cites some of the extreme applications. He says, citing the *Jones* case and the *Muschette* case:

> These more extreme applications of the *Mallory* rule suggest that any interrogation of arrested persons prior to presenting them to committing magistrates may result in the banning of confessions for unnecessary delay.
>
> This is an unnecessary and undesirable application of the *Mallory* rule.
>
> Interrogation itself is not a violation of due process or other constitutional rights. Interrogation, free of abuses, is a valuable investigative tool. Hence, within the framework of rule 5(a) of the Federal Rules of Criminal Procedure any legislation dealing with the *Mallory* rule should set up standards for the use of confessions and assure the presence of the essential safeguards assured to defendants by the Constitution and rule 5(a).

It seems to me what the Justice Department is saying there is that rule 5(a) is not to be used to cut off interrogation by the police.

But where do you draw the line?

Mr. GASCH. Well, Senator, may I comment briefly on the importance of interrogation? I think it is the single most useful tool that the police have in solving crimes, particularly the type of crime that we get here in Washington—street crimes.

Justic Clark, I think it was, in *Crooper* v. *California* emphasized that point, and said, in the concluding paragraph of the opinion of the court, that to preclude interrogation by the police would have a devastating—that word is his word—devastating effect on law enforcement.

Now, on the question of whether legislation can set up appropriate standards for interrogation, I was impressed in reading over the testimony of Mr. Furman on that point—Mr. Furman of the ACLU—and his appearance before Senator O'Mahoney's subcommittee. He mentioned the judges' rules in England which had been set up for the purpose of deciding upon some standards for the control of the police in interrogating persons accused of crime.

I think, perhaps, those standards could properly be drawn by the judges. Certainly, the manner in which the standards are applied in England is quite reasonable. They are not rigidly applied. They have some flexibility—in accordance with what Mr. Furman said about them.

I recall my conversation with the English Attorney General when he was over here, perhaps 5 years ago, to address a bar association dinner. He said that these standards were applied, as he put it, with intelligence, and they did not constitute an impediment to effective law enforcement. He also was somewhat impressed by what I told him our restrictions were timewise, and he said in England, frequently, the delay between arrest and preliminary hearing amounted to a week. But he said, at the expiration of that week, their rules require that the Government divulge all its evidence to the accused and his attorney. So there was quite a meaningful pretrial at that point in the government's case. We have never gone that far, though there is a present tendency—witness the afternoon program of the Judicial Conference last year—to go into the question of criminal discovery.

But I see no reason why standards should not be established.

I think, perhaps, it would be more effective for the judges in this country to set up those standards as they have in England. But I think that if we get into the drafting of standards as I understand