

BY REASON OF INSANITY. ESSAYS ON PSYCHIATRY AND THE LAW.
 Edited by Lawrence Zelic Freedman. Wilmington, DE: Scholarly Resources,
 1983

Reviewed by George Freeman Solomon, MD
 San Francisco

This anthology is in two parts, "Criminal Responsibility and Psychiatry" and "Criminal Responsibility and Social Reaction." The first section is very dated, beginning with the GAP Report on Criminal Responsibility and Psychiatric Expert Testimony of 1954 and containing articles previously published in books of the 1950s and 1960s along with some journal articles of similar vintage. The distinguished Lawrence Freedman, Chairman of the Institute of Social and Behavioral Pathology and Foundations' Fund Research Professor of Psychiatry of the University of Chicago, is author or coauthor of eight of the ten chapters in this section. His writing tends to be stylistically heavy, not always substantive, and at times even naive and simplistic conceptually (particularly in the chapter, "Psychoanalysis, Delinquency and the Law"). In discussing problems in communication between the professions of the law and of psychiatry, he and Harold Lasswell praise the now-discredited Durham decision as "a landmark. . . in making it evident that the appropriate language of the physician is that of his own profession and in illuminating synonyms in ordinary speech" — clearly not anticipating (in fairness, along with many capable others) the horrific difficulties with the words "product" and "mental illness" in that ill-fated decision.

The second section is far better. It comprises previously unpublished papers delivered at a 1979 conference held in Chicago, "Psychiatry and the Law: Reaching for a Consensus." Jacques Quen's chapter on the current relevance of the history of psychiatry and the law is masterful, taking off from the last words of Jesus as recorded in *Luke 23:34*, "Forgive them, Father, for they know not what they do." He states that the seemingly insoluble problem of the insanity defense may exist because "the insane may require, for purposes of justice, a body of law specifically designed for their unique situation, needs, and vulnerabilities in our society" — analogous to maritime law with its own due processes for unique problems of life at sea.

George Anastaplo's "old fashioned approach" pleas for a return to a consideration of nature's place in the life of a community, as seeing man as both influenced by outside stimuli and as having some autonomy — human and communal. Norval Morris warns against confusing the questions of triability, responsibility, punishability, and treatability. He feels that "caging" should not be the result of any mixture of the mental health (*parens patriae*) and criminal law powers of the state. William Carroll, a psychologist and a lawyer, presents a cogent discussion of constitutional issues in any abolition of the insanity defense, pointing out the principle that a procedure violates due process if "it offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental."

Books Reviewed

Alan Stone makes his controversial argument for eliminating civil commitment under police powers, feeling that dangerous people should be treated in prisons (presumably subsuming danger to self under *parens patriae*). I wish a formal rebuttal position paper to Stone's had been included. Somewhat sadly, the book closes with the pessimistic outlook of the sociologist Simon Dinitz, who points out the failures of the liberal-reformist movement in corrections and the unlikelihood of success of traditional approaches with the "new. . . underclass of unmeltables," and who offers no suggestions.

Reviewing a book of varied, unintegrated (and in this case often dated) contributions is difficult. A slim volume of proceedings of the 1979 Chicago conference would have been worthwhile; the other now-historical contributions could have remained in the original sources. □

THE INSANITY PLEA. By William J. Winslade, JD, PhD, and Judith Wilson Ross. New York: Charles Scribner's Sons, 1983, 226 Pp., \$15.95.

Reviewed by Melvin Goldzband, MD

These are the times that try *mens rea*. The insanity defense has become one of the most popular targets of the day. Doubts have even arisen in many outstanding legal scholars and forensic psychiatrists who might have been expected to be defenders of the faith. I shall not provide examples of those who argue just as thoughtfully and in a very scholarly manner that the insanity defense remains an invaluable aspect of the criminal law in this country, as it has been determined to be elsewhere. Instead, I shall merely point out that Winslade has pitched his tent firmly in the camp of detractors. How much real aid he will provide them, however, is a point yet to be determined.

The impression is gained that Winslade did not set out to write a scholarly tome. What he has accomplished appears more representative of a populist tract, a work that appeals to a mass market of individuals who already probably feel that the insanity defense represents an abuse and that psychiatrists in American courts are a heinous presence. In brief, it is not a detached or dispassionate view. The subtitle, "The Uses and Abuses of the Insanity Defense" gives the author's hand away, as do the jacket blurbs by such notables as Ashley Montagu ("Murder is murder, and against that there can be no defense. . .") and the author's associate at UCLA, Norman Cousins.

In his discussion of the seven cases, the most celebrated of which is *Hinckley*, Winslade demonstrates considerable literary facility in handling the backgrounds of the individuals involved, as well as laying out the drama of the courtroom scenes. It is an interesting book to read. Winslade has read and studied his Norman Mailer well.

As a lay analyst, he also has demonstrated a capacity to look beneath some of the apparent and superficial facets presented by the individuals, and to ask some