

Now, this is something that I was not aware of until yesterday, but I am asking that they check it out and verify it, because I think the people of the District of Columbia should know this, because we are constantly told about the *McGee* case, that he was saying that he came here because the District of Columbia was "soft on crime."

But the plain facts of the matter are that as of today, at this very moment, he is still under the jurisdiction of the trial court, and if the testimony of yesterday was correct, and I am sure it was, and we are going to check it out on a case-by-case basis, I think it is helpful and reassuring to the people in the District to know that these people are institutionalized for a period of time.

Would you agree with that, Mr. Norwood?

Mr. NORWOOD. Yes, sir, I do, and I have heard that same statement. Of course, I have no definite proof of it. I have heard the same statement made.

But, on the other hand, it is true that because of this defense of insanity criminals are turned loose on the community to—

The CHAIRMAN. Well, how are they turned loose?

That is just the point I am trying to make.

How are they turned loose, because this is the common misconception.

I am just trying to run this down. Paul McGee, who was acquitted by reason of insanity, is still under the jurisdiction of St. Elizabeths Hospital. However, he is on conditional release from the hospital and subject to conditions specified by the court in ordering his conditional release.

Because we hear so much about Paul McGee, and I think we should, in fairness, say exactly what happened to him following his commitment to St. Elizabeths Hospital.

Thank you. Pardon my interruption.

Mr. NORWOOD. Thank you, sir.

Prior to 1954, in the District of Columbia, a criminal defendant seeking acquittal by reason of insanity had to satisfy the right-wrong or irresistible impulse tests. Briefly stated, the right-wrong test is:

"Did the accused know what he was doing, and did he know that what he was doing was wrong?"

The irresistible test is:

"Was the capacity of the accused to refrain from committing the act so diminished by insanity that he could not resist?"

Some States and England utilize the right-wrong test as the only test of insanity. Other States, including the District of Columbia, have supplemented this with the irresistible impulse defense.

By decision of the U.S. Court of Appeals for the District of Columbia Circuit these tests were replaced by the Durham rule in 1954. The Durham rule provides simply that a defendant is not responsible if his act was the product of mental disease or defect.

Spurred by the Durham rule, the American Law Institute has given long and careful study to this problem. The American Law Institute's proposal would allow a successful defense if the accused, as a result of mental disease or defect, lacked substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law. This constitutes an updating of the tradi-