rogation he admitted another crime and the witness whom they needed in the other crime was found and only the testimony of this witness was offered.

In the *Smith* and *Bowden* cases handed down by the circuit in September of this year, we have the circumstance where the police detained an individual for 60 hours. As the result of his detention, one individual who was an adult and the other—an intensive interrogation of a juvenile for 35 hours, by a clear violation of the *Mallory* rule, they obtained knowledge of the whereabouts of a witness and at the trial they did not attempt to admit the confession of the juvenile which would be excluded under the *Mallory* decision, they produced only the testimony of the witness which had been found as a result of these unlawful detentions and that was sustained.

I am not prepared to argue before this committee that these things are right or wrong, but I do think that they indicate that there is a great deal more flexibility available to the police and that the committee would be wrongly advised if they thought that because there is a *Mallory* rule the police have stopped unlawful detentions—the unlawful detention may not be accomplished in a case where it may cost the case, but these decisions in the aggravated assault cases and the homicide cases are pretty good evidence, I think, that the police in important cases will detain unlawfully even with the *Mallory* rule, and may be very well able to make their case without the necessity of violating the *Mallory* rule simply by their reluctance to admit the confession.

As a defense counsel I have on occasion attempted to incite a prosecutor to offer a confession because then I would be able to establish the *Mallory* rule violation. The clever prosecutors will not do it, he has a witness, he uses the testimony of that witness that he has obtained for the purpose of conviction and the same phenomenon is noted, of course, in the *Goldsmith*, *Jackson*, and *Killough* cases where concededly the rule was violated and an admissible confession obtained and on the basis of this confession a subsequent admissible confession was obtained in *Jackson-Goldsmith* and an inadmissible confession in *Killough*.

I continue to be concerned over the problem in the District of Columbia. As the Senator has indicated, my mother is one of those ladies who will not go out on the street at night for fear of attack. I simply am not sure that her position would be changed if the Senate passes this particular bill, and that is the thrust of my comments before the committee today.

The bar of the District of Columbia is a bar which is acutely conscious not only of the pressure of business interests in the District but the pressure of their loved ones and the pressure of their clients, for something to be done about our crime rate.

Nevertheless, last year, when this matter was presented to the bar association at a meeting attended by over 900 members of the association, the vote was overwhelming against a statute such as this one which would effectively negate the protection given to defendants at the present time by the *Mallory* rule. And this was not just defense counsel assembled in high dudgeon. The bar of the District of Columbia has indeed very few defense counsel, there are a few like myself