

beths. The results will not be released until the conference acts upon it.

I think it is a fair statement to say that anyone who is knowledgeable in this area, however, has reached the conclusion that the average person who is sent to St. Elizabeths Hospital will be released from St. Elizabeths Hospital considerably later than he would anticipate release had he been convicted.

And this is discounting the fact that one-third of the people who are convicted are placed on the streets immediately in a probation status.

This kind of information is unfortunately not generally understood by the public.

The CHAIRMAN. Several witnesses testified to the same effect as you have testified now.

I think this is very helpful for the record.

Mr. PYE. Indeed, the problem for defense counsel is just the converse of the problem suggested by Senator Dominick earlier.

If you were a defense counsel today, the *Durham* rule may loom as a formidable obstacle to doing what you think is best for your client.

To the extent that a psychopath may be found to lack criminal responsibility, he will also be found to have very little chance of responding to treatment.

As Senator Dominick suggests, we have not been very lucky in rehabilitating these people. This means for the defense counsel if his client is found not guilty by reason of insanity, he may never be released, where if he were convicted, he could look forward to probation in 1 to 3 years.

Returning to the subject of the statute itself, I am concerned with several specific sections of it which have nothing to do with the test.

The CHAIRMAN. If I understand—you are in agreement, as I understand, with the U.S. attorney and with Mr. Krash who preceded you, that—the test should best be left to the courts rather than to statutory law, and that the *Durham* rule as amplified or modified or supplemented by the *McDonald* test is the best test that can be designed to be given to a jury at the present time.

Mr. PYE. Yes, sir.

The CHAIRMAN. Is that substantially your view?

Mr. PYE. Yes, sir.

The CHAIRMAN. All right.

Now you might point to the other sections of title 2.

Mr. PYE. With reference to the subject of the necessity of filing advance notice of intention to assert the insanity defense, I personally think that this is a desirable kind of situation.

I question whether it is best done in a general statute of this nature, as distinguished from being done in the rulemaking power of the Supreme Court in the "Federal Rules of Criminal Procedure."

The Supreme Court advisory committee has under consideration at the present time whether advance notice of certain defenses should be required of defense counsel.

In the proposed amendment they have concluded that it would be advisable to require advance assertion of the alibi defense. They did not so conclude with reference to insanity.