

The CHAIRMAN. Well, that is all right, we always like to have them here but it is perfectly all right. You can present their views and make a statement in their behalf. We are always delighted to have the Commissioners here but if they cannot make it, we understand. We are very happy to have you here.

Mr. KNEIPP. Thank you.

The Commissioners appreciate this opportunity to present their views on title II of H.R. 7525.

The Commissioners understand that this title of the bill is patterned after the formulation recommended by the American Law Institute as a test of insanity as a defense in criminal cases, and is intended to replace the test of criminal responsibility stated for the District of Columbia by the U.S. Court of Appeals in the line of cases beginning with *Durham v. United States*, decided in 1954, and ending with *McDonald v. United States*, decided October 8, 1962.

The Commissioners are informed that the decision of the U.S. Court of Appeals in *McDonald v. United States*, considerably modified the so-called *Durham* rule, so that the rule now requires that the defendants bear the burden of proving that the alleged mental disease is one which had the effect of impairing control of his conduct. Further, *McDonald* has the effect of restoring to juries the function of evaluating the testimony of expert witnesses, and eliminates the practice of directed verdicts of acquittal by reason of insanity. In short, therefore, the Commissioners are informed that the application of the *Durham* rule, as modified by *McDonald*, has substantially the same result as the formulation recommended by the American Law Institute. In view of this, the Commissioners believe that the existing state of the law in the District of Columbia should remain unchanged. Accordingly, the recommend against enactment of title II.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Kneipp. I assume, you being in the Office of the Assistant Corporation Counsel that you do not get involved in insanity cases very often.

Mr. KNEIPP. I think that this kind of case is very rarely prosecuted by the Corporation Counsel. There may be some instances but it is primarily a matter that comes before the U.S. attorney.

The CHAIRMAN. I am sure of that. Is it your position that you have no firsthand working knowledge of the criminal law because that issue does not arise in your office?

Mr. KNEIPP. That is correct, it arises very infrequently.

The CHAIRMAN. Thank you very much for your statement.

We will stand in recess until 10 o'clock tomorrow morning.

Thank you, gentlemen.

(Whereupon, at 11:50 a.m., the committee was in recess, to reconvene at 10 a.m., Wednesday, October 16, 1963.)