

The CHAIRMAN. Our last witness for the afternoon is Dean Pye, professor of law at Georgetown University. Professor Pye, or Dean Pye, we are happy to have you with us.

STATEMENT BY ASSISTANT DEAN KENNETH PYE, PROFESSOR OF LAW, SCHOOL OF LAW, GEORGETOWN UNIVERSITY; CHAIRMAN OF THE CRIMINAL LAW COMMITTEE OF THE JUDICIAL CONFERENCE FOR THE DISTRICT OF COLUMBIA

Mr. PYE. Thank you, Mr. Chairman.

Mr. Chairman, my association with this problem began originally when I was teaching criminal law and later as a teacher of criminal procedure. In addition, during the year 1960-61, I was director of the legal internship program and I exercised supervisory jurisdiction of approximately 700 cases which came into our office in one form or another during that year.

Since that time I have been a member of the criminal law committee of the judicial conference of the bar association and represented that committee in presenting its report in reference to the *Mallory* rule last year at the meeting of the entire association which was called to decide the association's position with reference to the bill.

Now, I shall not review all of my viewpoints on this rule. Much of what I would have had to say has been said by my colleague, Mr. Shadoan.

I think I agree with much of what Professor Kamisar has said. I find myself in disagreement with a great deal of what Professor Inbau has said.

As I see the rule, it has several purposes. One of them is to prevent inequality of access to evidence on the question of voluntariness, if a defendant is detained in secret by police officers, necessarily he will have only his testimony on the issue of voluntariness and they will have theirs, and in the ordinary litigation situation, the judge will not unreasonably believe them and not the defendant. And as a result, in the fairly rare case in which a confession has been obtained as a result of force, threat, or offers of leniency, he will not be able to assert his rights effectively.

Let me say that I cannot go along with either my colleague, Mr. Shadoan, or Professor Kamisar in any possible inclination that I think this occurs regularly in police interrogations in this city. My experience with the police and my experience with criminal cases has indicated that only on one or two occasions do I think that such confession was obtained, by improper offers or inducements.

The *Mallory* rule has other purposes as well as these purposes. However, these purposes, I do think, would be frustrated by the passage of this bill before the committee now.

The provisions in rule 5 calling for the presentation of the defendant, a defendant has the right to be admitted to bail, he is informed of his rights to trial, he is informed of his rights to counsel and in this jurisdiction, to be presented before a judge of our court of general sessions and counsel appointed for him if he is unable to procure counsel independently.