

# Mental Disease and Criminal Responsibility: II

Joseph T. Tinnelly, C.M.

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Criminal Law Commons](#)

---

### Recommended Citation

Joseph T. Tinnelly, C.M. (2016) "Mental Disease and Criminal Responsibility: II," *The Catholic Lawyer*: Vol. 5 : No. 1 , Article 2.  
Available at: <https://scholarship.law.stjohns.edu/tcl/vol5/iss1/2>

This Symposium Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in *The Catholic Lawyer* by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [lasalar@stjohns.edu](mailto:lasalar@stjohns.edu).

# MENTAL DISEASE AND CRIMINAL RESPONSIBILITY: II

Part I of the symposium on *Mental Disease and Criminal Responsibility* which appeared in the Autumn 1958 issue of THE CATHOLIC LAWYER began with a survey article, prepared by the St. Thomas More Institute for Legal Research, which set forth the present and proposed rules on insanity as a legal defense. The second article dealt with the traditional *M'Naghten* rule from the point of view of a trial judge. Finally, a psychiatrist discussed the traditional rule from the point of view of scholastic philosophy and suggested some modification in the light of modern advances in the field of psychotherapy.

Part II of the symposium, which is presented in this issue, contains articles by Oliver Gasch, United States Attorney for the District of Columbia, and Hugh McGee, member of the District of Columbia Bar. These two articles outline the problems that face the prosecuting attorney and the defense attorney who operate under the "product" rule which prevails in the District of Columbia. In essence, the "product" rule states simply that "an accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect."<sup>1</sup> The concluding article is a summary of the principal points established in Part I and Part II of the symposium, plus basic recommendations. It is written by Father S. Oley Cutler, S.J., who is a member of the Governor's Commission reporting to the New York State Legislature on the defense of insanity in criminal law.

The interest which the appearance of the symposium created has far exceeded the Editors' expectations. Many favorable comments have been received and at least two national magazines are preparing articles on the subject with the assistance of several of the contributors to the symposium. In view of this widespread interest the Editors are happy to announce that while the supply lasts copies of the issue con-

---

<sup>1</sup> *Durham v. United States*, 214 F.2d 862, 874-75 (D.C.Cir. 1954).

taining Part I of the symposium will be made available, at request and without additional charge, with new subscriptions which commence with the Winter 1959 issue.

The Editors hope that the conclusion of the formal articles will not mark the end of the discussion. The last word has not been said. Eminent judges, competent attorneys, and qualified scholars must continue to assist Congress and the state legislatures in enacting a statutory definition of insanity as a defense which will protect the rights of society as well as those of the accused. Bar associations and Catholic lawyers' guilds might well devote a meeting to a discussion of the practical problems involved in the formulation of a satisfactory rule concerning insanity as a legal defense. The pages of *THE CATHOLIC LAWYER* will be open to our readers on this subject and their comments and suggestions are earnestly solicited.

*Joseph J. Tinnelly, c.m.*

EDITOR