

STATEMENT BY SENATOR STROM THURMOND (D-SC) ON MALLORY DECISION
AND STAR EDITORIAL, JANUARY 9, 1958.

Mr. President:

On January 6, 1958, the editors of the Washington Evening Star published an editorial which deserves the attention of the Senate and the entire American public. It is entitled "Lock Your Doors," and this is what it has to say:

The police are on the prowl again--looking for one Andrew R. Mallory. They would like to hear from anyone who knows where he is.

Mallory, for the benefit of those with short memories, was released from jail last June after the Supreme Court reversed his conviction on a rape charge. He was guilty--no doubt about that. But the court said that the police had not arraigned him (formally charged him) soon enough after his arrest. The effect of this court action was to invalidate his uncoerced confession and other corroborating evidence. So Mallory, who had been sentenced to death, had to be turned loose.

Now the police are hunting again for Mallory. He is wanted for housebreaking and assaulting the daughter of a woman who had befriended him. And this within six months after his release from jail.

The real point, it seems to us, is that the law, as it has been interpreted by the courts, is too heavily weighted on the side of the criminal. The public, or society, or whatever descriptive term one may care to use, is entitled to some consideration, too. As matters stand, the public is not getting it. We do not know whether Mallory should be in jail or in a mental institution. But one thing is certain--he ought not to be roaming the streets of this city. And as long as he and others like him are on the loose it would be well to keep the doors locked.

This is not one of those hopeless situations. It can be remedied. But the remedy will have to come from Congress. We hope the returning legislators will take the time and trouble to spell out the law of prompt arraignment in terms that are unmistakably clear--clear enough, at least, to keep Mallory and those like him off the streets of Washington.

Mr. President, I made two statements on the floor of the Senate last year after the Mallory decision was handed down. I made those statements, as I make this one today, in an effort to call attention to the need for reversal of this and other recent rulings by the Supreme Court. These reulings have resulted in substituting the views of sociologists for established law, providing greater protection for Communists and Communist sympathizers and convicted felons, and adding a post-mortem codicil to a decedent's last will and testament as was done in the Girard college case.

The vital choice we face in this country today is that of judicial limitation or judicial tyranny. The history of limited ^{governmental} powers is one of liberty. The history of unlimited ^{governmental} powers is one of tyranny. I hope that the members of the Senate and the House will align themselves before it is too late with the principles of constitutional government, which provides for a government of limited powers.