

overlay to a criminal statute. Now in looking at the mental health commitment act, one thing that is very interesting, in the civil commitment statute is that we say an individual shall be subjected to the mental health commitment act processes if (A) he is mentally ill and (B) he poses a substantial danger to his own health or to the health and safety of others. Mental illness is not defined in our civil mental health commitment act. Senator Nichol indicates that mental disorder is a term of art that is used in the medical profession, the psychiatric profession to basically define a whole host of mental derangements, none of which I can tell you incidentally because I am not a member of that profession. So too mental illness is a term of art used in the psychiatric or medical profession again to define a whole host of mental disorders, none of which I can specifically indicate to you. I...had I perceived the sexual sociopath law as essentially criminal in nature I would have had greater pause about the use of expression "mental disorder" but because I really see it as a criminal statute with a civil overlay I am not as concerned about the use of the term "mental disorder".

SENATOR CHAMBERS: Senator Johnson, do you remember when Judge Urbom was dealing with the abortion statute and he mentioned for certain civil purposes some of the definitions would have been adequate, but since they were placed and incorporated into a criminal statute and in a criminal context the definitions were not precise enough and therefore could not stand.

SENATOR JOHNSON: And of course you are absolutely right, Senator Chambers, in a criminal statute we must be ever so clear that we do warn the possible criminal defendant of the kind of conduct that we are prohibiting. But in fact our warning lies with our sexual statutes, that is we say this kind of sexual assault is prohibited or this kind of debauching a minor is prohibited and that is where the warnings lie and that is the crime with which the individual will be charged. Only after he has been charged with that crime and then found guilty of that crime does the sociopathic overlay come into place. That is what I consider to be the civil aspect of this criminal statute.

SENATOR CHAMBERS: And, you would be willing to leave the law just as it is and hang your hat on this, with this term mental disorder?

SENATOR JOHNSON: Not having researched it in detail I hate to give you an unqualified opinion.