Deputy Attorney General Katzenbach seeks to justify a double standard of constitutional safeguards on the basis that—

> Only in the District of Columbia do the Federal courts have broad jurisdiction over crimes of violence which characteristically lack eye witnesses and independent evidence.

By contrast, he points out—

> most Federal criminal cases in other jurisdictions involve frauds, mail thefts, narcotic violations and the like, where there is substantial evidence apart from a confession; i.e., controlled property, financial records, tax returns, et cetera.

He then concludes that—

> It is reasonable to consider the problems in the District of Columbia as being rather unique with respect to the *Mallory* rule and deserving of congressional consideration in legislation limited in its application to the District of Columbia.

While it may be true that such a distinction may exist between the District of Columbia and other Federal jurisdictions, it is not true with reference to the State jurisdictions where the *Mallory* rule has been applied. As recently as last week, in *People* v. *Donovan*, 326 W 2A1, the Court of Appeals in the State of New York, where crimes of violence are as great as in the District of Columbia, applied the *Mallory* rule.

And I quote from that citation:

> Quite apart from the due process clause of the 14th amendment, New York's constitutional statutory provisions, pertaining to the privilege of self-incrimination and the right to counsel, not to mention the State's guarantee of due process, require its exclusion.

In this case the court excluded a confession solely on the grounds that it was taken during a period of unnecessary delay prior to arraignment. And I think that it is especially significant at this time that a State like New York, which includes, of course, New York City where crimes of violence are certainly as many in number or probably much higher in number, and almost as great in frequency, as they are in the District of Columbia, that the New York Court of Appeals applied the *Mallory* rule.

The Supreme Court has enforced the *Mallory-McNabb* rule in the States under the 14th amendment.

The rule in the *Mallory* case is in full force and effect in the city of Buffalo, N.Y. This is in accordance with section 165 of New York State Code of Criminal Procedures, which provides:

> The defendant must in all cases be taken before the magistrate without unnecessary delay and he may be given bail at any time of the day or night.

An examination of crime statistics of cities with half a million to 1 million persons establishes Washington, D.C., as No. 1 in two major crime categories of violence, and Buffalo, N.Y., is recorded as 16th in these same two crime categories. A check with Lieutenant Phelps of the Buffalo police force indicates that:

> We do not arrest a man unless we are ready and prepared to go to court.

The *Mallory* rule did not impede effective police practices in Buffalo. Operating under the New York State Code, the police are required to use brains rather than brawn.

In Great Britain the suspect cannot be questioned, with the exception of clearing up ambiguities, once he is placed under arrest. Yet we find according to the criminal statistics of England and Wales in