

My problem is this, Senator. That bill results in no interrogation, either. If you give him the right to counsel and if you give him counsel then counsel is going to tell him that he does not have to have interrogation. So while I have no objection to that proposal, I do not think you will accomplish his objective.

I am afraid that my proposition comes down to this—my position, rather, that even though there are some crimes that cannot be solved without interrogation in secret, this is a price which we have to be prepared to pay if we are going to achieve the greater objective which is the protection of the rights of the vast majority of defendants. I know of no way that we can give the police the right to interrogate in secret and not in some way interfere with the liberties, the individual liberties of the vast majority of people charged with crime.

The CHAIRMAN. But I am speaking about interrogating with a recording device.

Mr. PYE. Well, this is entirely new—and the only place that I know of where it has been done is in Israel. In Israel, the minute that the defendant enters the detention facilities, everything that occurs there is recorded.

Now, in the event that the Senate is disposed to pass on this bill I think that the addition of that requirement would be a substantial safeguard. What it does not cover is in the case of a defendant who has been illegally arrested, that detention is unlawful and the fact that you have evidence of the illegality is not very helpful, and I go back to the point that the great virtue of the *Mallory* rule is to provide protection against the original illegal arrest and I don't know how we can achieve that result other than by exclusion of the evidence. But I certainly agree that something similar to the Israeli statute of requiring verbatim recordings of all interrogations of individuals after they are placed in the arrest status is a considerably better alternative than simply to obtain any confession obtainable as a result of unlawful detention.

The CHAIRMAN. Thank you very much, your presentation is helpful to the committee.

We will stand in recess until 10 o'clock tomorrow morning.

(Whereupon, at 4:30 p.m., a recess was taken until 10 a.m., Thursday, October 24, 1963.)