

STATEMENT OF DR. WINFRED OVERHOLSER, FORMER SUPERINTENDANT OF ST. ELIZABETHS HOSPITAL

Dr. OVERHOLSER. Thank you very much, Mr. Chairman.

May I say, first of all, Mr. Chairman, I have no written statement.

The CHAIRMAN. Very well. I think maybe I can provide you some guidelines. I believe the testimony of witnesses that we heard yesterday will sustain the proposition that the *Durham* rule, as modified by the *McDonald* rule, is an adequate test and definition of insanity in the District of Columbia.

Mr. Acheson, the U.S. attorney, said that he felt the *Durham* case as it was modified recently by the *McDonald* case has provided the District with a fair and reasonable test of insanity.

He was asked the question as to whether or not it would be preferable to substitute the American Law Institute test, with which you are familiar, and which is substantially the same rule or test laid down in H.R. 7525, with the exception of the addition by the House committee of the words "to know" and the including of the word "wrongfulness" in place of criminality in the test as laid down by the American Law Institute. The insanity test laid down in the House bill before us for consideration 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 lacked substantial capacity either to know or appreciate the wrongfulness of his conduct or to conform his conduct to requirements of law.

That is the definition that we have before us in our consideration of the insanity portion of the so-called omnibus crime bill. Mr. Acheson's testimony was to the effect that the American Law Institute insanity rule is substantially the instruction that is given to the jury in the District of Columbia at the present time as a result of the *McDonald* decision, and as it supplemented the *Durham* rule.

This may be some guidance to you in your testimony. He also said—and I think this is important, as far as his testimony is concerned—that he felt there was no need of a new statutory insanity definition in view of the present state of the case law.

I do not know whether you would agree with that, or whether you would think there should be written into the statute the ALI test.

I would give that by way of preliminary, Dr. Overholser, and possibly as some guidance to you in your testimony.

You may proceed.

Dr. OVERHOLSER. Thank you, Mr. Chairman.

The CHAIRMAN. In the first place, what we are primarily interested in determining is whether or not there is a need and a necessity for writing into statutory law a provision such as I have just read to you.

Dr. OVERHOLSER. If I were asked that question, I should answer categorically "No."

The CHAIRMAN. And why?

Dr. OVERHOLSER. In other words, all of the tests of criminal insanity, if you wish to call it that, that have been laid down since about the time, I guess of Edward III, or thereabouts, have been laid down by courts. In some instances in this country legislatures have enacted into law what was the prevailing judicial determination at that time.