

The CHAIRMAN. I understand that. But this is where we get into this difficult area. If you start giving the police officers some of the tools that they are seeking, then we are told by the constitutional experts it would be unconstitutional.

I am wondering where you draw this line.

Sheriff CANLIS. It is a matter of realism, Senator. We have to examine this quite carefully to see whether or not, in effect, this is a matter of interpretation of the Constitution as it affects human conduct today. Things have changed radically over the time when previous interpretations of the Constitution were made.

Some of these questions that are being more closely restricted today were ruled on a long time ago, and they have been narrowed tremendously in the recent decisions as against previous decisions in interpreting constitutional provisions.

The CHAIRMAN. Well, I recognize that. Notwithstanding the statement that you attributed to Thomas Jefferson, we still rely upon courts to interpret the Constitution. They are charged with the responsibility of interpreting our Constitution. If they change, and narrow certain constitutional provisions, then I do not know what appeal you have from that. The court is the interpreter of the Constitution.

The only thing we can do, as I understand your statement, would be to change the Constitution itself.

Sheriff CANLIS. My statement, Senator, goes to the heart of the matter of congressional enactment of rules that would permit us to act that would be recognized by the interpreters of the Constitution, who are our courts. In 5A, in the *Mallory* decision, for instance, it is a very narrow rule. And of course the court said, at the time, that interpreting this they interpret it as to the meaning of the thing as it was written.

Now, certainly the interpretation of words, the definition of words, goes to the heart of this measure. And of course if Congress could extend this to what it, in reality, means, that a police officer has the right, under proper circumstances, and with the proper controls to interrogate, this forever then would set the court straight in interpreting this provision—because there are adequate remedies and guarantees and safeguards against what is alluded to in here as police abuses. Because, I repeat, Senator, if we were that good, we would not have this big a problem.

The CHAIRMAN. I think I understand the position you are taking, Sheriff. Again I want to express my personal appreciation for your coming here and giving us the benefit of your views in this very difficult area.

Sheriff CANLIS. I am grateful for the opportunity, Senator.

(Additional views subsequently filed with the committee by Sheriff Canlis follow:)

OFFICE OF SHERIFF-CORONER,
COUNTY OF SAN JOAQUIN,
Stockton, Calif., October 24, 1963.

HON. ALAN BIBLE,
U.S. Senator, Nevada, Chairman, U.S. Senate Committee on the District of
Columbia, Washington, D.C.

DEAR SENATOR BIBLE: In response to a question that you asked me during my recent appearance before your committee concerning the *Mallory* rule and the Uniform Arrest Act, I feel that my answer was inadequate and not completely responsive to your inquiry as to what the situation was in California with regard to this law.