

opportunity to express my sincere appreciation for the opportunity to appear before this committee and offer testimony relative to titles I and III of H.R. 7525.

At the outset, the Washington Bar Association would like the record to show that it opposes the entire act in general on the ground that no new legislation is needed for the purposes or so-called evils the act proposes to remedy. Secondly, the act is applicable only to the District of Columbia and specific opposition is registered with respect to titles I and III of the act, for reasons which will be more fully set forth herein below.

#### TITLE I

Section 101(a). This title, as I understand it, would not exclude confessions or statements made during detention simply because of a delay in having the arrested person brought before a committing magistrate or other judicial officer; that is, an officer clothed with judicial authority and concomitant power to commit persons charged with violation of laws of the United States.

The bare language of this section is pregnant with evils of a most sinister nature. It strips an arrested person of fundamental constitutional rights. And, contrary to the views held in some circles, it does not afford protection to the public or society in general. It attempts to achieve by statutory fiat what only can be done by a competent and properly administered judiciary. It lays stress on the viciousness and the heinous nature of an offense as the need for relaxation of the current rule relative to admission of confessions and statements rather than stressing the need to safeguard the fundamental constitutional rights of the individual which it is submitted is the beacon for safeguarding the public. It is submitted that a denial of the constitutional rights of a single individual can only lead to a weakening of the confidence of society in the whole structure of criminal justice.

While the language of title I does not so state, the majority view of the report accompanying H.R. 7525 states that one of the purposes of title I is to return to voluntariness as the test of admissibility of confessions. It would appear that one of the tests of voluntariness is whether there was a delay, other than administrative, in taking the arrested person before a committing magistrate. It should be observed at this juncture that neither the language of title I nor the report of the majority places any time limit on the delay. Conceivably, one could be held for months before being allowed to confront a committing magistrate or other judicial officer—thus delay in itself, without more, could be tantamount to coercion.

The majority views of the House committee report relates that a confession, to be admissible, should not be the product of coercion, duress, physical compulsion, promises, or threats; but if such foregoing factors are absent the confession should be admissible provided it is given freely and voluntarily and that the purpose of title I is to insure such a result. It is submitted that title I would do just the opposite. From practical experience it is known that a delay in itself could produce some of the very evils which constitute the irregular factors. Having had the experience of representing defendants in criminal cases in both the U.S. District Court for the District of Columbia and the District of Columbia court of general sessions, I have a somewhat more intimate and personal knowledge of some of the interplay between defendants and police officers. In many instances there have been situations where an arrested person has been held until he decides to give a statement. In some instances it was intimated to the prisoner that he would be permitted to make a phone call to contact a friend or relative or to contact a bail bondsman, only if he cooperated with the officer. In some of these cases the prisoner finding himself in such a situation has indicated he would cooperate only after he could talk with a particular officer, but it would develop that the particular officer was on leave or was off duty and he would not return for several hours or, in some cases, several days. And thus the prisoner would be held incommunicado until such time as the officers or officer arrived.

It would then develop that the defendant would make statements to this particular officer because he had a special confidence in him. Of course in many instances such confidence was ill-founded. In most cases he would exact from the officer an oral and confidential promise to help him with the district attorney or to recommend a low bond. In return for such oral promises, totally unsupported by any consideration, the prisoner unburdens himself orally. The officer at no time, tells the inmate that he does not have to make a statement. After hearing