

ALASKA, 1955

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
TERRITORIAL AND INSULAR AFFAIRS
OF THE
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES
EIGHTY-FOURTH CONGRESS
FIRST SESSION
PURSUANT TO

H. Res. 30

TO AUTHORIZE THE COMMITTEE ON INTERIOR AND INSULAR
AFFAIRS TO MAKE INVESTIGATIONS INTO ANY MATTER
WITHIN ITS JURISDICTION, AND FOR OTHER PURPOSES

SEPTEMBER 14, 15, AND 16, 1955—FAIRBANKS
SEPTEMBER 17, 1955—BARROW
SEPTEMBER 19, 1955—NOME
SEPTEMBER 20, 1955—ABOARD ALASKA RAILROAD EN
ROUTE FAIRBANKS TO MCKINLEY PARK

PART 1

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we need. That is my feeling and Mr. Dawson feels the same way, and other members of the committee.

Mrs. GREEN. I would join you, Mr. O'Brien. I think you are absolutely right. We are going to have a fight getting this bill through. We had better not muddy the waters. It is the best bill a majority of us felt could get out of the committee.

Mr. O'BRIEN. Even though we feel we are probably right in some of the things we are asking. But Congress is a strange and wondrous place and we have to compromise.

Thank you very much.

Mr. DERR. Thank you very much.

Mr. O'BRIEN. Theodore Stevens, United States attorney for the Fourth Judicial Division of the District of Alaska.

STATEMENT OF THEODORE F. STEVENS, UNITED STATES ATTORNEY, FOURTH JUDICIAL DIVISION, DISTRICT OF ALASKA, ACCOMPANIED BY GEORGE YEAGER, ASSISTANT UNITED STATES ATTORNEY

Mr. STEVENS. Mr. George Yeager is with me. He is assistant United States attorney. He is right here.

I think my statement, if the chairman will permit me to do so, I will ask be included in the record. It seems we have covered this question pretty well. It is something that even lawyers disagree on, Mr. Dawson. I do not agree with members of your committee who are attorneys as to the requirements of a jury for commitment in the Territory of Alaska.

I do have one suggestion here which comes under the same discussion Mrs. Green just finished, that is, in connection with the United States commissioners. That may be able to be straightened out later but the bill refers to a commissioner or the commissioner. In this division we have 13 commissioners. We could have up to 60, as I understand it, or more, in the division. And it would seem that the petition to determine a committed person should continue to get treatment or the application for commitment could be bounced around from one commissioner to another unless we tie down the commissioner in the first place who has the proper—I imagine it would be a question of venue in legal terms, as to where it should be brought in the first place, and if it was brought to him, the petition to determine whether the commitment should continue should be addressed to him also. That is the first part of my statement.

The second part concerns the jury provision. I believe that the members of your committee who put that provision in there, the amendment to Mrs. Green's original bill, which provides for the jury system, evidently believe that under the fifth amendment of the Constitution or perhaps the seventh, that the Federal Government is required to provide a trial by jury in order to satisfy due process before a person's liberty is taken from him. I disagree with that position. To my knowledge there has been no holding directly on the point although there are several cases in our local jurisdiction and in the court of appeals which would point toward the conclusion I am right and they are wrong, respectively.

I also agree with Mrs. Green perhaps this is not the time to question it entirely. I want to make clear, as my statement did, that these

are my views, not the views of the Department of Justice. I live here and raise my family here, as Mr. Yeager pointed out very clearly before I came up here. He does also. And we believe we would hate to be a part of the proceedings that we are forced to attend from time to time under the present system which this amendment will revert to.

Mr. BARTLETT. Will you bear an interruption there?

Mr. STEVENS. Yes, sir.

Mr. BARTLETT. Notwithstanding, the Department of Justice knows you are appearing here and you have been given permission to record your views.

Mr. STEVENS. Yes; as long as they are personal and not the Department's views.

Mr. O'BRIEN. I might add, the Department of Justice was represented at our hearings and they were strongly in favor of the bill. I got the impression that the spokesmen for the Department had the same distaste for the function the Department was called upon to perform under our archaic proceedings.

Mr. STEVENS. I am pleased to hear that. We are so far from Washington, as you know, and these are purely local matters that, sometimes we think, the Department of Justice does not realize we get into so many times. As Mr. Derr stated, there were some 67 hearings from January 1, 1953, until August 31 of this year, and in the course of those hearings 1 member in my office was in attendance; 21 of the people were not committed, 14 were committed to the Veterans' Administration facilities, and the rest went to Morning-side.

The way I like to put it is, there is no way you can put a foot in the stomach of a prosecuting attorney quicker than making him participate in an insanity hearing.

I am sincere. I really have a very great respect for juries, but not with insanity.

Mr. O'BRIEN. These six persons who are selected when they call for their mail, would they not be just as likely to send a sane person to an insane asylum as they would be to free a person who was insane? In other words, their judgment is not—

Mr. STEVENS. That is true. I have witnessed a person I would consider normal—maybe my judgment is not too good—but a person I have considered normal gets on the stand. They get a little nervous. I am a little nervous right now although I am before juries constantly. Yet a man who is really insane, I have watched them and they are very lucid, as Mr. Abbott says.

I remember distinctly one gentleman I told Mr. Abbott about last night, that we were warned in advance he would be very lucid, very clear in his explanation of what had happened and that we should allow him to continue, in all events allow him to continue as long as he wanted because he would reach the peak of his development and then slide quickly. It was well over an hour, probably into 2 hours before that happened. But when it did happen it was very spectacular. The gentleman took off his shoe and began reading a poem about the Statue of Liberty and gave us a political speech and a couple of other things. It was something we expected but normally we do not have that advance warning and a hearing will take, I would say, 15 or 20 minutes, maybe an hour at the most.

Mr. O'BRIEN. You would not say that a delivery of a political speech was a symptom of insanity, would you? [Laughter.]

Mr. STEVENS. Please do not tell the Department about that slip.

Mr. O'BRIEN. I am interested in this detention in jail. Are there instances where a person who has been found guilty—is that correct, to say, "found guilty" by a jury? Legally, that is so; is it not?

Mr. STEVENS. I do not like to use that.

Mr. O'BRIEN. I mean legally they are charged with the crime of being mentally ill.

Mr. STEVENS. Not under our present law. They are charged with being in a status of an insane person and we do not like to get the idea across it is a crime.

Mr. O'BRIEN. I know it is not.

Mr. STEVENS. It is the same as a crime, but there is a defense attorney and an attorney present for the Government. Although neither the present bill or present law authorizes us to or compels us to attend we do attend to help the commissioner.

Mr. O'BRIEN. After the jury renders its judgment, there being no other place to put them, they put them in jail. Is there a considerable lapse of time sometimes before someone is able or ready to take them to Morningside?

Mr. STEVENS. We have had periods such as that. Our practice has been to take the person immediately to Morningside. It is a matter of catching the next plane. In the States the marshal is not allowed to travel on an airplane with his prisoner, and he then comes in the same status as a prisoner. Here we are allowed to travel by plane and it is an overnight trip to Morningside.

Mr. O'BRIEN. Are they ever taken in the company of criminals being brought back to the States?

Mr. STEVENS. Yes, Mr. O'Brien. From the point of view of economy I think you could see that. We have people to take to Neil Island and people to take to Morningside and they go together on the same plane. They are not chained together or anything like that but in the same company.

Mr. O'BRIEN. I understand that. And the same guard.

The person who is brought before this jury, is the person brought there physically? Must he be present before this jury?

Mr. STEVENS. He does not have to be there and that is one thing that leads me to the conclusion you do not have to have a jury in the first place.

Mr. O'BRIEN. Mrs. Green asked a question of the previous witness. She wanted to know if any persons under 10 or under 5 were among those 67. Were there any children included?

Mr. STEVENS. Yes, sir; there were. There have been children. I have not participated in the ones that Mrs. Green referred to. Mr. Yeager did. He tells me in one instance he remembers at this time there was a child under five and the attorney who was appointed by the court to represent that child visited the family and also went over to the hospital. We do not put children in jail but we violate the law. We put them either in their own homes or in the custody of the hospital.

Mr. O'BRIEN. Technically they should be put in jail.

Mr. STEVENS. Technically, right.

Mr. O'BRIEN. We had testimony before the committee—I do not know whether in your division or not—that there was a 20-month-old child went through this particular mill. That could happen, could it?

Mr. STEVENS. It could happen but would not happen here while I am here. They would not stay in jail very long.

Mr. O'BRIEN. Within the letter of the law.

Mr. STEVENS. The letter of the law would require it.

Mr. O'BRIEN. In other words, if you had a United States attorney who was not as humane as you are, who did not cure, was callous, that could happen?

Mr. STEVENS. There are people who disagree with your statement, but that is true. I mean that I am not humane.

Mr. O'BRIEN. May I ask you this: In some remote areas would it be possible for a child, say, suffering with cerebral palsy, to be involved in this procedure?

Mr. STEVENS. This is the only procedure that we have in the Territory of Alaska for the commitment of a person to an insane asylum who does not have the ability to pay his own way. Our people can go out, I take it, to any private institution in the States. But anyone that wants to go to Morningside or use the facilities of the Territorial or Federal Government must go through that procedure unless we violate or deviate from the letter of the law because under the circumstances they would have to do it. I am reminded of a little boy I told

Mr. Bartlett about, I believe, from Tanana who was approximately 18 years old. As I recall, he has been deserted by his mother and his father was unknown and he is in very difficult straits, definitely, as far as our information was concerned, in need of mental help. The Alaska Department of Public Health reached that conclusion, the local doctor and Native Service had reached that conclusion. We convened a jury here and the jury believed that the boy had explained his position correctly and released him. He went back to Tanana and they convened a jury there and it was one of the 5 to 1 situations Mr. Derr mentioned, and the boy was released. The last time I heard he had endangered all the people in Tanana Native Hospital by starting a bonfire.

Another time he had been taken in by a family, and they had a fish camp away from Tanana and he wandered away in the cold and walked back into Tanana some 18 miles almost completely nude. But during his lucid moments, as Mr. Abbott clearly stated, he could convince anyone he was a sane boy of 17 or 18.

Mr. O'BRIEN. Do you believe there are a number of people in the Territory who are suffering from concealed mental illnesses that are curable because of this system people do not want to expose their relatives to?

Mr. STEVENS. I believe that is probably true. I know of some people who have sent their loved ones out to an institution in the States and it cost them very dearly to keep them there because they do not want to go through this.

Mr. O'BRIEN. A person of normal income could practically figure on bankruptcy if they wanted to follow that procedure.

Mr. STEVENS. I believe that is correct. This is a very distasteful procedure and I believe the people who have served on insanity juries would agree. I do not think by and large they like the task. Deciding whether a man is guilty of a crime is one thing but deciding what the status of a man's mind is is another.

Mr. O'BRIEN. There is no one, apparently, in the entire chain of command including yourself, members of the jury, Department of

the Interior, Department of Health, and Education and Welfare, and the Department of Justice who likes what is going on.

Mr. STEVENS. Do not mention the last one, because I cannot speak for them.

Mr. O'BRIEN. They spoke for themselves, and rather strongly, at the hearings in Washington.

Mr. STEVENS. The 48 States, so far as I know, have decided or at least the representatives have decided that the model bill and procedures followed therein are correct. They are under the 14th amendment. We are under the fifth amendment until we get another status, whatever it may be. The argument that the jury is necessary may have some validity but the very person, the very person that would require commitment would be the one who would talk to, under our present system, a jailhouse lawyer and would be the man a jury would release.

Mrs. GREEN. In order to make the record very clear, I think there has been some confusion on my position on trial by jury. I have always opposed it.

Mr. STEVENS. I understand it. The original bill was without that amendment. That is the bill I am in favor of personally.

Mrs. GREEN. Mr. O'Brien asked a question a moment ago which I would like to have you elaborate on a little bit if you could—the chance of youngsters suffering from cerebral palsy being committed to Morningside when actually they are not mental patients. Is that possible, do you think?

Mr. STEVENS. I believe it would be possible. Take, for instance, a group of people out in one of our recording districts where there is a commissioner and no doctor and they do not understand what the difficulty is. In my opinion—and if I say this, I hope you will not misunderstand it—it might result for the best interests of the child because when he gets to Morningside and they find out what is wrong with him they would not keep him very long.

Mrs. GREEN. Why do you say that they would not keep him very long?

Mr. STEVENS. Down there, I should think there would be doctors there. There are not any doctors out in the bush in a lot of recording districts, and no doctor is required under our present law. Under this law there would be a doctor required but that might take some time.

Mrs. GREEN. I think one of the most shocking things to me when I visited Morningside during the Easter recess when a subcommittee went down there was the fact there were 18 youngsters under 8 years of age. I believe that was the number. A friend of mine who is in my opinion an expert in the mental health field examined some of these youngsters, and I grant you in a very quick way, an offhand method perhaps, but he stated to me that he felt some of those youngsters were not mentally ill, he felt it would be next to impossible for a jury to decide whether they were mentally ill. And in his opinion at least 2 or 3 of them were suffering from cerebral palsy and not from insanity. And those youngsters had been there for some length of time.

Mr. STEVENS. It is very possible.

Mrs. GREEN. Now thinking that anyone can be sent there and then they find out something actually is wrong with them and they are released, I think that is an oversimplification.

Mr. STEVENS. It may be, Mrs. Green, if you look at it—well, from a distant point of view. But if you go to one of these small recording districts where there is a commissioner and there is no doctor and there is no attorney and the commissioner is usually the leading person of the community, they are trying to do their best as far as I am concerned. I would not challenge what they are trying to do. I think they make mistakes. We all make mistakes.

Mrs. GREEN. The mistake is in the commitment procedure.

Mr. STEVENS. Yes. This bill, incidentally—the requirement of a doctor rather than a psychiatrist may lead to difficulties because of the fact that a lot of places we do not have doctors, as Mr. Bartlett can tell you. I only know of one to my knowledge north of here and that is in Fort Yukon. That is in my division.

Mrs. GREEN. One other question. I think that all of the experts in the mental-health field who testified, testified to the fact that it was much better as far as rehabilitation was concerned if the patients were close to home where they could be visited by their friends and loved ones. Could you give me an estimate of the cost of a person going from Alaska down to Morningside and if, in your opinion, it is possible for most of the people in Alaska to go down there and visit their relatives or friends very often? It seems to me it is a very important factor in this whole problem.

Mr. STEVENS. I believe I can come fairly close because I looked into the cost of sending a patient down. The one-way cost to Morningside, to the Government at least, is \$97. A round trip is \$174.60.

Mrs. GREEN. For transportation alone.

Mr. STEVENS. That is transportation.

Mr. DAWSON. For one person?

Mr. STEVENS. For one person.

Mrs. GREEN. In your experience, do many of the relatives go down and visit the patients at Morningside?

Mr. STEVENS. I could not comment on that, Mrs. Green. Our connection with this—we get into these hearings as a friend of the commissioner, more or less. The law requires—and your bill also, under the amendment, would state that a person can have an attorney appointed for him. And since that is the case the commissioners by and large ask us to go along and advise them on the law, which we do. But we have no further connection with them after that. The commissioners have a connection. They are notified when they are admitted to the hospital; they are notified when they are discharged from the hospital; and they sometimes have quite a close connection with the family. But we do not. I am sorry.

Mrs. GREEN. Recently I understand there was some kind of a discussion or a conference on health problems and I believe the article stated that there were half of the beds, 250 beds or something, which were not filled. The thing that comes to my mind is the youngsters down there at Morningside and I could be wrong but I feel that some of them are not down there because of insanity. Why are not those youngsters taken care of up here?

Mr. STEVENS. Again, I do not want to duck your questions, but that is out of my field. I would not know how many beds are filled in Anchorage and I also would not know why they are not sent back. I would like to see the procedures changed, and I think I agree with

your approach to the bill, but I do not know the answer to that question.

Mr. Dawson. Could someone tell me, do you have any facilities in Alaska for cerebral palsy cases? Could they be taken care of here?

Mr. STEVENS. The Alaska Department of Public Health, I take it, might be able to get into that, but again, that is out of my field.

Mrs. EIDEM. I am Mrs. Eidem, formerly a school nurse. The crippled children's program in Anchorage has a setup for that. They have someone in to help train them and the program is coming along.

Mr. Dawson. Where are they located, cerebral palsy cases?

Mrs. EIDEM. I think they handle them by training the parents, bringing their children in to a clinic as they do so often, and training the parents how to handle the situation.

Mr. ABBOTT. Mr. Stevens, H. R. 6376—and again I refer to section 108, page 13, if you have a copy—this is the bill as ordered reported July 25, 1955—section 108 (a) provides that an interested party, a licensed physician, health officer, et cetera, may by filing a written application to the United States Commissioner for proceedings—again beginning on line 3 of this bill:

Any such application shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that the individual is mentally ill and should be hospitalized or by a written statement by the applicant that the individual has refused to submit to examination by a licensed physician.

A brief glance at the map of the recording districts in the Territory of Alaska, your own description and some of the other witnesses' descriptions of the time and distance factor, the location of physicians, leaves somewhat unanswered on the face of this language at what stage—and we understand it is not a psychiatrist but rather a licensed physician—at what stage this certification may be made. Is that going to delay the process in terms of a great many days to physically accomplish that?

Mr. STEVENS. I believe it will. The cases to which Mr. Derr referred when he stated that at times we have extended the commitment proceeding under the present law to 20 or even 30 days—those situations have occurred when we could not contact the proper doctor, not a doctor here. We have doctors here but doctors from their areas and other doctors are the witnesses who would testify before our juries.

Mr. ABBOTT. At the Portland hearings of a special subcommittee of this committee to which Mrs. Green referred, in April of this year, a number of undoubtedly outstanding psychiatrists made it clear that the time factor from the moment of the break when this world of orderliness becomes a world of confusion to the individual, that the time factor is of great importance, because to supply the stability to restore an orderliness to the world of the patient, is tremendously important. Do you feel that as the bill is written is it shooting at an ideal or a situation which is not presently possible?

Mr. STEVENS. That provision you just read which starts on line 4 on page 13—again I am just stating frankly—I believe would make it impossible for us to act in the fourth division as quickly as necessary.

Mr. ABBOTT. Then may I ask you this: I refer you to page 15 with this background comment: the representative of the Department

the Interior at Morningside Hospital in Portland and the manager of that hospital, as well as the resident psychiatrist, stated that in too many instances in their view—I believe that is the way it is phrased—they had no knowledge of a patient's arrival or any previous activity of the Territory of Alaska until, literally, he was delivered at the front gate of the institution.

Mr. STEVENS. That is right.

Mr. ABBOTT. And that in most instances there was not accompanying that patient or in the custody of the marshal or whoever it might be delivering them there any reference, record, written summary, diagnosis, and prognosis, the clinical history that is so essential, at least as a background during the patient's receiving stage at the hospital. On line 10 through 15 on page 15, subsection (f) provides:

*** the proposed patient, the applicant, the legal guardian, and other interested parties as determined by the commissioner shall be given notice and afforded an opportunity to appear at the hearings to testify and to cross-examine witnesses and the United States commissioner may, in his discretion, receive the testimony of any other person. The proposed patient shall not be required to be present. The United States commissioner is authorized to exclude all persons not necessary for the conduct of the proceedings.

I call your attention particularly to the next two sentences:

The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The United States Commissioner shall receive and maintain a record of all relevant and material evidence which may be offered concerning the mental condition and the residence of the proposed patient and shall not be bound by the rules of evidence.

You will note that the clause "and maintain a record of," is italicized. It is a committee amendment to the printed bill that was introduced.

In the past have there been recorded proceedings in these commitment proceedings?

Mr. STEVENS. There is a record in this sense: That there is a record of the complaint that is filed and of the Marshal's return and probably who were the jury members. And that is it.

Mr. ABBOTT. Is there a record of the substance of the testimony?

Mr. STEVENS. No.

Mr. ABBOTT. Which, of course, would supply at least the skeletal bones of what might be clinical history or background medical history of the patient?

Mr. STEVENS. If I might suggest, I hate to get into it because it goes back to what Mrs. Green and Mr. O'Brien and Mr. Dawson stated, that this is not the time to tuck anything onto the bill. As applied in this division—and I believe we have greater distances than any other Division—as an aid to this Division, this bill would accomplish the purpose but would be difficult to operate under. If a jury is required it would be my personal opinion that perhaps the jury should be required out in precinct levels to determine whether the person really is in need of observation. I think that is what Mr. Derr was getting at. If an observation is necessary, then immediate transportation to a medical center—not confinement but transportation to a medical center. I believe that the jury provision would be satisfied and also there is always available the right of habeas corpus.

We cannot deal with the medical provisions in this bill, to my knowledge. I am not a doctor. Dr. Marrow or Haggard should be asked what they think about this. In my opinion, as we have to deal with commissioners in this Division and try to aid them in administering the present law, we are having a difficult time. This law makes the requirement that you have to have a certificate of a doctor and the doctor must visit the proposed patient either in his office or at the person's home or at a suitable place and not a detention facility.

Mr. O'BRIEN. You do have parts of Alaska, of course, where there would be no difficulty, like in Fairbanks, for example.

Mr. STEVENS. The four principal centers, I take it, we could operate very well and this would be an ideal bill.

Mr. O'BRIEN. Could you get around the rest of the Territory by perhaps having a physician appointed by the Alaska Department of Health or the Federal Government, whoever would do it, whose job would be to travel to these places?

Mr. STEVENS. That is precisely what Dr. Anderson, who is the former psychiatrist for the Department of Mental Health, Public Health, I guess, for the Territory of Alaska, did. But our trouble was he had so many points we had to stand in line and wait for him. Maybe a provision in this bill as it stands which would authorize us to incur the expense of sending a doctor out and state that we should hire someone on a standby capacity to always be ready to go out would be sufficient. But even then at times—take the boy from Tanana. If that was the situation when we could not get a plane into Tanana, he is liable to burn down the hospital before we could get the doctor there. The best thing to do is authorize immediate and the bill does, emergency commitment. I do not want to sound scary about this, but I think the bill is well thought out. In our situation in this Division, I believe it would be difficult.

I do not know if you have any questions of Mr. Yeager. He has more experience on these insanity hearings than I have had right here in the last year or so. He handled the ones involving young children that Mrs. Green is interested in.

We try to handle the present law as you want this law to read anyway.

Mr. O'BRIEN. Where do most of the charges—again, I do not like to use the word—against these people, where do they come from— from members of the family in most instances, or from the community or the police?

Mr. STEVENS. It is generally from someone who comes in contact with the individual or a police officer. If it is a police officer we review the case first because of the potential liability against one of the police organization. Normally it would be a doctor here in Fairbanks. In the outlying communities it is a member of the family or maybe the commissioner himself.

Mr. O'BRIEN. Is it usually with the consent of the family in most instances?

Mr. STEVENS. I have never known an instance when it was not with the consent of the family. That is unfortunate.

Mr. O'BRIEN. Mr. Yeager, would you care to answer some questions, perhaps?

Mr. YEAGER. Yes.

Mrs. GREEN. I wondered if you could tell us how many youngsters were involved in this 20-month period that has been referred to?

Mr. YEAGER. I cannot recall all of them. Two of them do come to my mind—the younger child you referred to, and another boy of approximately 4 or 5.

Mrs. GREEN. The younger child was how old?

Mr. YEAGER. I do not know how old. Approximately 20 months. Mrs. GREEN. Would you outline briefly what happened? What was the procedure in regard to the 20-month-old child?

Mr. YEAGER. I believe that the mother signed the complaint and counsel was appointed for the child by the United States Commissioner. The counsel went to the hospital to visit the child and make his observation. He talked to the mother. And then he came back, came into court at hearing time and the mother was present, and also the doctor who had taken care of the child since birth.

Mr. O'BRIEN. If you had followed the letter of the law at what point would that 20-month-old child have gone to jail?

Mr. YEAGER. When the complaint was signed.

Mr. O'BRIEN. How long would that child have remained in jail? How much of a lapse was there between the complaint and the actual sending of the child to Morningside?

Mr. YEAGER. It was not too long in this instance, I remember, because it was a local doctor. Dr. Anderson of the Department of Public Health was not called in in this case. The other doctor had personal knowledge of it and the child was in the hospital. So the period here was short.

Mr. O'BRIEN. 10 days, perhaps?

Mr. YEAGER. Perhaps even less than 10 days.

Mrs. GREEN. What was the time in regard to the 4- or 5-year old child?

Mr. YEAGER. That child also remained at home with his mother. The time there was very short also.

Mrs. GREEN. In your opinion, how can a jury—did they both come before a jury?

Mr. YEAGER. Yes, ma'am.

Mrs. GREEN. In your opinion, how can a jury of six lay people determine whether or not a 20-month-old child is insane?

Mr. YEAGER. Only from the testimony of the doctor. They must have weighed the doctor's testimony. And also counsel acquiesced in the commitment.

Mr. O'BRIEN. The jury trial was of absolutely no value to that child.

Mr. YEAGER. No, sir.

Mrs. GREEN. Or anybody.

Mr. O'BRIEN. Or anybody.

Mr. YEAGER. It is my personal opinion as to cases before a jury that oftentimes a person needs commitment at that time and can receive great help from the psychiatrist and proper attention.

Mrs. GREEN. At 20 months,

Mr. YEAGER. No, ma'am, I am not talking about that specific case. I am talking about others, and older people where they need care and need it immediately. The jury will overlook that fact and until a later time, until people are in desperate need and a psychia-

trist would not be of the benefit they could have been at an earlier time. I have noticed that.

Mrs. GREEN. I think all of the testimony would bear that out. \$500 spent at that time would bring about the very rapid recovery of the patient where you could spend thousands of dollars later and he would never recover.

Mr. YEAGER. Yes, ma'am, that is my impression.

Mr. O'BRIEN. Are there any other questions?

Thank you very much.

(A document submitted by Mr. Stevens follows.)

STATEMENT OF THEODORE F. STEVENS

I am the United States attorney for this Division, which is the Fourth Judicial Division, District of Alaska. I do not, however, appear here to present the views of the Department of Justice, nor do I appear on behalf of the Department. If I may be permitted to do so, I should like to have the record show that I am here to present my personal views and opinions and not the official position of the Department of Justice.

I am concerned about certain provisions of House bill No. 6376, as reported by your committee to the full House on July 25, 1955. We are all very much appreciative of the time and effort you have devoted to this Alaska mental-health bill and I would not want to leave the impression that I do not realize the complex problems which are involved in this subject.

There are two particular aspects of this bill that I would like to discuss.

DESIGNATION OF UNITED STATES COMMISSIONER

This bill refers to a "United States Commissioner." Section 107 provides for a judicial determination of a patient's need for continued treatment. This section refers to "the United States Commissioner." Section 122 of the bill refers to "a United States commissioner of the precinct in which the patient is resident or present * * *."

At the present time, we have 13 commissioners in this Division. As we have over 60 precincts, the number of commissioners varies, and will continue to vary, according to population trends. It is my opinion that this bill should specify the commissioner to whom a petition under section 107 or an application for commitment under section 108 shall be directed. The application under section 108 could be directed to the nearest or most accessible commissioner to the place at which the alleged incompetent is found at the time of the application. Provision should be made, however, for a transfer of the hearings to the commissioner nearest or most accessible to the residence of the proposed patient, upon his request.

The petition under section 107 should, in my opinion, be made only to the commissioner who either issued the commitment under section 108 or was connected with the proceedings pursuant to section 104.

SECTION 108 (f)

Your committee inserted into the original bill, as introduced by Mrs. Green an amendment which permits "the proposed patient, his counsel, or any member of his immediate family" to request a jury trial. I am not unmindful of the basic constitutional question which obviously gave rise to this amendment. However, this is a Federal Territory and your committee is considering special local legislation for this Territory in this bill. It is my opinion that none of the amendments to the Constitution of the United States require a jury trial on the issue of insanity as a prerequisite to commitment of an insane person in this Territory.

There is no doubt that the due-process clause of the 14th amendment does not require a State to provide a jury trial in an insanity hearing. Whether the fifth, sixth, or seventh amendments do require jury trials for commitment by Federal authorities, because of insanity, has not been directly decided. However, our Court of Appeals in this Ninth Circuit has held that a jury trial is not required in the Territory of Hawaii on the issue of insanity in a proceeding to appoint a guardian for an insane person, despite an objection that both the fifth and seventh amendments required Hawaii to provide such a jury. This holding together with

decisions of the Court of Appeals for the District of Columbia are the basis for my opinion that this provision in H. R. 6376 for a jury is not required by the Constitution.

I have been the United States attorney here since September 1, 1953. Since that time, 67 insanity hearings have been held here in Fairbanks. While there is no provision in either the present law or the proposed bill that requires a Government attorney to participate in these hearings, a representative of my office is normally requested to appear to aid the commissioner. The alleged incompetent is always represented by an attorney. While I have complete faith in the jury system in criminal trials, I have often seen a jury at an insanity hearing release a person vitally in need of treatment because the person was able, in a few lucid moments, to convince the jury that he was perfectly sane. In these 67 hearings, 21 of the alleged incompetents were released.

I know your committee has finished with this bill, but, if possible, I ask your support to have this amendment to the bill deleted.

Mr. O'BRIEN. We have three final witnesses to be heard today. It is my understanding they will testify as a group.

Maurice Langberg, Mrs. Lois Roach, and Irving Reed.

Identify yourself, Mr. Langberg.

STATEMENT OF MAURICE LANGBERG, PRESIDENT, UTILITY BOARD, HAMILTON ACRES; ACCOMPANIED BY MRS. LOIS ROACH, HOMEOWNER AND FORMER PUBLIC HEALTH NURSE; AND IRVING REED, TERRITORY HIGHWAY ENGINEER

Mr. LANGBERG. Maurice Langberg, president of the utility board of Hamilton Acres.

Mr. O'BRIEN. Mrs. Roach.

Mrs. ROACH. I am Mrs. Lois Roach. I am a homeowner.

Mr. O'BRIEN. And a former public health nurse?

Mrs. ROACH. Yes.

Mr. O'BRIEN. Mr. Reed.

Mr. REED. Irving Reed, Territory highway engineer.

Mr. O'BRIEN. Thank you very much.

You people can decide among yourselves who wants to lead off.

Mr. LANGBERG. First I would like to have these passed to the members here. We have a problem in Hamilton Acres. It is a health problem. It may turn into a mental problem if we do not get some relief. We have got about a mile of access road to the base. We probably have about 500 families that are involved. Now this particular road is traveled to such an extent that it is unbearable to live in that part of the area during the summertime. A particular count was made of the cars in that area a year ago and it averaged out 54 cars an hour for 24 hours a day for a 2-week period. The increase is approximately 75 percent greater at this time.

Mr. DAWSON. Could I ask a question? This is a subdivision of the city of Fairbanks?

Mr. LANGBERG. This is a utility district outside of Fairbanks.

Mr. DAWSON. Outside of the city limits?

Mr. LANGBERG. Yes, sir.

Mr. DAWSON. Is there anything about this traffic outside of volume that is particularly annoying-- heavy truck traffic?

Mr. LANGBERG. It has been established as the access road to the military base for all of the people going to it, for heavy traffic, for trucks, for your airplane vehicles coming off your convoys. And we