

Mr. ACHESON. Is the defendant held with unnecessary delay? Well, if he is held for 2 hours, I would say no. Perhaps some judges might say yes.

The CHAIRMAN. It seems to me the question also poses the additional thought, if I understand you correctly, that if you tried to get the confession, then you follow the practice of taking him before a committing magistrate without unnecessary delay, but if you don't think you are going to get a confession, you follow a little different rule.

So the poor defendant, in whose case you don't have to rely on a confession, spends a longer time in jail before he goes before the committing magistrate. Is that a fair statement?

Mr. ACHESON. Senator, I think everyone involved would be complying with the law if all defendants who are arrested at night were properly charged, locked up overnight, and presented at 10 o'clock in the morning. Now if more speedy presentment is accomplished in the case of some defendants, I should not think it was a prejudice to the rights of the others.

The CHAIRMAN. Fine. Thank you.

It was suggested by Assistant Dean Pye, of Georgetown University Law School, who appeared here several days ago, he informed the committee that the American Law Institute was undertaking a 2-year study of arrests, detention, and search and seizure problems.

In your judgment should actions on titles 1 and 3 be delayed pending a study of the American Law Institute's findings in this respect?

Mr. ACHESON. Would you like Mr. Katzenbach to answer that?

Mr. KATZENBACH. I have the greatest respect for the American Law Institute, but I don't see any reason why Congress should delay action that it feels is necessary pending study by that body. You can always consider their recommendations subsequently, and amend any laws in the light of anything that they come up with.

The problem here in the District of Columbia has been urged by those responsible for law enforcement that it be an urgent one, and I think they state that with good faith and conviction, and I would not feel that there was any reason to await a study by an outside body of a more general problem.

They are concerned after all with this problem in all of the States, and I am sure, as you are aware, Mr. Chairman, the State courts and the practices in the States of the United States are not that of the District of Columbia, because there is no *Mallory* rule applicable in the State court proceedings, that being a rule of evidence in Federal cases.

The CHAIRMAN. I recognize that this is a Federal rule. However, we heard testimony from various chiefs of police throughout the country that the *Mallory* rule was having its effect even upon State decisions.

I think it has been indicated that the *Mallory* rule has now been cited in some 150 cases, some such number that have occurred in various places both in Federal courts and State court levels recognizing it is not binding on a State court, but they are moving more and more toward the *Mallory* rule.

Mr. KATZENBACH. I have no doubt that would be true, Mr. Chairman, but I think probably Chief Murray would be happy to change places with virtually any other police chief with respect to the interpretation of the *Mallory* rule.