

They did not consider that a constitutional question was involved in that situation.

Now, of course, it is familiar doctrine that the Court does not go to the constitutional provision if it can decide an issue on other bases. And that is possibly what would happen.

But I would not assume or presume that there was a constitutional question here unless I had better indication than these facts seem to indicate.

Now, of course, what the Supreme Court may do in the future is something that is very difficult to forecast. But in the interests of the public, I would certainly not withhold the type of protection that I think title I gives because of the fear that the Supreme Court might subsequently make a holding—that is, of course, within their prerogative to do so.

I would point out simply that if we adhere to the provisions of rule 5(a), and if the court submits to the jury under proper instructions the question of the voluntariness of the confession, as I am sure they would, or the admission, that I do not see that you have a constitutional issue at that point. I would invite the committee's attention to the fact that the criterion of voluntariness is the traditional criterion that has been the basis of our decisions in this area since we have been a nation.

Voluntariness is the criterion in England.

Now, I think it is entirely possible that if the delay in the hands of the police amounts to unreasonable delay, that the court as a matter of law would exclude the confession.

I have had intimate experience, as the Senator knows, with the judges of our local court, and I know that they are most scrupulous in protecting the rights of the individual. And this was prior to Malloy as well. And certainly the judges of the appellate court are very careful to see to it that tainted evidence is thrown out and convictions which in any way flow from tainted evidence are reversed.

So it would be my view that the rights of the individual are adequately being protected under the legislation which is proposed.

The CHAIRMAN. Thank you. Thank you for your response to that question. I did not mean to interrupt you, Mr. Gasch.

Mr. GASCH. Well, I had practically concluded, sir. I think that one comment on the comparison that is made with the FBI and its work perhaps is indicated.

There are those who say that because the FBI is able to operate nationally without seeking such legislation, that it is not needed locally.

I think there is an obvious difference between a city police force, a good city police force like ours, and a national organization like the FBI.

The FBI handles a different type of crime generally than the common law crimes of violence that we are concerned with in this area. The FBI is able to select most carefully its agents. And the FBI, of course, has the benefit of the national resources, the international resources of that organization.

These mark the significant differences between the FBI and the local police force.

A local police force must operate within the confines of its jurisdiction. Because the FBI is able to operate without such helpful