

*Mallory* decision and make a determination as to whether in its judgment either the rights of the individual are being safeguarded or whether effective and intelligent law enforcement is being hampered by that decision.

In short, the Court recognized the need for a balance between these two competing forces—recognizing and safeguarding the rights of the individual on the one hand, and maintaining effective and intelligent law enforcement on the other.

I think it is important that we look into this situation insofar as it applies to the Nation's Capital, for recent statistics indicate that our city is either in the lead or is second in the Nation for cities of comparable size insofar as the crimes of robbery and aggravated assault are concerned.

It is not that I am less interested in safeguarding the rights of the individual than some others; it is that more emphasis seems to have been given this side of the balance than the side which pertains to the maintenance of effective and intelligent law enforcement—that I should like to speak about the latter consideration. I should like to emphasize that we are not seeking legislation for the benefit of the police; we are seeking legislation for the protection of the innocent, potential victims of these crimes in which Washington leads the Nation.

I think we should always bear in mind the situation which concerns the Miksa Mersons and the Newell Elliott, Juniors, and other people who innocently have walked the streets in the evening hours and have wound up victims of murder.

Now, some consideration has been given to the meaning and effect of rule 5A. And I agree that it is a very salutary provision to require the police to take the person arrested before a judicial officer without unnecessary delay.

I also agree that no person should be arrested or could be lawfully arrested in this jurisdiction unless the police had probable cause to believe that he was involved in a crime.

However, it is on the question of sanctions that I would like to direct these remarks. And I think in considering what Congress had in mind at the time it gave its authorization for the drawing up of the Federal rules, we should turn to the work of the Committee of the Supreme Court which drew up these rules.

In my prepared statement which I have lodged with the committee, I refer to the place in the records of the Senate where this information is specifically contained.

But in accordance with the testimony of Judge Holtzoff before Senator O'Mahoney's subcommittee of the judiciary, it appears that as that rule was first conceived, those who drafted it stated specifically that if testimony were procured in violation of the requirement that the individual be arraigned without unnecessary delay, that that testimony would be inadmissible in court.

When the full committee considered this proposed rule, it rejected it, Judge Holtzoff says, by a strong vote.

And as the sanction was deleted from the committee work, it was approved by the Supreme Court and acquiesced in by the Congress.

I think that circumstance is quite important, because it is with respect to the sanction that most of the difference of opinion exists today.