

The CHAIRMAN. I understand your position.

You are saying that 301 is invalid—and as I have indicated, the testimony seems to be almost unanimous it is an unconstitutional provision. But if we went ahead and enacted 302, you say we would be doing something indirectly that we would do under 301.

Mr. HELLER. Yes, sir.

The CHAIRMAN. I think I understand you very well.

I certainly appreciate your testimony. Thanks to both of you gentlemen.

Our next witness is Mr. Philip Schwartz, member of the board of directors of the Americans for Democratic Action.

STATEMENT OF PHILIP SCHWARTZ, MEMBER, BOARD OF DIRECTORS, WASHINGTON CHAPTER, AMERICANS FOR DEMOCRATIC ACTION

Mr. SCHWARTZ. Mr. Chairman, we have passed out our written statements already to the clerk.

The CHAIRMAN. Very well. I have it before me. It seems to be a reasonably brief written statement. You can either read it in full or highlight it.

Mr. SCHWARTZ. I will go through it rapidly.

The CHAIRMAN. Very well.

Mr. SCHWARTZ. Mr. Chairman and members of the committee, my name is Philip Schwartz. I am an attorney and a member of the board of directors of the Washington Chapter of Americans for Democratic Action. It is a pleasure to again come before you and to have this opportunity to present the views of ADA on an extremely far reaching piece of criminal legislation.

We have prepared a statement of our position on the bill's provisions affecting the *Mallory* rule, detention for investigation, and detention of material witnesses.

By way of prefacing my remarks on these matters, I would like to comment upon the underlying philosophy which motivates our views.

The enormous extent to which H.R. 7525 would affect the enforcement of the criminal law in the District of Columbia and thus the lives and liberty of all its residents and the many thousands who work in it and visit it, places upon you a responsibility of historical importance.

The cold bare words of H.R. 7525 sound ostensibly plausible. But we must remember that the Congress is attempting here to revise a delicate segment of virtually the oldest of manmade civilizing institutions—the criminal law, man's groping attempt to enforce divine precepts of man's responsibility toward his fellowman. Implicit in this codification of society's mechanism for insuring the respect of the person and property of others are other basic human concepts, which in the Western World of Judaeo-Christian philosophy and of democratic society are deemed inalienable rights of every person.

This means, in the context of criminal law, that regardless of the assiduousness in enforcing the codified moral responsibilities by the governmental institutions, certain paramount human rights must be respected and any encroachments upon these rights by the powerful public enforcement institutions are inherently wrong unless such encroachments serve some higher purpose of society.