

United States, 36 F. 2d 548 (D.C.Cir. 1928). The Court felt that a change in the standard of criminal responsibility was required in view of "the great advancement in medical science as an enlightening influence on this subject." It concluded that an individual should not be held criminally responsible if his "reasoning powers were so far dethroned by his diseased mental condition as to deprive him of the will power to resist the insane impulse to perpetrate the deed, through knowing it to be wrong" (36 F. 2d at 549).

6. The "right and wrong" and "irresistible impulse" tests have been forcefully criticized by judges, commentators, and medical authorities. In a landmark report, a Royal Commission in England summed up the defects in these words:

"[T]he M'Naghten test is based on an entirely obsolete and misleading conception of the nature of insanity, since insanity does not only, or primarily, affect the cognitive or intellectual faculties, but affects the whole personality of the patient, including both the will and the emotions. An insane person may therefore often know the nature and quality of his act and that it is wrong and forbidden by law, and yet commit it as the result of the mental disease. * * * In our view the test of criminal responsibility contained in the M'Naghten rules cannot be defended in the light of modern medical knowledge and modern penal views. * * * The real objection to the term 'irresistible impulse' is that it is too narrow and carries an unfortunate and misleading implication that, where a crime is committed as a result of emotional disorder due to insanity, it must have been suddenly and impulsively committed after a sharp internal conflict. In many cases, such as those of melancholia, this is not true at all." *Report of the Royal Commission on Capital Punishment*, Cmd. 8932, pp. 80, 103, 110 (1953).

It is unnecessary for us to dwell upon the inadequacies of these tests, since the committee unanimously recommends against these tests (See Report, p. 11).

7. In 1954, our Court of Appeals, recognizing that the existing tests did not take sufficient account of "psychic realities and scientific knowledge", announced a new standard in *Durham v. United States*: "[A]n accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect." The *Durham* case reflected the fact that in the century since the M'Naghten rules were announced there