

and then briefly to discuss what has happened in the District of Columbia under the *Durham* rule, and why I think it is a satisfactory and adequate rule.

Perhaps during the course of that, I can comment on some of the questions raised by the chairman this morning, by Senator Dominick, and perhaps make some reference to the testimony yesterday of Dr. Cameron.

Let me say first of all I have prepared a brief exhibit for the convenience of the committee which lists the principal rules of responsibility under discussion.

The CHAIRMAN. That will be incorporated in full in the record. I think it will be very helpful.

(The exhibit referred to follows:)

VARIOUS TESTS OF CRIMINAL RESPONSIBILITY

1. *The M'Naghten Rule* (The "right and wrong" test)—1843:
 "[T]o establish a defense on the ground of insanity it must be clearly proved that, at the time of committing the act, the accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong." (*M'Naghten's Case*, 10 Cl. & F. 200, 209 (1843).)
2. *Durham Test*, 1954:
 "[A]n accused is not criminally responsible if his unlawful act was the product of mental disease or defect." (*Durham v. United States*, 214 F. 2d 862, 874-75 (D.C. Cir. 1954).)
3. *American Law Institute*, Model Penal Code § 4.01—1955:
 "(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.
 "(2) The terms 'mental disease or defect' do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct."
4. *Currens Test*, 1961:
 "The jury must be satisfied that at the time of committing the prohibited act the defendant, as a result of mental disease or defect, lacked substantial capacity to conform his conduct to the requirements of the law which he is alleged to have violated." (*United States v. Currens*, 290 F. 2d 751, 774 (3rd Cir. 1961).)
5. *H.R. 7525, Title II, Sec. 201*—(1963):
 "§ 927. Insane criminals
 "(a) Mental disease or defect excluding responsibility; sociopathic and psychopathic personality is not disease or defect:
 "(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to know or appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.
 "(2) The terms 'mental disease or defect' do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct."

Mr. KRASH. Let me say first of all that I assume nearly everyone will agree—I am now stating what I think are three or four assumptions which I think ought to govern one's consideration of this question of responsibility.

First, I think nearly everyone would agree that there are some persons who are so mentally disordered that it would be unreasonable to punish them. The Nazis believed that you should exterminate the mentally sick, but I do not suppose that anyone would seriously in this country accept such a notion. And the question really is what should be the standard of criminal responsibility. As to that question, of course, there have been and are legitimate differences of opinion.