

normally before Congress and the executive departments on nationwide issues.

The CHAIRMAN. Do you pay dues to belong to this National Capital Chapter?

Mr. HELLER. It is a dues-paying membership organization. We pay dues to the American Civil Liberties Union, which then splits its dues between the affiliate and the parent body. The dues are a minimum of \$2, and go up as high as people wish to contribute.

The CHAIRMAN. Thank you. I think that is very helpful for the record.

You say you have approximately 2,300 members in the metropolitan area.

Mr. HELLER. 2,200 or 2,300. We usually are a little sloppy on membership just as some other organizations.

The CHAIRMAN. Thank you very much for that information.

Mr. HARRIS. My primary concern, Mr. Chairman, will be with the *Mallory* aspects—that is the part of the bill having to do with unnecessary delay in arraignment.

Of course, the committee has heard a huge volume of testimony concerning this matter. But this view, taken by the American Civil Liberties Union, we believe fundamentally that the *Mallory* decision should not be disturbed and we believe that sincerely, because of a number of reasons, a few of which I will now attempt to delineate.

The *Mallory* decision, first of all, did not represent a new departure or something novel insofar as the Supreme Court was concerned—when there was the *McNabb* decision. The difference was that when *McNabb* was handed down, there was not in existence the new rules of criminal procedure. However, without the new rules of criminal procedure, and before that day, *McNabb*, the Supreme Court reached the almost same conclusion, arrived at the same point based upon fundamental rights rather than upon the interpretation of a rule.

Now, *Mallory*, as the Supreme Court announced, is, or concerns itself with an interpretation of rule 5(a), the text of which I am sure the Senators are familiar with.

Rule 5(a), of course, being promulgated by the Supreme Court, and enacted by Congress as statutory law—that came to the Supreme Court in the *Andrew Mallory* case, a means of enforcing this rule.

Now, throughout the criminal rule, and as is the case in a number of procedures of criminal rules, there is no announced policy of enforcing that rule.

Now, the Supreme Court did not say so, but Judge Cahan, in California, had perhaps the best method of expressing that concept when California decided to accept the *Weeks* doctrine in the State Court of California.

And he says this:

When law-enforcement officials disobey a command of the criminal procedure rules or the law itself, there must be a penalty assessed, and frequently it is impossible or impractical to assess the penalty against the police officer, and the penalty must be assessed against society itself.

So, applying that same line of reasoning to *Mallory* here, we have rule 5(a), and the police officer doesn't obey it, so society will be penalized for that transgression by that law-enforcement official, because the Supreme Court says if you fail to bring the suspect before