

The CHAIRMAN. You have me on that one. What does "convoluted" mean?

Mr. ACHESON. A very twisted and complicated area.

The CHAIRMAN. Oh, I see.

Mr. ACHESON. And the House committee, I think, is mistaken in its judgment of the effect of the—

The CHAIRMAN. You understand, this is the minority report of the committee that I read from.

Mr. ACHESON. Oh, I see.

The CHAIRMAN. This is not the majority view. This is the minority opinion or view.

Mr. ACHESON. Yes; I understand. If the words "to know" appeared there alone without the word "appreciate," then you would have this result:

If a man shot—if A shot B and at the time that A shot B he suffered from a mental defect or disease, as the result of which he thought that the gun was a banana and he was offering B a banana to eat, he would, of course, be acquitted by reason of insanity.

But if the words "to know" appeared there alone as they did under the ancient *M'Naghten* ruling, if A was perfectly clear that he was holding a gun and not a banana, the chances are that he would be convicted.

Now, when you add the words "appreciate the wrongfulness of the conduct," you eliminate the effect of the words "to know." If A in that case knew that he was holding a gun and not a banana, but at the same time he was suffering from a mental disease or defect so that he thought it was perfectly just to shoot B as a result of a hallucination that B was going to shoot him, then he would still be acquitted under the ALI rule, acquitted by reason of insanity.

Now, that illustration is intended to show the committee that by putting the words "or appreciate" in there, making the test one of understanding of conduct, you really eliminate the significance of the *M'Naghten* term "to know," which is here in the same rule—do you follow me?

The CHAIRMAN. No; I am not sure that I do, but I will read the written transcript and see if I do then.

But of this I am sure, that you do not agree with the minority report of the House insofar as it says that it differs from the ALI model law in a critical respect.

Mr. ACHESON. That is correct.

The CHAIRMAN. And you say this is not a critical defect.

Mr. ACHESON. That is correct.

The CHAIRMAN. And it is left in the alternative, "know or appreciate."

Mr. ACHESON. That is right.

Let me put it another way now, to make it clear, if I may.

By putting in the language "to know or appreciate" they are putting in a very stern test and a much more liberal test, both in the alternative.

The CHAIRMAN. It is an alternative test.

Mr. ACHESON. Yes. Now, if the defendant can satisfy the liberal test, he will be acquitted by reason of insanity and since it is much more likely that he will satisfy the liberal test before he satisfies the very stern test, then the effect of "to know"—it is almost meaningless.

The CHAIRMAN. If he satisfies this test.