

ATTACHMENT 2

REPORT OF THE COMMITTEE ON CRIMINAL LAW AND PROCEDURE

The committee on criminal law and procedure was called to order in the board room of the National Savings & Trust Co., at 4 p.m., on Monday, March 18, 1963. In attendance were Messrs. H. Clifford Alder, Richard L. Braun, Edmond T. Daly, Frederick H. Evans, William E. Foley, DeLong Harris, Karl M. Kunz, Hugh J. McGee, Gerald S. Ostrowski, A. Kenneth Pye, Sylvan Schwartz, Richard J. Scupi, Joseph Sitnick, Robert L. Weinberg, Hal Witt, and Donald E. van Koughnet. Mr. Sitnick, vice chairman of the committee, presided in the absence of the chairman who was ill.

The committee proceeded to the consideration of several bills directed to the committee by Mr. Pratt, vice president of the association.

I. H.R. 1929

This bill contains two parts. The first section is based upon the provisions of the Uniform Arrest Act and permits a police officer to detain any person abroad whom he has reasonable ground to suspect is committing, has committed, or is about to commit a crime. The police officer may demand that he identify himself and explain where he is going. If he fails to identify himself or explain his action to the satisfaction of the office, he may be detained for a period not exceeding 6 hours. The bill further provides that this "detention" is not considered an arrest.

It was pointed out that members of the committee have for the last few years discussed and studied the problems of arrests for investigation, illegal arrests, the *McNabb-Mallory* rule, the *Killough* decision, the Uniform Arrest Act, and related matters.

Mr. Pye moved that the committee recommend that the association oppose section 1 of H.R. 1929. Fourteen members voted in favor of the motion; Mr. Daly and Mr. Braun abstained. No member of the committee voted in favor of the section.

Section 2 of the bill seeks to amend section 4-144 of the District of Columbia Code relating to the detention of material witnesses. The bill provides that whenever there is a reasonable ground to believe that any person may be a material witness to the commission of any felony, or attempt to commit a felony, and there is a reasonable probability that such person will not be available as a witness during the investigation or trial, the police may take the witness into custody and detain the suspected witness for not more than 6 hours. At that time the suspected witness must be brought before a judge or Commissioner who may require him to post bond or collateral to secure his appearance at the investigation or trial, or discharge him. Provision is made that the "detention" shall not constitute an "arrest." It is provided that the detention or confinement of the witness shall be in quarters other than those used for persons charged with crimes.

During the discussion several matters were pointed out. (1) There has been no showing that legislation of this type is needed; (2) an out-of-town witness might find himself in a situation where no local bondsman would post bond for him; (3) the provision in the original draft released by the Commissioners of the District of Columbia provided that nothing said by the witness during his detention could be used against him in a subsequent criminal proceeding. This provision has been removed from the bill under consideration.

Mr. Alder moved that the committee recommend that the association oppose section 2 of H.R. 1929. Fourteen members voted in favor of the motion; Mr. Daly and Mr. Braun abstained. No member voted in favor of the section.

II. H.R. 1930

H.R. 1930 is another form of the Willis-Keating bill which has been regularly introduced in the Congress since 1957. In pertinent part it provides:

"That 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."

The bill also provides that no statement made by a person during interrogation "while such person is under arrest" shall be admissible unless the arrested