The weakness of title III is that it merely incorporates the provisions of the Uniform Arrest Act, which are some 30 years old, and fails to reflect some of the problems which have arisen under the Uniform Arrest Act in States where it has been adopted. For example, in Delaware the Supreme Court in *Desalvatore* v. *State* (163 A.2d 244 (1960)), held that the phrase "reasonable grounds to suspect" means "reasonable grounds to believe." By this interpretation the Supreme Court of Delaware sustained the constitutionality of the detention provision but in so doing deprived it of any significance. To equate "reasonable grounds to suspect" with "reasonable grounds to believe" means that a person can be detained prior to arrest only when grounds for arrest exist. The courts of the District of Columbia will not necessarily adopt this view of the Delaware court, but it would be desirable to make certain of this by attempting to give some further content to the phrase "reasonable ground to suspect." In *Rios* v. *United States*, the Department of Justice argued that law enforcement officers ought to have the right to question a suspect where there exists "reasonable grounds for inquiry." This seems to be a better formulation, particularly if the draftsmen were able to give some indication of the factors which might properly be taken into account by a law enforcement officer in deciding whether sufficient grounds for inquiry exist.

Even if these matters were clarified, my own individual view would still be that it is unnecessary to have a 6-hour in-custody detention provision if Congress were to provide an adequate basis for stopping and questioning suspects on the street; adequate arrest power; and an adeqaute right to conduct a reasonable in-custody interrogation following a lawful arrest.

In brief, my view of title III is that it is inadequate to the extent that it perpetuates the difficulties which have developed in the Uniform Arrest Act during the 30-year period since its original formulation and further that it is both unnecessary and unwise to raise the very difficult constitutional questions involved in the 6-hour detention provision when adequate provision for stopping and questioning suspects, arrest and in-custody interrogation would provide the power needed for effective law enforcement today.

Very truly yours,

FRANK J. REMINGTON,
Professor of Law.

The CHAIRMAN. I believe the views expressed in his letter are most challenging.

The committee had also hoped to hear Prof. Jerome Hall, of the University of Indiana, a legal scholar in the *Durham* field, who was unable to arrange his schedule to appear before the committee.

Therefore, I ask to be placed in the record at this time an article by Professor Hall in the American Bar Association Journal of October 1963, dealing with the *Durham* subject, and during the course of our hearing on title II, which involved the *Durham* subject, a number of witnesses referred to this particular article.

(The article referred to follows:)

THE MCNAGHTEN RULES AND PROPOSED ALTERNATIVES

Responding to overt and implied criticism of the McNaghten Rules for determining legal insanity to excuse criminal responsibility, Mr. Hall proposes a national seminar or study by judges of the diverse and perplexing problems they must face in deciding issues in this field. He thinks that McNaghten needs repair rather than replacement and that a rough consensus might be attainable.

(By Jerome Hall, distinguished service professor of law, Indiana University)

In the March 1963, issue of the American Bar Association Journal, Justice William J. Brennan, Jr., after stating that he would not even "by the slightest intimation suggest" which insanity test he thought preferable to the McNaghten rules, "if indeed it has yet been proved that any one of them is better," proceeds directly to express some very definite preferences on this subject.[1]

[1] Brennan, "Law and Psychiatry Must Join in Defending Mentally Ill Criminals," 49 A.B.A.J 239 (March 1963).