to resort to interrogation methods which he would not use except for this running out of the clock. I can also see the possibility of many informed criminals—and there are many informed criminals abroad today—deliberately waiting for the expiration of the 6 hours and then making a confession which would be unusuable against him and at the same time the 6-hour expiration would nullify the validity of any derivative use being made of what he said. I think, therefore, that it is far better to omit any specific time limit.

2. It is impractical for the police to conduct the interrogation of criminal suspects in the presence of an observer, and it is also impractical to have transcripts and recordings made of all police interrogations.

An effective interrogation cannot be conducted except under conditions of privacy (the reasons for this are set forth in my book "Criminal Interrogation and Confessions," 1962) pages 1 to 5 and 203 to 210.

Mr. Katzenbach, on page 698 of his reported testimony, was completely in error when he said that the police of Chicago (even in the area in which Mr. Katzenbach lived) "always secured, when somebody was arrested, an independent witness to look at the questioning * * *." Based upon my own experience and observation, when I was director of the Chicago police scientific crime detection laboratory, and my close familiarity with police practices since then, I can confidently report to the committee that this has never been and is not now the practice of the Chicago Police Department. What Mr. Katzenbach may have had in mind is a practice whereby in certain sensational murder cases the police would bring in some reputable citizen to witness the signing and acknowledgment of a written confession. This, however, occurred only after the individual had been interrogated and only after he had made an oral confession. Rarely, if ever, would the police have some nonpolice representative present at the time of the interrogation itself. Morover, considering the large volume of cases in which the police must question criminal suspects (including, of course, those who are established, by the questioning itself, to be innocent), it is not feasible to arrange to have citizen observers present at all police interrogations.

I am afraid that when Chief Murray was being questioned regarding this matter of an impartial observer, and he said that he had no objection to an impartial observer being present, that he had in mind the signing of a confession stage of an interrogation rather than a practice whereby all interrogations would be conducted in the presence of an impartial observer. I do not believe he meant to agree with Mr. Katzenbach's proposal. In any event, Chief Murray is being sent a copy of this statement so that he may clarify what he said if I am correct as to what I believe he actually intended to say.

Almost as impractical as the impartial observer proposal is the one with respect to stenographic or tape recordings of all police interrogations. The expenditure of time, manpower, and money would be tremendous in view of the large number of persons who are questioned by the police, and it is not known in advance which ones are guilty and likely to confess. Then, too, a tape recording in itself would not be much more trustworthy than the police who are making it.

Overlooked all too frequently is the fact that our only real safeguard against police abuses is to develop a system whereby our police are selected and promoted on a merit basis, properly trained, adequately compensated, and accorded an opportunity to protect the public and enforce the law with a minimum of politically inspired interference. Public opinion and an alert press would furnish the required controls with respect to the issues of police abuses.

In my judgment, title I is a constitutional proposal just as it now stands. The *McNabb-Mallory* rule was established in the exercise of the Supreme Court's supervisory power over lower Federal courts and was not based on constitutional considerations (see "Criminal Interrogation and Confessions," pp. 158 to 162) and the State courts have uniformly refused to adopt a similar rule for their own jurisdiction, as they were privileged to do since the *McNabb-Mallory* rule was not founded upon constitutional considerations. Of significance, too, is the fact that not one of the State cases has ever been reversed by the Supreme Court.

Although there are some Justices on the Supreme Court who are in favor of raising the *McNabb-Mallory* rule to a constitutional status, the decisions of the Court up to the present time certainly have not done so, and it seems to me that Congress is privileged to proceed with the enactment of title I. With regard to the right to counsel during the arrest stage of a criminal case—that is, before the placing of a formal charge against the arrestee—the committee should bear in mind that in two cases the U.S. Supreme Court upheld the admissibility of