

trap for the trial judge who relied upon the position voiced by counsel.

I do not subscribe to that view.

BASTIAN, *Circuit Judge*, concurring: I concur, except that I adhere to the view stated in my opinion in *Lyles v. United States*, 103 U.S.App.D.C. 22, at 29, 254 F.2d 725, at 732 (1957), *cert. denied*, 356 U.S. 1961 (1958), that the trial court should not be obliged to give, in its charge, a statement as to the effect of a verdict of not guilty by reason of insanity.

I believe Parts I and II of the majority opinion are correct and will do much to relieve the natural uncertainty in the minds of the District Court as to the insanity question.

WILBUR K. MILLER, *Chief Judge*, dissenting in part and concurring in part:

Distilled to its essence, the majority opinion reverses McDonald's conviction because the trial judge did not tell the jury the "meaning"¹ of a verdict of not guilty by reason of insanity, as apparently required by *Lyles v. United States*.² That is the only decisional conclusion reached by the majority, as clearly appears from the following excerpt from the latter portion of their opinion:

" . . . The able and experienced trial court, in the course of the charge, failed to give the *Lyles* instruction concerning the disposition of a defendant acquitted by reason of insanity, and we are unable, from our study of the record, to say that this defendant af-

¹ That is, the consequences.

² 103 U. S. App. D. C. 22, 254 F. (2d) 725 (1957).