

Mr. Cameron (High Park), from the Standing Committee on Justice and Legal Affairs, presented the Eighth Report of the said Committee, which is as follows:

Your Committee had referred to it the subject matter of Bill C-105, An Act to amend the Criminal Code (Insanity), sponsored by Mr. Brewin. In considering the proposed legislation your Committee held two formal meetings on November 29th, 1966 and January 31st, 1967. The following witnesses were heard: Mr. Andrew Brewin, M.P.; Professor Stuart Ryan; Professor Stanley Beck and the Honourable J. C. McRuer.

The following were printed as appendices to the Minutes of Proceedings and Evidence:

Criminal Insanity (From M'Naghten to Durham) prepared by the Research Branch, Library of Parliament;

Mental Abnormality and the Criminal Law by Professor Stuart Ryan;

Alternatives to the M'Naghten Rules by Professor Stanley Beck.

The following were made exhibits to the proceedings:

Extract from Mental Disability and the Criminal Law pp. 330-372.

Extract from Canadian Psychiatric Association Journal, June, 1964.

Copy of the report in United States of America v. Freeman, United States Court of Appeals—Second Circuit, Federal Reporter 2nd Series, Vol. 357, pp. 606-629.

Report of the Royal Commission on the Law of Insanity as a Defence in Criminal Cases—October 25, 1956.

Your Committee was satisfied that some technical improvements could be made in the present definition of insanity under section 16 of the Criminal Code, to define the circumstances under which a person should not be held responsible for his acts.

Your Committee could find, however, no substantial agreement among medical and legal authorities as to the wording of a new or better definition. In recent years, several jurisdictions have grappled with the problem, but technical knowledge has still not become sufficiently firm to result in a consensus. Neither the so-called "Durham test" as incorporated into the proposed bill nor the American Law Institute definition have had sufficient time or body of precedent to confirm or deny their validity.

Your Committee believes that the body of law built up by precedent on the present definitions in the Criminal Code should not be disturbed unless a clear case for reform in fact, as well as in legal process is shown. Juries are not likely to be affected greatly by refinements in definition. Such a clear case was not exhibited to the Committee.

Your Committee was impressed with the suggestion that the words "disorder of the mind" should replace "disease of the mind" in subsection (2) of section 16 of the Criminal Code to avoid the suggestion that some organic change or break-down should be exhibited.