

Psychiatric Law Challenged

The administration of justice is complicated and sometimes hindered when the court turns over some of its obligations to psychiatrists—By Patricia McBroom

► **PSYCHIATRISTS** in the courtroom have complicated the administration of justice without solving any problems, a California psychiatrist and law lecturer said.

Once psychiatry became an established discipline, said Dr. John M. Suarez, professor of psychiatry and lecturer at the School of Law, University of California at Los Angeles, the legal system "gradually and subtly" unburdened itself of some of its responsibilities and placed them on the lap of psychiatry.

Particularly dangerous, said Dr. Suarez at the American Psychiatric Association's annual meeting in Atlantic City, N.J., is the court practice of asking psychiatrists to make final decisions about a defendant's competence or responsibility.

He noted that in one case, the court asked a psychiatrist to decide whether or not a defendant was a "sexually dangerous person" under state statute. The psychiatrist was unfamiliar with legal precedent in the case, and only vaguely familiar with the statute, Dr. Suarez said. The court had shifted its responsibility and made the psychiatrist both judge and jury.

A defendant may get the short end of justice, said Dr. Suarez. He said that he knows of many people who have spent decades in mental institutions for minor crimes because a testi-

fying psychiatrist judged them "incompetent."

As long as these practices prevail, Dr. Suarez said, psychiatrists will be "prevented from making their proper contribution (to law), whatever that may be."

This "proper contribution" was described by Dr. Peter W. Bowman, superintendent of the Pineland Hospital and Training Center, Pownal, Maine, and his legal colleague, Courtland D. Perry, assistant attorney general of Maine. They proposed that courts use psychiatric opinion in sentencing, but not in determining guilt.

Juries would simply decide whether or not a person was guilty of a crime—their normal and traditional responsibility. Then the judge could, if he felt the case warranted it, refer the defendant to a "diagnostic and treatment center." Psychiatrists there would analyze the convicted individual and recommend treatment to the judge. In such a system, judges would decide between punishment and treatment, not juries acting under the influence of often conflicting psychiatric opinion.

In addition the two men recommended reacceptance of the old M'Naghten rule now considered archaic by most scientific communities. The rule, established in 1870, allows a defendant to be acquitted of a

crime if it can be proved that he does not know the difference between right and wrong.

Juries can make this simple distinction and can pick out obvious psychotics, said Dr. Bowman. They are not qualified to make the many subtle and complicated decisions about mental illness now required of them.

In an attempt to be liberal, said Dr. Bowman, the State of Maine threw out the M'Naghten rule and brought in the Durham rule. Ironically this has only acted to make matters worse, he said.

The Durham rule so broadens the legal definition of insanity, it not only requires juries to make psychiatric decisions, but it can work to condemn defendants to institutions for life. Once the jury decides a person should be acquitted by "reason of mental illness" he is forthwith placed in an institution and he stays there until someone is willing to guarantee to the state that he is no longer a "dangerous person," Dr. Bowman said.

"I can't make that guarantee for anyone," he said.

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PSYCHIATRY

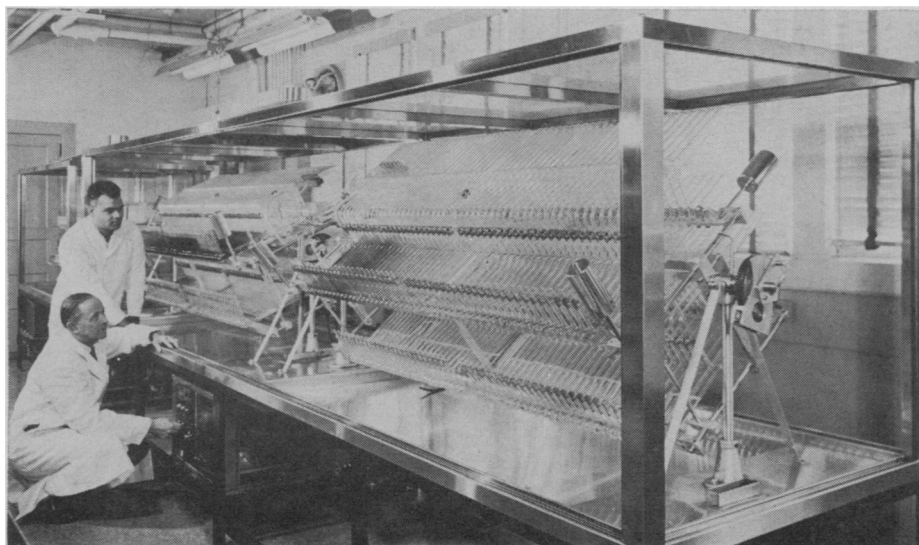
Closed-Circuit TV Used In Hospital Psychiatry

► **FOR 30 MINUTES** a day, five days a week, a psychiatrist appears on television to advise, educate, calm and correct hospital aides working in mental wards. Once a month he travels 120 miles for a meeting with his staff and patients, the only time he ever sees them.

Closed-circuit television was cited as one radical solution to the manpower shortage that exists in some state mental hospitals.

Drs. Emmet M. Kenney of the University of Nebraska School of Medicine, Omaha, and Robert Osborne, clinical director of the Norfolk State Hospital in Nebraska, told psychiatrists at the annual American Psychiatric Association meeting that the staffing situation at Norfolk Hospital had become so serious that there were only four psychiatrists and two general practitioners in the entire 1,000-bed facility. Although the hospital had 12 nurses, only five worked directly with patients.

Since the 100-bed Nebraska School of Medicine in Omaha, only 120 miles away, was amply staffed, the doctors



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