

mental responsibility and one verdict which determines criminal liability. It allows that there are degrees of abnormality of mind, and degrees of mental responsibility, and that the more abnormal the less responsible. Finally, the terms found by the trial judge in *R. v. Walden* (1959) to express the matter before the jury, "... Well, really it may be he is not insane but he is on the borderline, poor fellow. He is not really fully responsible for what he has done ...", discourages the suggestion that either abnormality of mind or mental responsibility, or the relationship between them, can be quantified.

The states of mind which are crucial to the verdict are thought to be determinable by the common sense judgement and worldly experience of jurors. Whatever role the forensic psychiatrist plays, the only issue that is reserved to him as expert witness is the 'aetiology of the abnormality'. Whether the defendant exhibits abnormality of mind, and in particular the extent to which he exhibits abnormality of mind, is a question which the jury alone may decide. So heavy is this burden that juries do not often have to shoulder it. Susanne Dell (1982), in her analysis of how section 2 works in practice, points out:

"... how rare jury trial is in such cases: 80 per cent are dealt with by guilt pleas. When the prosecution does challenge the defence, the defence is quite likely to fail: of 28 cases where this happened 18 (64 per cent) resulted in murder convictions."

The expert witness should always remind the court as to the limitations of his expertise, heeding Dell's cautionary note:

"... although the presence or absence of mental responsibility is not a medical matter, doctors grapple with it; and in half the cases where they disagreed with each other on the issue of diminished responsibility, it was on the moral and not the psychiatric aspects of the case that they disagreed."

Dr Green doubts whether the process is a 'just' one. Depending on the circumstances, the killing of a human being may produce reactions ranging from applause to abhorrence and a desire for revenge. In times of peace the legal system is responsible for establishing the correct response within rules laid down by the parliaments. The essential structure of English law concerning unlawful killing is formed by the idea that personal responsibility can be diminished because of the psychological abnormality of the offender and consequently a verdict different from murder ought to be available to mark this special status. It is easy to be critical of the present formulation of the law. In cases where a plea of diminished responsibility is raised, the character of the defendant always poses difficulties yet the courts are required to come to decisions in particular cases within a short space of time. By means of a three

stage process involving mental abnormality, mental responsibility and criminal liability, it is possible that the optimal balance has been arrived at.

As for forensic psychiatrists, provided that they avoid words which they do not understand, they should be able to make sense most of the time and assist the court occasionally.

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Reference

DELL, S. (1982) Diminished responsibility reconsidered. *CLR*, pp. 809-18

Psychotherapy Register

DEAR SIRS

I am writing in response to the information submitted by Michael Pokorny, Chairman of the United Kingdom Standing Conference for Psychotherapy (*Psychiatric Bulletin*, August 1992, 16, 483-484). In discussing the UKSCP plan to have a Registration Board, he writes: "There is provision for an extra seat for the British Psycho-Analytical Society." I think this information might be misleading for the Membership.

In fact, the British Psycho-Analytical Society withdrew its membership from the UKSCP as it felt that, unless there was a governing body of senior established organisations in overall charge, then satisfactory monitoring of registration could not be achieved. As their proposal was not acceptable, the Council of the British Psycho-Analytical Society decided to withdraw the Society from the conference. Their view was further endorsed at a General Meeting of the Society. It should also be noted that the APP (Association for Psycho-Analytic Psychotherapy in the National Health Service) also withdrew from membership of the UKSCP for similar reasons.

I felt that the Membership of the Royal College of Psychiatrists should be aware of this.

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Reply

DEAR SIRS

I am grateful to Richard Lucas for adding to my article in the August *Psychiatric Bulletin*. He is quite