raignment could invalidate confessions, Congress in 1968 legislated to set a six-hour period for interrogation following arrest before the suspect must be presented.[294] In *Corley v. United States*,[295] the Court held that this legislation merely limited, and did not eliminate, *McNabb-Mallory's* exclusionary rule. Thus, confessions within six hours of arrest were admissible to the extent permitted by the statute and Rules of Evidence, whereas, "[i]f the confession occurred before presentment and beyond six hours . . . , the court must decide whether delaying that long was unreasonable or unnecessary under the *McNabb-Mallory* cases, and if it was, the confession is to be suppressed." [296]

State Confession Cases Before Miranda.—In its first encounter with a confession case arising from a state court, the Supreme Court set aside a conviction based solely on confessions extorted through repeated whippings with ropes and studded belts.[297] For some 30 years thereafter the Court attempted through a consideration of the "totality of the circumstances" surrounding interrogation to determine whether a confession was "voluntary" and admissible or "coerced" and inadmissible. During this time, the Court was balancing, in Justice Frankfurter's explication, a view that police questioning of suspects was indispensable in solving many crimes, on the one hand, with the conviction that the interrogation process is not to be used to overreach persons who stand helpless before it.[298] "The ultimate test remains that which has been the only clearly established test in Anglo-American courts for two hundred years: the test of voluntariness. Is the confession the product of an essentially free and unconstrained choice by its maker? If it is, if he has willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process." [299] Obviously, a court seeking to determine whether a confession was vol-

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[294] The provision was part of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 210, 18 U.S.C. § 3501(c).

[295] 556 U.S. ___, No. 07–10441 (2009).

[296] 556 U.S. ___, No. 07–10441, slip op. at 18.

[297] Brown v. Mississippi, 297 U.S. 278 (1936). "[T]he question of the right of the State to withdraw the privilege against self-incrimination is not here involved. The compulsion to which the quoted statements refer is that of the processes of justice by which the accused may be called as a witness and required to testify. Compulsion by torture to extort a confession is a different matter. . . . It would be difficult to conceive of methods more revolting to the sense of justice than those taken to procure the confessions of these petitioners, and the use of the confessions thus obtained as the basis for conviction and sentence was a clear denial of due process." Id. at 285, 286.

[298] Culombe v. Connecticut, 367 U.S. 568, 570–602 (1961) (announcing judgment of the Court).

[299] 367 U.S. at 602.