

our law. It dates back at least to *Near v. Minnesota* (283 U.S. 697 (1931)) which squarely ruled that prior censorship is unconstitutional. Only this year, the Supreme Court in *Bantam Books v. Sullivan* (9 L. Ed. 2d 584, 593), reiterated:

Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.

This proposal is an incision in first amendment guarantees.

H.R. 7525 is an anthology of all legislation considered by the House District Committee in recent years and, unfortunately, includes many of the worst features from the various proposals. Read in part, or in whole, it poses a danger to the principles of liberty and freedom, not only in the narrow confines of the District of Columbia but throughout our Nation.

The American legal system was nurtured in the ideal of justice. This system has been created in the full knowledge that judges are fallible, procedures possibly slow, and the Constitution itself a product of compromise; but in the faith that it is better to make our final decisions in the name of an eternal ideal, H.R. 7525 does not fall within the "cause of human justice." A defeat of this bill would be a renewal of our pledge of adherence to constitutional principles in America's quest for equal justice under law.

Mr. Chairman, the substance of constitutional law and its implementation by the judicial process are at the heart of our greatness as a nation. Let us hope that we will not, as this proposal would have us do, fritter them away.

Mr. HAWKINS. Mr. Chairman, I am as much concerned as anyone with the existence of crime in the District of Columbia. Unlike many of my colleagues who live in Maryland and Virginia, I am an active resident of the District during the sessions. At night I attend many meetings in Washington. I walk its streets from the Capitol to my residence and visit friends in various neighborhoods. The protection of citizens, including my own family, is therefore of vital concern to me.

While I favor reasonably stringent laws, I also believe that good law enforcement depends on much more than building more jails and giving policemen bigger clubs. Congress must recognize that many factors contribute to crime, especially unemployment, poor schools, slums, and the denial of civil rights.

Until the Members of Congress do something real about these problems in the District they must share a substantial part of the blame for crime in the Nation's Capital.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) In the courts of the District of Columbia, evidence, including, but not limited to, statements and confessions, otherwise admissible, shall not be inadmissible solely because of delay in taking an arrested person before a commissioner or other officer

empowered to commit persons charged with offenses against the laws of the United States.

(b) No statement, including a confession, made by any person during an interrogation by a law-enforcement officer made while such person is under arrest shall be admissible unless prior to such interrogation the arrested person had been advised that he is not required to make a statement and that any statement made by him may be used against him.

TITLE II

SEC. 201. Section 927 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, as amended (D.C. Code, sec. 24-301 and the following), is amended to read as follows:

"§ 927. Insane criminals

"(a) Mental disease or defect excluding responsibility; sociopathic and psychopathic personality is not disease or defect:

"(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to know or appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

"(2) The terms 'mental disease or defect' do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

"(b) Evidence of mental disease or defect admissible when relevant to element of the offense:

"(1) Evidence that the defendant in a criminal proceeding suffered from a mental disease or defect shall be admissible whenever it is relevant to prove that the defendant did or did not have a state of mind which is an element of the offense.

"(c) Mental disease or defect excluding responsibility is affirmative defense; requirement of notice; form of verdict:

"(1) Mental disease or defect excluding responsibility is an affirmative defense which the defendant must establish by showing of substantial evidence.

"(2) Evidence of mental disease or defect excluding responsibility shall not be admissible unless the defendant, at the time of entering his plea of not guilty or within fifteen days thereafter or at such later time as the court may for good cause permit, files with the court and the prosecution written notice of his purpose to rely on such defense.

"(3) When the defendant is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state.

"(d) Mental disease or defect excluding fitness to proceed:

"(1) No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried or sentenced for the commission of an offense so long as such incapacity endures.

"(e) Psychiatric examination of defendant with respect to mental disease or defect excluding responsibility or fitness to proceed:

"(1) Whenever the defendant has filed a notice of intention to rely on the defense of mental disease or defect excluding responsibility supported by prima facie evidence submitted to the court or there is substantial reason to doubt his fitness or capacity to proceed, or substantial reason to believe that mental disease or defect of the defendant will otherwise become an issue in the case, the court shall appoint at least one qualified psychiatrist or shall request the Superintendent of the District of Columbia General Hospital or the Superintendent of Saint Elizabeths Hospital or the superintendent of any other appropriate institution to designate at least one qualified psychiatrist, which designation may be or include the superintendent of such hospital, to examine and

report upon the mental condition of the defendant. The court may order the defendant committed to a hospital or other suitable facility for the purpose of examination for such reasonable period as the court may determine to be necessary for the purpose of such examination and report. The court's power to so commit a defendant shall exist, notwithstanding the fact that the defendant has been at large on bond or bail.

"(2) In such examination any method may be employed which is accepted by the medical profession for the examination of those thought to be suffering from mental disease or defect.

"(3) The report of the examination shall include the following:

"(A) A description of the nature of the examination;

"(B) A diagnosis of the mental condition of the defendant;

"(C) If the report concludes that defendant suffers from a mental disease or defect, an opinion as to his capacity to understand the proceedings against him and to assist in his own defense;

"(D) 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 requirements of law was impaired at the time of the criminal conduct charged;

"(E) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect; and

"(F) The report of the examination shall be filed in triplicate with the clerk of the court who shall cause copies to be delivered to the prosecution and to defense counsel.

"(f) Determination of fitness to proceed; effect of finding of unfitness; proceedings if fitness is regained:

"(1) When the defendant's mental fitness to proceed is drawn in question, the issue of such fitness shall be determined by the court. If neither the prosecution nor counsel for the defendant contests the finding of the report filed pursuant to subsection (e), the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue without a jury. If the report is received in evidence upon such hearing the parties who contested the finding thereof shall have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue. If the court determines that the defendant possesses fitness to proceed to trial, that is, that the defendant has the capacity to understand the proceedings against him and to assist in his own defense, the court shall order the defendant to stand trial within a reasonable time.

"(2) If the court determines at any stage of the proceedings that the defendant lacks mental fitness to proceed, the proceeding against him shall be suspended, pending trial in the future, and the court shall commit the defendant to an appropriate hospital or institution for so long as such unfitness shall endure. Such suspension of proceedings shall not cause jeopardy to attach barring subsequent trial. Whenever the defendant who has been committed to such hospital or other institution is restored to mental fitness in the opinion of the superintendent of such hospital or institution, such superintendent shall certify such fact to the clerk of the court in which the charge against the defendant is pending and the clerk of that court shall furnish copies of said certificate to the parties to the cause.

"(3) After the court receives the certificate of such superintendent that the de-