

Mr. ACHESON. That is right. It reads:

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to know or appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

The CHAIRMAN. The House passed this section?

Mr. ACHESON. That is right.

The CHAIRMAN. That is the standard for insanity. Now, what does the ALI say?

Mr. ACHESON. The ALI, instead of using the word "wrongfulness," uses the word "criminality." As I recall, that is the only difference between the two paragraphs.

The CHAIRMAN. Someone handed me this from the ALI and I think I will read it into the record, and I would like to have you point out what the actual differences are. If I am correctly informed, the House action made a very radical change in the ALI model penal code definition—now, it may be right or may be wrong, but I would like to have you comment on it at this time realizing, of course, that this is a technical question in an involved and difficult subject. The ALI section reads as follows:

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

The House in formulating the insanity test as contained in contained in H.R. 7525, deleted the word "criminality," and in place thereof inserted the word "wrongfulness".

Mr. ACHESON. Well, Mr. Chairman, let me get my papers here from the back of the room.

The CHAIRMAN. It has been called to my attention also that in addition to that, another change by the House was the addition of the words "to know".

Mr. ACHESON. That is correct.

The CHAIRMAN. Now, what is the difference?

Mr. ACHESON. I think it is only a semantic difference.

The CHAIRMAN. Now, then, the minority opinion of the House says, and I am reading from page 91 of the House report on the bill:

The test contained in the bill has been presented by some as the American Law Institute test. The fact, however, is that it differs from the American Law Institute test in a critical respect. The phrase "to know" does not appear in the ALI test, which is set out in the footnote below. The committee has taken this part of the test from the long discredited "knowledge of right and wrong test" adopted by the English House of Lords in 1843 in the *M'Naghten case* (10 Cl. & Fin. 200 (H.L. 1843)). In other words, that part of the proposed test which provides that a defendant shall be criminally responsible unless he lacks capacity "to know * * * the wrongfulness of his conduct" is an attempt to perpetuate the 1843 English rule—a rule adopted long before the rise of modern psychiatry.

Mr. ACHESON. Mr. Chairman, let me explain this clearly as I can. This is very convoluted.

The CHAIRMAN. Very what?

Mr. ACHESON. Very convoluted.

The CHAIRMAN. I still didn't get it; what kind of a word was that?

Mr. ACHESON. Convoluted, Mr. Chairman. The House committee—