

the proposed Justice bill to do, we may have a situation that is comparable to an airplane that is built with such safety that it never gets off the ground.

It so happens, at the present time, I represent the aircraft builders, and I recently had occasion to go into the construction of landing-gear struts and that kind of thing in connection with an accident here locally. Metallurgists and engineers have assured me that you can build a strut so strong that it will never fail, but it will constitute such an impairment in the payload of the airplane that there is no point in designing such an airplane. I think, with legislation that writes in as many standards and safeguards as you can think of, it will not be very effective insofar as intelligence law enforcement is concerned.

The CHAIRMAN. What safeguards do you think should be written in to meet the constitutional test? Should not the defendant be advised of his right not to make a statement, but if he does that it might be used against him? I suppose you would certainly agree to that.

Mr. GASCH. Yes.

The CHAIRMAN. Do you agree that upon an accused being taken into police custody that he should be immediately told he has the opportunity to consult with an attorney?

Mr. GASCH. This raises a serious question. And I am thinking of the *Cicenia* and *Crooker* cases in the Supreme Court, in which that was the issue. Both these men demanded lawyers. One was a case in New Jersey—*Cicenia*. The *Crooker* case was in California.

I think it was in the *Cicenia* case that the courts said, "We have not gone so far even in Federal jurisdiction as to require that an individual be given the services of a lawyer at the police station." And I mention the *Cicenia* for another reason.

The CHAIRMAN. But should he be advised of his right to have a lawyer immediately?

Mr. GASCH. Well, I do not have any real objection to that. But I think that gets you into the point of the providing of a lawyer before there can be any interrogation. I think if you do that, you will find that there will be no interrogation, because any lawyer—any lawyer that I know—would certainly say first off to his client "Don't talk." That would be under the interrogation.

The CHAIRMAN. Well, what type of interrogation, then, would the police engage in view of the *Mallory* case? It seems to me the *Mallory* case allows the police to do very little except to get a biography of the man.

Mr. GASCH. The *Mallory* rule does not provide much of an opportunity.

The CHAIRMAN. For interrogation.

Mr. GASCH. That's correct. But it does provide some opportunity, and I think that opportunity should be preserved.

The CHAIRMAN. An opportunity to discover what, Mr. Gasch?

You pick up defendant X, and he is a suspect. Upon what can you interrogate him?

Mr. GASCH. Well, oftentimes you can find out where he has been, with whom he has been, what they have been doing, and you can establish a basis for further investigation of the case.