

They would go through with the trial, and the Government would simply not oppose the insanity defense.

In that kind of case, there may still be directed verdicts.

I know of no case where the Government has had a verdict directed against it in a contested case where the Government simply was unable to produce a psychiatrist who would testify that there was no casualty involved.

This was occurring prior to *McDonald*.

The CHAIRMAN. I understand that.

But I am just trying to develop the facts that you are suggesting after the *McDonald* case.

And I would assume if the statement you are making is correct—and I don't question it—that the facts, if there are any that fall within this category in actual practice, would bear you out.

The CHAIRMAN. I will ask the staff to check that out. They may have cases that fall in this category, and there may not be.

This has only been a relatively short period of time, 13 months.

But I want to develop for the record what happens in the first case that you alluded to.

If I understand you correctly, we have a defendant charged with a crime. He interposes a defense of not guilty by reason of insanity. Three psychiatrists testify as to his mental condition, and they are completely unanimous on his mental condition, that he should be acquitted or found not guilty by reason of insanity.

I understood you to say that in that case the Government does not oppose the three psychiatrists—I understand that fact totally in that type of a case the judge would then commit this man to a mental institution; is that correct?

Mr. PYE. No, sir; he would direct the jury to return a verdict of not guilty by reason of insanity.

Upon receipt of that verdict, he would enter judgment of not guilty by reason of insanity, and then commit the defendant.

The CHAIRMAN. And then there would be the commitment.

Mr. PYE. Yes, sir.

The CHAIRMAN. I think this is very important, because I know there exists in the minds of many, many people, and probably in the minds of a great many people in the community, the impression that under a factual situation such as you described that this man is turned loose on the streets. This simply is not true.

Mr. PYE. That is absolutely correct, Senator. There is another misimpression that is even more dangerous, and that is that the individuals who are found not guilty by reason of insanity, and who are committed to St. Elizabeths Hospital, will promptly find themselves back on the streets in a position to repeat their criminal activity, while had they received prison sentences they would be off the streets and the public would be protected.

At the present time this data is under study.

The judicial conference of the District of Columbia circuit has for the last 3 years engaged in a project under the supervision of Professor Okun of our faculty, and under a judicial conference committee, with grants received from the Agnes Meyer Foundation, studying the subject of pretrial commitment for competency.

In the process of collecting this data, we have also concerned ourselves with what happens to an individual once he gets into St. Eliza-