

Now, this is taken care of in the Model Penal Code and in your bill, in subsection (c), paragraph (1) of section 927, as amended by section 201 of the bill.

The provision in the bill is:

Mental disease or defect excluding responsibility is an affirmative defense which the defendant must establish by showing of substantial evidence.

Now, that is a very necessary provision and, actually, it will not do any harm or cause any prejudice to a defendant who has a valid insanity defense.

However, it will prevent a situation in which at times a person, who may or may not be insane, is found not guilty on the ground of insanity, and I hope that this will be enacted.

One other feature to which I would like to advert for a moment is the requirement of notice.

The bill would require that a defendant, who relies on the defense of insanity, must give notice of that fact.

I think that is also found in the Model Penal Code. That is very necessary because frequently the Government is taken by surprise and is not in a position to adduce evidence on the issue at the last moment.

I am not appearing here in a representative capacity. I am appearing here as an individual judge, but I do want to say that from time to time my colleagues and I have discussed some of these matters, and I think I would be justified in saying that the majority of my colleagues have views similar to those that I have expressed this morning.

I do hope that title II of H.R. 7525 will be enacted because it is a much needed and highly desirable piece of legislation.

I want to thank you very much for your courtesy, Mr. Chairman, and it has been a pleasure to appear before your committee.

The CHAIRMAN. We very much appreciate having you with us here this morning, Judge. Thank you very much.

**STATEMENT OF OLIVER GASCH, ATTORNEY, OF THE FIRM OF
CRAIGHILL, AIELLO, GASCH & CRAIGHILL, WASHINGTON, D.C.**

The CHAIRMAN. Our next witness is Mr. Oliver Gasch.

We are very happy to have you with us, Mr. Gasch.

For the record, Mr. Gasch is a practicing attorney in the District of Columbia. He is a former U.S. attorney of the District of Columbia and served in that capacity from 1957 to 1960.

He was principal assistant U.S. attorney for the District of Columbia at the time the *Durham* case was tried in 1954. He is an immediate past chairman of the Law Enforcement Council.

We are always delighted to have you with us, Mr. Gasch. Your judgment in these affairs is always appreciated.

Mr. GASCH. Thank you, Mr. Chairman.

I appreciate the invitation to appear as a witness, and I would like to say at the outset that the views that I express are my own personal views gained during the years that I was U.S. attorney and do not reflect the views of the District of Columbia Bar Association, of which I am an officer at the present time.

I listened, with interest, to Judge Holtzoff's statement and, as a result of a study of Mr. Acheson's testimony, I would like to direct my