

BILL SEEKS RIGHT FOR U.S. COURTS TO WITHHOLD BAIL

Justice Department Asks for Extension of the Capital's Pretrial Detention

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WASHINGTON, May 14—The Administration submitted to Congress today legislation that would allow all Federal courts to detain certain defendants in prison before they have been tried.

The Justice Department also proposed legislation that would reverse the presumption of innocence in the case of a person convicted of a felony and seeking release until the appeal of his case was heard. It would become the individual's burden to show that he ought to be freed pending appeal, rather than the Government's burden to show that he ought not to be.

The proposal concerning pretrial detention would in effect extend to all Federal judges the power that Congress granted judges in the District of Columbia last year. The system of pretrial detention has been in effect here since February, but very few persons have been held under it.

Questions Raised

The Republican Senator chosen by the Administration to introduce the legislation, Roman L. Hruska of Nebraska, himself took note of the constitutional questions concerning pretrial detention. He seemed to indicate that the Administration did not intend to press very hard for its enactment now.

Senator Hruska, the ranking Republican on the Judiciary Committee, told the Senate that it was apparent that "the greatest impetus" for the passage of the pretrial detention legislation was the "bail situation in the District of Columbia" and that that had already been dealt with.

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defendants who they determine constituted a threat to the safety of the community. The defendant must also be charged with "a dangerous or organized crime act."

The bill defines these acts as loan sharking, racketeering, sale of narcotic drugs, assault related to aircraft hijacking, bombing, kidnapping and robbery.

In a news release, Attorney General John C. Mitchell said that "members of organized crime in particular are frequently able to post pretrial bond regardless of the amount."

A Democratic Senate aide called the list of offenses "this year's shopping list of politically popular crimes."

"Organized crime is the new issue," he said, "just as street crime was in 1968 and 1970."

He pointed out that the national pretrial detention bill introduced in 1969 dealt only with "dangerous crime," which was defined by Mr. Mitchell to include robbery, rape, arson and the sale of narcotics.

Senator Ervin has called detention a "vain and false panacea" and urged the Administration to devote its attention to providing the machinery for speedy trials instead. Only Wednesday he spoke against pretrial detention as follows:

"If America is to remain a free society, it will have to take certain risks. One is the risk



Associated Press

OFFERS CRIME BILL: Senator Roman L. Hruska of Nebraska, a Republican, introduced bill for some pretrial detention.

that a person admitted to bail may flee before trial. Another is the risk that a person admitted to bail may commit crime while free on bail.

"In my judgment it is better for our country to take these risks and remain a free society than it is for it to adopt a tyrannical practice of imprisoning men for crimes which they have not committed and may never commit, merely because some court may peer into the future and surmise that they may commit crimes if allowed freedom prior to trial."

In transmitting the proposal to Congress, Mr. Mitchell said that it was designed to alleviate the "increasing concern about the commission of crime by dangerous persons released prior to trial."

The Attorney General pointed out that a detention hearing would have to be held and that a defendant could be detained only if one of the following four conditions was met:

The defendant has been convicted of a felony within the last 10 years; he allegedly committed a crime while he was on bail, probation, or parole; he is an addict; or "the Government certifies that based on such person's pattern of behavior consisting of his past and present conduct and on other factors, there is no condition which will reasonably assure the safety of the community."

The other bill submitted today provides that before a person convicted of a felony could be released on appeal, he would have to show that he was not likely to flee or to pose a danger to other people or their property. In addition, the judge would be required to find that the person's appeal raised a substantial question of law or fact.

The proposal would also give judges authority to consider danger to the community—not just the likelihood of flight—in imposing nonfinancial conditions when they released a defendant before trial.

It would also set minimum additional penalties for jumping bail or committing offenses while on pretrial release.