

MALLORY AND DURHAM RULES, INVESTIGATIVE ARRESTS, AND AMENDMENTS TO CRIMINAL STATUTES OF DISTRICT OF COLUMBIA

TUESDAY, OCTOBER 22, 1963

**U.S. SENATE,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.**

The committee met, pursuant to recess, at 10 a.m., in room 6226, New Senate Office Building, Senator Alan Bible (chairman) presiding.

Present: Senator Bible.

Also present: Chester H. Smith, staff director; Fred L. McIntyre, counsel; Martin A. Ferris, assistant counsel; and Richard E. Judd, professional staff member.

The CHAIRMAN. The committee will come to order.

This is a continuation of our hearing on H.R. 7525. Although we have not concluded our examination on title II, the so-called *Durham* rule, we will commence this morning with title I, with what is referred to as the *Mallory* rule.

We still have several witnesses to hear on the *Durham* rule, but they cannot be present today. We will hear them at a later time.

Our first witness this morning on title I will be Oliver Gasch, former U.S. attorney in the District of Columbia, and past chairman of the District of Columbia Law Enforcement Council.

Again my thanks and appreciation to you, Mr. Gasch, for your courtesy in appearing and giving us the benefit of your views on title I.

STATEMENT OF OLIVER GASCH, ATTORNEY, WASHINGTON, D.C.

Mr. GASCH. Thank you, Senator. I appreciate the opportunity of stating my views.

As was the case in my testimony concerning the American Law Institute formulation on insanity as a defense in criminal cases, the views I expressed are my own and are not to be attributed to the Bar Association of the District of Columbia, of which I am an officer.

This morning I should like to address my remarks to rule 5A and its interpretation in the *Mallory* case.

I think the key sentence in that decision is the requirement of rule 5A is part of the procedure devised by Congress for safeguarding the rights of the individual without hampering effective and intelligent law enforcement.

I say that that is the key sentence because I believe that sentence provides the basis wherein Congress may examine the effect of the