

The CHAIRMAN. What's that?

Mr. KAMISAR. I think I am a little more emphatic about it.

The CHAIRMAN. You are pretty emphatic about everything you say.

Mr. KAMISAR. Yes; I think we are in substantial agreement.

The CHAIRMAN. I always like to find these areas of agreement. This is a little difficult in this field.

Mr. KAMISAR. That's right.

The Uniform Arrest Act has been mentioned—people say, how can it be that a uniform act was proposed which is now unconstitutional? Well, the Uniform Arrest Act was the work of Sam Bass Warner and some other people back in the 1930's.

Now in its time it was "constitutional." But back in the 1930's no one suggested that an illegal arrest violated due process. I mean this is like saying back in the 1930's some authority had a certain view of the scope of the commerce power. Well, that is meaningless today. Again, we have gone eons since 1935. Now it is just hard for me to see how you can detain somebody for as much as 6 hours and say you have not arrested him.

Now, you know, "arrest on suspicion" or "false imprisonment"—these are dirty words, these are blunt words. But "detention" where there is "reasonable ground to suspect"—that is Madison Avenue. That is soft, that is clean; it doesn't sound too bad.

The CHAIRMAN. But you think it is unconstitutional.

Mr. KAMISAR. I think it is unconstitutional. I think it is kind of cute, you know. For, if you read it fast, it looks awfully good—"reasonable grounds to suspect." It seems pretty reasonable. But it is less than reasonable grounds.

The CHAIRMAN. Let me ask you this. We are faced with a problem, and the record is pretty clear that the District of Columbia has a very bad record on aggravated assaults, robberies, and housebreaking. If you were a legislator, what would you do to try to be of assistance to the police in this area? You have told me what was wrong with title I. You are a very capable and brilliant young lawyer, and you have spent a lot of time studying this. What would you do? People certainly have a right to be safe in their homes and safe on the streets. How would you make their homes and the streets safe?

Mr. KAMISAR. Well, I have a long answer, which would take about 15 or 20 minutes. The thrust of it is: To what extent is the *McNabb-Mallory* rule a major cause of the current crime situation in the Nation's Capital? And I think this is an important area, because everybody seems to assume this is so, that it is a major cause.

I spent a great deal of time, most of last night, going over these statistics, and I think I could establish it is not so.

The CHAIRMAN. You heard Mr. Shadoan this morning.

Mr. KAMISAR. Let me say this first of all. I agree with him on the statistics about holding people for more than 8 hours and only charging 1.2 percent. But I have other data than his.

Now as to that, there is no question about the reliability of that data. That was in the Horsky report, which has not been mentioned often enough. That was a distinguished committee. One of the members of the committee was former—or still present—personal counsel to the Chief of Police. Another member of the committee is now the Presidential adviser on National Capital affairs, one of the Nation's truly great lawyers, Mr. Horsky.