

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

TUESDAY, NOVEMBER 5, 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: Senators Bible, McIntyre, and Dominick.

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 continuance of the hearings on H.R. 7525. This morning we are examining title I and title III of this particular legislation.

Our first witness is Mr. Nicholas deB. Katzenbach, Deputy Attorney General. We will be pleased to hear from you at this time, Mr. Katzenbach. The official report of the Department of Justice has been made a part of the record earlier in the hearings.

STATEMENT OF NICHOLAS deB. KATZENBACH, DEPUTY ATTORNEY GENERAL; ACCOMPANIED BY DAVID ACHESON, U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA

Mr. KATZENBACH. I have with me Mr. David Acheson, who is the U.S. attorney here in the District of Columbia. I have a short prepared statement.

The CHAIRMAN. Why don't you proceed to develop your position by reading the statement.

Mr. KATZENBACH. I am pleased to respond to your invitation for me to state the views of the Department of Justice with respect to title I of H.R. 7525, relating to the so-called *Mallory* rule. This rule, and what, if anything, to do about it, has been the center of much controversy.

In arriving at any conclusions upon which to base legislative action, it is essential that all persons charged with the responsibility of considering the legislation or making recommendations with respect to it should agree on just what the rule is.

It is generally agreed that it is a rule of evidence, stemming from the Supreme Court opinion in *Mallory v. United States*, 354 U.S. 449 (1957). That rule of evidence is, in turn, a judicial sanction through