

this power in the courts, the court which has sentenced the man to prison, it is equally inappropriate to place that power in the court for a person who is mentally ill.

Now, subsection (h), paragraph (2) further states that when the court receives a report from the superintendent of a hospital applying for the discharge or release on probation of a person in his custody, "the court shall thereupon appoint at least two qualified psychiatrists to examine such person and to report * * *." [Emphasis supplied.] May I suggest that "shall" be changed to "may." It is the practice at St. Elizabeths Hospital for the Superintendent to receive recommendations from two or more qualified staff psychiatrists familiar with such person before making his own recommendation to the court. To insist that still other psychiatrists be required, after the recommendation is made, and as a matter of routine in all cases, to examine and report on the condition of the person recommended for discharge or release is burdensome and unnecessarily time consuming for both the person in question and the psychiatrists involved.

In summary, let me say I recommend for your serious consideration that in criminal cases involving questions of mental disease or a defect excluding responsibility, (1) the proceedings be so arranged that a jury be asked only to determine the question of fact as to the commission of an unlawful act by the defendant, and (2) that the medical issues be considered in relation to the disposition of a defendant who has been shown to have committed the act alleged. In any event, I urge against the adoption of the proposed new rule of law in regard to mental disease or defect excluding responsibility. The *Durham* decision, as modified particularly in the *McDonald* case, is a better solution. I understand that the Department of Justice and the Commissioners of the District of Columbia believe the present rules in this regard are satisfactory and should not be changed by legislation at this time.

Mr. Chairman and members of the committee, I appreciate your courtesy in inviting me to offer my views on this act, which is so important to the welfare of the mentally ill who are involved in procedures related to criminal law, and which is equally important to society. I thank you for the opportunity.

The CHAIRMAN. Thank you very much, Dr. Cameron. I have no further questions other than I have asked you in the course of your testimony.

Thank you very much.

Dr. CAMERON. Thank you.

The CHAIRMAN. Our next witness is Robert Kneipp, Assistant Corporation Counsel for the District of Columbia.

STATEMENT OF ROBERT KNEIPP, ASSISTANT CORPORATION COUNSEL, DISTRICT OF COLUMBIA

Mr. KNEIPP. Thank you, Mr. Chairman.

May I first say, Mr. Chairman, I want to express the regrets of the Commissioners at not being able to be present. Mr. Tobriner is not in the city and Mr. Duncan finds it necessary to involve himself in the administration of municipal affairs.