

M'NAGHTEN VERSUS DURHAM RULE

# Did Ruby Know Right From Wrong?

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The murder trial of Jack Ruby draws attention, once again, to an age-old clash of law and medicine.

The clash revolves about legal definitions of insanity.

Ruby's lawyers hope to win his acquittal on grounds he was insane when he gunned down President Kennedy's alleged assassin, Lee Oswald, in Dallas, Nov. 2.

In Texas, as in most other states, there is no law defining insanity when this is offered as a defense plea in a criminal case.

### RIGHT-WRONG

But there, as in most other parts of the U.S., the courts rely chiefly on the so-called M'Naghten rule. This also is known as the "right-and-wrong test."

The principle was established in England in 1843—when Daniel M'Naghten, who suffered from a persecution complex that gave rise to "morbid delusions," was acquitted of murder on grounds of insanity.

In setting this legal landmark, the judge and jury rules a person couldn't be held responsible for a crime committed while he wasn't able to understand "that he was doing a wrong or wicked act."

### UPROAR

The acquittal triggered such an uproar in England that the British House of Lords asked a panel of judges to clarify the laws governing criminal insanity.

### The judges declared:

To establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party 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 that he was doing what was wrong."

### UP TO JURY

In short, a man is to be acquitted on grounds of insanity if a jury is convinced that when he committed the crime his mind was so sick:

- He didn't know what he was doing; or,
- He didn't realize it was wrong.

Under Texas law, the jury trying Ruby will have to decide whether he was sane or insane when he shot Oswald—and whether he is sane or insane now.

If it should find he was insane at the time of the shooting, he would be acquitted.

### UNDER FIRE

Over the years, the M'Naghten rule has come in for growing criticism from psychiatrists.

Many, if not most, of these mind specialists agree with Dr. Winfred Overholser, the well-known ex-superintendent of St. Elizabeths Hospital here, that the M'Naghten rule is "completely out of step with psychiatric knowledge."

As Dr. Overholser has put it: "Many patients in mental hospitals who by any practical test would be considered 'insane' have at least a glimmering and

sometimes a strong sense, of what is right or wrong.

### DURHAM RULE

He and many other psychiatrists prefer the so-called Durham Rule, propounded by a U. S. Court of Appeals here in 1954.

This holds that a person "is not criminally responsible if his unlawful act was the product of mental disease or mental defect."

Actually, New Hampshire has adhered to such a rule since 1870, when a judge there asserted: "What is a diseased condition of mind is to be settled by science and not by law."

He insisted the law couldn't define a disease of the mind any more than it could a "disease of the lungs or liver."

But only one other state, Maine, has adopted the Durham Rule since it was proclaimed in the District 10 years ago.

- Tolson
- Belmont
- Mohr
- Casper
- Callahan
- Conrad
- DeLoach
- Evans
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele Room
- Holmes
- Gandy

*Barryman*  
*Rubin*  
*H.A.H.*  
*6/2/64*

*Ful*  
*C.H.*

- The Washington Post and Times Herald
- The Washington Daily News
- The Evening Star
- New York Herald Tribune
- New York Journal-American
- New York Mirror
- New York Daily News
- New York Post
- The New York Times
- The Worker
- The New Leader
- The Wall Street Journal
- The National Observer
- People's World
- Date

44-24016-A-1113

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