

The CHAIRMAN. This was Chief Murray's testimony on the day before yesterday, Tuesday, October 15.

Mr. ROBERTS. In that connection, I should make very clear that the position of the federation is that they want the law amended or the law defined to include the right-from-wrong test as stated in their resolution.

I call attention, however, that under title II the proposal of the bill is an attempt to place in statutory words the right-and-wrong test.

When a notice of intention to rely on the defense of irresponsibility has been filed an opinion as to the extent, if any, to which the capacity of the defendant to know or appreciate the wrongfulness of his conduct or to conform his conduct to the requirement of the law was impaired at the time of the criminal conduct, which is as near as I can determine a statutory effort to define the right-and-wrong test and the capacity to recognize right from wrong at the time.

As I look upon the statute it does more than merely clarify, however, the *McDonald* modification of the *Durham* rule and is more an attempt to reestablish, in modern aspect the *M'Naughten* rule than otherwise, as for example merely to say that the present court decisions do not impair criminal prosecution in the District of Columbia or successful criminal prosecutions, would not take away the desirability of the bill with regard to the precise standards that a person who has been acquitted by reason of insanity, to use a trite way of saying it, and has been confined in an institution, can then be released to the public.

The act was very useful to the extent in which it tries to place in a vague realm the jurisdiction of the psychiatrists and the doctors some rule for them similar to the rules that have for hundreds of years been applicable to the judges and the juries.

So I do not think that it is sufficient to say that there is no need for the bill or its provisions merely because there appears to be an adjustment to the methods of prosecutions where the allegation of the defense of insanity has been presented.

Mr. ROBERTS. The third matter that the federation expressed itself quite firmly on was the question of title III, with regard to investigative arrests in which the constitutional protections were invoked and administrative action taken in the District of Columbia to restrict the police from the so-called investigative arrests or arrests on suspicion.

They are satisfied with the language that where the policeman may make the arrest he has probable cause to believe that the suspect has committed or is about to commit or is committing a crime.

There were variations of that opinion expressed in connection with this matter, and I would attempt to substitute, in some instances, different language.

I think the determination of the federation, in accepting the language of the bills, is based on the great hazard involved in trying to set up new language for something that has been established by rulings of the courts for a great many years, and I think it is clearly understood what "probable cause" means.

It has been defined innumerable times in closely tried criminal cases.

There is no doubt of their position that they want to restore to the police the opportunity to be certain that they can make an arrest when there is probable cause, but I think they should be equally credited