

Senator DOMINICK. The *Currens* case, according to the report on page 90—and I might add this is the minority report I am reading from—refers as follows:

“In doing so,”—and they are talking about the *Currens* case adopting a new test of criminal responsibility—“In doing so, the court of appeals flatly rejected the language contained in section 201(a)(2) of H.R. 7525,” which can be found on page 2 of the present bill between lines 20 to 22, “which eliminates consideration of abnormality manifested by repeated criminal or otherwise antisocial conduct.”

The fact of the matter is that the definition on page 2 eliminates this insofar as an abnormality is manifested only by repeated criminal or otherwise antisocial conduct. And this report does not include that word “only,” which seems to me is fairly important.

Now, my question to you would be abnormality manifested only by repeated criminal or antisocial conduct—would this change your opinion as to whether this type of a definition is valid?

Dr. GUTTMACHER. No, sir; I think that “only” is a very desirable word to insert. I do not know just what it accomplishes. As I say, I do not think any reputable expert would say that such a person was a sociopath and could be considered in the area of responsibility. This seems to me sort of a gratuitous statement that sort of complicates things and really does not add very much, but use a footnote or something or other, or in some opinion, it seems to me it has a place. But that it should have so prominent a place in the statute when I do not think it really is necessary seems to me objectionable.

Senator DOMINICK. Thank you.

The CHAIRMAN. Thank you very much, Doctor.

Our next witness is Mr. Abe Krash, Esq., a member of the Washington, D.C., law firm of Arnold, Porter & Fortas.

Mr. Krash, we are very happy to have you with us.

**STATEMENT OF ABE KRASH, WASHINGTON, D.C., LAW FIRM OF
ARNOLD, PORTER & FORTAS**

Mr. KRASH. Thank you, Mr. Chairman. My name is Abe Krash. I am of the firm of Arnold, Porter & Fortas, here in Washington, D.C.

My colleague, Mr. Fortas, was appointed as a counsel for Durham in the famous *Durham* case, and he invited me to collaborate with him in preparing the brief and argument in that case.

I was subsequently asked by the court of appeals to act as amicus curiae to the court, sitting en banc, in another insanity case, the *Stewart* case.

In 1959 I served as a member of the District of Columbia Bar Association Committee on Criminal Responsibility, and I am currently a member of the Judicial Conference Committee which is considering the problems of pretrial competence.

Finally, I should state, Mr. Chairman, that I am the author of a somewhat unreasonably long article on the *Durham* rule which appeared in the Yale Law Journal, and which Mr. Smith of your staff asked that I bring with me.

I have a prepared statement, but rather than read it—

The CHAIRMAN. We will refer to the article by reference, Mr. Krash.