June 26, 1967

CONGRESSIONAL RECORD—HOUSE 17211

need in the effort to reduce crime, as worthy as that goal is. Let us not forget that innocent and guilty alike are caught in this kind of net. While more sophisticated, substantial citizens are protected by their knowledge or even their appearance, titles I and III patently discriminate against the less knowledgeable, less fortunate members of society.

Title II is a deviation toward the anti-guested McNally rule of ability to distinguish "right from wrong" as a test of criminal liability. It would amend the more enlightened evaluation of District of Columbia federal courts decision, relying upon the Durham rule, as modified by the McDonald case. The basic thesis of the McNally rule provides that a person is not criminally liable if his act was the product of a mental disease or defect which renders him incapable of controlling his behavior. Title II disregards 50 years of development of the behavioral sciences. In the hearings last year, the U.S. Attorney for the District of Columbia, David Arens, testified:

The Department of Justice feels that it would be best for the system here if we could use with the McNally rules a little longer before the criteria were changed again by statute, and give us a chance to work out our problems with the court under that quite promising set of rules. (Testimony p. 146.)

Title II provides that the jury shall not be told of the consequences of a conviction of not guilty or acquittal on grounds of mental disease or defect. The minority views of last year's report state:

Medical authorities are very conservative about recommending release of a person convicted of crimes of violence.

Justice should be aware of the procedure. In addition, under this bill the defendant need not prove his insanity or mental disease or defect to be entitled to any consideration of these defenses.

Mr. Speaker, the proponents of this measure have proposed to establish mental disease as a defense by a preponderance of the evidence.

Mr. Speaker, the proponents of this measure have proposed that the defendant not prove his insanity or mental disease or defect to be entitled to any consideration of these defenses.

Last year, acknowledging the urgent need to remedy the growing crime rate, President Johnson submitted his request for the District of Columbia crime bill. Specifically he observed to: police interrogation prior to arrest, the detention of persons under harsh conditions, prior release that may not be obtained, and mandatory minimum sentences, which were adopted as part of the judicial and correction policy. Fundamental constitutional questions, the President said, produce the bill.

Two of the grounds upon which President Johnson attacks the bill are: the District of Columbia crime bill. Specifically he observed to: police interrogation prior to arrest, the detention of persons under harsh conditions, prior release that may not be obtained, and mandatory minimum sentences, which were adopted as part of the judicial and correction policy. Fundamental constitutional questions, the President said, produce the bill.

In addition, title I adds a new requirement that the police provide the court with the alleged defendant's name and address, and also with the specific reasons for the detention. The report of the House Committee on the Judiciary provides the following statement:

The committee is disturbed by the fact that the provisions of title I are not sufficiently clear in their application.

Mr. Speaker, I want to congratulate myself with the separate views of H.R. 10628 on page 54 of the committee report and signed by six distinguished members of the committee together with the United States, Washington, D.C., has, among other things, a serious crime problem. However, from my own experience with legislation similar to that presently before the House, I have my own misgivings which are well expressed in the arguments relating to the provisions of titles II and III. I feel that the section of the Durham rule which produce crimes of moral turpitude is not sufficiently clear in their application.

Mr. Speaker, the committee is disturbed by the fact that the provisions of title I are not sufficiently clear in their application.
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a criminal prosecution certainly goes
against the entire basic tenets of Ameri-
can justice, and cannot be tolerated.

Mr. Speaker and my colleagues, I


cannot stress too much that this bill
will not solve the crime problem in the
District of Columbia. The basic problem
of crime cannot be dealt with by enact-
ing laws or by increasing the police
force. The basic problem of crime is
that the police cannot be everywhere
at all times. The police cannot be present
in every corner of the city at all times.

Because of the serious nature of this crime,
I am making the recommendation that the
District of Columbia be placed under the
jurisdiction of the Federal Government.

This bill is a step in the right direction.
It will provide a framework for action.
It will provide a basis for a comprehensive
plan for dealing with crime in the District
of Columbia. It will provide a basis for
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