Radio script of Senator Strom Thurmond for his regular weekly broadcast, recorded 1957 June 27

Strom Thurmond

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MY FRIENDS AND FELLOW CITIZENS:

The Supreme Court — which has recently handed down several decisions to give greater protection to Communists and criminals — has now issued an edict which will make it even harder to arrest and convict rapists and murderers.

A man named Mallory was arrested here in Washington on a charge of rape. He confessed to the crime and received a death sentence. That was about three years ago. His lawyers carried an appeal to the Supreme Court and the Court has overturned his conviction.

Apparently the Court was more concerned about the "undefined rights" of a confessed rapist than about the suffering of his innocent victim. I say the "undefined rights" of the rapist because neither the Federal Rules of Criminal Procedure nor the Court has provided a definition of whether "unnecessary delay" in the arraignment of a prisoner involves any specific length of time. The Court overturned the conviction of Mallory because it considered his being held from 2 o'clock one afternoon to the next morning as "unnecessary delay" before his arraignment. This was in spite of his confession given after taking a lie-detector test voluntarily, and the fact that the police had tried to find an official to arraign the prisoner.

The chief of the Justice Department's Criminal Division issued a statement declaring that the Court's decision "clearly demonstrates that a great many very serious crimes will go unpunished."

The United States Attorney who prosecuted the case had the indictment against Mallory dismissed because of the Court's decision. He stated that the victim of the crime had already suffered great
physical and psychological damage and that he would not again subject her to the suffering of testifying. When, under the Court's verdict ruling out the confession, there would be little hope of securing a conviction.

I regret that the Supreme Court has more concern for the rights of Communists and criminals than it does for the protection of innocent American citizens.

A special Senate Judiciary Subcommittee is now engaged in drafting improvements to the Federal Code. I urged in the Senate that this subcommittee recommend legislation to close this loop-hole through which criminals can crawl with the help of the Supreme Court.

Even before the Mallory decision, I had already introduced a bill in the Senate which would curb the power of the Court. My bill would not permit the Supreme Court to hear appeals in cases involving the public schools. Also, the bill would provide that States could enforce their own laws against Communists and other subversives, just as the Federal Government can do under authority of the Smith Act.

In Pennsylvania v. Nelson, the Supreme Court ruled that because there was an existing federal law to regulate Communists the State of Pennsylvania could not enforce a State law in that field.

There are many other instances of the Supreme Court having usurped powers which constitutionally belong to the States, the Congress, or the President. In introducing my bill, I spoke out against the tyranny which the Supreme Court is trying to impose on the citizens of this country.

The choice we face is judicial limitation or judicial tyranny.
Judicial tyranny will destroy Constitutional government just as surely as any other type of tyranny. Judicial limitation will strengthen the ramparts over which patriots have watched through the generations since 1776.

Our Federal Government was established as a government of limited powers. Only by Constitutional processes can the limitations be removed legally. Any other method of acquiring power is illegal and unconstitutional.

The Supreme Court must be curbed. If it continues in the direction it is headed, we shall all become the victims of judicial tyranny.

This is Strom Thurmond in Washington. Thank you for listening and this station for making this time available each week.

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