicine, mental or otherwise, and the lack of medical background becomes crucial.

There is no better example of this than the following excerpts from pages 1 and 2 of the book, written by the editor, Mr. Nice.

All disease, whether mental or physical, is regarded as the result of the interplay between the individual and his environment. Thus, the personality make-up of the individual will frequently determine his somatic response to disease. For example, although the germ causing typhoid or infantile paralysis is present the disease may not necessarily develop. Other factors will influence the result, the physical resistance of the body, whether the individual is otherwise healthy, whether he is well-adjusted, whether he seeks to escape from emotional difficulty by falling ill.

Now I am not sure whether or not the question of being well-adjusted will determine the course of typhoid fever or

whether dead nerve cells in the spinal cord in poliomyelitis will be affected by one's state of adjustment. In the case of polio, emotional attitude may be most important in rehabilitation. But, these certainly are ill-chosen examples of the vaguely defined area called psychosomatic medicine, but perhaps they are not so far from the orientation needed for faith healing.

On page 2, one finds another example of the type of medical theory expounded by non-medical people who, with a grain of truth, harvest some peculiar crops:

A feeling of disgust may lead to nausea and vomiting. The peristaltic movements of the intestines are reversed in direction and this is accompanied by congestion of the blood vessels supplying the intestines and stomach. With frequent repetition, the lining of the intestines and stomach becomes irritated and ulcerated. These anatomical changes may be temporary at first, but if the stress continues, they will become permanent.

Now exactly what this all means, I do not know.

In his short introduction, Mr. Nice then discusses one particular psychoanalytic theory as to the genesis of criminal acts; this certainly is appropriate to a book such as this.

Dr. Henry Davidson, a well-known forensic psychiatrist and author, covers a vast amount of basic psychiatric material, written simply and with clear understanding of the legal issues. This article, "The Psychiatrist's Role in the Administration of Criminal Justice," was printed originally in the Rutgers Law Review and is extremely useful from the standpoint of the lawyer. The distinction between disorders of thought and feeling (or more traditional mental illnesses) and disorders of will and character (which may reflect in delinquent or criminal behaviour) is explored; Dr. Davidson feels that this separation which corresponds with the legal disposition of the above groups is useful and should be maintained. He discusses broadly various psychiatric entities and the legal significance to be attached to each, especially in the area of mental responsibility. One interesting case discussed is the famous Albert Fish murder case in New York in 1934. "Albert Fish was insane. He would perpetrate sexual assaults and kill little children after a sexual orgy. He said he would cook their flesh with carrots, onions and strips of bacon and eat it. He derived an orgiastic joy out of inflicting pain." Fish was declared to be mentally responsible; Davidson explains why this was a

logical and socially desirable result. Many, of course, will disagree.

Mr. Nice, in his chapter, "Insanity as a Defense to a Criminal Act," reviews some of the background of the famed Durham case which was the first change in the almost universally held M'Naghten rule since New Hampshire in the 1870's. In addition, a sketch of the many elements involved in criminal responsibility is presented—the development of the rule in the District of Columbia, the story of Monte Durham, opinions of various legal and medical bodies. Nice is especially shaky in his presentation of psychiatric material.

For instance, consider the following:

There are several groupings which can, for convenience, be used in order to classify the mentally ill; they are:

1. The mentally defective
2. Psychopathic personality
3. The psychoneurotic or neurotic
4. The psychotic.

The expression "mentally ill" is often used to refer to the psychotic or the severely ill in need of treatment, particularly hospital treatment. The expression "emotionally ill" is sometimes used for lesser disorders. Another problem is the place of behavior disorders which are not ordinarily classified, for many purposes, as mental illness. Official psychiatric nomenclature handles the problem by including all as "mental disorders." Personality disorders and character deviations of many types other than the psychopath, as well as the transient adjustment reactions are other entities described by psychiatrists. A second point is that the psychopath is increasingly becoming known by other names: in the official diagnostic manuals, the term, "anti-social personality" is now used.

Nice states, "Individuals of average intelligence who are neither psychotic nor neurotic but yet are social misfits and borderline cases are thus called psychopathic personalities or constitutional psychopathic inferiors. It is a general classification which includes pathological liars, sexual perverts, tramps, misanthropes, eccentric and amoral individuals, all to different degrees in need of treatment." This is simply not so. There are a vast number of other disorders which reflect the types included in the definition and classification above. Most sexual perverts or eccentrics are not psychopaths. Many eccentrics or

tramps represent borderline schizophrenic states, a vastly different situation. Today, sexual perverts are classified under "sexual deviation," with one type of deviation listed—i.e., sexual deviation, homosexual. Regardless of their social undesirability, most homosexuals are not antisocial personalities, the term used to cover the psychopaths of today.

The clinical discussion presented is replete with inaccuracies. At the very least, it is not an adequate reflection of modern-day psychiatry. In one place, reference is made to "functional or constitutional psychoses." These are not synonymous or equivalent terms. The numerous questionable statements can only suggest to one seriously interested in this subject that he seeks his information elsewhere. Perhaps, psychiatry would best be left to the psychiatrists!

David Louisell then proceeds to discuss the legal status of the psychologist. This is an interesting chapter and would be of especial interest to psychologists. In comparing this to the previous chapter, one would certainly raise the point of necessity of clarifying the area of expertness of the psychologist. Clearly, the psychologist cannot qualify as an expert in the field of psychiatry with its medical orientation and legal responsibility for the treatment of the mentally ill.

Manfred S. Guttmacher, one of the leading forensic psychiatrists in the United States and co-author of "Psychiatry and the Law," discusses "The Psychiatric Approach to Crime and Correction." There is an interesting discussion of free will versus determinism, concepts of the highest import in the consideration of responsibility. In psychiatry, the orientation is primarily deterministic. Recognizing this, Guttmacher states:

It is surely scientifically unsound to hold that men must be divided into two distinct categories, the responsible and the irresponsible. There must be degrees of responsibility. Yet, as residents of the world of reality, we have to admit that the vast majority of men must be held responsible for their behavior. Even if certain philosophers conclude that man has no freedom of choice, such a construct must be established for practical living, just as the concept that all men are created equal must become an axiom of democratic societies.

He reports also that from a variety of psychiatric sources of varying views, there is a consensus that eighty per cent of criminals are not psychiatrically abnormal. The lawyer will find

the breakdown of criminals into (1) the normal criminal (or dyssocial personality making up to 75 to 80% of criminals), (2) the accidental or occasional criminal, (3) the organically or constitutionally predisposed criminal, (4) the psychopathic or sociopathic criminal (perhaps 10 to 15%), and (5) the psychotic criminal (1 to 2%). Each type lends itself to a different type of handling by society, and various suggestions are presented.

Joost A. Meerloo, a psychiatrist and psychoanalyst, then presents a highly philosophical article on "Justice as a Psychological Problem."

Henry Weihofen, Professor of Law at the University of New Mexico, an authority on psychiatry and the law, and co-author with Dr. Guttmacher of the book mentioned above, presents an interesting and succinct presentation on "The Definition of Mental Illness." He points out that in any legal situation involving insanity or incompetence, the questions to be answered are these—

- (1) Was the person mentally ill?
- (2) if so, was the illness such as to satisfy the legal criterion or test?

The first is almost always left by the law to be decided as a matter of psychiatric fact or theory. Even if the psychiatrists are not as clearcut or unanimous in their answers as lawyers may like, "it is probably unsound for the law to try to clear up the difficulty by legal fiat." He reports that one legislature undertook to enact that the value of pi should henceforth be 3.1416 and points out that scientific problems that are inherently difficult will not be rendered clear by legislative action. On the other hand, question two above, that referring to the proper "test" or legal criterion, is primarily a policy judgment to be established through legal procedure. He feels that experts can be of help in helping the law formulate the criteria.

Dr. Merrill Eaton discusses problems of treatment for the criminal. This article would be of interest to the lawyer who, representing one polar view, believes that all problems will be solved by mandatory referrals to psychiatrists or others engaged in "treating" criminals. He points out what may reasonably be expected. A pertinent point is raised—namely, that forensic psychiatry might be less concerned with its historical interest,

"Is he responsible?" and more concerned with this relevant question, "Can he be cured?"

Robert E. Stephens, a social worker, writes on the "Treatment of Offenders: the Family Influence," in which a "plug" is made for the social worker as the therapist for offenders. This article is informative in that it is the social worker or one in a related but less structured field who often is the one who must deal with and attempt to help the offender. Certainly any help that can be given by psychiatrists, psychologists, or social workers in the rehabilitation or treatment or whatever-you-want-to-call-it of offenders would be appreciated, especially in view of the fact that for practical purposes, in most areas such services are almost non-existent. Yet, the conflicts of different groups are reflected. "In the classical clinical team there is no question that the psychiatrist carries ultimate medico-legal responsibility for the final decisions and recommendations emanating from the treatment process. This is not to say that a medical degree, with specialization in mental disorders or emotional disorders, makes the psychiatrist omniscient." The guidance of offenders and probation work call for development of a professional group equipped to handle these particular problems; in this area, a variety of other professional groups may, each in his own area of competence, be of assistance.

The last chapter, "The Future of Court Psychiatry," by Dr. William Haines of the Behavior Clinic of the Criminal Court of Cook County, is misleading in that it is primarily a description of the past and current practices at a particular clinic in Illinois. Some of the problems involved in the evaluation of "responsibility" are presented.

All in all, the book is of interest to those who like to read about this subject. The reader who knows little of this subject will be confused or misinformed in places. Certain articles are of great interest. The attorney who is interested in the subject may well find the book by Guttmacher and Weihofen, even though it is of some vintage (1952) both medically and legally, the best written, most interesting and useful exposition of the subject.