

The *Wong Sun* case serves to illustrate that the problem goes beyond an interpretation of Rule 5(a). Even if Rule 5(a) were abolished, the courts may be forced to decide whether the Fourth Amendment has been violated in Mallory-type cases. The courts may also reach questions under the Fifth Amendment (whether liberty has been lost without due process of law), the Sixth Amendment (rights to notice of the charge, confrontation, and counsel), and the Eighth Amendment (right to reasonable bail).

In the final analysis, I think any bar association should be very careful in advocating the abolition of a rule which has been in effect for so many years and which has been interpreted on so many different occasions. Further, I think any bar association should be extremely cautious in proposing legislation which may restrict rights guaranteed by the Constitution.

II. SIX HOUR BILL

The second bill would authorize judicial officers to require the giving of evidence by providing that a person may be subpoenaed and interrogated for six hours. In the Killough Committee we have called this proposal the "Six Hour Bill."

More specifically, this bill provides that when any law enforcement officer has "good cause" (not probable cause) to believe that someone (a "respondent") may have information concerning a specific crime, the prosecuting attorney may ask a judge to issue a subpoena directing the respondent to appear forthwith. The judge tells the respondent that he is not required to give evidence which may incriminate him, but the respondent is not given counsel. The respondent is then taken away (to some place other than the precinct) where he may be interrogated, in the absence of judge and counsel, for six hours. If he is not willing to talk, he may be held in contempt. A transcript is made of the respondent's testimony.

This bill was discussed rather extensively during Committee meetings and I shall now set forth my general objections as expressed to members of the Committee.

A. Is the "Respondent" Arrested?

The first problem seems to be whether the "respondent" is