Mr. ACHESON. Well, now, the third circuit in a case called *United States* v. *Currens*, 290 F. 2d 751 (1961), followed the test whether the defendant is suffering from a mental disease as a result of which he cannot conform his conduct to the requirements of law, half of the American Law Institute test—this is in the *Currens* decision. I think the opinion was by Judge Biggs, one of the very distinguished judges of that circuit. It has the effect, I think, of *McDonald*.

Now, the seventh circuit in the case of *Dusky* v. *United States* indicated that it would not follow the *Durham* rule, as the *Durham* rule was prior to *McDonald* and stated that if the question came before it squarely it would be inclined to follow the American Law Institute's formula.

The CHAIRMAN. Do you know if other Federal jurisdictions which have abandoned the *M'Naghten* right and wrong test have adopted the American Law Institute insanity test? I think you have partly answered that.

Mr. ACHESON. Well, partly, but I cannot speak for the other jurisdictions, Mr. Chairman, I am not familiar with the case law. But, of course, the question arises so infrequently in the Federal court of appeals outside of the District of Columbia, because usually the insanity defense is made only in connection with crimes of violence. It is not made in connection with security frauds or post office swindles, that kind of thing, usually in a crime of violence, of course, the Federal courts in our district have jurisdiction, local jurisdiction over crimes of violence. But in other Federal district circuits it is only the rare case where a murder or a robbery or other crime of violence is committed on an Indian reservation or on a Federal reservation of some kind that would get the question into a Federal court.

So that the case law is very slight indeed outside of our district.

The CHAIRMAN. The next suggested question I think you have answered: Is it a fact that the insanity test for the District of Columbia has emerged from a number of court decisions and is not set forth in statutory form? The answer is probably "Yes"; I suppose.

Mr. ACHESON. Yes, they are and on that point I have a few comments on the remainder of title II—I don't know whether the committee wishes to hear them now.

The CHAIRMAN. We would be glad to hear them. Your prepared statement went only to the definition.

Mr. ACHESON. That is right.

The CHAIRMAN. And now you want to comment on the other sections of title II?

Mr. ACHESON. Yes, sir.

The CHAIRMAN. I think this could be the proper place for you to comment on those. Do you have a prepared statement on that?

Mr. ACHESON. No; I do not, but I can be very brief.

As I went into the rest of title II, it was clear to me that a great many of the provisions there are already taken care of in the District of Columbia Code or closely paralleled in the practice that we follow under our court rules. Now, there are exceptions.

On page 3 of the bill at line 16 the bill provides for written notice to the prosecution of the intention of the defense to rely on the insanity defense. We do not now have any such requirement. It is possible under our practice here for the defense, particularly if the defendant