

Criminal Procedure set forth in the *Mallory* decision is the most effective method, a method that has been tried in the enforcement of the provisions of the fourth amendment and has proved to be most effective during the past 49 years. We say that Congress should not permit itself to be stampeded into hasty enactment of legislation designed to nullify the effect of that decision without sufficient time to properly ascertain and evaluate the effect of that decision upon law enforcement generally and the protection of the rights of citizens specifically. Further, it must be considered that *Mallory* has now been in effect for more than 6 years without appreciable effect upon law enforcement. We, therefore, urge that no legislation be enacted to modify the law as set forth in the *Mallory* decision.

The CHAIRMAN. Thank you very much, Mr. Harris.

Let me ask you two questions.

No. 1, if title I in the bill now before us for consideration was enacted into law, do you believe that it would be a constitutional enactment?

Mr. HARRIS. I do not believe that it would be constitutional. I say that for several reasons I won't go into now. However, I say this, Mr. Chairman:

The *Mallory* decision was not based on any constitutional considerations.

The CHAIRMAN. I understand that. Of course, the point has been made repeatedly, and there is a difference of opinion in the witnesses who have appeared before us.

Some say that title I, if carried up to the U.S. Supreme Court, would stand the constitutional test. Other witnesses say that it would not, because it would violate various provision of the Constitution.

I was just asking for your opinion. You are a lawyer who has practiced here 19 years, and you say half your practice is involved in criminal law. So you would have some familiarity in this particular field.

Your opinion is it would be unconstitutional.

Mr. HARRIS. And I would say that my basis would be amendment 5, rather than amendment 4, because, as I mentioned briefly in my statement, it would be a form of compulsion of testimony.

I say that if the Congress says in amendment IV that I am not compelled to testify against myself, a corollary of that rule is that the police official or the State or the United States is not entitled to place me in a situation where I would give a statement against myself, ostensibly voluntarily, but as we know, caused by the psychic and psychological pressures by an unlawful detention.

The CHAIRMAN. My second question is this:

There seems to be, threading through all of the testimony on both sides, actually, in our hearings thus far, on title I, the objective the police are trying to reach, which was expressed, I think very well yesterday, by Dean Pye, assistant dean at Georgetown Law School. He said the crying need is for interrogation.

In your opinion, how far can the police go in interrogating a suspect?

Mr. HARRIS. While in custody or while out of custody?

The CHAIRMAN. Well, when they first pick him up—find a suspect, and they intercept him in Washington, D.C., a police car intercepts him. At that point, from there on, how far can police go in interrogating that suspect? The very time they pick him up.