

The CHAIRMAN. But that is a requirement, is it, under the statutory law or case law?

Mr. ACHESON. Under the present case law.

The CHAIRMAN. Present case law but not the statutory law?

Mr. ACHESON. That is right, requiring the District judge to tell the jury that if the defendant is acquitted by reason of insanity he will not go free but will go under compulsory commitment to a mental hospital.

The CHAIRMAN. You say that you favor that instruction? Do I understand you correctly or do you not favor the instruction?

Mr. ACHESON. No, I favor that instruction.

The CHAIRMAN. Therefore, you would be opposed to this provision?

Mr. ACHESON. I am opposed to it. I do not feel deeply about it, Mr. Chairman, but I prefer our present practice to the provision of this bill.

The CHAIRMAN. Well, you say that is the only item that has a radical change, is substantially different, in title II?

Mr. ACHESON. That is right, Mr. Chairman.

The CHAIRMAN. But is different from your present practice or statutory law or case law.

Mr. ACHESON. That is right.

The CHAIRMAN. The definition of insanity by the ALI, their definition is very, very similar to the present case law as enunciated in the District.

Mr. ACHESON. That is right.

The CHAIRMAN. And this is the only change that you say varies from your present statutory or case law in the District of Columbia?

Mr. ACHESON. Under this bill I can imagine cases where the jury, not knowing that the defendant would go to a mental hospital, would convict him even though he is sick and so sick as to be irresponsible, and I would think that was an injustice.

Now, those are the comments that I have on the rest of the bill and if there are any questions on those parts, I would be glad to try to answer them.

The CHAIRMAN. Summing up your analysis of title II, I understand that section 201(a)(1), which is the definition section, of the House bill, in your opinion is not necessary because it is substantially the case law as set out in *McDonald*, is that correct?

Mr. ACHESON. That is right.

The CHAIRMAN. As to the balance of the sections under title II you feel that they are not necessary because they are already covered by either statutory law or case law in the District of Columbia. Is that correct?

Mr. ACHESON. Primarily statutory law.

The CHAIRMAN. You mean primarily statutory law with the exception of the sections 201(h)(4); 201(g)(1); 201(h)(2) and 201(i)(1)? It is my understanding that under section 201(i) the jury is not to be told of the consequences of a verdict of acquittal by reason of insanity. This provision in the bill varies from your present instructions given by the district courts in insanity cases, where they inform the jury of the consequences of an acquittal by reason of insanity. Is it my understanding that you favor the present instruction?

Mr. ACHESON. That is right.