

Mr. KATZENBACH. No. We have thought the validity of the confession really thought to be measured from the time of arrest to the time of confession. I think that is by and large consistent with the cases and even with the extreme cases here.

Senator DOMINICK. But the *Mallory* rule deals with not the time of confession but that deals with between the time of arrest and getting of a confession sometime during that period and the time of arraignment?

Mr. KATZENBACH. Yes; it does in a sense, Senator, but the *Mallory* case put a great deal of emphasis upon the fact that a number of hours after the arrest—and I have forgotten what it was, 12 or 14 hours.

Mr. ACHESON. About 11.

Mr. KATZENBACH. Eleven hours after the arrest the confession was obtained. And then after getting the confession, they went on to get several more confessions, and then eventually got him arraigned. But I thought and I believe that the whole thrust of that case is upon the time between arrest and the time of confession rather than the actual time of arraignment. This is why the one instance to us of a confession 25 minutes after arrest one judge felt was too long an elapsed time to us to represent a rather different philosophy approach than what I get from a reading of the *Mallory* case.

Senator DOMINICK. Wouldn't you feel that the 6-hour period if it was incorporated in the law would become kind of a flag which would be used by the arresting officer to hold all prisoners 6 hours before they took any action as far as arraignment is concerned?

Mr. KATZENBACH. I think that is a possibility, Senator, and I think that is one of the difficulties. On the other hand, if you are interested as we are interested in knowing whether a confession is certainly going to be thrown out or not, there was, it seemed to us an advantage in stating an absolute bar and an absolute rule so that you would at least have that part of it as firm as possible. It could be regarded in that way, although we would also support keeping the rule as it is, to say that he should be arraigned without unnecessary delay.

Senator DOMINICK. My previous question concerning the difference between the time of arrest and the time of confession, the time of arrest and the time of arraignment, is brought in by in part your statement on page 4 with reference to the *Jones* case, because in this the defendant was arrested at 4:25 of a Sunday morning, which I suppose means 4:25 a.m. on Sunday.

Mr. KATZENBACH. Yes.

Senator DOMINICK. She confessed 3½ hours later, but she wasn't brought before the committing magistrate until more than 24 hours after that period, after the confession. I have not read the case and therefore I don't know whether any point was made of this, but a point seems to be made of it in your statement.

Mr. KATZENBACH. I wonder whether I stated the facts correctly there and whether that should be Monday morning. I believe that that is an error in my statement there, and that the 4:25 should be of a Monday morning, as well as the 8 a.m.; is that correct?

Senator DOMINICK. Yes; Mr. Acheson?

Mr. ACHESON. May I clarify that? The confession that was involved in the *Jones* case was the written confession, not the initial oral confession. The first confession was made quite soon after arrest.