

out unnecessary delay is per se a constitutional right according to the Supreme Court. Therefore any confessions adduced during such period of illegal detention would be excluded from evidence. Title I permits admission of such confessions, regardless of the length of delay between arrest and arraignment. Clearly this is violative of the Constitution.

There have been several statements made in regard to *Mallory*, and the former District Commissioner testified earlier to the point that Washington has become notoriously a soft touch for criminals.

The CHAIRMAN. A number of witnesses have said that.

Mr. SCHWARTZ. I do not know whether this is true or not—whether this has caused a greater influx of criminals to this community. But if there is a greater influx of criminals, I do not necessarily attribute it to the fact that the law itself is soft, but merely that the opponents of *Mallory* have spread this opinion that *Mallory* is creating a soft area for criminals, and if criminals are reacting to that, they may be coming into the area—I do not know if they are. I do not say it is because of the law itself.

The CHAIRMAN. The charge has been made. I do not know whether it is correct or wrong. It has been made by some, it has been denied by others. Those who deny it have pointed to statistics indicating that a great percentage, the exact percentage slips my mind, of crimes committed here in the District of Columbia, were committed by people who practically lived here all of their lives, right in the metropolitan area. This was used in refutation of the statement that the word had gone out that Washington was soft on crime, and therefore criminals from all over the United States were flocking here, because they could get away with more here than they could in any other area.

Now, the opponents to that contention point out this simply is not statistically true, because a great percentage of the crimes are committed by people who were either born or spent practically all of their lives here. This was used by way of refutation. This is one of the areas of distinct conflict in the evidence and testimony that is before this committee.

Mr. SCHWARTZ. Turning to a problem closely related to the issues by the *Mallory* rule, I direct your attention to the insidious consequences of section 301 of title III of H.R. 7525; namely, the section dealing with detention for investigation of a person on suspicion that he is committing a crime, has committed one, or is about to commit one.

We confront again, as under title I, constitutional difficulties. The fourth amendment permits no arrests unless there is probable cause. The restraint imposed by detention for investigation constitutes an arrest per se and certainly an arrest without probable cause.

Thus, though the "suspicion" of the police must be based on a "reasonable ground," the bill attempts to raise suspicion to the same level as the constitutional "probable cause."

While this bill imposes a 6-hour limit on the detention, that is, arrest, it in effect forces a suspect to prove the negative of guilt to the police to avoid being charged. Is this not an arrest without probable cause and thus unconstitutional? Is this not another device to circumvent the *Mallory* decision against arrests followed by unnecessary delay before arraignment?