

of 2 or 3 hours prior to that time by members of the Gambling Squad in the execution of a search warrant for the premises occupied by Mr. Mallette. Arrested along with Mr. Mallette, were four or five other individuals, all of whom were represented by undersigned and all of whom desired to see and confer with their counsel. The, now Deputy Chief, John D. Layton was in charge of the Gambling and Liquor Squad at that particular time and it was he, the then Capt. John D. Layton, who personally refused to permit undersigned to confer with, consult with, or even see his clients, until they had been subjected to the attention of Mr. Layton's subordinates in the securing of written or oral statements or confessions from these arrested suspects or in the attempting to secure same through intensive interrogation.

Undersigned, who has been in the active practice of the law in the District of Columbia continuously for the past 19 years, and whose practice has consisted, perhaps, of 30 percent criminal practice, which practice has included some of the larger, more important and, perhaps, more publicized cases during that period of time since 1944, places no stock whatsoever in the reliability or upon dependability of police officers to properly advise arrested suspects when such advice would thwart the desires and intentions of such officers. In the mind of undersigned, the establishment of the mechanical means of facilitating the pure emasculation of the right guaranteed to every American citizen by the Founding Fathers in the fifth amendment, not to be compellable to give testimony against himself by the method of assigning the duty of protecting that right to he very same individual who at the very same time is interested primarily in having the citizen give up, waive, or lose that valuable right and give to the individual police officer a statement incriminating himself, and ascribing to such "protection" validity under the fifth amendment of the Constitution of the United States, is the very quintessence of sophistry.

Senator Bible, the many reasons for the vigorous stand taken by the National Capital Area Civil Liberties Union in opposition to any legislation whatsoever seeking to amend or modify the *Mallory* rule are contained in our prepared statement, previously submitted, and in the oral testimony of undersigned and the oral testimony of James Heller before your committee, so that it is, perhaps, unnecessary to reiterate these reasons in this letter. We are extremely grateful to you and to the committee for having extended to us this opportunity to present our views on the subject of Mr. Katzenbach's proposed amendment. As a footnote, we add that because a copy of H.R. 5726 was enclosed with your letter, that your committee was, or is, considering this bill as the embodiment or Mr. Katzenbach's suggestions. Will you please, therefore, consider the foregoing statement as directed generally and specifically to the terms and provisions of H.R. 5726.

Sincerely yours,

DE LONG HARRIS.

CRAIGHILL, AIELLO, GASCH & CRAIGHILL,  
Washington, D.C., November 25, 1963.

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

DEAR MR. CHAIRMAN: Your letter of November 8 requests my comments on certain suggested amendments to any legislation concerning the *Mallory* rule.

I have read over the transcript which was forwarded to me by your office. Also, I have reread the cases on which Mr. Katzenbach's testimony was predicated, *In re Groban*, 352 U.S. 330, and *Anonymous v. Baker*, 360 U.S. 287. I have also reread *Crooker v. California*, 357 U.S. 433, and *Cicenia v. Lagay*, 357 U.S. 504.

As I see this picture, four Justices of the Supreme Court have heretofore stated that interrogation of an arrested person without the presence of counsel or friends or relatives may constitute a violation of the 14th amendment regardless of whether the jury subsequently makes a determination that confessions or admissions obtained as a result of such interrogation was voluntary and, therefore, entitled to credibility.

No one knows the final answer to this problem. The views of the four Justices are clear. There have been changes on the Court and the Deputy Attorney General's conclusions with respect to how the new Justices might vote on this issue, are likely to be more accurate than my own. I simply cannot say how Mr. Justice White or Mr. Justice Goldberg or any other member of the Court would be likely to vote on this matter.