

Senator DOMINICK. What is your objection to the use of the word "probation" which fits in with a good deal of existing procedures at least on releasing prisoners subject to good behavior?

Dr. OVERHOLSER. Because probation is a term which is used for persons who have been convicted or at least who have pleaded guilty to an offense. This man has been acquitted. Presumably, therefore, there is no criminal charge pending, except, of course, he has shown by his behavior at the time of the crime itself that he is unsafe to the public.

Now, he may recover from the condition which existed. But he has been declared not guilty. For that reason I question whether either "parole" or "probation" is a proper word, since those are both applied in a penal context.

Senator DOMINICK. What suggested terminology would you have?

Dr. OVERHOLSER. Well, I should just strike it out. He could be released "on such conditions."

Just strike out the words "on probation," just as is done now in the statute relating to the release of persons in the District who have been acquitted by reason of insanity.

Senator DOMINICK. Thank you, Doctor.

Dr. OVERHOLSER. I suppose that again this is a question which perhaps I am presumptuous to raise. There is on page 13 of the bill some language with reference to the frequency with which a person may be permitted to make application. Yet in the next paragraph—in two paragraphs down there is language saying that this shall not interfere with his right to a writ of habeas corpus.

I should suppose that there might be an inconsistency there.

I am not quite clear in my mind as to the proper policy—and this again is a matter of public policy and not a question of psychiatric knowledge—the question of whether the jury should be informed in the judge's charge what the disposition of the defendant will be if they find him not guilty by reason of insanity.

This question has come up a few times in the District already. What the case law is at the moment, I am not quite sure.

The CHAIRMAN. Would you repeat that statement again?

Dr. OVERHOLSER. Yes. On page 13, Mr. Chairman, lines 12 to 15: the jury shall not be informed of the result, if they find the individual—

The CHAIRMAN. My understanding of the case law, and Mr. Acheson testified on this point yesterday, is just the reverse of this proposed instruction to the jury. As I understand it, the case law in the District of Columbia today is that the jury is told of the consequence of a verdict of acquittal by reason of insanity. The House bill states the jury shall not be told of the consequences of a verdict of not guilty by reason of insanity. The district attorney said this provision in the House bill was undesirable, and that the case law which exists in the District of Columbia today is preferable.

Dr. OVERHOLSER. It is my impression that is the existing case law. I think it is quite correct. I think the jury is entitled to have that information.

The CHAIRMAN. The U.S. attorney thoroughly agrees with you on that point.

Senator DOMINICK. Why?