Divorce: Upon divorce of the parties, the court may make such orders as are just for alimony, child support and a property settlement.[139]

Transfer and Succession: Intestate succession law provides that the entire estate of a deceased spouse shall go to the surviving spouse if there is no issue, and if there is issue, one-half passes to the surviving spouse and one-half to the children and their issue per stirpes.[140]

Except homestead rights and obligations for support, neither spouse has any inter vivos interest in the property of the other.[141] There is no common property unless co-tenancy is elected by the husband and wife. A surviving spouse may elect to take one-half of the property which was owned by the deceased spouse at time of death against the deceased's will, but a non-testamentary gift made by the deceased spouse having the effect of avoiding the right of election is not a fraud.[142] A surviving spouse is entitled to a support allowance of $7,500 (still usually referred to as a widow's allowance).[143]

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139 COLO. REV. STAT. ANN. § 46-1-5 (1966).
140 *Id.* § 153-2-1.
141 Dower and Curtesy are abolished. COLO. REV. STAT. ANN. § 153-2-1 (1966).
142 Thuet v. Thuet, 128 Colo. 54, 260 P.2d 604 (1953).
143 Raised from $3,500 in 1969. COLO. REV. STAT. ANN. § 153-12-15 (1966) (as amended).

THE INSANITY DEFENSE AND THE JUROR

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One of the most disputed issues in legal history is the insanity defense. Basically such a defense is not a question of guilt per se but rather a question of legal responsibility for a crime. During an insanity trial, there is rarely any doubt that the defendant committed the crime for which he stands accused; *i.e.*, sufficient evidence is usually present to show a direct causal relationship between the defendant's conduct and the resultant harm that was inflicted. However, the issue to be resolved is whether or not mens rea was present; *i.e.*, whether the defendant willfully intended to commit the crime. It is mens rea which is challenged by the insanity defense. "The decision as to the defendant's responsibility or lack of it rests with a jury. If the jury believes the defendant was responsible for his behavior at the time he committed the acts, it will find him guilty. If it believes he was not, it will acquit him on the grounds of insanity."[1]

Little is given in the way of guidance to help the jury decide the insanity issue. Instructions to the jury often refer to the presumption of sanity. "Jurors are told it is a matter of common sense to assume men are sane unless evidence is introduced to provide they are not . . . . The underlying assumption is that if errors are to be made about who is sane and who is not, they should be made in favor of sanity and that by doing so the principles of deterrence and retribution are reinforced as often as reasonably possible."[2] Psychiatrists, acting as expert witnesses, are retained by both the defense and prosecution to testify upon the mental condition of the defendant. Frequently, however, such testimony does not help the jury since the psychiatrists cannot assume the burden of deciding directly whether or not the defendant was insane at the time of the crime—insanity being a legal concept with no direct medical equivalency. The typical procedure in trials involving such testimony is for the judge to instruct the jurors that they are not bound to accept the testimony of expert witnesses.[3] Hence the jury is left to its own devices to decide the ultimate issue of insanity. Considering the ambiguity of the law, the complex and technical nature of the expert testimony, and the instruction to presume sanity, the only "clear" and seemingly "simple" aspect that the jurors have in common while deciding the

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1 R. SIMON & W. SHACKELFORD, DEFENSE OF INSANITY: SURVEY OF LEGAL AND PSYCHIATRIC OPINION 463-64 (1968).

2 A. GOLDSTEIN, THE INSANITY DEFENSE 115 (1967).

3 R. SIMON & W. SHACKELFORD, DEFENSE OF INSANITY: SURVEY OF LEGAL AND PSYCHIATRIC OPINION (1968).

issue of insanity is their individual attitude developed from popular culture toward crime and insanity. This study will show the relationship between the juror's orientation toward the concept of insanity and its effect on his decision during an insanity trial.

The data used in this study was collected by self-administered questionnaires. Five hundred respondents were chosen at random from the greater New York area having been summoned to be registered as prospective jurors in the criminal courts of the City of New York—namely, Queens, Brooklyn, and Manhattan. Of the 500 questionnaires, 450 were usable.

The data was analyzed systematically. The Chi-square test was used in the analysis to determine whether the different relationships between the variables were significant or not.

I. Review of Literature

For over one hundred years, the insanity defense has been one of the most controversial issues in criminal law. The battle has been represented by two opposing forces; criminal law versus psychiatry. The basic conflict has centered around whether or not the defendant is permitted to disclaim legal responsibility for his alleged crime. This conflict is further enhanced by negative attitudes as well as distortions and stereotypes perpetuated by such agents as mass media. In the United States, the M'Naghten, Irresistible Impulse, Durham and various amended versions of the Model Penal Code are the milieu by which insanity is determined and measured. The problems inherent in applying the M'Naghten rules in court are essentially the same problems that will arise when applying the Irresistible Impulse, Durham, or Model Penal Code although there are slight differences in their content.

From the very beginning, the M'Naghten rules, and subsequently any other laws dealing with the insanity defense, have come under constant and bitter attack because many believe that the verdict of not guilty by reason of insanity is simply a way of escaping one's just punishment. The M'Naghten rules demand that one be acutely aware of the fact that "the legal and the medical ideas of insanity are essentially different and a person is not excused from criminal responsibility and liability on grounds of insanity except upon proof that at the time of committing the alleged criminal act, he was laboring under such a defect of reason as to: a) not know the nature and quality of his act, b) not know that his act was wrong."[4]

Many authorities agree that the laws pertaining to the use of the insanity defense require the court and jury to rely upon what is, scientifically speaking, inadequate and often invalid and irrelevant testimony in determining criminal responsibility.[5] The insanity defense is a question of legal responsibility for a given crime. The theory being questioned is the presence of mens rea—the intent to commit the crime.

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[4] J. Biggs, The Guilty Mind 116 (1955).
[5] A. Goldstein, The Insanity Defense (1967).

The jurors are faced with the task of deciding a man's fate based on whether or not he is insane. Jurors are given relatively little instruction other than to assume that the defendant is sane unless proven otherwise. "In a criminal trial, it is insanity which must be proved, not sanity. It is a fundamental assumption in law that every man is deemed sane until his insanity has been established."[6] Psychiatrists, who have been retained as expert witnesses, have been known to give conflicting testimony thus completely confusing the jurors who are laymen. Such testimony does not help to clarify the task for the juror who must ultimately decide upon the mental condition of the defendant at the time of the crime.

However, many researchers have studied the problem of the insanity defense (Glueck, 1962; Guttmacher, 1959; Macdonald, 1969; Overholser, 1953; Rocho, 1958; Rubin, 1965; Szasz, 1965; Weihofen, 1957), but none of them have covered the particular aspect of the problem incorporated in this study.

II. Methods and Procedures

Due to the ambiguity of the law, there is a lack of agreement on a concrete definition that could be applied in virtually all cases when insanity pleas are the issue. This research studies those cultural biases that influence the attitudes of jurors toward making a decision when an insanity plea has been entered.

The purpose of this study is to measure the relationship between culturally biased jurors and their attitudes toward insanity as a defense. The juror's attitudinal bias includes their attitude toward the use of psychiatry, the relationship between criminal activity and responsibility for the action, decision as to the severity of two possible dispositions—psychiatric hospital or penitentiary—the relationship between insanity and expected behavior, use of insanity as a defense, who should assume the responsibility for making a final verdict in a plea of insanity—jury of laymen or a panel of specialists—and the relationship between certain background variables such as educational level, occupational category, and prior experience as a juror and their attitude toward psychiatry. It is the objective of the researchers to find those factors that would influence the juror's attitude toward insanity and its effect on his decision in an insanity case at trial.

The sample was chosen at random from a population of jurors from the Queens, Brooklyn, and Manhattan Criminal Courts. Being prospective jurors, the sample had to meet the requirements set by the criminal courts. Of this sample, 61 percent were males and 39 percent were females. As for the age, 54.4 percent were in the age group 20-39, 37.1 percent in the age group 40-59, 4.9 percent in the age group 60-65, and 3.6 percent were over 65 years of age. The educational pattern shows that 8.7 percent had a grade school education, 44.2 percent a high school education, 31.5 percent a college education, and 15.6

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6 J. Goodman, Insanity and the Criminal 252 (1923).

percent had reached the graduate school level. The income distribution shows that 63.8 percent earned less than $10,000 annually, 32.4 percent earned between $10,000 and $20,000 annually, and 3.8 percent earned over $20,000 annually. The occupational categories show that 24.7 percent were professionals, 24.4 percent were white collar workers, 17.1 percent were blue collar workers, 16.9 percent were unskilled workers, and 16.9 percent had no occupation. Of this sample, 20 percent had prior experience as a juror while 80 percent had never served on a jury before.

The questionnaire was divided into four parts. Part I consisted of six questions which covered age, income, sex, education, occupation, and prior experience as a juror. Part II consisted of questions relating to one's attitude towards psychiatry. Part III pertained to attitude toward criminal behavior, severity of penalties, and rehabilitation through psychiatry. Part IV pertained to the description of the nature of insanity as perceived by the juror and who should be responsible for the decision of insanity.

The Chi-square test was used for the analysis since the data is a frequency count placing it on the nominal scale. To facilitate comparisons, percentages were used for descriptive purposes. The results were interpreted in the light of the existing problems in applying the present laws in rendering a decision of insanity.

III. Statistical Analysis

The sample of 450 respondents was asked, on Part II of the questionnaire, to respond to certain questions regarding the field of psychiatry in general and the use of psychiatry as a method of treatment. This resulted in dividing the sample into two groups: a) those with favorable attitudes toward psychiatry (N=300), and b) those with unfavorable attitudes toward psychiatry (N=150). A number of relationships were then investigated using the respondents' attitudes toward psychiatry as the main focal point for comparison.

Table I

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY EDUCATION LEVEL

	Attitude Toward Psychiatry		
Educational Level	Favorable	Unfavorable	Total
grade school	4.67%	17.33%	N= 40
high school	41.00%	52.67%	N=202
college	37.00%	22.67%	N=145
graduate school	17.33%	7.33%	N= 63
Total	100.00%	100.00%	N=450
	(N=300)	(N=150)	
	X^2=34.79	$p < .001$	

Table I shows the difference between the educational levels and the attitudes toward psychiatry. Of the 300 respondents who were favorable toward psychiatry, 4.67 percent were of the grade school level, 41 percent of high school level, 37 percent college level, and 17.33 percent were of graduate school level. In comparison to the 150 respondents who were unfavorable toward psychiatry, 17.33 percent were of the grade school level, 52.67 percent of high school level, 22.67 percent college level, and 7.33 percent were of graduate school level. It could be concluded that there is a highly significant relationship ($p < .001$) between the presence of a favorable or unfavorable attitude toward psychiatry and the level of education. This table shows that 54.33 percent of those favorable toward psychiatry have at least a college level of education while only 30 percent of those unfavorable to psychiatry have a college level of education.

Table II

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY OCCUPATIONAL CATEGORY

	Attitude Toward Psychiatry		
Occupational Category	Favorable	Unfavorable	Total
professional	30.67%	12.66%	N=111
white collar	27.00%	19.33%	N=110
blue collar	13.33%	24.67%	N =77
unskilled	15.00%	20.67%	N= 76
no occupation	14.00%	22.67%	N =76
Total	100.00%	100.00%	N=450
	(N=300)	(N=150)	
	$X^2=31.40$	$p < .001$	

Table II shows the relationship between the occupational categories of the respondents and their attitudes toward psychiatry. Of the 300 respondents favorable toward psychiatry, 30.67 percent were professionals, 27 percent white collar workers, 13.33 percent blue collar workers, 15 percent unskilled workers and 14 percent had no occupation. Of the 150 respondents unfavorable toward psychiatry, 12.66 percent were professionals, 19.33 percent white collar workers, 24.67 percent blue collar workers, 20.67 percent unskilled workers, and 22.67 percent had no occupation. The relationship between the occupational categories and the presence of favorable or unfavorable attitudes toward psychiatry shows a highly significant relationship ($p < .001$). This table shows that 57.7 percent of those with favorable attitudes toward psychiatry have higher status occupations, being professional or white collar workers, whereas only 32 percent of those unfavorable toward psychiatry can be found in the same

occupational levels. From these two tables, it can be seen that those respondents with a higher level of education and a higher status occupation tend to be more positive toward psychiatry than those respondents with a lower level of education and in a lower status occupation.

Table III

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY PRIOR JURY EXPERIENCE

	Jury Experience		
Attitude Toward Psychiatry	With Experience	Without Experience	Total
favorable	83.33%	62.50%	N=300
unfavorable	16.67%	37.50%	N=150
Total	100.00%	100.00%	N=450
	(N=90)	(N=360)	
	$X^2=11.80$	$p < .001$	

The respondents were asked whether or not they had any prior experience serving as a juror in criminal court. Of the 450 respondents, 90 had prior experience as a juror while 360 did not. Of the jurors with experience, 83.33 percent had a favorable attitude toward psychiatry while only 16.67 percent had an unfavorable attitude. Of the jurors without experience, 62.5 percent were favorable toward psychiatry while 37.5 percent were unfavorable. The results of this table show that there is a highly significant relationship ($p < .001$) between one's prior experience as a juror and the presence of a favorable or unfavorable attitude toward psychiatry.

Table IV

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY ATTITUDE TOWARD CRIMINAL RESPONSIBILITY

	Attitude Toward Psychiatry		
Criminal Responsibility	Favorable	Unfavorable	Total
responsible	50.00%	61.33%	N=242
not responsible	50.00%	38.67%	N=208
Total	100.00%	100.00%	N=450
	(N=300)	(N=150)	
	$X^2=4.72$	$p < .05$	

Table IV shows the relationship between the respondents' attitudes towards psychiatry and their attitudes regarding criminal responsibility. The main focus, at this point, is whether the respondents view crime as a function of free will or whether they view crime as one possible result of many interacting factors. The results of this table show that there is a slightly significant relationship ($p < .05$) between one's attitude toward psychiatry and criminal responsibility. It can be seen that of the 300 respondents favorable toward psychiatry, 50 percent view crime as a function of free will while 50 percent are showing an awareness of possible mitigating factors that can be present in any criminal act. In comparison to the 150 respondents unfavorable toward psychiatry, 61.33 percent view crime as a function of free will while only 38.67 percent favor the broader definition of the problem. This difference between the two groups, even though slight, shows that a bigger percentage of those unfavorable toward psychiatry feel that the defendant, as an individual, should be held fully responsible for his crime.

Table V

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY THE EVALUATION OF THE SEVERITY BETWEEN PENITENTIARY AND PSYCHIATRIC HOSPITAL AS PENAL DISPOSITIONS

	Attitude Toward Psychiatry		
Penal Disposition	Favorable	Unfavorable	Total
penitentiary	81.33%	95.33%	N=387
psychiatric hospital	18.67%	4.67%	N= 63
Total	100.00%	100.00%	N=450
	(N=300)	(N=150)	
	$X^2=14.64$	$p < .001$	

As a follow-up to the relationship expressed in Table IV, the respondents were asked to judge which of the following alternatives would be a more severe disposition for the defendant: a) penitentiary or b) psychiatric hospital. Of the 300 respondents favorable toward psychiatry, 81.33 percent felt that a penitentiary sentence would be a more severe disposition while 18.67 percent felt that a sentence to a psychiatric hospital would be more severe. Of the 150 respondents unfavorable toward psychiatry, 95.34 percent felt that a penitentiary sentence would be more severe while only 4.66 percent felt that a psychiatric hospital would be more severe. As can be seen from Table V, there is a highly significant relationship ($p < .001$) between one's attitude toward psychiatry and the evaluation of the severity of penal dispositions. In comparing the two groups, it can be seen that a little more than 1/6th of the 300 respondents favorable toward psychiatry as compared to less than 1 out of 21 of the 150 respondents unfavorable toward psychiatry found that the psychiatric hospital

was a more severe penalty. The results of this table agree with the results of Table IV in that those respondents with a favorable attitude toward psychiatry are aware that, for those criminals who cannot be held fully responsible for their crime, the psychiatric hospital would be a better disposition. For this group, the psychiatric hospital is not associated with the familiar expression that it is an "easy out" for criminals. Those respondents with unfavorable attitudes toward psychiatry felt more often that the criminal, as an individual, should be held completely responsible for his crime, and hence the better disposition would be a sentence to a penitentiary. For this group, the punishment must fit the crime with the penitentiary being the only proper punishment.

Table VI

PERCENT OF JURORS' DECISION REGARDING THE SUITABILITY OF THE BOSTON STRANGLER AND RICHARD SPECK CASES AS EXAMPLES FOR THE VERDICT "NOT GUILTY BY REASON OF INSANITY" AND THE PRESENCE OF A STEREOTYPED IMAGE OF THE "INSANE" OFFENDER

	Image of the Offender		
"Not Guilty By Reason of Insanity"	Stereotyped	Not Stereotyped	Total
agree	35.65%	63.81%	N=190
disagree	64.35%	36.19%	N=260
Total	100.00%	100.00%	N=450
	(N=345)	(N=105)	
	$X^2=25.02$	$p < .001$	

The respondents were presented with a dichotomous list of opposing characteristics which are often used by mass media to describe the "insane" offender. The respondents were then asked to check-off those traits that agree with their image of how an "insane" offender should look or act when in court. According to the responses given, the sample was divided into two categories: a) those who had a stereotyped image of the "insane" offender, and b) those who did not have a stereotyped image. These two groups were then asked to respond to two very popular criminal cases, popular to the extent that a great deal of mass media coverage was given to both cases—namely, the case of the Boston Strangler and the case of Richard Speck who was accused of killing eight nurses in Chicago. In both instances, the respondents were asked whether or not they would have found these two criminal cases as suitable examples for the verdict "not guilty by reason of insanity." The results of Table VI show that there is a highly significant relationship ($p < .001$) between the presence or lack of a stereotyped image and the decision rendered regarding the use of the insanity defense for both the Boston Strangler and Richard Speck cases.

TABLE VII

PERCENT OF JURORS' DECISION REGARDING THE SUITABILITY OF THE INSANITY DEFENSE FOR THE BOSTON STRANGLER AND RICHARD SPECK CASES AND THE PRESENCE OF A STEREOTYPED IMAGE OF THE "INSANE" OFFENDER FOR THOSE FAVORABLE TOWARD PSYCHIATRY

	Favorable Toward Psychiatry Image of the Offender		
"Not Guilty By Reason of Insanity"	Stereotyped	Not Stereotyped	Total
agree	48.65%	60.26%	N=155
disagree	51.35%	39.74%	N=145
Total	100.00%	100.00%	N=300
	(N=222)	(N=78)	
	X^2=2.81	Not Significant	

While the relationship between the presence or lack of a stereotyped image and one's attitude toward psychiatry did not prove to be a significant one, breaking down the results of Table VI according to one's attitude toward psychiatry did yield some interesting findings. Table VII shows that of the 300 respondents who were favorable toward psychiatry, 74 percent had a stereotyped image of the "insane" offender while 26 percent did not have such an image. Of the 74 percent with a stereotyped image, 48.65 percent agreed that the Boston Strangler and Richard Speck cases were suitable examples for the verdict "not guilty by reason of insanity" while 51.35 percent disagreed with the suitability of the insanity defense. Of the 26 percent who did not have a stereotyped image, 60.26 percent agreed with the insanity defense for the Boston Strangler and Speck cases while 39.74 percent did not agree. While the relationship between the presence of a stereotyped image and the decision regarding the insanity defense for both criminal cases was highly significant, this same relationship, when considered in the light of only those respondents who were favorable toward psychiatry, does not prove to be significant for this group. However, the relationship between the presence of a stereotyped image and the decision regarding the insanity defense for the Boston Strangler and the Speck cases does prove to be highly significant ($p < .001$) for those respondents with an unfavorable attitude toward psychiatry.

Table VIII shows that of the 150 respondents who were unfavorable toward psychiatry, 82 percent had a stereotyped image of the "insane" offender while 18 percent did not. Of the 82 percent with a stereotyped image, 12.2 percent agreed with the suitability of the insanity defense while 87.8 percent

Table VIII

PERCENT OF JURORS' DECISION REGARDING THE SUITABILITY OF THE INSANITY DEFENSE FOR THE BOSTON STRANGLER AND RICHARD SPECK CASES AND THE PRESENCE OF A STEREOTYPED IMAGE OF THE "INSANE" OFFENDER FOR THOSE UNFAVORABLE TOWARD PSYCHIATRY

	Unfavorable Toward Psychiatry		
"Not Guilty By Reason of Insanity"	Stereotyped	Not Stereotyped	Total
agree	12.20%	74.07%	N= 35
disagree	87.80%	25.93%	N=115
Total	100.00%	100.00%	N=150
	(N=123)	(N=27)	
	X^2=43.99	p < .001	

disagreed. Of the 18 percent who did not have a stereotyped image, 74 percent agreed that the Boston Strangler and Speck cases were suitable examples for the insanity defense while 25.3 percent did not agree. As Tables VI, VII, and VIII indicate, one's stereotyped image of how an insane person should look and act in court is an influential factor in making a decision as to what type of offender is suitable for an insanity defense. However, one's attitude toward psychiatry, primarily negative attitude, is, perhaps, a more influential factor as Table VIII would indicate. In selecting a jury for a criminal case, the lawyers for both the defense and the prosecution are interested in obtaining a jury that would be fair or impartial. Given the situation where an insanity plea is to be entered, choosing a jury becomes a doubly difficult task. It would not be practical to ask prospective jurors to outline for the court their image of how an "insane" offender should act. However, it would not be unduly difficult to ascertain a juror's attitude toward psychiatry. Of the 450 respondents chosen because they were prospective jurors, 51.6 percent of those favorable to psychiatry as compared to only 23.3 percent of those unfavorable toward psychiatry were more positively disposed toward the use of an insanity plea.

Table IX shows the relationship between one's attitude toward psychiatry and the role that a jury should play in a criminal case where an insanity defense has been entered. The respondents were asked to decide whether a jury of laymen or a panel of specialists should be responsible for the final verdict when a plea of insanity is present. Of the 300 respondents favorable toward psychiatry, 36.67 percent chose a jury of laymen while 63.33 percent chose a panel of specialists. Of those respondents who were unfavorable toward psychiatry, 60 percent chose a jury of laymen while only 40 percent chose a

Table IX

PERCENT OF JURORS' ATTITUDES TOWARD PSYCHIATRY BY EVALUATION OF WHO SHOULD BE RESPONSIBLE FOR THE FINAL VERDICT IN A PLEA OF INSANITY

	Attitude Toward Psychiatry		
Who Should Be Responsible	Favorable	Unfavorable	Total
jury of laymen	36.67%	60.00%	N=200
panel of specialists	63.33%	40.00%	N=250
Total	100.00%	100.00%	N=450
	(N=300)	(N=150)	
	X^2=21.11	$p < .001$	

panel of specialists. As can be seen from Table IX, there is a highly significant relationship ($p < .001$) between one's attitude toward psychiatry and one's choice between a jury of laymen or a panel of specialists. It can be seen that those respondents with favorable attitudes toward psychiatry tend to be more positively disposed to the role that psychiatry might play in a court trial.

IV. Conclusion

The purpose of this study was to ascertain those factors that would influence the jurors' decisions when dealing with a plea of insanity during a criminal trial. The legal situation is such that there are no clear guidelines that jurors can use to define what insanity is. In order to help the juror decide whether or not the defendant should be held responsible for his crime, psychiatric testimony is introduced to give a picture of the mental condition of the defendant. Such testimony, however, cannot definitively state whether or not the defendant was "insane" at the time of the criminal act since there is no medical equivalency to the legal concept of insanity. This situation of legal ambiguity forces the jury to devise its own resources whereby the question of insanity can be measured and decided.

This research has shown that there are certain factors which appear to be directly associated with the decisions made by the jurors regarding the insanity defense. In making a decision as to whether or not a plea of insanity would be appropriate for such criminal cases as the Boston Strangler and Richard Speck cases, two factors appear to be operating—namely, the presence of a stereotyped image of the offender as well as the juror's attitude toward psychiatry. In this situation, it was shown that the presence of an unfavorable attitude toward psychiatry was strongly associated with the decision against the use of the insanity plea while the presence of a favorable attitude toward psychiatry did not have any association with the decision.

If a jury is to be selected that would be impartial toward the defendant, then it is necessary that the jury should also be impartial to the type of plea that is entered in behalf of the accused. As the data of this research indicates, those jurors who have favorable attitudes toward psychiatry would have a greater tendency to act in an impartial manner when considering an insanity plea. Such jurors tend to consider the aspect of mitigating circumstances in judging the question of criminal responsibility. Those favorable toward psychiatry also tend to show a greater receptivity toward the use of specialists, such as psychiatrists, during the criminal trial as well as a tendency to be more open-minded regarding the possible use of a psychiatric hospital as a form of penal disposition.

Conversely, those jurors who have unfavorable attitudes toward psychiatry appear to have a more basic approach to the relationship between crime and punishment. A greater percentage of these jurors have less than than a college education and are found to be primarily blue collar workers and unskilled laborers. Such jurors tend to define the criminal act in terms of free will; and hence, such factors as one's mental condition at the time of the criminal act would not necessarily be conceived of as a mitigating circumstance. Those unfavorable toward psychiatry tend to be cautious when considering the use of psychiatry in general. Such jurors do not tend to be receptive to the use of specialists such as psychiatrists during a criminal trial nor are they prone to consider the psychiatric hospital as a viable form of penal disposition. For these jurors, the penitentiary is the only proper form of penal sanction that can be expected to discourage further criminal acts.

In a situation where an insanity plea has been entered, it can be concluded that one's orientation to the field of psychiatry in general is a strong influencing factor not only in relation to how receptive a juror may be toward psychiatric testimony but also in relation to the type of verdict such as a juror may render.

SURVEY OF IOWA LAW
IOWA TAX LAW AND PROCEDURE—1972

Edward R. Hayes†

An election year often produces little major tax legislation. The 1972 Iowa Legislature was not untypical in this respect; the principal change is one that may improve property tax assessment procedures. The supreme court decided eight tax cases in the period covered by this Survey (October, 1971 through September, 1972); several others are pending. One federal district court decision involved tolls charged by an Iowa municipally-owned bridge; a United States Supreme Court decision may have some effect on passengers enplaning at Iowa airports. Several cases from the Board of Tax Review and district courts and a number of Attorney General opinions round out current developments in this area.

I. Taxing Powers of Cities

Many chapters of the *Iowa Code* relating to the powers of cities and towns were repealed and replaced with a new chapter designed to serve as a municipal code for Iowa and to permit a city to adopt a home rule charter. However, the new law provides that no municipality may levy a tax unless specifically authorized to do so by state law. Most of the taxing and special assessing powers previously granted are continued in substantially the same form. One additional tax-related power is the power to construct and maintain, in conjunction with a county, jointly-owned city and county buildings.[1]

In 1972 several cities of the United States, including Des Moines, instituted a charge on passengers boarding planes at their municipal airports. A challenge to one of these, claiming that it violated the commerce clause of the federal Constitution, was heard and rejected by the United States Supreme Court.[2] The Des Moines "charge" of $1 per person, in theory a fee for service rather than a tax, was suspended until that decision was announced. The airline whose planes are boarded is expected to collect and remit the fee to the city.[3]

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1 Ch. 1088 [1972] Iowa Acts 219-341.

2 Evansville-Vanderburgh Airport Authority Dist. v. Delta Airlines, 405 U.S. 707 (1972). Congress approved a bill to provide additional federal financing for airports which would also ban such fees, S. 3755 (92d. Cong. 2d Sess.), but it received a pocket veto from President Nixon on Oct. 27, 1972. CCH Cong. Index 1845 (1972).

3 City of Des Moines Ord. No. 8402, July 31, 1972 (imposing a $1 "use and service charge" effective Oct. 1, 1972), as amended by Ord. No. 8502, Dec. 18, 1972 (to exempt connecting and diverted passengers).

The city council of Cedar Rapids approved a similar fee Dec. 27, 1972, to go into effect Jan. 1, 1973. Members of the armed forces in active duty and persons transferring from one flight to another at the airport within an 8-hour period are exempted from