Now, my question to you, as an authority in this field, would be this.

Have sections similar to the one I just quoted been construed by the State courts and the U.S. Supreme Court to be constitutional?

Mr. INBAU. Well, Mr. Chairman, let me put it this way. We recently had a decision from the Illinois Supreme Court in a case in which the police delayed in taking someone before a judge for arraignment or for the preliminary hearing. The police did delay. They did it for the purpose of completing an investigation, and also for the purpose of interrogating the accused. In other words, they delayed.

Now, the Illinois Supreme Court held that this was all right—even though we have a statute in Illinois saying that the arrested person must be brought before a judge without unnecessary delay. The Supreme Court of Illinois held that as long as the purpose of this was to complete the investigation, to question the defendant, and as long as they used proper means, no force, no threats, no promises, as long as they did that, and the time during which they did it was not unreasonable, there was a compliance with the statutory provision.

Now, what I am suggesting here is that if the question came before the Illinois Supreme Court, the constitutionality of a statute permitting the police to hold someone, say, for 3 hours, 4 hours, 6 hours, I have no doubt the Illinois Supreme Court would have sustained it in the light of what it said in this case, and I am referring to the case of *People* v. *Escobido*. That is a recent decision of the Illinois Supreme Court.

Now, other State courts have upheld the constitutionality of the Uniform Arrest Act. It is on the books in three States. And nowhere along the line has the U.S. Supreme Court said that the States are not privileged to do this, or that Congress is not privileged to do this, to give the police an opportunity to complete their investigation and to interrogate an arrested person. And I differ. I have not read the statement to which you refer, Mr. Chairman, but if it seems to imply that this is unconstitutional, I wholeheartedly agree with Judge Holtzoff—I do not think it is unconstitutional. I think it is a constitutional measure.

The CHAIRMAN. The statement to which I referred is contained in the letter of the U.S. Department of Justice dated September 13, 1963, signed by Mr. Katzenbach, and forwarded to this committee. I will now read the pertinent portion of the letter to you:

> Title I as passed by the House of Representatives is intended as a response to the Supreme Court decision in *Mallory* v. *United States*, 354 U.S. 449 (1957). However, it raises serious constitutional difficulties in dispensing with safeguards which the *Mallory* rule assured to persons charged with crime.

Now, I assume that the Department of Justice is alluding to what Justice Frankfurter stated in the *Mallory* decision that persons under arrest be taken without unnecessary delay before a committing magistrate. In accordance with the *Mallory* decision about the only interrogation that was to be made was a routine interrogation, not a proceeding that was intended to lead to a confession.

Then the Department of Justice, in its September 13 letter, states this:

> If a change in some of the recent interpretations of the *Mallory* rule is to be legislated, certain essential safeguards should be preserved to save the bill from constitutional attack.