ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2498 SJ SB 41 - SB 49

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APPENDIX_____

TOWNSHIP 2 NORTH RANGE 11 WEST USGS Map - Kenai B-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
5	NW¼SW¼		40.00	1228294
7	Lot 9	3.75		1228294
	Lot 10	3.75		1228294
	Lot 11	3.76		1228294
	Lot 12	3.76		1228294
	Lot 13	3.77		1228294
	Lot 14	3.78		1228294
	Lot 15	3.78		1228294
	Lot 16	3.79		1228294
	E½W½SW¼, E½SW¼			1228294
			150.14	
18	Lot 9	3.85		1228294
	Lot 10	3.86		1228294
	Lot 11	3.87		1228294
	Lot 12	3.87		1228294
	Lot 13	3.88		1228294
	Lot 14	3.89		1228294
	Lot 15	3.89		1228294
	Lot 16	3.90		1228294
	E½SW¼, SW¼SE¼, E½W½SW¼			1228294
			191.01	
TOWNSHIP TOTAL			381.15	

APPENDIX_____

TOWNSHIP 2 NORTH RANGE 12 WEST USGS Map - Kenai A-4, B-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
10	NE¼,S½		480.00	1217603
15	E½E½,N½SW¼,			Clear List #3
	Lot 1	35.71		1217603
	Lot 2	13.45		1217603
	NW¼SE¼,			1217603
	NE¼NW¼			1217603
			369.16	
21	NE¼NE¼		40.00	Clear List #3
22	Lot 1	40.21		1217603
	S½,SE¼NE¼,			1217603
			400.21	
23	SW¼,SW¼NW¼		200.00	1217603
25	All		640.00	1217603
26	All		640.00	1217603
27	S½,NE¼,E½NW¼		560.00	1217603
28	SW¼		160.00	Clear List #3
29	SE¼SE¼		40.00	Clear List #3
32	NE¼NE¼,S½NE¼,E½SW¼		200.00	Clear List #3
34	All		640.00	1217603
35	All		640.00	1217603
TOWNSHIP TOTAL			5009.37	

APPENDIX_____

TOWNSHIP 3 NORTH RANGE 11 WEST USGS Map - Kenai B-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
32	Lot 5	10.63		1217603
	Lot 8	33.29		1217603
			43.92	
TOWNSHIP TOTAL			43.92	

TOWNSHIP 3 NORTH RANGE 12 WEST USGS Map - Kenai B-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
1	Lot 6	46.28		1217603
			46.28	
12	Lot 15	44.47		1224104
	Lot 2	17.35		1217603
	Lot 5	17.50		1217603
	Lot 9	33.76		1217603
	Lot 13	13.43		1217603
			126.51	
13	Lot 2	53.22		1217603
	Lot 4	41.99		1217603
	Lot 7	38.03		1217603
	Lot 10	9.16		1217603
	NW¼NW¼			1217603
			182.40	
24	SW¼NW¼		40.00	1217603
25	SE¼SE¼		40.00	1217603

APPENDIX_____

TOWNSHIP 3 NORTH RANGE 12 WEST (Continued) USGS Map - Kenai B-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
27	Lot 8	39.62		1221739
	S½S½			1221739
			199.62	
34	W½		320.00	1221739
TOWNSHIP TOTAL			954.81	

TOWNSHIP 5 NORTH RANGE 11 WEST USGS Map - Kenai B-3, B-4, C-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
23	SE¼		160.00	1215181
25	S½NW¼		80.00	1215181
26	NE¼, SW¼		320.00	1215181
35	NW¼		160.00	1215181
TOWNSHIP TOTAL			720.00	

TOWNSHIP 12 NORTH RANGE 2 WEST USGS Map - Anchorage A-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
31	SE¼NE¼,			1225233
	S½SE¼		120.00	
32	All		640.00	1225233
TOWNSHIP TOTAL			760.00	

APPENDIX_____

TOWNSHIP 12 NORTH RANGE 4 WEST USGS Map - Anchorage A-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
*1	SW¼,SW¼NW¼ excluding ADL #200249		158.00	1231759
*2	S½ of Lot 34	2.50		1231759
			2.50	
*13	NE¼SE¼,N½SE¼SE¼,			1213494
	SW¼SE¼SE¼,N½SE¼SE¼SE¼ excluding ADL #200249		70.72	1213494
*15	Portion of Lot 4 not included in Potter Point State Game Refuge		±7.00	1213494
TOWNSHIP TOTAL			238.22	

TOWNSHIP 13 NORTH RANGE 3 WEST USGS Map - Anchorage A-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
28	NE¼NE¼NW¼NW¼,			50-65-0588
	S½NE¼NW¼NW¼,SE¼NW¼NW¼,			50-64-0159
	NE¼SW¼NW¼,SE¼NW¼,			50-64-0159
	S½SW¼NW¼ excluding ADL #209820			50-64-0159
			87.27	
TOWNSHIP TOTAL			87.27	

TOWNSHIP 13 NORTH RANGE 4 WEST USGS Map - Anchorage A-8, Tyonek A-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
3	N½NW¼		80.00	1213493
TOWNSHIP TOTAL			80.00	

*Municipal selection approved under final decision (AS 29.18.201-213).

APPENDIX_____

TOWNSHIP 14 NORTH RANGE 1 WEST USGS Map - Anchorage B-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
*8	N½NW¼,NE¼		240.00	1218052
*9	N½NW¼		80.00	1218052
*15	NE¼SE¼		40.00	1218052
*19	Lot 1	36.73		1220826
	Lot 3	36.56		1218052
	SE¼SW¼,S½SE¼			1218052
			193.29	
TOWNSHIP TOTAL			553.29	

*Municipal selection approved under final decision (AS 29.18.201-213).

APPENDIX_____

TOWNSHIP 14 NORTH RANGE 4 WEST USGS Map - Anchorage B-8, Tyonek B-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
13	Lot 2	50.60		Clear List #6
	Lot 3	38.74		Clear List #6
	SW¼NW¼			Clear List #6
			129.34	
14	SE¼,			Clear List #5
	S½NW¼SW¼,			Clear List #8
	S½NE¼, N½NW¼SW¼,			Clear List #6
	SW¼NW¼			Clear List #6
	SW¼NW¼			Clear List #6
			320.00	
23	W½SE¼ excluding ADL #204139		60.52	Clear List #5
26	W½		320.00	Clear List #5
32	SE¼NW¼		40.00	1213621
TOWNSHIP TOTAL			869.86	

TOWNSHIP 15 NORTH RANGE 1 WEST USGS Map - Anchorage B-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
*30	SE¼SE¼		40.00	1220980
TOWNSHIP TOTAL			40.00	

*Municipal selection approved under final decision (AS 29.18.201-213).

APPENDIX_____

TOWNSHIP 15 NORTH RANGE 3 WEST USGS Map - Anchorage B-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
5	NW¼,E½NE¼ excluding ADL # 204139		235.76	Clear List #9
6	Lot 3	32.35		Clear List #9
	Lot 4	32.47		Clear List #9
	E½SW¼,NE¼,E½SE¼ excluding ADL # 204139		382.27	Clear List #9
7	Lot 1	32.59		Clear List #9
	Lot 2	32.74		Clear List #9
	Lot 3	32.88		Clear List #9
	Lot 4	33.03		Clear List #9
	E½W½,			Clear List #9
	NE¼,S½SE¼			Clear List #9
			531.24	
TOWNSHIP TOTAL			1149.27	

TOWNSHIP 16 NORTH RANGE 2 WEST USGS Map - Anchorage B-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
15	Lot 1	3.42		1225683
	Lot 2	44.72		1225683
			48.14	
TOWNSHIP TOTAL			48.14	

APPENDIX_____

TOWNSHIP 16 NORTH RANGE 3 WEST USGS Map - Anchorage B-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
32	NE¼,W½NW¼,S½	excluding ADL # 204139	554.91	Clear List #6
TOWNSHIP TOTAL			554.91	

TOWNSHIP 17 NORTH RANGE 1 WEST USGS Map - Anchorage C-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
6	Lot 4	37.04		1216234
	Lot 5	37.07		1216234
			74.11	
17	NE¼SW¼		40.00	1216234
24	SE¼SE¼		40.00	1216234
28	SW¼SW¼,S½SE¼		120.00	1216234
TOWNSHIP TOTAL			274.11	

APPENDIX_____

TOWNSHIP 17 NORTH RANGE 2 WEST USGS Map - Anchorage C-7, C-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
2	W½SE¼,SW¼		240.00	1220828
3	S½NE¼,W½SE¼		160.00	1220828
8	W½NW¼NW¼,W½NW¼SW¼,			1220828
	NE¼NW¼SW¼			1220828
			50.00	
10	SW¼		160.00	Clear List #8
14	SW¼		160.00	1217600
15	E½SW¼		80.00	1217600
17	SE¼SW¼		40.00	1217600
18	Lot 3	38.60		Clear List #8
	Lot 4	38.68		Clear List #8
	E½SW¼			Clear List #8
			157.28	
23	NW¼		160.00	1217600
27	N½SE¼		80.00	Clear List #8
34	S½SE¼		80.00	1217600
TOWNSHIP TOTAL			1367.28	

APPENDIX_____

TOWNSHIP 17 NORTH RANGE 3 WEST USGS Map - Anchorage C-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
14	NE¼NW¼		40.00	1217600
20	Lot 32	24.42		1217600
			24.42	
27	N½NE¼,			1222895
	SE¼SE¼,			1222895
	S½NE¼SE¼			1222895
			140.00	
28	SW¼SE¼		40.00	1217600
30	Lot 8	0.04		1217600
	Lot 14	1.71		1217600
	Lot 15	1.82		1217600
	Lot 16	1.92		1217600
			5.49	
32	E½NW¼		80.00	1217600
34	E½, SW¼		480.00	1222895
35	SW¼SW¼		40.00	Exchange-ADL #56092
TOWNSHIP TOTAL			849.91	

APPENDIX_____

TOWNSHIP 18 NORTH RANGE 1 WEST USGS Map - Anchorage C-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
1	Lot 1	40.00		1217599
	Lot 2	40.02		1217599
	Lot 3	40.02		1217599
	Lot 4	40.04		1217599
	S½N½			12175.9
	S½			1217599
			640.08	
2	SW¼NW¼,W½SW¼			1220827
	Lot 1	40.07		1217599
	Lot 2	40.14		1217599
	Lot 3	40.20		1217599
	Lot 4	40.27		1217599
	S½NE¼,			121759?
	SE¼NW¼,E½SW¼,SE¼			1217599
			640.68	
3	Lot 1	40.37		1217599
	Lot 2	40.53		1217599
	Lot 3	40.67		1217599
	Lot 4	40.83		1217599
	S½N½,SW¼,			1217599
	S½SE¼,NW¼SE¼,			1217599
	NE¼SE¼			1220827
			642.40	

APPENDIX_____

TOWNSHIP 18 NORTH RANGE 1 WEST (continued) USGS Map - Anchorage C-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
10	N½,N½SW¼,NW¼SE¼		440.00	1217599
11	NW¼NW¼		40.00	1217599
14	N½N½,SE¼SW¼,S½SE¼		280.00	1217599
15	N½NW¼		80.00	1217599
18	NE¼NE¼		40.00	1217599
19	Lot 3	35.61		1217599
	Lot 4	35.74		1217599
	E½SE¼			1217599
			151.35	
20	SW¼,S½NW¼,S½SE¼,NE¼SE¼		360.00	1217599
21	S½SE¼,SE¼NW¼,SW¼NE¼		160.00	1217599
23	N½N½,S½NE¼,SW¼SE¼		280.00	1217599
24	NE¼NE¼		40.00	1217599
28	NW¼		160.00	1217599
29	NW¼		160.00	1217599
30	Lot 1	35.86		1220828
	Lot 2	35.97		1220828
	Lot 3	36.09		1220828
	Lot 4	36.20		1220828
	E½W½,E½			1220828
			624.12	

APPENDIX_____

TOWNSHIP 18 NORTH RANGE 1 WEST (continued) USGS Map - Anchorage C-7

Section	Portion	Lot Acreage	Section Acreage	Patent #
31	Lot 1	36.35		1225683
	Lot 2	36.55		1225683
	Lot 3	36.73		1225683
	Lot 4	36.93		1225683
	E½W½,			1225683
	NE¼			1225683
			466.56	
33	S½N½		160.00	1220828
35	E½SE¼		80.00	1220828
TOWNSHIP TOTAL			5445.19	

TOWNSHIP 18 NORTH RANGE 3 WEST USGS Map - Anchorage C-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
12	All		640.00	1217600
18	SE¼SW¼		40.00	1217600
TOWNSHIP TOTAL			680.00	

APPENDIX_____

TOWNSHIP 22 NORTH RANGE 4 WEST USGS Map - Talkeetna Mts. A-6, Anchorage D-8

Section	Portion	Lot Acreage	Section Acreage	Patent #
2	Lot 3	40.20		1215773
	Lot 4	40.26		1215773
	Lot 5	30.92		1215773
	Lot 6	50.77		1215773
	S½NW¼,			1215773
	NE¼SW¼			1215773
11	Lot 2	28.39		1215773
	Lot 5	18.93		1215773
	Lot 6	25.56		1215773
	S½SW¼			1215773
			152.88	
28	E½		320.00	1215773
TOWNSHIP TOTAL			755.03	

TOWNSHIP 23 NORTH RANGE 4 WEST USGS Map - Talkeetna A-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
5	Lot 3	40.00		Exchange-ADL#52954
TOWNSHIP TOTAL			40.00	

APPENDIX_____

TOWNSHIP 24 NORTH RANGE 4 WEST USGS Map - Talkeetna A-1, Talkeetna Mts. A-6

Section	Portion	Lot Acreage	Section Acreage	Patent #
4	Lot 1	40.19		1213622
	Lot 2	40.18		1213622
	S½NE¼,			1213622
	SE¼			1226464
			320.37	
5	Lot 3	40.09		1213622
	Lot 4	40.07		1213622
	S½NW¼,S½			1213622
			480.16	
9	Lot 1	14.70		1213622
	Lot 2	33.90		1213622
	Lot 3	27.14		1213622
	Lot 4	34.48		1213622
	S½SE¼,NW¼SE¼(Benka Lake Subdivision)			1213622
			230.22	
18	Lot 9	5.11		1213622
	Lot 10	5.16		1213622
	Lot 11	5.20		1213622
	Lot 12	5.25		1213622
	Lot 13	5.30		1213622
	Lot 14	5.35		1213622
	Lot 15	6.35		1213622
	Lot 16	5.41		1213622
	Lot 17	4.92		1213622

APPENDIX_____

TOWNSHIP 24 NORTH RANGE 4 WEST (continued) USGS Map Talkeetna A-1, Talkeetna Mts. A-

Section	Portion	Lot Acreage	Acreage	Patent #
18	Lot 21	5.92		1213622
	Lot 22	5.18		1213622
	N½NW¼SW¼SE¼,			1213622
	S½NE¼, SE¼NW¼,			1213622
	NE¼SE¼SE¼, NE¼SE¼, W½NW¼SE¼,			1213622
	E½SW¼, E½W½SW¼			1213622
			374.15	
21	E½		320.00	1213622
27	E½		320.00	1213622
32	Lot 1	38.51		1213622
	Lot 2	34.73		1213622
	NE¼NE¼,			1213622
	S½NE¼, S½NW¼			1213622
			273.24	
34	E½		320.00	1213622
TOWNSHIP TOTAL			2638.14	

APPENDIX_____

TOWNSHIP 26 NORTH RANGE 4 WEST USGS Map - Talkeetna B-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
19	E½SE¼		80.00	1215772
20	All		640.00	1215772
29	E½		320.00	1215772
30	SW¼NE¼		40.00	1215772
TOWNSHIP TOTAL			1080.00	

TOWNSHIP 26 NORTH RANGE 5 WEST USGS Map - Talkeetna B-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
1	Lot 1	40.00		1215772
	Lot 2	40.02		1215772
	Lot 3	40.02		1215772
	Lot 4	40.04		1215772
	S½N½,S½			1215772
			640.08	
24	Lot 1	18.90		1215772
	Lot 2	32.78		1215772
	Lot 3	34.09		1215772
	Lot 4	21.15		1215772
	Lot 5	33.50		1215772
	Lot 6	9.64		1215772
	Lot 7	23.28		1215772
	NW¼NW¼			1215772
			213.34	

APPENDIX_____

TOWNSHIP 26 NORTH RANGE 5 WEST (continued) USGS Map - Talkeetna B-1

Section	Portion	Lot Acreage	Section Acreage	Patent #
25	Lot 7	4.05		1213622
	Lot 8	2.13		1213622
	Lot 29	4.91		1213622
	Lot 33	4.23		1213622
	Lot 34	3.57		1213622
	Lot 37	3.78		1213622
	Lot 38	5.60		1213622
	Lot 39	4.42		1213622
	Lot 40	4.87		1213622
	Lot 41	2.70		1213622
	Lot 42	3.79		1213622
	Lot 43	5.33		1213622
	Lot 44	5.79		1213622
			55.17	
TOWNSHIP TOTAL			908.59	

APPENDIX_____

TOWNSHIP 1 SOUTH RANGE 13 WEST USGS Map - Kent, A-4, A-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
3	Lot 1	40.05		Clear List #3
	S½,S½NW¼,			Clear List #3
	SE¼NE¼			Clear List #3
			480.05	
4	E½SE¼		80.00	Clear List #3
7	Lot 4	30.91		Clear List #3
			30.91	
8	NE¼NE¼		40.00	Clear List #3
9	S½,E½NE¼		400.00	Clear List #3
10	N½,S½SE¼		400.00	Clear List #3
17	SE¼		160.00	Clear List #3
19	Lot 1	31.31		Clear List #3
	Lot 2	31.42		Clear List #3
	E½NW¼			Clear List #3
			142.73	
20	E½		320.00	Clear List #3
21	NW¼		160.00	Clear List #3
29	E½E½		160.00	Clear List #3
TOWNSHIP TOTAL			2373.69	

APPENDIX_____

TOWNSHIP 1 SOUTH RANGE 14 WEST USGS Map - Kenai A-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
24	S½SW¼		80.00	1219275
25	SE¼		160.00	1219275
TOWNSHIP TOTAL			240.00	

TOWNSHIP 2 SOUTH RANGE 14 WEST USGS Map - Seldovia D-5, Kenai A-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
14	E½SW¼, SW¼NW¼, NW¼SW¼		160.00	1221605
20	E½E½		160.00	1221605
22	All		640.00	Clear List #3
28	E½		320.00	Clear List #3
33	E½SW¼		80.00	Clear List #3
TOWNSHIP TOTAL			1360.00	

APPENDIX_____

TOWNSHIP 3 SOUTH RANGE 14 WEST USGS Map - Seldovia D-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
8	E½NE¼,SE¼SE¼,			Clear List #3
	NE¼SE¼			1221605
			160.00	
18	E½SE¼		80.00	Clear List #3
30	Lot 3	36.93		Clear List #3
	Lot 4	37.02		Clear List #3
	E½SW¼			Clear List #3
			153.95	
31	Lot 2	37.23		1227563
	Lot 3	37.33		1227563
	NE¼SW¼,SE¼NW¼,NW¼SE¼,			1227563
	SW¼NE¼,			1227563
			234.56	
TOWNSHIP TOTAL			628.51	

TOWNSHIP 3 SOUTH RANGE 15 WEST USGS Map - Seldovia D-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
25	SE¼SE¼		40.00	Clear List #3
TOWNSHIP TOTAL			40.00	

APPENDIX_____

TOWNSHIP 4 SOUTH RANGE 15 WEST USGS Map - Seldovia D-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
14	SE¼SW¼		40.00	Clear List #3
22	Lot 2	6.63		1221605
			6.63	
24	SE¼		160.00	Clear List #3
26	SW¼NW¼,W½SW¼,NE¼SW¼		160.00	1221605
TOWNSHIP TOTAL			366.63	

TOWNSHIP 5 SOUTH RANGE 11 WEST USGS Map - Seldovia D-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
9	SE¼NW¼		40.00	1221605
TOWNSHIP TOTAL			40.00	

TOWNSHIP 5 SOUTH RANGE 14 WEST USGS Map - Seldovia D-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
8	E½W½		160.00	Clear List #3
TOWNSHIP TOTAL			160.00	

APPENDIX_____

TOWNSHIP 5 SOUTH RANGE 15 WEST USGS Map - Seldovia C-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
17	Lot 1	0.67		1219275
			0.67	
34	Lot 1	0.97		1219275
			0.97	
TOWNSHIP TOTAL			1.64	

TOWNSHIP 6 SOUTH RANGE 12 WEST USGS Map - Seldovia C-4

Section	Portion	Lot Acreage	Section Acreage	Patent #
5	N½NE¼		80.00	1219275
TOWNSHIP TOTAL			80.00	

TOWNSHIP 6 SOUTH RANGE 13 WEST USGS Map - Seldovia C-4, C-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
1	N½NW¼		80.00	1219275
5	NW¼SE¼,E½SW¼SE¼,NW¼SW¼SE¼,			1219275
	NE¼SW¼,N½SE¼SW¼,N½S½SE¼SW¼,			1219275
	E½SE¼			Exchange-ADL #63966
			220.00	
6	SW¼SE¼,N½N½SE¼SE¼		50.00	1219275
8	S½NW¼,S½NE¼NW¼,S½N½NW¼NW¼,			1219275
	S½NW¼NW¼			1219275
			130.00	
TOWNSHIP TOTAL			480.00	

APPENDIX_____

TOWNSHIP 6 SOUTH RANGE 14 WEST USGS Map - Seldovia C-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
9	SE¼SE¼, except			
	W½SW¼SE¼SE¼			1219275
			35.00	
10	SE¼,S½SW¼		240.00	1219275
TOWNSHIP TOTAL			275.00	

TOWNSHIP 8 SOUTH RANGE 14 WEST USGS Map - Seldovia B-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
32	SW¼NE¼,N½S½NE¼NE¼,			1220329
	N½NE¼NE¼,S½S½SE¼NE¼			1220829
			80.00	
33	SW¼		160.00	1220829
TOWNSHIP TOTAL			240.00	

TOWNSHIP 9 SOUTH RANGE 14 WEST USGS Map - Seldovia B-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
6	Lot 9	4.12		1220829
	Lot 10	5.89		1220829
	Lot 17	1.25		1220829
	Lot 19	1.25		1220829
	Lot 20	1.25		1220829
	E½NW¼NW¼SE¼,S½SE¼,			1220829
	S½NW¼SE¼,NE¼NW¼SE¼			1220829
			128.76	
TOWNSHIP TOTAL			128.76	

APPENDIX_____

TOWNSHIP 9 SOUTH RANGE 15 WEST USGS Map - Seldovia B-5

Section	Portion	Lot Acreage	Section Acreage	Patent #
1	Lot 1	0.71		1220829
			0.71	
TOWNSHIP TOTAL			0.71	

TOWNSHIP 28 SOUTH RANGE 44 WEST USGS Map - Ugashik C-2, D-2

Section	Portion	Lot Acreage	Section Acreage	Patent #
6	Lot 3	37.94		1220829
	Lot 4	38.03		1220829
	E½SW¼			1220829
			155.97	
7	Lot 1	36.90		1220829
	Lot 2	11.98		1220829
	Lot 3	39.94		1220829
	Lot 4	36.07		1220829
	Lot 5	38.95		1220829
	NE¼NW¼			1220829
			203.84	
30	Lot 1	8.03		1220829
			8.03	
31	Lot 3	30.60		1220829
	Lot 4	34.40		1220829
	SE¼SW¼			1220829
			105.00	
TOWNSHIP TOTAL			472.84	

APPENDIX_____

TOWNSHIP 33 SOUTH RANGE 45 WEST USGS Map - Ugashik B-2

Section	Portion	Lot Acreage	Section Acreage	Patent #
10	Lot 1	29.01		1220830
	Lot 2	46.25		1220830
	Lot 3	38.37		1220830
	SW¼SW¼,			1220830
	N½SW¼,NW¼,N½NE¼,			1220830
			513.63	
14	Lot 1	8.00		1220830
	Lot 2	15.04		1220830
	Lot 3	16.54		1220830
			39.58	
15	Lot 1	22.86		1220830
	Lot 2	29.84		1220830
	Lot 3	23.58		1220830
	Lot 4	32.58		1220830
			108.86	
22	Lot 1	16.40		1220830
			16.40	
TOWNSHIP TOTAL			678.47	

APPENDIX_____

UNITED STATES SURVEYS

Survey #	Township	Range	Meridian	Section	Portion	Acreage	Patent #	USGS-Map
3441	2N	15W	FM	17	Lot 15-A	1.35	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 29	0.90	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 30	0.85	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 31	0.73	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 32	0.77	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 34	1.08	1234501	Tanana A-2
3441	2N	15W	FM	17	Lot 35	2.00	1234501	Tanana A-2
				Total acres for survey		7.68		
4593	40S	65E	CRM	24	Lot 3	155.87	50-69-009	Juneau B-2
4593	40S	65E	CRM	24	Lot 8	36.87	50-66-0475	Juneau B-2
4593	40S	65E	CRM	24	Lot 9	43.68	50-66-0475	Juneau B-2
4593	40S	65E	CRM	24	Lot 13	145.36	50-66-0475	Juneau B-2
				Total acres for survey		381.78		
341	8S	7W	CRM	25		40.00	1213951	Valdez A-7
				Total acres for survey		40.00		
342	8S	7W	CRM	25,35,36		73.58	1213951	Valdez A-7
				Total acres for survey		73.58		

APPENDIX_____

Survey #	Township	Range	Meridian	Section	Portion	Acreage	Patent #	USGS-Map
697	8S	6W	CRM	19,30		80.00	1213951	Valdez A-7
			Total acres for survey			80.00		
698	8S	6W	CRM	19,30		40.00	1213951	Valdez A-7
			Total acres for survey			40.00		
641	8S	6W	CRM	31			1213951	Valdez A-7
641	8S	7W	CRM	36		79.77	1213951	Valdez A-7
			Total acres for survey			79.77		
447	8S	6W	CRM	32		38.83	1213951	Valdez A-7
			Total acres for survey			38.83		
448	8S	6W	CRM	29,32		32.66	1213951	Valdez A-7
			Total acres for survey			32.66		
3917	17N	13W	SM	13	Lot 3	4.99	Exchange 204139	
3917	17N	13W	SM	12	Lot 6	4.66	Exchange 204139	
			Total acres for survey			9.65		

Appendix O Replacement Lands Priority Selections

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
1	T40S, R65E, CRM	23:	Lots 2-5 and 6A of USS 3404; Lots 0-1, 0-2, L and N of USS 2391; Lot 6-B of ASLS 74-29	21.71±	$ 650,000
2	T5N, R11W, SM	36:	Those portions of the SW¼,SE¼SE¼ and Lot 7 excluding the Slikok Creek Subdivision	170±	425,000
3	T10S, R10E, FM	13	A portion lying adjacent to Block 14-A, Delta Junction Townsite (see M & B in ADL#403102)	3.44±	14,000
4	T55S, R63E, CRM T55S, R64E, CRM	36: 31:	Portion Tr 4-A ASLS 78-1 Portion Tr 4-A ASLS 78-1	10.05±	219,000
5	T1N, R4E, FM	36:	S½NE¼, N½N½SE¼, NE¼NE¼SW¼	130±	143,000
6	T1N, R2W, FM	8:	S½SW¼, excluding USMS 2102	70±	49,000
7	T1S, R1W, SM	4: 9:	USS 1116, Lots 1-7, Blk 23: Lots 1-7 Blk 24 USS 1116, Portion Lots 1-7, Blk 24	5±	50,000
8	T16S, R3W, CRM	5:	N½N½, SE¼NW¼	200±	140,000
9	T1S, R1W, SM	2:	Lot 1	25.98±	26,000
10	T75S, R91E, CRM T76S, R91E, CRM	35: 35: 1: 2:	USS 3802 USS 3802 Portion USS 3802 Portion USS 3802	100±	100,000
11	T1S, R2W, FM	4:	MS 2057	32±	88,000
12	T2N, R1W, FM	33	All available lots within ASLS 79-163; Lots 3, 20-22, 24, 25, 32, 33, 52, 59, 60, 66-68, 78-82, 85, 87, 93	98.517±	284,000
13	T2N, R1W, FM	35:	Section 35: W½	320±	320,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
14	T1N, R3W, FM	16: 17:	SE¼, S½SW¼ of existing trail Portion SE¼SE¼	100±	$ 60,000
15	T11S, R12E, FM	25:	Portion Tr E, Unit 2, ASLS 78-93 (M&B) (ADL SLUP #403909)	68±	20,000
		26:	Portion Tr E, Unit 2, ASLS 78-93 (M&B) (ADL SLUP #403909)		
16	T2N, R1E, FM	16:	N½NW¼	80±	28,000
17	T15N, R4W, SM	17:	Tr 20 of Pt. McKenzie Ag Project (ILMA 206642 to DNR)	103.16±	36,000
18	T8S, R9W, FM	12:	All available lots within ASLS 77-165, N½, N½SW¼, SW¼SW¼, W½NE¼SE¼, W½SE¼, NW¼SE¼SE¼ Subject to ARR R/W and existing trail.	587.93±	440,000
19	T6S, R8W, FM	1:	All, excluding Lots 1-4; Subject to a 100' wide public use and access easement along each bank of Clear and Julius Creeks	480±	360,000
20	T3N, R1W, CRM	23:	Lots 5-8, S½SE¼; Subject to a 300' wide public use and access easement along each bank of the Copper River	242.94±	474,100*
21	T3N, R1W, CRM	36:	Lots 2, 9, 10-11, NW¼NW¼; Subject to a 300' wide public use and access easement along each bank of the Copper River	203.01±	203,000
22	T26N, R7W, SM	13 24:	W½ All Subject to a 200' wide public use and access easement along each bank of Gate Creek and a 200' wide existing corridor along both sides of the Petersville Road	960±	860,000

*To be adjusted following update of state appraisal

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
23	T1N, R1E, FM	2: 3: 10: 11:	All, including ASLS 80-99 E½, including ASLS 80-99 ASLS 80-99, excluding Lots 1-5 and portion of Lot 6, 8-11 Blk 5; excluding Lot 4, Blk 6; excluding Lot 2 and portions of Lots 3 & 8, Blk 7 W½, excluding SE¼SE¼NW¼, excluding E½NE¼SW¼, excluding N½SW¼SE¼NW¼, S½NW¼SE¼NW¼, SE¼SE¼NE¼SW¼NW¼, E½NE¼SE¼SW¼NW¼, excluding Lot 7 & portions of Lots 6, 8 & 9, Blk 5, ASLS 80-99; excluding Lots 4-7 and portions of Lots 3 & 8, Blk 7, ASLS 80-99	1357.214±	$ 1,295,000
24	T2N, R1W, FM	25:	E½, E½SW¼	400±	440,000
25	T8S, R9W, FM	3, 10, and 15:	All available lots within ASLS 80-120 and existing trail	1001 677±	650,000
26	T26N, R7W, SM	26, 34-36:	All; Subject to a 200' wide public use and access easement along each bank of Gate Creek and a 200' wide existing corridor along both sides of the Petersville Road	2560±	2,300,000
27	T2N, R1W, CRM	25: 36:	SW¼; Subject to an existing trail All; Subject to an existing trail	800±	320,000
28	T4N, R1E, FM	35: 36:	All, south of Steese Highway R/W All, south of Steese Highway R/W	701±	630,900
29	T3N, R1E, FM	23:	N½SW¼SW¼SE¼, S½NW¼SW¼SE¼	10±	3,500
30	T3N, R1E, FM	1: 2:	Lots 1-4, S½N½, SE¼, E½SW¼, NW¼SW¼ (Lse 29303) Lot 1, SE¼NE¼ (Lse 29303) N½NE¼SE¼; Lot 12 (SLUP 74197)	723.77±	290,000
31	T3N, R1E, FM	1: 2: 12:	Lot 5 Lot 13 excluding N½NE¼SE¼; Lots 9, 10 & 14 Lots 6, 7, 8 & 9	227.29±	100,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
32	T12S, R7W, FM	13:	SE¼NW¼SW¼NW¼ (SLUP 40.903)	2.5±	$ 1,000
33	T4N, R1E, FM	25: 26:	N½, NW¼SW¼ N½, N½S½, S½SW¼	920±	370,000
34	T1S, R5W, FM	34:	All north of ARR excluding HS F 023103 & NE¼NE¼	390±	205,000
35	T8S, R9W, FM T8S, R8W, FM	24, 25 & 36: 30 & 31:	All available lots within ASLS 79-173 Subject to ARR R/W and existing trail	1044.04±	680,000
36	T6S, R8W, FM	2 & 3:	All; Subject to a 100' wide public use and access easement along each bank of Clear and Julius Creeks and to the ARR R/W	1280±	580,000
37	T3N, R3E, FM	11: 12:	All N½	960±	140,000
38	T3N, R3E, FM	1 & 2:	All	1280±	130,000
39	T16N, R5W, SM	13:	All	549.68 ±	448,000
40	T16N, R5W, SM	12:	All, excluding USS 4574	549.68 ±	440,000
41	T16N, R5W, SM	1 & 12:	USS 4574, excluding Lot 1	158.37±	206,000
42	T4N, R3E, FM	35: 36:	S½ All	960±	140,000
43	T7S, R9W, FM	3, 10, 15, 22 & 27:	All available lots within ASLS 79-158	1326.418±	663,000
44	T7S, R9W, FM	4, 9, 16, 21, 28 & 33:	All available lots within ASLS 79-158	2212.813±	996,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
45	T7S, R9W, FM	7,8,17 & 20:	All available lots within ASLS 79-158	1000.087±	$ 425,000
46	T2N, R1W, CRM	26: 27:	All SE¼ subject to an existing trail	800±	320,000
47	T2N, R1W, CRM	34: 35:	All All	1280±	416,000
48	T2S, R3E, FM	19: 20:	S½SE¼SE¼ E½NE¼, N½SE¼, SW¼SE¼, S½N½SW¼, S½SW¼ Subject to Richardson Hwy, right-of-way, a 100' wide public use and access easement along each bank of Moose Ck. and to condemnation proceedings.	340±	238,000
49	T4N, R3E, FM	23-26:	All	2560±	260,000
50	T4N, R4E, FM	14: 15:	All E½	960±	140,000
51	T4N, R4E, FM	19-22:	All	2518±	250,000
52	T4N, R4E, FM	28-29: 30:	All N½,N½S½	1730±	170,000
53	T4N, R5E, FM	12-14:	All	1920±	190,000
54	T4N, R5E, FM	22: 23:	All, excluding N½N½N½ All	1200±	120,000
55	T4N, R6E, FM	7:	All	594±	120,000
56	T4N, R6E, FM	9-10:	All	1280±	130,000
57	T4N, R1E, FM	13-14, 23-24:	All	2560±	770,000
58	T1N, R4E, FM	25:	NE¼NW¼, N½NE¼ (Lse 31329)	120±	90,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
59	T5N, R4E, FM	27:	N½NW¼	80±	$ 20,000
60	T5N, R4E, FM	33: 34:	S½N½, S½ All	1120±	220,000
61	T5N, R3E, FM	33: 34:	S½SE¼ S½S½	240±	48,000
62	T3N, R4E, FM	4-5: 6:	All E½	1600±	160,000
63	T3N, R4E, FM	17: 18:	N½SW¼ N½SE¼	160±	40,000
64	T25N, R6W, SM	3-4,9-10:	All excluding valid existing rights Subject to a 200' wide public use and access easement along each bank of Ninemile Creek	2421.51±	2,300,000
65	T25N, R6W, SM	1-2, 11-12:	All excluding valid existing rights Subject to a 200' wide public use and access easement along each bank of Ninemile Creek	2507.78±	1,750,000
66	T25N, R7W, SM	1-2, 11-12:	All Subject to a 200' wide public use and access easement along each bank of Gate Creek	2560±	1,790,000
67	T25N, R6W, SM	20: 21-22:	All excluding valid existing rights All Subject to a 200' wide public use and access easement along each bank of Ninemile Creek	1874.41±	1,310,000
68	T25N, R6W, SM	27-28: 29:	All All excluding valid existing rights Subject to a 200' wide public use and access easement along each bank of Ninemile Creek	1856.7±	1,480,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
69	T25N, R6W, SM	32: 33: 34:	E½, E½NW¼, NE¼SW¼ All N½, SW¼, W½SE¼ Subject to a 200' wide public use and access easement along each bank of Ninemile Creek	1640+	$ 900,000
70	T3N, R2E, FM	5: 6: 7:	W½, S½SE¼ All All, north of various mineral surveys (Res-U-Reg 40522)	1404+	632,000
71	T3N, R2E, FM	8: 9:	All W½, W½E½	1120+	448,000
72	T4N, R1E, FM	1-2,11-12:	All	2560+	770,000
73	T4N, R2E, FM	5-8:	All	2560+	380,000
74	T4N, R3E, FM	2: 3-4: 9: 10: 11:	W½, W½NE¼, NE¼NE¼ All E½ All N½NW¼	2760+	966,000
75	T4N, R2E, FM	15: 16: 17-18: 19: 20:	NW¼ All excluding SE¼SE¼ All N½, N½SW¼, W½SW¼SW¼ NW¼, N½NE¼	2700	945,000
76	T5N, R3E, FM	14-16:	All	1920+	290,000
77	T5N, R3E, FM	17-20:	All	2560+	770,000
78	T5N, R3E, FM	21: 22:	N½, N½S½, S½SW¼, SW¼SE¼ N½, N½S½, SE¼SE¼	1120+	340,000

PARCEL NUMBER	LEGAL DESCRIPTION			Acres	FAIR MARKET VALUE
		Section(s)			
79	T5N, R3E, FM	28: 29: 30: 31:	NW¼, NW¼NE¼ N½, W½SW¼ All Lots 1 and 2, E½NW¼	1399.40±	$ 420,000
80	T4N, R3E, FM	22: 27:	All E½	960±	$ 140,000
81	T3N, R4E, FM	1:	E½	320±	80,000
82	T24N, R6W, SM	8: 16: 17: 19-20: 21:	SW¼, W½NW¼, W½SE¼ S½SW¼ W½, W½E½, E½SE¼ All W½	2523±	1,390,000
83	T24N, R6W, SM	28: 29-32: 33:	W½W½ All W½NW¼	2732±	1,500.000
84	T24N, R7W, SM	24-26:	All	1920±	1,250,000
85	T24N, R7W, SM	35: 36:	NE¼ N½, SE¼	640±	290,000
86	T26N, R7W, SM	1:	All	640±	580,000
87	T27N, R7W, SM	24-25: 35: 36:	All N½ All	2240±	1,010,000
88	T27N, R7W, SM	8:	N½, E½SE¼	400±	280,000
89	T27N, R7W, SM	17: 18:	SW¼, S½NW¼, S½SE¼ All	932±	420,000

NUMBER	LEGAL DESCRIPTION		Acres	FAIR MARKET VALUE
90	T27N, R7W, SM	10: E½ 11-12: All	1600±	320,000
91	T27N, R7W, SM	13-15: All	1920±	380,000
92	T27N, R6W, SM	5: W½ 6: All	928±	700,000
93	T27N, R6W, SM	7: All 8: W½ 17: W½ 18: All	1862±	740,000
94	T27N, R6W, SM	19: All 20: W½ 30: All 31: NW¼, N½NE¼, N½S½NE¼ 32: W½	2130.50±	$ 1,170,000
95	T28N, R6W, SM	31: All	640±	510,000
96	T4N, R4E, FM	17-18: All	1236±	120,000
97	T4N, R4E, FM	26-27: All	1280±	130,000
98	T4N, R4E, FM	33-36: All	2560±	260,000
99	T4N, R5E, FM	10-11: All	1280±	130,000
100	T4N, R5E, FM	19-21: All 28: All	2518±	250,000
101	T4N, R5E, FM	24-25: All 26: All excluding SW¼ 27: N½	2080±	210,000

PARCEL NUMBER	LEGAL DESCRIPTION		Acres	FAIR MARKET VALUE
	Section(s)			
102	T4N, R5E, FM	29: S½ 30: S½ 31-32: All	1862±	190,000
103	T4N, R5E, FM	33: E½ 34: All	960±	$ 140,000
104	T4N, R6E, FM	17: W½, SE¼, W½NE¼, SE¼NE¼ 18-19: All 20: N½	2114±	210,000
105	T4N, R6E, FM	30-31: All 32: W½	1522±	150,000
106	T3N, R6E, FM	3,9 & 10: All	1920±	$ 190,000
107	T3N, R5E, FM	22: E½ 23-26: All	2880±	290,000
108	T3N, R6E, FM	19-20: All 29-30: All	2502±	250,000
109	T5N, R3E, FM	12: All	640±	160,000
110	T5N, R4E, FM	7-9: All	1911±	240,000
111	T5N, R4E, FM	1: All 10-12: All	2560±	320,000
112	T4N, R2E, FM	25-27: All	1920±	380,000
113	T4N, R2E, FM	35-36: All	1280±	220,000
114	T3N, R2E, FM	1: All (SLUP 76002) 2: All excluding W½W½W½ (SLUP 76002)	1200±	210,000

PARCEL NUMBER		Section(s)	LEGAL DESCRIPTION	Acres	FAIR MARKET VALUE
115	Not Appraised T7S, R8W, CRM	24-26: 33-34: 35: 36:	All State lands All State lands All State lands excluding MS 1533 All excluding MS 1533	1259±	---
116	Not Appraised T7S, R7W, CRM	1-3: 4,8,9: 10-16: 17-19 20-36:	All All excluding AA23139 All All excluding AA23139 All	18,380±	---

SB

48

COMMITTEE REPORT

SENATE

FURTHER:

Date: 35

Mr. President:

The Committee on _____ has had _____

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

POSITION PAPER

SB 48

The Division of Retirement and Benefits is complying or is in the process of complying with most of the provisions of the bill. PERS Regulation 82-5 imposes substantially the same requirements as the bill and a similar regulation is proposed for the TRS. The Division is in the process of revising all of the existing regulations to conform with the style and format requirements of the AAC preparatory to having them published voluntarily in the Alaska Administrative Register and Code. There are no objections to the procedures the division is following or plans to follow being incorporated into the law; however, it appears unnecessary.

The Department is opposed to the bill in its present form as it makes no provisions for adopting emergency regulations to take effect without waiting 30 days after adoption in instances where it is warranted.

J.K. Humphreys

J.K. Humphreys, Director, Division of Retirement & Benefits

for Esther Rudd 3/15/80

Esa Rudd, Commissioner of Administration

FILE WITH SB 48

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 48 Date on Bill: 1-18-83
Title: An Act Relating to the Adoption of Regulations for State Retirement Systems
Sponsor: Senator Ray
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: J.K. Humphreys J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 2-23-83

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SB 49

January 18, 1983

Honorable John Conyers, Jr.
2313 Rayburn
House Office Building
Washington, D.C. 20515

RE: Exclusionary Rule

Dear Representative Conyers:

I have been advised that you are the chairman of the House Judiciary Subcommittee on Criminal Justice and that you have recently held hearings regarding the proposed "good faith exception" to the exclusionary rule.

I am counsel for the Alaska State Senate Judiciary Committee and I anticipate that we will be dealing with the same issue in the near future.

Therefore, I would sincerely appreciate whatever information you may care to share with us concerning this interesting and complex subject, especially drafts of proposed legislation, copies of pertinent articles or transcripts of your hearings.

I have already contacted Marie Johnson of the Police Executive Research Forum and I have obtained copy of Professor Wasserstrom's recent law review article on the subject.

Very truly yours,

John C. Gabrielli
Counsel

Ex-Rule

January 19, 1983

Honorable Dennis DeConcini
3230 Dirksen
Senate Office Building
Washington, D.C. 20510

Dear Senator DeConcini:

I have been advised that in the first session of the 97th Congress you introduced a bill (SB 101) prohibiting the suppression of evidence in a federal criminal proceeding unless the law enforcement officer's violation of the fourth amendment was intentional or substantial.

I am legal counsel to the Alaska Senate Judiciary Committee and I would sincerely appreciate a copy of your previously mentioned bill, along with whatever other information you may care to share regarding the subject in question.

Very truly yours,

John C. Gabrielli
Counsel

Exclusionary Rule

January 19, 1983

Honorable John Vasconcellos
State Capitol Building, Rm 3091
Sacramento, California 98514

Dear Assemblyman Vasconcellos:

A ne'er-do-well disc jockey in Anchorage, Alaska, named John Gaar said that if I ever needed assistance I should contact you...

I am legal counsel to the Alaska Senate Judiciary Committee and I need a copy of:

Assembly Constitutional Amendment 31,
1981-82 session of the California
Legislature

Of course, if I can ever reciprocate, please let me know, and if you are ever in our area, please contact me. Gaar says that you're very fond of choclate covered muktuk and I know the best places that serve it in our town.

Very truly yours,

John C. Gabrielli
Counsel

id., at 171, while Elbridge Gerry thought Pinckney's idea might "enslave the States." *Id.*, at 165. After much debate, the Convention rejected Pinckney's suggestion.

Late in July, the delegates reversed their approval of even Randolph's more moderate congressional veto. Several delegates now concluded that the negative would be "terrible to the States," "unnecessary," and "improper." 2 Farrand 27.[8] Omission of the negative, however, left the new system without an effective means of adjusting conflicting state and national laws. To remedy this defect, the delegates adopted the Supremacy Clause, providing that the federal Constitution, laws, and treaties are "the supreme Law of the Land" and that "the Judges in every State shall be bound thereby." Art. VI, cl. 2. Thus, the Framers substituted judicial review of state laws for congressional control of state legislatures.

While this history demonstrates the Framers' commitment to a strong central government, the means that they adopted to achieve that end are as instructive as the end itself.[9] Under the Articles of Confederation, the national legislature operated through the States. The Framers could have fortified the central government, while still maintaining the same system, if they had increased Congress' power to demand obedience from state legislatures. In time, this scheme might have relegated the States to mere departments of the National Government, a status the Court appears to endorse today. The Framers, however, eschewed this course, choosing instead to allow Congress to pass laws directly affecting individuals, and rejecting proposals that would have given Congress military or legislative power over state governments. In this way, the Framers established independent state and national sovereigns. The National Government received the power to enact its own laws and to enforce those laws over conflicting state legislation. The States retained the power to govern as sovereigns in fields that Congress cannot or will not preempt.[10] This product of the Constitutional Convention, I believe, is fundamentally inconsistent with a system in which either Congress or a state legislature harnesses the legislative powers of the other sovereign.[11]

III

During his last Term of service on this Court, Justice Black eloquently explained that our notions of federalism subordinate neither national nor state interests:

> "The concept does not mean blind deference to 'States' Rights' any more than it means centralization of control over every important issue in our National Government and its courts. The Framers rejected both these courses. What the concept does represent is a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States." *Younger* v. *Harris*, 401 U. S. 37, 44 (1971).

In this case, I firmly believe that a proper "sensitivity to the legitimate interests of both State and National Governments" requires invalidation of Titles I and III of PURPA insofar as they apply to state regulatory authorities. Accordingly, I respectfully dissent from the Court's decision to uphold those portions of the statute.

REX E. LEE, Solicitor General of the United States, Justice Department, Washington, D.C. (CAROL E. DINKINS, Assistant Attorney General, LOUIS F. CLAIBORNE, Deputy Solicitor General, ELLIOTT SCHUDER, Assistant to the Solicitor General, KATHRYN A. OBERLY, and SUSAN VIRGINIA COOK, Justice Department attorneys, CHARLES A. MOORE, General Counsel, JEROME M. FEIT, Deputy Solicitor, and JOANNE LEVEQUE, Federal Energy Regulatory Commission attorney, with him on the brief) for appellants; ALEX A. ALSTON, JR., Jackson, Miss. (JAMES T. McCAFFERTY, III, THOMAS, PRICE, ALSTON, JONES & DAVIS, HIRAM C. EASTLAND, JR., CROSTHWAIT, TERNEY, NOBLE & EASTLAND, BILL ALLAIN, Attorney General of Mississippi and BENNETT E. SMITH, Assistant Attorney General and Attorney for the Mississippi Public Service Commission, with him on the brief) for appellees.

No. 80-2209

UNITED STATES, PETITIONER v. ALBERT ROSS, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Syllabus

No. 80-2209. Argued March 1, 1982—Decided June 1, 1982

Acting on information from an informant that a described individual was selling narcotics kept in the trunk of a certain car parked at a specified location, District of Columbia police officers immediately drove to the location, found the car there, and a short while later stopped the car and arrested the driver (respondent), who matched the informant's description. One of the officers opened the car's trunk, found a closed brown

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[8] Thomas Jefferson disapproved of the congressional veto as soon as he heard of it. Writing to Madison from Paris, he declared: "The negative proposed to be given [the national legislators] on all the acts of the several Legislatures is now for the first time suggested to my mind. Prima facie I do not like it." C. Warren, The Making of the Constitution 168 (1937). Notably, Jefferson suggested that "an appeal from the State Judicatures to a Federal Court, in all cases where the Act of Confederation controuled the question, [would] be as effectual a remedy." *Id.*, at 168–169.

[9] Experience under the Articles of Confederation taught the Framers that multiple state legislatures, unchecked by any central power, "threat[en] danger not to the harmony only, but to the tranquillity of the Union." Warren, *supra* n. 32, at 166 (quoting Madison). My analysis of the Framers' intent does not detract from the proper role of federal power in a federalist system, but merely requires the exercise of that power in a manner that does not destroy state independence.

[10] This Court quickly recognized that Congress' strength derives from its own enumerated powers, not from the ability to direct state legislatures. In *M'Culloch* v. *Maryland*, 4 Wheat. 316 (1819), the historic decision affirming Congress' power to establish a national bank, Chief Justice Marshall declared: "No trace is to be found in the constitution of an intention to create a dependence of the government of the Union on those of the states, for the execution of the great powers assigned to it. Its means are adequate to its ends; *and on those means alone was it expected to rely for the accomplishment of its ends.*" *Id.*, at 424 (emphasis added). See also S. Davis, The Federal Principle 114 (1978) (after examining history of Constitutional Convention, "only the principle of *duality* articulated in a single constitutional system of two distinct governments, national and state, each acting in its own right, each acting directly on individuals, and each qualified master of a limited domain of action, stands out as the clearest fact"); Salmon, *supra*, n. 13, at 359 (discussing history of Constitutional Convention and concluding that substitution of Supremacy Clause for negative on state laws "evidenced the clear distinction in [the Framers'] minds between the supremacy of the nation, which they approved, and the power of the nation to control the functioning of the states, which they rejected").

[11] After the Convention, several thinkers suggested that the National Government might rely upon state officers to perform some of its tasks. Madison, for example, thought that Congress might rely upon state officials to collect national revenue. The Federalist No. 45, pp. 312–313 (J. Cooke ed. 1961). None of these suggestions, however, went so far as to propose congressional control of state legislative power. The suggestions, moreover, seemed to assume that the States would consent to national use of their officials. See also W. Anderson, The Nation and the States, Rivals or Partners? 86–87 (1955) (noting that First Congress rejected proposals to rely upon state officials to enforce federal law and suggesting that this decision to leave "the states free to work out, and to concentrate their attention and resources upon, their own functions" has become part of our constitutional understanding).

paper bag, and after opening the bag, discovered glassine bags containing white powder (later determined to be heroin). The officer then drove the car to headquarters, where another warrantless search of the trunk revealed a zippered leather pouch containing cash. Respondent was subsequently convicted of possession of heroin with intent to distribute—the heroin and currency found in the searches having been introduced in evidence after respondent's pretrial motion to suppress the evidence had been denied. The Court of Appeals reversed, holding that while the officers had probable cause to stop and search respondent's car—including its trunk—without a warrant, they should not have opened either the paper bag or the leather pouch found in the trunk without first obtaining a warrant.

Held: Police officers who have legitimately stopped an automobile and who have probable cause to believe that contraband is concealed somewhere within it may conduct a warrantless search of the vehicle that is as thorough as a magistrate could authorize by warrant.

(a) The "automobile exception" to the Fourth Amendment's warrant requirement established in *Carroll* v. *United States*, 267 U. S. 132, applies to searches of vehicles that are supported by probable cause to believe that the vehicle contains contraband. In this class of cases, a search is not unreasonable if based on objective facts that would justify the issuance of a warrant, even though a warrant has not actually been obtained.

(b) However, the rationale justifying the automobile exception does not apply so as to permit a warrantless search of any movable container that is believed to be carrying an illicit substance and that is found in a public place—even when the container is placed in a vehicle (not otherwise believed to be carrying contraband). *United States* v. *Chadwick*, 433 U. S. 1; *Arkansas* v. *Sanders*, 442 U. S. 753.

(c) Where police officers have probable cause to search an entire vehicle, they may conduct a warrantless search of every part of the vehicle and its contents, including all containers and packages, that may conceal the object of the search. The scope of the search is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found. For example, probable cause to believe that undocumented aliens are being transported in a van will not justify a warrantless search of a suitcase.

(d) The doctrine of *stare decisis* does not preclude rejection here of the holding in *Robbins* v. *California*, 453 U. S. 420, and some of the reasoning in *Arkansas* v. *Sanders*, *supra*.

—— U. S. App. D. C. ——, 655 F. 2d 1159, reversed and remanded.

STEVENS, J., delivered the opinion of the Court, in which BURGER, C. J., and BLACKMUN, POWELL, REHNQUIST, and O'CONNOR, JJ., joined. BLACKMUN and POWELL, JJ., filed concurring opinions. WHITE, J., filed a dissenting opinion. MARSHALL, J., filed a dissenting opinion, in which BRENNAN, J., joined.

JUSTICE STEVENS delivered the opinion of the Court.

In *Carroll* v. *United States*, 267 U. S. 132, the Court held that a warrantless search of an automobile stopped by police officers who had probable cause to believe the vehicle contained contraband was not unreasonable within the meaning of the Fourth Amendment. The Court in *Carroll* did not explicitly address the scope of the search that is permissible. In this case, we consider the extent to which police officers—who have legitimately stopped an automobile and who have probable cause to believe that contraband is concealed somewhere within it—may conduct a probing search of compartments and containers within the vehicle whose contents are not in plain view. We hold that they may conduct a search of the vehicle that is as thorough as a magistrate could authorize in a warrant "particularly describing the place to be searched."[1]

I

In the evening of November 27, 1978, an informant who had previously proved to be reliable telephoned Detective Marcum of the District of Columbia Police Department and told him that an individual known as "Bandit" was selling narcotics kept in the trunk of a car parked at 439 Ridge Street. The informant stated that he had just observed "Bandit" complete a sale and that "Bandit" had told him that additional narcotics were in the trunk. The informant gave Marcum a detailed description of "Bandit" and stated that the car was a "purplish maroon" Chevrolet Malibu with District of Columbia license plates.

Accompanied by Detective Cassidy and Sergeant Gonzales, Marcum immediately drove to the area and found a maroon Malibu parked in front of 439 Ridge Street. A license check disclosed that the car was registered to Albert Ross; a computer check on Ross revealed that he fit the informant's description and used the alias "Bandit." In two passes through the neighborhood the officers did not observe anyone matching the informant's description. To avoid alerting persons on the street, they left the area.

The officers returned five minutes later and observed the maroon Malibu turning off Ridge Street onto Fourth Street. They pulled alongside the Malibu, noticed that the driver matched the informant's description, and stopped the car. Marcum and Cassidy told the driver—later identified as Albert Ross, the respondent in this action—to get out of the vehicle. While they searched Ross, Sergeant Gonzales discovered a bullet on the car's front seat. He searched the interior of the car and found a pistol in the glove compartment. Ross then was arrested and handcuffed. Detective Cassidy took Ross' keys and opened the trunk, where he found a closed brown paper bag. He opened the bag and discovered a number of glassine bags containing a white powder. Cassidy replaced the bag, closed the trunk, and drove the car to Headquarters.

At the police station Cassidy thoroughly searched the car. In addition to the "lunch-type" brown paper bag, Cassidy found in the trunk a zippered red leather pouch. He unzipped the pouch and discovered $3,200 in cash. The police laboratory later determined that the powder in the paper bag was heroin. No warrant was obtained.

Ross was charged with possession of heroin with intent to distribute, in violation of 21 U. S. C. §841(a). Prior to trial, he moved to suppress the heroin found in the paper bag and the currency found in the leather pouch. After an evidentiary hearing, the District Court denied the motion to suppress. The heroin and currency were introduced in evidence at trial and Ross was convicted.

A three-judge panel of the Court of Appeals reversed the conviction. It held that the police had probable cause to stop and search Ross' car and that, under *Carroll* v. *United States*, *supra*, and *Chambers* v. *Maroney*, 399 U. S. 42, the officers lawfully could search the automobile—including its trunk—without a warrant. The court considered separately, however, the warrantless search of the two containers found in the trunk. On the basis of *Arkansas* v. *Sanders*, 442 U. S. 753, the court concluded that the constitutionality of a warrantless search of a container found in an automobile depends on whether the owner possesses a reasonable expectation of privacy in its contents. Applying that test, the court held that the warrantless search of the paper bag was valid but the search of the leather pouch was not. The court remanded for a new trial at which the items taken from the paper bag, but not those from the leather pouch, could be admitted.[2]

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[1] "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U. S. Const., Amdt. 4.

[2] The court rejected the Government's argument that the warrantless search of the leather pouch was justified as incident to respondent's arrest. App. to Pet. for Cert. 137a. The Government has not challenged this holding.

The entire Court of Appeals then voted to rehear the case en banc. A majority of the court rejected the panel's conclusion that a distinction of constitutional significance existed between the two containers found in respondent's trunk; it held that the police should not have opened either container without first obtaining a warrant. The court reasoned:

> "No specific, well-delineated exception called to our attention permits the police to dispense with a warrant to open and search 'unworthy' containers. Moreover, we believe that a rule under which the validity of a warrantless search would turn on judgments about the durability of a container would impose an unreasonable and unmanageable burden on police and courts. For these reasons, and because the Fourth Amendment protects all persons, not just those with the resources or fastidiousness to place their effects in containers that decision-makers would rank in the luggage line, we hold that the Fourth Amendment warrant requirement forbids the warrantless opening of a closed, opaque paper bag to the same extent that it forbids the warrantless opening of a small unlocked suitcase or a zippered leather pouch." 655 F. 2d 1159, 1161 (CADC 1981) (footnote omitted).

The en banc Court of Appeals considered, and rejected, the argument that it was reasonable for the police to open both the paper bag and the leather pouch because they were entitled to conduct a warrantless search of the entire vehicle in which the two containers were found. The majority concluded that this argument was foreclosed by *Sanders*.

Three dissenting judges interpreted *Sanders* differently.[1] Other courts also have read the *Sanders* opinion in different ways.[2] Moreover, disagreement concerning the proper interpretation of *Sanders* was at least partially responsible for the fact that *Robbins* v. *California*, —— U. S. ——, was decided last Term without a Court opinion.

There is, however, no dispute among judges about the importance of striving for clarification in this area of the law. For countless vehicles are stopped on highways and public streets every day and our cases demonstrate that it is not uncommon for police officers to have probable cause to believe that contraband may be found in a stopped vehicle. In every such case a conflict is presented between the individual's constitutionally protected interest in privacy and the public interest in effective law enforcement. No single rule of law can resolve every conflict, but our conviction that clarification is feasible led us to grant the Government's petition for certiorari in this case and to invite the parties to address the question whether the decision in *Robbins* should be reconsidered. —— U. S. ——.

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[1] Judge Tamm, the author of the original panel opinion, reiterated the view that *Sanders* prohibited the warrantless search of the leather pouch but not the search of the paper bag. Judge Robb agreed that this result was compelled by *Sanders*, although he stated that in his opinion "the right to search an automobile should include the right to open any container found within the automobile, just as the right to search a lawfully arrested prisoner carries with it the right to examine the contents of his wallet and any envelope found in his pocket, and the right to search a room includes authority to open and search all the drawers and containers found within the room." 655 F. 2d, at 1180. Judge MacKinnon concurred with Judge Tamm that *Sanders* did not prohibit the warrantless search of the paper bag. Concerning the leather pouch, he agreed with Judge Wilkey, who dissented on the ground that *Sanders* should not be applied retroactively.

[2] Many courts have held that *Sanders* requires that a warrant be obtained only for personal luggage and other "luggage-type" containers. See, *e. g.*, *United States* v. *Brown*, 635 F. 2d 1207 (CA6 1980); *United States* v. *Jimenez*, 626 F. 2d 39 (CA7 1980). One court has held that *Sanders* does not apply if the police have probable cause to search an entire vehicle and not merely an isolated container within it. Cf. *State* v. *Bible*, 389 So. 2d 42 (La. 1980), *remanded*, 453 U. S. 918; *State* v. *Hernandez*, 408 So. 2d 911 (La. 1981); see also *United States* v. *Ross*, 655 F. 2d, at 1180 (Robb, J., dissenting).

II

We begin with a review of the decision in *Carroll* itself. In the fall of 1921, federal prohibition agents obtained evidence that George Carroll and John Kiro were "bootleggers" who frequently traveled between Grand Rapids and Detroit in an Oldsmobile Roadster.[3] On December 15, 1921, the agents unexpectedly encountered Carroll and Kiro driving west on that route in that car. The officers gave pursuit, stopped the roadster on the highway, and directed Carroll and Kiro to get out of the car.

No contraband was visible in the front seat of the Oldsmobile and the rear portion of the roadster was closed. One of the agents raised the rumble seat but found no liquor. He raised the seat cushion and again found nothing. The officer then struck at the "lazyback" of the seat and noticed that it was "harder than upholstery ordinarily is in those backs." 267 U. S., at 174. He tore open the seat cushion and discovered 68 bottles of gin and whiskey concealed inside. No warrant had been obtained for the search.

Carroll and Kiro were convicted of transporting intoxicating liquor in violation of the National Prohibition Act. On review of those convictions, this Court ruled that the warrantless search of the roadster was reasonable within the meaning of the Fourth Amendment. In an extensive opinion written by Chief Justice Taft, the Court held:

> "On reason and authority the true rule is that if the search and seizure without a warrant are made upon probable cause, that is, upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains that which by law is subject to seizure and destruction, the search and seizure are valid. The Fourth Amendment is to be construed in the light of what was deemed an unreasonable search and seizure when it was adopted, and in a manner which will conserve public interests as well as the interests and rights of individual citizens." *Id.*, at 149.

The Court explained at length the basis for this rule. The Court noted that historically warrantless searches of vessels, wagons, and carriages—as opposed to fixed premises such as a home or other building—had been considered reasonable by Congress. After reviewing legislation enacted by Congress between 1789 and 1799,[4] the Court stated:

> "Thus contemporaneously with the adoption of the Fourth Amendment we find in the first Congress, and in the following Second and Fourth Congresses, a difference made as to the necessity for a search warrant between goods subject to forfeiture, when concealed in a dwelling house or similar place, and like goods in course of transportation and concealed in a movable vessel where they readily could be put out of reach of a search warrant." *Id.*, at 151.

The Court reviewed additional legislation passed by Congress[5] and again noted that

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[3] On September 29, 1921, Carroll and Kiro met the agents in Grand Rapids and agreed to sell them three cases of whiskey. The sale was not consummated, however, possibly because Carroll learned the agents' true identity. In October, the agents discovered Carroll and Kiro driving the Oldsmobile Roadster on the road to Detroit, which was known as an active center for the introduction of illegal liquor into this country. The agents followed the roadster as far as East Lansing, but there abandoned the chase.

[4] The legislation authorized customs officials to search any ship or vessel without a warrant if they had probable cause to believe that it concealed goods subject to duty. The same legislation required a warrant for searches of dwelling places. 267 U. S., at 150–151.

[5] In particular, the Court noted an 1815 statute that permitted customs officers not only to board and search vessels without a warrant "but also to

> "the guaranty of freedom from unreasonable searches and seizures by the Fourth Amendment has been construed, practically since the beginning of the Government, as recognizing a necessary difference between a search of a store, dwelling house or other structure in respect of which a proper official warrant readily may be obtained, and a search of a ship, motor boat, wagon or automobile, for contraband goods, where it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought." *Id.*, at 153.

Thus, since its earliest days Congress had recognized the impracticability of securing a warrant in cases involving the transportation of contraband goods.[7] It is this impracticability, viewed in historical perspective, that provided the basis for the *Carroll* decision. Given the nature of an automobile in transit, the Court recognized that an immediate intrusion is necessary if police officers are to secure the illicit substance. In this class of cases, the Court held that a warrantless search of an automobile is not unreasonable.[8]

In defining the nature of this "exception" to the general rule that "[i]n cases where the securing of a warrant is reasonably practicable, it must be used," *id.*, at 156, the Court in *Carroll* emphasized the importance of the requirement that officers have probable cause to believe that the vehicle contains contraband.

> "Having thus established that contraband goods concealed and illegally transported in an automobile or other vehicle may be searched for without a warrant, we come now to consider under what circumstances such search may be made. It would be intolerable and unreasonable if a prohibition agent were authorized to stop every automobile on the chance of finding liquor and thus subject all persons lawfully using the highways to the inconvenience and indignity of such a search. Travellers may be so stopped in crossing an international boundary because of national self protection reasonably requiring one entering the country to identify himself as entitled to come in, and his belongings as effects which may be lawfully brought in. But those lawfully within the country, entitled to use the public highways, have a right to free passage without interruption or search unless there is known to a competent official authorized to search, probable cause for believing that their vehicles are carrying contraband or illegal merchandise." *Id.*, at 153–154.

Moreover, the probable cause determination must be based on objective facts that could justify the issuance of a warrant by a magistrate and not merely on the subjective good faith of the police officers. "'[A]s we have seen, good faith is not enough to constitute probable cause. That faith must be grounded on facts within knowledge of the [officer], which in the judgment of the court would make his faith reasonable.'" *Id.*, at 161–162 (quoting *Director General* v. *Kastenbaum*, 263 U. S. 25, 28).[10]

In short, the exception to the warrant requirement established in *Carroll*—the scope of which we consider in this case—applies only to searches of vehicles that are supported by probable cause.[11] In this class of cases, a search is not unreasonable if based on facts that would justify the issuance of a warrant, even though a warrant has not actually been obtained.[12]

III

The rationale justifying a warrantless search of an automobile that is believed to be transporting contraband arguably applies with equal force to any movable container that is believed to be carrying an illicit substance. That argument, however, was squarely rejected in *United States* v. *Chadwick*, 433 U. S. 1.

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stop, search and examine any vehicle, beast or person on which or whom they should suspect there was merchandise which was subject to duty or had been introduced into the United States in any manner contrary to law." *Id.*, at 151.

[7] In light of this established history, individuals always had been on notice that movable vessels may be stopped and searched on facts giving rise to probable cause that the vehicle contains contraband, without the protection afforded by a magistrate's prior evaluation of those facts.

[8] Subsequent cases make clear that the decision in *Carroll* was not based on the fact that the only course available to the police was an immediate search. As Justice Harlan later recognized, although a failure to *seize* a moving automobile believed to contain contraband might deprive officers of the illicit goods, once a vehicle itself has been stopped the exigency does not necessarily justify a warrantless *search*. *Chambers* v. *Maroney*, 399 U. S. 42, 62–64 (opinion of Harlan, J.). The Court in *Chambers*, however—with only Justice Harlan dissenting—refused to adopt a rule that would permit a warrantless seizure but prohibit a warrantless search. The Court held that if police officers have probable cause to justify a warrantless seizure of an automobile on a public roadway, they may conduct an immediate search of the contents of that vehicle. "For constitutional purposes, we see no difference between on the one hand seizing and holding a car before presenting the probable cause issue to a magistrate and on the other hand carrying out an immediate search without a warrant. Given probable cause to search, either course is reasonable under the Fourth Amendment." *Chambers* v. *Maroney*, 399 U. S., at 52.

The Court also has held that if an immediate search on the street is permissible without a warrant, a search soon thereafter at the police station is permissible if the vehicle is impounded. *Chambers*, *supra*; *Texas* v. *White*, 423 U. S. 67. These decisions are based on the practicalities of the situations presented and a realistic appraisal of the relatively minor protection that a contrary rule would provide for privacy interests. Given the scope of the initial intrusion caused by a seizure of an automobile—which often could leave the occupants stranded on the highway—the Court rejected an inflexible rule that would force police officers in every case either to post guard at the vehicle while a warrant is obtained or to tow the vehicle itself to the station. Similarly, if an immediate search on the scene could be conducted, but not one at the station if the vehicle is impounded, police often simply would search the vehicle on the street—at no advantage to the occupants, yet possibly at certain cost to the police. The rules as applied in particular cases may appear unsatisfactory. They reflect, however, a reasoned application of the more general rule that if an individual gives the police probable cause to believe a vehicle is transporting contraband, he loses the right to proceed on his way without official interference.

[10] After reviewing the relevant authorities at some length, the Court concluded that the probable cause requirement was satisfied in the case before it. The Court held that "the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information were sufficient in themselves to warrant a man of reasonable caution in the belief that intoxicating liquor was being transported in the automobile which they stopped and searched." *Id.*, at 162. Cf. *Brinegar* v. *United States*, 338 U. S. 160, 176–177; *Henry* v. *United States*, 361 U. S. 98, 102.

[11] See *Husky* v. *United States*, 282 U. S. 694; *Scher* v. *United States*, 305 U. S. 251; *Brinegar* v. *United States*, 338 U. S. 160; *Henry* v. *United States*, 361 U. S. 98; *Dyke* v. *Taylor Implement Co.*, 391 U. S. 216; *Chambers* v. *Maroney*, 399 U. S. 42; *Texas* v. *White*, 423 U. S. 67; *Colorado* v. *Bannister*, 449 U. S. 1.

Warrantless searches of automobiles have been upheld in a variety of factual contexts quite different from that presented in *Carroll*. Cf. *Cooper* v. *California*, 386 U. S. 58; *Cady* v. *Dombrowski*, 413 U. S. 433; *South Dakota* v. *Opperman*, 428 U. S. 364. Many of these searches do not require a showing of probable cause that the vehicle contains contraband. We are not called upon—and do not—consider in this case the scope of the warrantless search that is permitted in those cases.

[12] As the Court in *Carroll* concluded:

"We here find the line of distinction between legal and illegal seizures of liquor in transport in vehicles. It is certainly a reasonable distinction. It gives the owner of an automobile or other vehicle seized under Section 26, in absence of probable cause, a right to have restored to him the automobile, it protects him under the *Weeks* and *Amos* cases from use of the liquor as evidence against him, and it subjects the officer making the seizures to damages. On the other hand, in a case showing probable cause, the Government and its officials are given the opportunity which they should have, to make the investigation necessary to trace reasonably suspected contraband goods and to seize them." 267 U. S., at 156.

Chadwick involved the warrantless search of a 200-pound footlocker secured with two padlocks. Federal railroad officials in San Diego became suspicious when they noticed that a brown footlocker loaded onto a train bound for Boston was unusually heavy and leaking talcum powder, a substance often used to mask the odor of marijuana. Narcotics agents met the train in Boston and a trained police dog signaled the presence of a controlled substance inside the footlocker. The agents did not seize the footlocker, however, at this time; they waited until respondent Chadwick arrived and the footlocker was placed in the trunk of Chadwick's automobile. Before the engine was started, the officers arrested Chadwick and his two companions. The agents then removed the footlocker to a secured place, opened it without a warrant, and discovered a large quantity of marijuana.

In a subsequent criminal proceeding, Chadwick claimed that the warrantless search of the footlocker violated the Fourth Amendment. In the District Court, the Government argued that as soon as the footlocker was placed in the automobile a warrantless search was permissible under *Carroll*. The District Court rejected that argument,[10] and the Government did not pursue it on appeal.[11] Rather, the Government contended in this Court that the warrant requirement of the Fourth Amendment applied only to searches of homes and other "core" areas of privacy. The Court unanimously rejected that contention.[12] Writing for the Court, THE CHIEF JUSTICE stated:

> "[I]f there is little evidence that the Framers intended the Warrant Clause to operate outside the home, there is no evidence at all that they intended to exclude from protection of the Clause all searches occurring outside the home. The absence of a contemporary outcry against warrantless searches in public places was because, aside from searches incident to arrest, such warrantless searches were not a large issue in colonial America. Thus, silence in the historical record tells us little about the Framers' attitude toward application of the Warrant Clause to the search of respondents' footlocker. What we do know is that the Framers were men who focused on the wrongs of that day but who intended the Fourth Amendment to safeguard fundamental values which would far outlast the specific abuses which gave it birth." 433 U. S., at 8–9 (footnote omitted).

The Court in *Chadwick* specifically rejected the argument that the warrantless search was "reasonable" because a footlocker has some of the mobile characteristics that support warrantless searches of automobiles. The Court recognized that "a person's expectations of privacy in personal luggage are substantially greater than in an automobile," *id.*, at 13, and noted that the practical problems associated with the temporary detention of a piece of luggage during the period of time necessary to obtain a warrant are significantly less than those associated with the detention of an automobile. *Id.*, at 13, n. 7. In ruling that the warrantless search of the footlocker was unjustified, the Court reaffirmed the general principle that closed packages and containers may not be searched without a warrant. Cf. *Ex parte Jackson*, 96 U. S. 727; *United States* v. *Leeuwen*, 397 U. S. 249. In sum, the Court in *Chadwick* declined to extend the rationale of the "automobile exception" to permit a warrantless search of any movable container found in a public place.[13]

The facts in *Arkansas* v. *Sanders*, 442 U. S. 753, were similar to those in *Chadwick*. In *Sanders*, a Little Rock police officer received information from a reliable informant that Sanders would arrive at the local airport on a specified flight that afternoon carrying a green suitcase containing marijuana. The officer went to the airport. Sanders arrived on schedule and retrieved a green suitcase from the airline baggage service. Sanders gave the suitcase to a waiting companion who placed it in the trunk of a taxi. Sanders and his companion drove off in the cab; police officers followed and stopped the taxi several blocks from the airport. The officers opened the trunk, seized the suitcase, and searched it on the scene without a warrant. As predicted, the suitcase contained marijuana.

The Arkansas Supreme Court ruled that the warrantless search of the suitcase was impermissible under the Fourth Amendment, and this Court affirmed. As in *Chadwick*, the mere fact that the suitcase had been placed in the trunk of the vehicle did not render the automobile exception of *Carroll* applicable; the police had probable cause to seize the suitcase before it was placed in the trunk of the cab and did not have probable cause to search the taxi itself.[14] Since the suitcase had been placed in the trunk, no danger existed that its contents could have been secreted elsewhere in the vehicle.[15] As THE CHIEF JUSTICE noted in his opinion concurring in the judgment:

> "Because the police officers had probable cause to believe that respondent's green suitcase contained marijuana before it was placed in the trunk of the taxicab, their duty to obtain a search warrant before opening it is clear under *United States* v. *Chadwick*, 433 U. S. 1 (1977).
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> . . . . .
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> Here, as in *Chadwick*, it was the *luggage* being transported by respondent at the time of the arrest, not the automobile in which it was being carried, that was the suspected locus of the contraband. The relationship between the automobile and the contraband was purely coincidental, as in *Chadwick*. The fact that the suitcase was resting in the trunk of the automobile at the time of respondent's arrest does not turn this into an 'automo-

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[10] The District Court noted:

"In this case, there was no nexus between the search and the automobile, merely a coincidence. The challenged search in this case was one of a footlocker, not an automobile. The search took place not in an automobile, but in [the federal building]. The only connection that the automobile had to this search was that, prior to its seizure, the footlocker was placed on the floor of an automobile's open trunk." *United States* v. *Chadwick*, 393 F. Supp. 763, 772 (Mass. 1975).

[11] This Court specifically noted: "The Government does not contend that the footlocker's brief contact with Chadwick's car makes this an automobile search, but it is argued that the rationale of our automobile search cases demonstrates the reasonableness of permitting warrantless searches of luggage; the Government views such luggage as analagous to motor vehicles for Fourth Amendment purposes." 433 U. S., at 11–12.

[12] See *id.*, at 17 (BLACKMUN, J., dissenting).

[13] The Court concluded that there is a significant difference between the seizure of a sealed package and a subsequent search of its contents; the search of the container in that case was "a far greater intrusion into Fourth Amendment values than the impoundment of the footlocker." *Id.*, at 13, n. 8. A temporary seizure of a package or piece of luggage often may be accomplished without as significant an intrusion upon the individual—and without as great a burden on the police—as in the case of the seizure of an automobile. See n. 9, *supra*.

[14] The Arkansas Supreme Court carefully reviewed the facts of the case and concluded: "The information supplied to the police by the confidential informant is adequate to support the State's claim that the police had probable cause to believe that appellant's green suitcase contained a controlled substance when the police confiscated the suitcase and opened it." 262 Ark. 595, 599, 559 S.W. 2d 704, 706 (1977). The court also noted: "The evidence in this case supports the conclusion that the relationship between the suitcase and the taxicab is coincidental." *Id.*, at 600, n. 2, 559 S.W. 2d, at 706.

[15] Moreover, none of the practical difficulties associated with the detention of a vehicle on a public highway that made the immediate search in *Carroll* reasonable could justify an immediate search of the suitcase, since the officers had no interest in detaining the taxi or its driver.

bile' exception case. The Court need say no more." *Id.*, at 766–767.

The Court in *Sanders* did not, however, rest its decision solely on the authority of *Chadwick*. In rejecting the State's argument that the warrantless search of the suitcase was justified on the ground that it had been taken from an automobile lawfully stopped on the street, the Court broadly suggested that a warrantless search of a container found in an automobile could never be sustained as part of a warrantless search of the automobile itself.[6] The Court did not suggest that it mattered whether probable cause existed to search the entire vehicle. It is clear, however, that in neither *Chadwick* nor *Sanders* did the police have probable cause to search the vehicle or anything within it except the footlocker in the former case and the green suitcase in the latter.

Robbins v. *California*, 453 U. S. 420, however, was a case in which suspicion was not directed at a specific container. In that case the Court for the first time was forced to consider whether police officers who are entitled to conduct a warrantless search of an automobile stopped on a public roadway may open a container found within the vehicle. In the early morning of January 5, 1975, police officers stopped Robbins' station wagon because he was driving erratically. Robbins got out of the car, but later returned to obtain the vehicle's registration papers. When he opened the car door, the officers smelled marijuana smoke. One of the officers searched Robbins and discovered a vial of liquid; in a search of the interior of the car the officer found marijuana. The police officers then opened the tailgate of the station wagon and raised the cover of a recessed luggage compartment. In the compartment they found two packages wrapped in green opaque plastic. The police unwrapped the packages and discovered a large amount of marijuana in each.

Robbins was charged with various drug offenses and moved to suppress the contents of the plastic packages. The California Court of Appeal held that "[s]earch of the automobile was proper when the officers learned that appellant was smoking marijuana when they stopped him"[7] and that the warrantless search of the packages was justified because "the contents of the packages could have been inferred from their outward appearance, so that appellant could not have held a reasonable expectation of privacy with respect to the contents." 103 Cal. App. 3d 34, 40, 162 Cal. Rptr. 780, 783 (1980).

This Court reversed. Writing for a plurality, Justice Stewart rejected the argument that the outward appearance of the packages precluded Robbins from having a reasonable expectation of privacy in their contents. He also squarely rejected the argument that there is a constitutional distinction between searches of luggage and searches of "less worthy" containers. Justice Stewart reasoned that all containers are equally protected by the Fourth Amendment unless their contents are in plain view. The plurality concluded that the warrantless search was impermissible because *Chadwick* and *Sanders* had established that "a closed piece of luggage found in a lawfully searched car is constitutionally protected to the same extent as are closed pieces of luggage found anywhere else." 453 U. S., at 425.

In a concurring opinion, JUSTICE POWELL, the author of the Court's opinion in *Sanders*, stated that "[t]he plurality's approach strains the rationales of our prior cases and imposes substantial burdens on law enforcement without vindicating any significant values of privacy." *Id.*, at 429.[8] He noted that possibly "the controlling question should be the scope of the automobile exception to the warrant requirement," *id.*, at 435, and explained that under that view

> "when the police have probable cause to search an automobile, rather than only to search a particular container that fortuitously is located in it, the exigencies that allow the police to search the entire automobile without a warrant support the warrantless search of every container found therein. See *post*, at 451 and n. 13 (STEVENS, J., dissenting). This analysis is entirely consistent with the holdings in *Chadwick* and *Sanders*, neither of which is an 'automobile case,' because the police there had probable cause to search the double-locked footlocker and the suitcase respectively before either came near an automobile." *Ibid.*

The parties in *Robbins* had not pressed that argument, however, and JUSTICE POWELL concluded that institutional constraints made it inappropriate to re-examine basic doctrine without full adversary presentation. He concurred in the judgment, since it was supported—although not compelled—by the Court's opinion in *Sanders*, and stated that a future case might present a better opportunity for thorough consideration of the basic principles in this troubled area.

That case has arrived. Unlike *Chadwick* and *Sanders*, in this case police officers had probable cause to search respondent's entire vehicle.[9] Unlike *Robbins*, in this case the parties have squarely addressed the question whether, in the course of a legitimate warrantless search of an automobile, police are entitled to open containers found within the vehicle. We now address that question. Its answer is deter-

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[6] The Court stated that "the extent to which the Fourth Amendment applies to containers and other parcels depends not at all upon whether they are seized from an automobile." 442 U. S., at 764, n. 13. This general rule was limited only by the observation that "[n]ot all containers and packages found by police during the course of a search will deserve the full protection of the Fourth Amendment. Thus, some containers (for example a kit of burglar tools or a gun case) by their very nature cannot support any reasonable expectation of privacy because their contents can be inferred from their outward appearance. Similarly, in some cases the contents of a package will be open to 'plain view,' thereby obviating the need for a warrant." *Ibid.*

[7] 103 Cal. App. 3d 34, 39, 162 Cal. Rptr. 780, 782 (1980).

[8] "While the plurality's blanket warrant requirement does not even purport to protect any privacy interest, it would impose substantial new burdens on law enforcement. Confronted with a cigar box or a Dixie cup in the course of a probable cause search of an automobile for narcotics, the conscientious policeman would be required to take the object to a magistrate, fill out the appropriate forms, await the decision, and finally obtain a warrant. Suspects or vehicles normally will be detained while the warrant is sought. This process may take hours, removing the officer from his normal police duties. Expenditure of such time and effort, drawn from the public's limited resources for detecting or preventing crimes, is justified when it protects an individual's reasonable privacy interests. In my view, the plurality's requirement cannot be so justified. The aggregate burden of procuring warrants whenever an officer has probable cause to search the most trivial container may be heavy and will not be compensated by the advancement of important Fourth Amendment values." 453 U. S., at 433–434 (POWELL, J., concurring).

The substantial burdens on law enforcement identified by JUSTICE POWELL would, of course, not be affected by the character of the container found during an automobile search. No comparable practical problems arise when the official suspicion is confined to a particular piece of luggage, as in *Chadwick* and *Sanders*. Cf. n. 19, *supra*.

[9] The en banc Court of Appeals stated that "[b]ased on the tip the police received, Ross's car was properly stopped and searched, and the pouch and bag were properly seized." 655 F. 2d, at 1168 (footnote omitted). The court explained:

"[W]e believe it clear that the police had ample and reasonable cause to stop Ross and to search his car. The informer had supplied accurate information on prior occasions, and he was an eyewitness to sales of narcotics by Ross. He said he had just seen Ross take narcotics from the trunk of his car in making a sale and heard him say he possessed additional narcotics." *Id.*, at 1168, n. 22.

The court further noted that "[i]n this case, the informant told the police that Ross had narcotics in the trunk of his car. No specific container was identified." *Id.*, at 1166.

mined by the scope of the search that is authorized by the exception to the warrant requirement set forth in *Carroll*.

IV

In *Carroll* itself, the whiskey that the prohibition agents seized was not in plain view. It was discovered only after an officer opened the rumble seat and tore open the upholstery of the lazyback. The Court did not find the scope of the search unreasonable. Having stopped Carroll and Kiro on a public road and subjected them to the indignity of a vehicle search—which the Court found to be a reasonable intrusion on their privacy because it was based on probable cause that their vehicle was transporting contraband—prohibition agents were entitled to tear open a portion of the roadster itself. The scope of the search was no greater than a magistrate could have authorized by issuing a warrant based on the probable cause that justified the search. Since such a warrant could have authorized the agents to open the rear portion of the roadster and to rip the upholstery in their search for concealed whiskey, the search was constitutionally permissible.

In *Chambers* v. *Maroney* the police found weapons and stolen property "concealed in a compartment under the dashboard." 399 U. S., at 44. No suggestion was made that the scope of the search was impermissible. It would be illogical to assume that the outcome of *Chambers*—or the outcome of *Carroll* itself—would have been different if the police had found the secreted contraband enclosed within a secondary container and had opened that container without a warrant. If it was reasonable for prohibition agents to rip open the upholstery in *Carroll*, it certainly would have been reasonable for them to look into a burlap sack stashed inside; if it was reasonable to open the concealed compartment in *Chambers*, it would have been equally reasonable to open a paper bag crumpled within it. A contrary rule could produce absurd results inconsistent with the decision in *Carroll* itself.

In its application of *Carroll*, this Court in fact has sustained warrantless searches of containers found during a lawful search of an automobile. In *Husty* v. *United States*, 282 U. S. 694, the Court upheld a warrantless seizure of whiskey found during a search of an automobile, some of which was discovered in "whiskey bags" that could have contained other goods.[9] In *Scher* v. *United States*, 305 U. S. 251, federal officers seized and searched packages of unstamped liquor found in the trunk of an automobile searched without a warrant. As described by a police officer who participated in the search: "I turned the handle and opened the trunk and found the trunk completely filled with packages wrapped in brown paper, and tied with twine; I think somewhere around thirty packages, each one containing six bottles."[10] In these cases it was not contended that police officers needed a warrant to open the whiskey bags or to unwrap the brown paper packages. These decisions nevertheless "have much weight, as they show that this point neither occurred to the bar or the bench." *Bank of the United States* v. *Deveaux*, 5 Cranch 61, 88 (Marshall, C. J.). The fact that no such argument was even made illuminates the profession's understanding of the scope of the search permitted under *Carroll*. Indeed, prior to the decisions in *Chadwick* and *Sanders*, courts routinely had held that containers and packages found during a legitimate warrantless search of an automobile also could be searched without a warrant.[11]

As we have stated, the decision in *Carroll* was based on the Court's appraisal of practical considerations viewed in the perspective of history. It is therefore significant that the practical consequences of the *Carroll* decision would be largely nullified if the permissible scope of a warrantless search of an automobile did not include containers and packages found inside the vehicle. Contraband goods rarely are strewn across the trunk or floor of a car; since by their very nature such goods must be withheld from public view, they rarely can be placed in an automobile unless they are enclosed within some form of container.[12] The Court in *Carroll* held that "contraband goods *concealed* and illegally transported in an automobile or other vehicle may be searched for without a warrant." 267 U. S., at 153 (emphasis added). As we noted in *Henry* v. *United States*, 361 U. S. 98, 104, the decision in *Carroll* "merely relaxed the requirements for a warrant on grounds of impracticability." It neither broadened nor limited the scope of a lawful search based on probable cause.

A lawful search of fixed premises generally extends to the entire area in which the object of the search may be found and is not limited by the possibility that separate acts of entry or opening may be required to complete the search.[13] Thus, a warrant that authorizes an officer to search a home for illegal weapons also provides authority to open closets, chests, drawers, and containers in which the weapon might be found. A warrant to open a footlocker to search for marijuana would also authorize the opening of packages found inside. A warrant to search a vehicle would support a search of every part of the vehicle that might contain the object of the search. When a legitimate search is under way, and when its purpose and its limits have been precisely defined,

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[9] At the suppression hearing, defense counsel asked the police officer who had conducted the search: "Isn't it possible to put other goods in a bag that has the resemblance of a whiskey bag?" The officer responded: "I suppose it is. I did not think of that at that time. I knew it was whiskey, I was sure it was." App., O.T. 1930, No. 477, p. 27.

[10] App., O.T. 1938, No. 49, p. 33. The brief of then Solicitor General Robert Jackson noted that the items searched "were wrapped in very heavy brown wrapping paper with at least two wrappings and with a heavy cord around them cross-wise so that they could readily be lifted." Brief for United States, O.T. 1938, No. 49, p. 6.

[11] See, *e. g.*, *United States* v. *Soriano*, 497 F. 2d 147, 149–150 (CA5 1974) (en banc); *United States* v. *Venta*, 533 F. 2d 838, 867, n. 101 (CA3 1976); *United States* v. *Tramunti*, 513 F. 2d 1087, 1104 (CA2 1975); *United States* v. *Isaad*, 508 F. 2d 990, 993 (CA7 1974); *United States* v. *Evans*, 481 F. 2d 990, 991 (CA9 1973); *United States* v. *Bowman*, 487 F. 2d 1229 (CA10 1973). Many courts continued to apply this rule following the decision in *Chadwick*. Cf. *United States* v. *Milhollan*, 599 F. 2d 516, 526–527 (CA3 1979); *United States* v. *Gaultney*, 581 F. 2d 1137, 1144–1145 (CA5 1978); *United States* v. *Finnegan*, 568 F. 2d 637, 640–641 (CA9 1977). In ruling that police could search luggage and other containers found during a legitimate warrantless search of an automobile, courts often assumed that the "automobile exception" of *Carroll* applied whenever a container in an automobile was believed to contain contraband. That view, of course, has since been qualified by *Chadwick* and *Sanders*.

[12] It is noteworthy that the early legislation on which the Court relied in *Carroll* concerned the enforcement of laws imposing duties on imported merchandise. See nn. 6 and 7, *supra*. Presumably such merchandise was shipped then in containers of various kinds, just as it is today. Since Congress had authorized warrantless searches of vessels and beasts for imported merchandise, it is inconceivable that it intended a customs officer to obtain a warrant for every package discovered during the search; certainly Congress intended customs officers to open shipping containers when necessary and not merely to examine the exterior of cartons or boxes in which smuggled goods might be concealed. During virtually the entire history of our country—whether contraband was transported in a horse drawn carriage, a 1921 roadster, or a modern automobile—it has been assumed that a lawful search of a vehicle would include a search of any container that might conceal the object of the search.

[13] In describing the permissible scope of a search of a home pursuant to a warrant, Professor LaFave notes:

"Places within the described premises are not excluded merely because some additional act of entry or opening may be required. 'In countless cases in which warrants described only the land and the buildings, a search of desks, cabinets, closets and similar items has been permitted.'" 2 LaFave, Search and Seizure 152 (1978) (quoting *Massey* v. *Commonwealth*, 305 S.W. 2d 755, 756 (Ky. 1957)).

nice distinctions between closets, drawers, and containers, in the case of a home, or between glove compartments, upholstered seats, trunks, and wrapped packages, in the case of a vehicle, must give way to the interest in the prompt and efficient completion of the task at hand.[7]

This rule applies equally to all containers, as indeed we believe it must. One point on which the Court was in virtually unanimous agreement in *Robbins* was that a constitutional distinction between "worthy" and "unworthy" containers would be improper.[8] Even though such a distinction perhaps could evolve in a series of cases in which paper bags, locked trunks, lunch buckets, and orange crates were placed on one side of the line or the other,[9] the central purpose of the Fourth Amendment forecloses such a distinction. For just as the most frail cottage in the kingdom is absolutely entitled to the same guarantees of privacy as the most majestic mansion,[10] so also may a traveler who carries a toothbrush and a few articles of clothing in a paper bag or knotted scarf claim an equal right to conceal his possessions from official inspection as the sophisticated executive with the locked attaché case.

As Justice Stewart stated in *Robbins*, the Fourth Amendment provides protection to the owner of every container that conceals its contents from plain view. 453 U. S., at 427 (plurality opinion). But the protection afforded by the Amendment varies in different settings. The luggage carried by a traveler entering the country may be searched at random by a customs officer; the luggage may be searched no matter how great the traveler's desire to conceal the contents may be. A container carried at the time of arrest often may be searched without a warrant and even without any specific suspicion concerning its contents. A container that may conceal the object of a search authorized by a warrant may be opened immediately; the individual's interest in privacy must give way to the magistrate's official determination of probable cause.

In the same manner, an individual's expectation of privacy in a vehicle and its contents may not survive if probable cause is given to believe that the vehicle is transporting contraband. Certainly the privacy interests in a car's trunk or glove compartment may be no less than those in a movable container. An individual undoubtedly has a significant interest that the upholstery of his automobile will not be ripped or a hidden compartment within it opened. These interests must yield to the authority of a search, however, which—in light of *Carroll*—does not itself require the prior approval of a magistrate. The scope of a warrantless search based on probable cause is no narrower—and no broader—than the scope of a search authorized by a warrant supported by probable cause. Only the prior approval of the magistrate is waived; the search otherwise is as the magistrate could authorize.[11]

The scope of a warrantless search of an automobile thus is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found. Just as probable cause to believe that a stolen lawnmower may be found in a garage will not support a warrant to search an upstairs bedroom, probable cause to believe that undocumented aliens are being transported in a van will not justify a warrantless search of a suitcase. Probable cause to believe that a container placed in the trunk of a taxi contains contraband or evidence does not justify a search of the entire cab.

V

Our decision today is inconsistent with the disposition in *Robbins* v. *California* and with the portion of the opinion in *Arkansas* v. *Sanders* on which the plurality in *Robbins* relied. Nevertheless, the doctrine of *stare decisis* does not preclude this action. Although we have rejected some of the reasoning in *Sanders*, we adhere to our holding in that case; although we reject the precise holding in *Robbins*, there was no Court opinion supporting a single rationale for its judgment and the reasoning we adopt today was not presented by the parties in that case. Moreover, it is clear that no legitimate reliance interest can be frustrated by our decision today.[12] Of greatest importance, we are convinced that the rule we apply in this case is faithful to the interpretation of the Fourth Amendment that the Court has followed with substantial consistency throughout our history.

We reaffirm the basic rule of Fourth Amendment jurisprudence stated by Justice Stewart for a unanimous Court in *Mincey* v. *Arizona*, 437 U. S. 385, 390:

> "The Fourth Amendment proscribes all unreasonable searches and seizures, and it is a cardinal principle that 'searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.' *Katz* v. *United States*, 389 U. S. 347, 357 (footnotes omitted)."

The exception recognized in *Carroll* is unquestionably one that is "specifically established and well-delineated." We hold that the scope of the warrantless search authorized by

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[7] The practical considerations that justify a warrantless search of an automobile continue to apply until the entire search of the automobile and its contents has been completed. Arguably, the entire vehicle itself (including its upholstery) could be searched without a warrant, with all wrapped articles and containers found during that search then taken to a magistrate. But prohibiting police from opening immediately a container in which the object of the search is most likely to be found and instead forcing them first to comb the entire vehicle would actually exacerbate the intrusion on privacy interests. Moreover, until the container itself was opened the police could never be certain that the contraband was not secreted in a yet undiscovered portion of the vehicle; thus in every case in which a container was found, the vehicle would need to be secured while a warrant was obtained. Such a requirement would be directly inconsistent with the rationale supporting the decisions in *Carroll* and *Chambers*. Cf. nn. 19 and 22, *supra*.

[8] Cf. 453 U. S., at 426–427 (plurality opinion); *id.*, at 436 (BLACKMUN, J., dissenting); *id.*, at 443 (REHNQUIST, J., dissenting); *id.*, at 447 (STEVENS, J., dissenting).

[9] If the distinction is based on the proposition that the Fourth Amendment protects only those containers that objectively manifest an individual's reasonable expectation of privacy, however, the propriety of a warrantless search necessarily would turn on much more than the fabric of the container. A paper bag stapled shut and marked "private" might be found to manifest a reasonable expectation of privacy, as could a cardboard box stacked on top of two pieces of heavy luggage. The propriety of the warrantless search seemingly would turn on an objective appraisal of all the surrounding circumstances.

[10] "'The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter—all his forces dares not cross the threshold of the ruined tenement!'" *Miller* v. *United States*, 357 U. S. 301, 307 (quoting remarks attributed to William Pitt); cf. *Payton* v. *New York*, 445 U. S. 573, 601 n. 54.

[11] In choosing to search without a warrant on their own assessment of probable cause, police officers of course lose the protection that a warrant would provide to them in an action for damages brought by an individual claiming that the search was unconstitutional. Cf. *Monroe* v. *Pape*, 365 U. S. 167. Although an officer may establish that he acted in good faith in conducting the search by other evidence, a warrant issued by a magistrate normally suffices to establish it.

[12] Any interest in maintaining the status quo that might be asserted by persons who may have structured their business of distributing narcotics or other illicit substances on the basis of judicial precedents clearly would not be legitimate.

that exception is no broader and no narrower than a magistrate could legitimately authorize by warrant. If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.

The judgment of the Court of Appeals is reversed. The case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE BLACKMUN, concurring.

My dissents in prior cases have indicated my continuing dissatisfaction and discomfort with the Court's vacillation in what is rightly described as "this troubled area." *Ante*, at 18. See *United States* v. *Chadwick*, 433 U. S. 1, 17 (1977); *Arkansas* v. *Sanders*, 442 U. S. 753, 768 (1979); *Robbins* v. *California*, 453 U. S. 420, 436 (1981).

I adhere to the views expressed in those dissents. It is important, however, not only for the Court as an institution, but also for law enforcement officials and defendants, that the applicable legal rules be clearly established. JUSTICE STEVENS' opinion for the Court now accomplishes much in this respect, and it should clarify a good bit of the confusion that has existed. In order to have an authoritative ruling, I join the Court's opinion and judgment.

JUSTICE POWELL, concurring.

In my opinion in *Robbins* v. *California*, 453 U. S. 420, 429 (1981), concurring in the judgment, I stated that the judgment was justified, though not compelled, by the Court's opinion in *Arkansas* v. *Sander*, 442 U. S. 753 (1979). I did not agree, however, with the "bright line" rule articulated by the plurality opinion. Rather, I repeated the view I long have held that one's "reasonable expectation of privacy" is a particularly relevant factor in determining the validity of a warrantless search. I have recognized, that with respect to automobiles in general, this expectation can be only a limited one. See *Arkansas* v. *Sanders*, *supra*, at 761; *Almeida-Sanchez* v. *United States*, 413 U. S. 266, 279 (1973) (POWELL, J., concurring). I continue to think that in many situations one's reasonable expectation of privacy may be a decisive factor in a search case.

It became evident last Term, however, from the five opinions written in *Robbins*—in none of which THE CHIEF JUSTICE joined—that it is essential to have a Court opinion in *automobile* search cases that provides "specific guidance to police and courts in this reoccuring situation". *Robbins* v. *California*, 453 U. S. at, 435 (POWELL, J., concurring). The Court's opinion today, written by JUSTICE STEVENS and now joined by four other Justices, will afford this needed guidance. It is fair also to say that, given *Carroll* v. *United States*, 267 U. S. 132 (1925) and *Chambers* v. *Maroney*, 399 U. S. 42 (1970), the Court's decision does not depart substantially from Fourth Amendment doctrine in automobile cases. Moreover, in enunciating a readily understood and applied rule, today's decision is consistent with the similar step taken last Term in *Belton* v. *New York*, 453 U. S. 454 (1981).

I join the Court's opinion.

JUSTICE WHITE, dissenting:

I would not overrule *Robbins* v. *California*, 453 U. S. 420 (1981). For the reasons stated by Justice Stewart in that case, I would affirm the judgment of the Court of Appeals. I also agree with much of Justice Marshall's dissent in this case.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

The majority today not only repeals all realistic limits on warrantless automobile searches, it repeals the Fourth Amendment warrant requirement itself. By equating a police officer's estimation of probable cause with a magistrate's, the Court utterly disregards the value of a neutral and detached magistrate. For as we recently, and unanimously, reaffirmed:

> "The warrant traditionally has represented an independent assurance that a search and arrest will not proceed without probable cause to believe that a crime has been committed and that the person or place named in the warrant is involved in the crime. Thus, an issuing magistrate must meet two tests. He must be neutral and detached, and he must be capable of determining whether probable cause exists for the requested arrest or search. This Court long has insisted that inferences of probable cause be drawn by 'a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.'" *Shadwick* v. *City of Tampa*, 407 U. S. 345, 350 (1972), citing *Johnson* v. *United States*, 333 U. S. 10, 14 (1948).

A police officer on the beat hardly satisfies these standards. In adopting today's new rule, the majority opinion shows contempt for these Fourth Amendment values, ignores this Court's precedents, is internally inconsistent, and produces anomalous and unjust consequences. I therefore dissent.

I

According to the majority, whenever police have probable cause to believe that contraband may be found within an automobile that they have stopped on the highway,[1] they may search not only the automobile but also any container found inside it, without obtaining a warrant. The scope of the search, we are told, is as broad as a magistrate could authorize in a warrant to search the automobile. The majority makes little attempt to justify this rule in terms of recognized Fourth Amendment values. The Court simply ignores the critical function that a magistrate serves. And although the Court purports to rely on the mobility of an automobile and the impracticability of obtaining a warrant, it never explains why these concerns permit the warrantless search of a *container*, which can easily be seized and immobilized while police are obtaining a warrant.

The new rule adopted by the Court today is completely incompatible with established Fourth Amendment principles, and takes a first step toward an unprecedented "probable cause" exception to the warrant requirement. In my view, under accepted standards, the warrantless search of the container in this case clearly violates the Fourth Amendment.

A

"[I]t is a cardinal principle that 'searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.'" *Mincey* v. *Arizona*, 437 U. S. 385 (1978), citing *Katz* v. *United States*, 389 U. S. 347, 357 (1967). The warrant requirement is crucial to protecting Fourth Amendment rights because of the importance of having the probable cause determination made in the first in-

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[1] The Court confines its holding today to automobiles stopped on the highway which police have probable cause to believe contain contraband. I do not understand the Court to address the applicability of the automobile exception rule announced today to parked cars. Cf. *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971).

stance by a neutral and detached magistrate. Time and again, we have emphasized that the warrant requirement provides a number of protections that a post-hoc judicial evaluation of a policeman's probable cause does not.

The requirement of prior review by a detached and neutral magistrate limits the concentration of power held by executive officers over the individual, and prevents some overbroad or unjustified searches from occurring at all. See *United States* v. *United States District Court*, 407 U. S. 297, 317 (1972); *Abel* v. *United States*, 362 U. S. 217, 252 (1959) (JUSTICE BRENNAN, with whom Chief Justice Warren, Justice Black, and Justice Douglas join, dissenting). Prior review may also "prevent hindsight from coloring the evaluation of the reasonableness of a search or seizure." *United States* v. *Martinez-Fuerte*, 428 U. S. 543, 565 (1976); see also *Beck* v. *Ohio*, 379 U. S. 89, 96 (1964). Furthermore, even if a magistrate would have authorized the search that the police conducted, the interposition of a magistrate's neutral judgment reassures the public that the orderly process of law has been respected:

> "The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime." *Johnson* v. *United States*, 333 U. S. 10, 13–14 (1948).

See also *Marshall* v. *Barlow's, Inc.*, 436 U. S. 307, 323 (1978); *United States* v. *United States District Court*, 407 U. S., at 321. The safeguards embodied in the warrant requirement apply as forcefully to automobile searches as to any others.

Our cases do recognize a narrow exception to the warrant requirement for certain automobile searches. Throughout our decisions, two major considerations have been advanced to justify the automobile exception to the warrant requirement. We have upheld only those searches that are actually justified by those considerations.

First, these searches have been justified on the basis of the exigency of the mobility of the automobile. See, *e. g.*, *Chambers* v. *Maroney*, 399 U. S. 42 (1970); *Carroll* v. *United States*, 267 U. S. 132 (1925). This "mobility" rationale is something of a misnomer, cf. *Cady* v. *Dombrowski*, 413 U. S. 433, 442–443 (1973), since the police ordinarily can remove the car's occupants and secure the vehicle on the spot. However, the inherent mobility of the vehicle often creates situations in which the police's only alternative to an immediate search may be to release the automobile from their possession.[1] This alternative creates an unacceptably high risk of losing the contents of the vehicle, and is a principal basis for the Court's automobile exception to the warrant requirement. See *Chambers*, 399 U. S., at 51, n. 9.

In many cases, however, the police will, prior to searching the car, have cause to arrest the occupants and bring them to the station for booking. In this situation, the police can ordinarily seize the automobile and bring it to the station. Because the vehicle is now in the exclusive control of the authorities, any subsequent search cannot be justified by the mobility of the car. Rather, an immediate warrantless search of the vehicle is permitted because of the second major justification for the automobile exception: the diminished expectation of privacy in an automobile.

Because an automobile presents much of its contents in open view to police officers who legitimately stop it on a public way, is used for travel, and is subject to significant government regulation, this Court has determined that the intrusion of a warrantless search of an automobile is constitutionally less significant than a warrantless search of more private areas. See *Arkansas* v. *Sanders*, 442 U. S. 753, 761 (1979) (collecting cases). This justification has been invoked for warrantless automobile searches in circumstances where the exigency of mobility was clearly not present. See, *e. g.*, *South Dakota* v. *Opperman*, 428 U. S. 364, 367–368 (1978); *Cady* v. *Dombrowski*, 413 U. S., at 441–442. By focusing on the defendant's reasonable expectation of privacy, this Court has refused to require a warrant in situations where the process of obtaining such a warrant would be more intrusive than the actual search itself. Cf. *Katz* v. *United States*, 389 U. S. 347 (1967). A defendant may consider the seizure of the car a greater intrusion than an immediate search. See *Chambers*, 399 U. S., at 51–52. Therefore, even where police *can* bring both the defendants and the automobile to the station safely and can house the car while they seek a warrant, the police are permitted to decide whether instead to conduct an immediate search of the car. In effect, the warrantless search is permissible because a warrant requirement would not provide significant protection of the defendant's Fourth Amendment interests.

B

The majority's rule is flatly inconsistent with these established Fourth Amendment principles concerning the scope of the automobile exception and the importance of the warrant requirement. Historically, the automobile exception has been limited to those situations where its application is compelled by the justifications described above. Today, the majority makes no attempt to base its decision on these justifications. This failure is not surprising, since the traditional rationales for the automobile exception plainly do not support extending it to the search of a container found inside a vehicle.

The practical mobility problem—deciding what to do with both the car and the occupants if an immediate search is not conducted—is simply not present in the case of movable containers, which can easily be seized and brought to the magistrate. See *Sanders*, 442 U. S., at 762–766 and nn. 10, 14. The lesser expectation of privacy rationale also has little force. A container, as opposed to the car itself, does not reflect diminished privacy interests. See *id.*, at 762, 764–765. Moreover, the practical corollary that this Court has recognized—that depriving occupants of the use of a car may be a greater intrusion than an immediate search—is of doubtful relevance here, since the owner of a container will rarely suffer significant inconvenience by being deprived of its use while a warrant is being obtained.

Ultimately, the majority, unable to rely on the justifications underlying the automobile exception, simply creates a new "probable cause" exception to the warrant requirement for automobiles. We have soundly rejected attempts to create such an exception in the past, see *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971), and we should do so again today.

In purported reliance on *Carroll* v. *United States*, *supra*, the Court defines the permissible scope of a search by reference to the scope of a probable cause search that a magistrate could authorize. Under *Carroll*, however, the mobility of an automobile is what is critical to the legality of a warrantless search. Of course, *Carroll* properly confined the search to the probable cause limits that would also limit a magistrate,

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[1] The fact that the police are able initially to remove the occupants from the car does not remove the justification for an immediate search. If police could not conduct an immediate search of a stopped automobile, they would often be left with the difficult task of deciding what to do with the occupants while a warrant is obtained. In the case of a parked automobile, by contrast, if the automobile is unoccupied, this problem is not presented. See, *e. g.*, *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971).

but it did not suggest that the search could be as *broad* as a magistrate could authorize upon a warrant. A magistrate could authorize a search encompassing containers, even though the mobility rationale does not justify such a broad search. Indeed, the Court's reasoning might have justified the search of the entire car in *Coolidge* despite the fact that the car was not "mobile" at all. Thus, in blithely suggesting that *Carroll* "neither broadened nor limited the scope of a lawful search based on probable cause," *ante*, at 22, the majority assumes what has never been the law: that the scope of the automobile-mobility exception to the warrant requirement is as broad as the scope of a "lawful" probable cause search of an automobile, *i. e.*, one authorized by a magistrate.

The majority's sleight-of-hand ignores the obvious differences between the function served by a magistrate in making a determination of probable cause and the function of the automobile exception. It is irrelevant to a magistrate's function whether the items subject to search are mobile, may be in danger of destruction, or are impractical to store, or whether an immediate search would be less intrusive than a seizure without a warrant. A magistrate's only concern is whether there is probable cause to search them. Where suspicion has focused not on a particular item but only on a vehicle, home, or office, the magistrate might reasonably authorize a search of closed containers at the location as well. But an officer on the beat who searches an automobile without a warrant is not entitled to conduct a broader search than the exigency obviating the warrant justifies. After all, what justifies the warrantless search is not probable cause alone, but *probable cause coupled with the mobility of the automobile.* Because the scope of a *warrantless* search should depend on the scope of the justification for dispensing with a warrant, the entire premise of the majority's opinion fails to support its conclusion.

The majority's rule masks the startling assumption that a policeman's determination of probable cause is the functional equivalent of the determination of a neutral and detached magistrate. This assumption ignores a major premise of the warrant requirement—the importance of having a a neutral and detached magistrate determine whether probable cause exists. See ——— ——, *supra*. The majority's explanation that the scope of the warrantless automobile search will be "limited" to what a magistrate could authorize is thus inconsistent with our cases, which firmly establish that an on-the-spot determination of probable cause is *never* the same as a decision by a neutral and detached magistrate.

C

Our recent decisions in *United States* v. *Chadwick*, 433 U. S. 1 (1977), *Arkansas* v. *Sanders*, *supra*, and *Robbins* v. *California*, 453 U. S. 420 (1981), clearly affirm that movable containers are different from automobiles for Fourth Amendment purposes. In *Chadwick*, the Court drew a constitutional distinction between luggage and automobiles in terms of substantial differences in expectations of privacy. 433 U. S., at 12. Moreover, the Court held that the mobility of such containers does not justify dispensing with a warrant, since federal agents had seized the luggage and safely transferred it to their custody under their exclusive control. *Sanders* explicitly held that "the warrant requirement applies to personal luggage taken from an automobile to the same degree it applies to such luggage in other locations." 442 U. S., at 766. And *Robbins* reaffirmed the *Sanders* rationale as applied to wrapped packages found in the unlocked luggage compartment of a vehicle. 453 U. S., at 425.[1]

In light of these considerations, I conclude that any movable container found within an automobile deserves precisely the same degree of Fourth Amendment warrant protection that it would deserve if found at a location outside the automobile. See *Sanders*, 442 U. S., at 763–765 and n. 13; *Chadwick*, 433 U. S., at 17, n. 1 (JUSTICE BRENNAN, concurring). *Chadwick*, as the majority notes, "reaffirmed the general principle that closed packages and containers may not be searched without a warrant." *Ante*, at 13. Although there is no need to describe the exact contours of that protection in this dissenting opinion, it is clear enough that closed, opaque containers—regardless of whether they are "worthy" or are always used to store personal items—are ordinarily fully protected. Cf. *Sanders*, 442 U. S., at 764, n. 13.[2]

Here, because appellant Ross had placed the evidence in question in a closed paper bag, the container could be seized, but not searched, without a warrant. No practical exigencies required the warrantless searches on the street or at the station: Ross had been arrested and was in custody when both searches occurred, and the police succeeded in transporting the bag to the station without inadvertently spilling its contents.[3]

II

In announcing its new rule, the Court purports to rely on earlier automobile search cases, especially *Carroll* v. *United States*, *supra*. The Court's approach, however, far from being "faithful to the interpretation of the Fourth Amendment that the Court has followed with substantial consistency throughout our history," *ante*, at 26, is plainly contrary to the letter and the spirit of our prior automobile search cases. Moreover, the new rule produces anomalous and unacceptable consequences.

A

The majority's argument that its decision is supported by our decisions in *Carroll* and *Chambers* is misplaced. The Court in *Carroll* upheld a warrantless search of an automobile for contraband on the basis of the impracticability of securing a warrant in cases involving the transportation of contraband goods. The Court did not, however, suggest that obtaining a warrant for the search of an automobile is always impracticable.[4] "In cases where the securing of a warrant is

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[1] The plurality stated: "[*Chadwick* and *Sanders*] made clear, if it was not clear before, that a closed piece of luggage found in a lawfully searched car is constitutionally protected to the same extent as are closed pieces of luggage found anywhere else," *Robbins* v. *California*, 453 U. S. 420, 425 (1981) (plurality opinion).

[2] This rule may present some line-drawing problems, but no greater than those presented when a movable container is in the arms of a citizen walking down the street. There is no justification for relying on marginal difficulties of definition to reject a warrant requirement in one situation but not the other.

The Government argues that less secure containers such as paper bags can easily spill their contents, thus, no privacy interest of the defendant is protected if police are required to seize the container and bring it to the station. Whatever the force of this argument in other contexts, here police succeeded in reclosing the bag after the initial search and transporting it to the station without incident.

[3] The Court in *Carroll* v. *United States*, 267 U. S. 132 (1925), seems to have assumed that the police could not arrest the occupants of the automobile, since the offense was a misdemeanor and was not deemed to have been committed in the officers' presence. See 2 W. LaFave, Search & Seizure 511 (1978). Accordingly, police were faced with an exigency often not encountered today in searches of stopped automobiles: in order to *seize* the car pending the securing of a warrant, they would have to leave the occupants stranded.

reasonably practicable, *it must be used*. . . . In cases where seizure is impossible except without warrant, the seizing officer acts unlawfully and at his peril unless he can show the court probable cause." *Id.*, at 156 (emphasis added).[5] As this Court reaffirmed in *Chambers*, 399 U. S., at 50, "[n]either *Carroll*, *supra*, nor other cases in this Court require or suggest that in every conceivable circumstance the search of an auto even with probable cause may be made without the extra protection for privacy that a warrant affords."

Notwithstanding the reasoning of these cases, the majority argues that *Carroll* and *Chambers* support its decisions because integral compartments of a car are functionally equivalent to containers found within a car, and because the practical advantages to the police of the *Carroll* doctrine "would be largely nullified if the permissible scope of a warrantless search of an automobile did not include containers and packages found inside the vehicle." *Ante*, at 21–22. Neither of these arguments is persuasive. First, the Court's argument that allowing warrantless searches of certain integral compartments of the car in *Carroll* and *Chambers*, while protecting movable containers within the car, would be "illogical" and "absurd," *ante*, at 20, ignores the reason why this Court has allowed warrantless searches of automobile compartments. Surely an integral compartment within a car is just as mobile, and presents the same practical problems of safekeeping, as the car itself This cannot be said of movable containers located within the car. The fact that there may be a high expectation of privacy in both containers and compartments is irrelevant, since the privacy rationale is not, and cannot be, the justification for the warrantless search of compartments.

The Court's second argument, which focuses on the practical advantages to police of the *Carroll* doctrine, fares no better. The practical considerations which concerned the *Carroll* Court involved the difficulty of immobilizing a vehicle while a warrant must be obtained. The Court had no occasion to address whether *containers* present the same practical difficulties as the car itself or integral compartments of the car. They do not. See *supra*, at ——. *Carroll* hardly suggested, as the Court implies, *ante*, at 22, that a warrantless search is justified simply because it assists police in obtaining more evidence.

Although it can find no support for its rule in this Court's precedents or in the traditional justifications for the automobile exception, the majority offers another justification. In a footnote, the majority suggests that "practical considerations" militate against securing containers found during an automobile search and taking them to the magistrate. *Ante*, at 23, n. 28. The Court confidently remarks: "Certainly no privacy interest is served . . . by prohibiting police from opening immediately a container in which the object of the search may most likely be found and instead forcing them first to comb the entire vehicle. Moreover, until the container itself was opened the police could never be certain that the contraband was not secreted in a yet undiscovered portion of the vehicle." *Id.* The vehicle would have to be seized while a warrant was obtained, a requirement inconsistent with *Carroll* and *Chambers*. *Id.*

This explanation is unpersuasive. As this Court explained in *Sanders* and as the majority today implicitly concedes, the burden to police departments of seizing a package or personal luggage simply does not compare to the burden of seizing and safeguarding automobiles. *Sanders*, 442 U. S., at 765, n. 14; *ante*, at 13 and 14, n. 16. Other aspects of the Court's explanation are also implausible. The search will not always require a "combing" of the entire vehicle, since police may be looking for a particular item and may discover it promptly. If, instead, they are looking more generally for evidence of a crime, the immediate opening of the container will not protect the defendant's privacy; whether or not it contains contraband, the police will continue to search for new evidence. Finally, the defendant, not the police, should be afforded the choice whether he prefers the immediate opening of his suitcase or other container to the delay incident to seeking a warrant. Cf. *Sanders*, 442 U. S., at 764, n. 12. The more reasonable presumption, if a presumption is to replace the defendant's consent, is surely that the immediate search of a closed container will be a greater invasion of the defendant's privacy interests than a mere temporary seizure of the container.[6]

B

Finally, the majority's new rule is theoretically unsound and will create anomalous and unwarranted results. These consequences are readily apparent from the Court's attempt to reconcile its new rule with the holdings of *Chadwick* and *Sanders*.[7] The Court suggests that probable cause to search only a container does not justify a warrantless search of an automobile in which it is placed, absent reason to believe that the contents could be secreted elsewhere in the vehicle. This, the majority asserts, is an indication that the new rule is carefully limited to its justification, and is not inconsistent with *Chadwick* and *Sanders*. But why is such a container more private, less difficult for police to seize and store, or in any other relevant respect more properly subject to the warrant requirement, than a container that police discover in a probable cause search of an entire automobile?[8] This rule

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[5] In *Carroll*, of course, no movable *container* was searched. Although in other early cases containers may in fact have been searched, see *ante*, at 20–21, the parties did not litigate in this Court the question whether containers deserve separate protection.

The Court's suggestion that the absence of such an argument "illuminates the profession's understanding of the scope of the search permitted under *Carroll*," *ante*, at 21, is an unusual approach to constitutional interpretation. I would hesitate to rely upon the "profession's understanding" of the Fourteenth Amendment or of *Plessy v. Ferguson*, 163 U. S. 537 (1896), in the early part of this Century as justification for not granting Negroes constitutional protection. See *Brown v. Board of Education*, 347 U. S. 483 (1954). Moreover, for a number of reasons, including the broad scope of the permitted search incident to arrest prior to *Chimel v. California*, 395 U. S. 752 (1969), and the uncertain meaning of a "search" prior to *Katz v. United States*, 389 U. S. 347 (1967), the profession formerly advanced different arguments against automobile searches than it advances today.

[6] Seizures of automobiles can be distinguished because of the greater interest of defendants in continuing possession of their means of transportation; in the case of automobiles, a seizure is more likely to be a greater intrusion than an immediate search. See *Chambers v. Maroney*, 399 U. S. 42, 51–52 (1970).

[7] Both cases would appear to fall within the majority's new rule. In *United States v. Chadwick*, 433 U. S. 1 (1977), federal agents had probable cause to search a footlocker. Although the footlocker had been placed in the trunk of a car and the occupants were about to depart, the Court refused to rely on the automobile exception to uphold the search. (It is true that the United States did not argue in this Court that the search was justified pursuant to that exception, but the theory was hardly so novel that this Court could not have responsibly relied upon it.) In *Arkansas v. Sanders*, 442 U. S. 753 (1979), too, the suitcase was mobile and police had probable cause to search it; it was carried in an automobile for several blocks before the automobile was stopped and the suitcase was seized and searched. Again, however, this Court invalidated the search.

[8] In a footnote, the Court appears to suggest a more pragmatic rationale for distinguishing *Chadwick* and *Sanders*—that no practical problems comparable to those engendered by a general search of a vehicle would arise if the official suspicion is confined to a particular piece of luggage. *Ante*, at 17, n. 21. This suggestion is illogical. A general search might disclose only a single item worth searching; conversely, pre-existing suspicion might attach to a number of items later placed in a car. Surely the protection of the warrant requirement cannot depend on a numerical count of the items subject to search.

plainly has peculiar and unworkable consequences: the Government "must show that the investigating officer knew enough but not too much, that he had sufficient knowledge to establish probable cause but insufficient knowledge to know exactly where the contraband was located." *United States v. Ross*, 655 F. 2d 1159, 1202 (CADC 1981) (en banc) (Wilkey, J., dissenting).

Alternatively, the majority may be suggesting that *Chadwick* and *Sanders* may be explained because the connection of the container to the vehicle was incidental in these two cases. That is, because police had preexisting probable cause to seize and search the containers, they were not entitled to wait until the item was placed in a vehicle to take advantage of the automobile exception. Cf. *Coolidge v. New Hampshire*, *supra*; 2 W. LaFave, Search & Seizure 519–525 (1978). I wholeheartedly agree that police cannot employ a pretext to escape Fourth Amendment prohibitions and cannot rely on an exigency that they could easily have avoided. This interpretation, however, might well be an exception that swallows up the majority's rule. In neither *Chadwick* nor *Sanders* did the Court suggest that the delay of the police was a pretext for taking advantage of the automobile exception. For all that appears, the Government may have had legitimate reasons for not searching as soon as they had probable cause. In any event, asking police to rely on such an uncertain line in distinguishing between legitimate and illegitimate searches for containers in automobiles hardly indicates that the majority's approach has brought clarification to this area of the law. *Ante*, at 5; see *Robbins*, 453 U. S., at 435 (JUSTICE POWELL, concurring in the judgment)."

III

The Court today ignores the clear distinction that *Chadwick* established between movable containers and automobiles. It also rejects all of the relevant reasoning of *Sanders*[11] and offers a substitute rationale that appears inconsistent with the result. See *supra*, at ——. *Sanders* is therefore effectively overruled. And the Court unambiguously overrules "the disposition" of *Robbins*, *ante*, at 26, though it gingerly avoids stating that it is overruling the case itself.

The only convincing explanation I discern for the majority's broad rule is expediency: it assists police in conducting automobile searches, ensuring that the private containers into which criminal suspects often place goods will no longer be a Fourth Amendment shield. See *ante*, at 21–22. "When a legitimate search is under way," the Court instructs us, "nice distinctions between . . . glove compartments, upholstered seats, trunks, and wrapped packages . . . must give way to the interest in the prompt and efficient completion of the task at hand." *Ante*, at 23. No "nice distinctions" are necessary, however, to comprehend the well-recognized differences between movable containers (which, even after today's decision, would be subject to the warrant requirement if located outside an automobile), and the automobile itself, together with its integral parts. Nor can I pass by the majority's glib assertion that the "prompt and efficient completion of the task at hand" is paramount to the Fourth Amendment interests of our citizens. I had thought it well established that "the mere fact that law enforcement may be made more efficient can never by itself justify disregard of the Fourth Amendment." *Mincey v. Arizona*, 437 U. S. 385, 393 (1978).[12]

This case will have profound implications for the privacy of citizens traveling in automobiles, as the Court well understands. "For countless vehicles are stopped on highways and public streets every day and our cases demonstrate that it is not uncommon for police officers to have probable cause to believe that contraband may be found in a stopped vehicle." *Ante*, at 5. A closed paper bag, a tool box, a knapsack, a suitcase, and an attache case can alike be searched without the protection of the judgment of a neutral magistrate, based only on the rarely disturbed decision of a police officer that he has probable cause to search for contraband in the vehicle.[13] The Court derives satisfaction from the fact that its rule does not exalt the rights of the wealthy over the rights of the poor. *Ante*, at 23–24. A rule so broad that all citizens lose vital Fourth Amendment protection is no cause for celebration.

I dissent.

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[11] Unless one of these alternative explanations is adopted, the Court's attempt to distinguish the holdings in *Chadwick* and *Sanders* is not only unpersuasive but appears to contradict the Court's own theory. The Court suggests that in each case, the connection of the container to the vehicle was simply coincidental, and notes that the police did not have probable cause to search the entire vehicle. But the police assuredly did have probable cause to search the vehicle *for the container*. The Court states that the scope of the permitted warrantless search is determined only by what a magistrate could authorize. *Ante*, at 25. Once police found that container, according to the Court's own rule, they should have been entitled to search at least the container without a warrant. There was probable cause to search and the car was mobile in each case.

[12] The Court suggests that it rejects "some of the reasoning in *Sanders*." *Ante*, at 26. But the Court in *Sanders* unambiguously stated: "[W]e hold that the warrant requirement of the Fourth Amendment applies to personal luggage taken from an automobile to the same degree it applies to such luggage in other locations." 442 U. S., at 766. The Court today instead adopts the reasoning of the concurring opinion of THE CHIEF JUSTICE, joined by JUSTICE STEVENS, who refused to join the majority opinion because of the breadth of its rationale. *Id.*

[13] Of course, efficiency and promptness can never be substituted for due process and adherence to the Constitution. Is not a dictatorship the most "efficient" form of government?

The Court purports to restrict its rule to areas that the police have probable cause to search, as "defined by the object of the search and the places in which there is probable cause to believe that it may be found." *Ante*, at 25. I agree, of course, that the probable cause component of the automobile exception must be strictly construed. I fear, however, that the restriction that the Court emphasizes may have little practical value. See *United States v. Ross*, 655 F. 2d 1159, 1168, n. 21 (CADC 1981) (en banc). If police open a container within a car and find contraband, they may acquire probable cause to believe that other portions of the car, and other containers within it, will contain contraband. In practice, the Court's rule may amount to a wholesale authorization for police to search any car from top to bottom when they have suspicion, whether localized or general, that it contains contraband.

ANDREW L. FREY, Deputy Solicitor General, Justice Department, Washington, D.C. (REX E. LEE, Solicitor General, D. LOWELL JENSEN, Assistant Attorney General, JOSHUA I. SCHWARTZ, Assistant to the Solicitor General, and JOHN FICHTER DE PUE, Justice Department attorney, with him on the brief) for petitioner; WILLIAM J. GARBER, WASHINGTON, D.C. (DENNIS M. HART, with him on the brief) for respondent.

Nos. 80-2182 AND 81-11

INWOOD LABORATORIES, INC., ET AL.
80–2182 v.
IVES LABORATORIES, INC.

DARBY DRUG CO., INC., ET AL.
81–11 v.
IVES LABORATORIES, INC.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Colorado Revised Statutes 1973

1982 CUMULATIVE SUPPLEMENT

VOLUME 8

1978 REPLACEMENT VOLUME

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than does a person who is a private citizen. People v. Wolf, ___ Colo. ___, 635 P.2d 213 (1981).

Applied in People v. Lott, 197 Colo. 78, 589 P.2d 945 (1979).

16-3-202. Assisting peace officer - arrest - furnishing information - immunity.

Applied in People v. Lott, 197 Colo. 78, 589 P.2d 945 (1979).

PART 3

SEARCHES AND SEIZURES

16-3-301. Search warrants - issuance - grounds.

Applied in People v. Stoppel, ___ Colo. ___, 637 P.2d 384 (1981).

16-3-303. Search warrants - application.

II. CONTENT AND SUFFICIENCY OF AFFIDAVIT.

Judge must look within the four corners, etc.

In accord with original. See People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

Affidavit interpreted with common sense. In interpreting an affidavit for a search warrant and the execution of the warrant, a common sense interpretation must be applied. People v. Del Alamo, ___ Colo. ___, 624 P.2d 1304 (1981).

Affidavit must supply underlying fact.

In accord with original. See People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

Identification of wrong street not dispositive of affidavits efficacy. Fact that the affidavit identified the wrong street, which was less than one block away from the actual location of the truck to be searched, was not dispositive of an affidavit's efficacy. People v. Del Alamo, ___ Colo. ___, 624 P.2d 1304 (1981).

For evidence constituting probable cause. See People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

A search warrant may be based on hearsay, etc.

In accord with original. See People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

16-3-304. Search warrants - contents.

III. DESCRIPTION OF PROPERTY.

Search warrant reasonably specific under circumstances. See People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

In determining whether warrant is too general, the nature of the property to be seized must be considered. People v. Lindholm, 197 Colo. 270, 591 P.2d 1032 (1979).

16-3-308. Evidence - admissibility - declaration of purpose. (1) Evidence which is otherwise admissible in a criminal proceeding shall not be suppressed by the trial court if the court determines that the evidence was seized by a peace officer, as defined in section 18-1-901 (3) (l), C.R.S. 1973, as a result of a good faith mistake or of a technical violation.

(2) As used in subsection (1) of this section:

(a) "Good faith mistake" means a reasonable judgmental error concerning the existence of facts which if true would be sufficient to constitute probable cause.

(b) "Technical violation" means a reasonable good faith reliance upon a statute which is later ruled unconstitutional, a warrant which is later invalidated due to a good faith mistake, or a court precedent which is later overruled.

(3) Evidence which is otherwise admissible in a criminal proceeding and which is obtained as a result of a confession voluntarily made in a noncustodial setting shall not be suppressed by the trial court.

(4) It is hereby declared to be the public policy of the state of Colorado that when evidence is sought to be excluded from the trier of fact in a criminal proceeding because of the conduct of a peace officer leading to its discovery, that it will be open to the proponent of the evidence to urge that the conduct in question was taken in a reasonable, good faith belief that it was proper and in such instances the evidence so discovered should not be kept from the trier of fact if otherwise admissible. This section is necessary to identify the characteristics of evidence which will be admissible in a court of law. This section does not address or attempt to prescribe court procedure.

Source: Added, L. 81, p. 922, § 1.

Law reviews. For article, "Colorado's Good-Faith Exception to the Exclusionary Rule", see 11 Colo. Law. 410 (1982). For article, "Good-Faith Exception to the Exclusionary Rule: The Fourth Amendment is Not a Technicality", see 11 Colo. Law. 704 (1982).

PART 4

RIGHTS OF PERSONS IN CUSTODY

16-3-402. Right to communicate with attorney and family. (3) (a) The public defender, upon his request and consistent with the provisions of section 21-1-103, C.R.S. 1973, shall be permitted to communicate with any person in custody. If any person in custody indicates in any manner his desire to speak with an attorney, the public defender shall be permitted to communicate with that person to determine whether that person has counsel and, if the person desires that the public defender represent him, to make an initial determination as to whether the person is indigent.

(b) The public defender, upon his request and with due regard for reasonable law enforcement administrative procedures, shall be permitted to determine whether or not any person in custody has been taken without unnecessary delay before the nearest available county or district judge.

Source: R & RE, L. 81, p. 924, § 1.

Section codifies constitutional right to counsel. This section was enacted in 1972 as a part of the Colorado code of criminal procedure, and as such, the statute is merely a codification of the constitutional right to counsel in criminal cases. Cooper v. Director of Dep't of Revenue, 42 Colo. App. 109, 593 P.2d 1382 (1979).

16-3-404. Duty of officers to admit attorney.

Applied in Nees v. Bishop, 524 F. Supp. 1310 (D. Colo. 1981).

16-3-405. Strip searches - w
arrested for a traffic or a pe
arraignment, unless there is rea
a weapon or a controlled substa
is a parolee or an offender se
in the state or that the individu
ence of drugs.

(2) As used in this sectio
person re.ove or arrange som
a visual inspection of the genit
person.

(3) Any strip search that is
of the same sex as the arreste
cannot be observed by persons

(4) Every peace officer or
department conducting a strip
the police commander or an a
designated for the purposes of
this section.

(5) No search of any body c
without the written permission
or a sheriff or an agent thereof
must be performed under sani
physician or nurse.

(6) Any peace officer or en
department who knowingly or i
of this section commits secon
section 18-8-405, C.R.S. 1973. N
prosecution of a peace officer o
department under any other pro

(7) Nothing in this section s
common-law rights of any per
injunctive relief.

(8) The provisions of subse
when, following arraignment a
taken into custody by or remand

Source: Added, L. 82, p. 30

Cross references: For definition of
while under the influence of drugs", see

Release From Cus

PART 1

RELEASE ON BAIL

16-4-101. Bailable offenses.

ISSUE: Is 2/3 majority vote of legislature required to enact legislation limiting or amending the "exclusionary rule"?

Rule of Evidence - 412 is the actual "exclusionary rule".

Rule of Criminal Procedure - 37 (c) (copy attached) sets forth the procedure whereby the exclusionary rule can be invoked by motion to suppress.

Alaska Constitution, Article IV, Section 15, provides that court rules may only be changed by the legislature by a 2/3 vote.

TEST: Is proposed limitation or amendment substantive or procedural?

Rule 412. Evidence Illegally Obtained.

Evidence illegally obtained shall not be used over proper objection by the defendant in a criminal prosecution for any purpose except:

(1) a statement illegally obtained in violation of the right to warnings under *Miranda v. Arizona,* 384 U.S. 436 (1966), may be used in a prosecution for perjury if the statement is relevant to the issue of guilt or innocence and if the prosecution shows that the statement was otherwise voluntary and not coerced; and

(2) other evidence illegally obtained may be admitted in a prosecution for perjury if it is relevant to issue of guilt or innocence and if the prosecution shows that the evidence was not obtained in substantial violation of rights. (Added by Supreme Court Order 364 effective August 1, 1979)

Rule 412. Evidence Illegally Obtained.

Although illegally obtained evidence may be highly probative, this rule recognizes that such evidence must generally be excluded in order to breathe life into constitutional guarantees and to remove incentives for governmental intrusion into protected areas. While these rules of evidence generally do not incorporate constitutional doctrine, Rule 412 will go beyond what federal constitutional decisions require in protecting the rights of those accused of crime. Thus, for example, in *Harris v. New York*, 401 U.S. 222, 28 L.Ed.2d 1 (1971), the United States Supreme Court approved the use of statements obtained in violation of *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed.2d 694 (1966), for impeachment purposes but not as part of the prosecutor's case-in-chief. *Walder v. United States*, 347 U.S. 62, 98 L.Ed. 503 (1954), sanctioned the introduction of testimony on illegally seized heroin to rebut the defendant's denial of prior drug possession. Rule 412 would forbid such uses as long as proper objection is made by the defendant. This last proviso is a change from Criminal Rule 26(g).

This ban on the use of both testimonial and physical evidence for impeachment purposes should not amount to a significant incentive for defendants to commit perjury. The prosecution will still be able to cross-examine the defendant on his claims, if it believes in good faith that the defendant's testimony is false. And, as discussed below, some otherwise inadmissible evidence will still be permitted in perjury prosecutions.

Rule 412 also does not bar the use as impeachment evidence of statements made by a defendant who testifies on a preliminary question of fact as permitted by Rule 104(d). If the preliminary question of fact involves a constitutional question, the argument could be made that a ruling favorable to the defendant renders any statements made during the preliminary hearing "fruit of the poisonous tree" and therefore inadmissible. *Cf. Harrison v. United States*, 392 U.S. 219 (1968) (use of evidence in case-in-chief). *But see People v. Sturgis*, 317 N.E.2d 545 (Ill. 1974), *cert. denied*, 420 U.S. 936, 43 L.Ed.2d 412 (1975). *See also United States v. Kahan*, 415 U.S. 239, 39 L.Ed.2d 297 (1974); *United States v. Mandujano*, 425 U.S.

564, 584, 48 L.Ed.2d 212, 277 (1976) (Brennan, J., concurring in the judgment). Where the defendant is successful in suppressing evidence the underlying constitutional right is protected. It seems an extravagant extension of constitutional protection to permit one version of facts from the defendant's mouth to keep evidence from a tribunal and to permit the defendant to offer another version at trial. If the motion to suppress is unsuccessful, there is even less reason to refrain from using the defendant's statements in support of the motion as impeachment evidence. The decision to take the oath and testify is attenuation enough to remove the taint of the initial illegality. The record of the statements, the advice of counsel, and the oath together remove many of the problems associated with *Harris v. New York, supra.*

In perjury prosecutions, the government's interest in convicting guilty defendants and the extreme difficulty of obtaining reliable evidence warrant controlled use of illegally obtained evidence. Hence Rule 412 contains two narrow exceptions to the blanket prohibition on the use of illegally obtained evidence properly objected to.

The first exception governs statements obtained in violation of the right to warnings under *Miranda,* if the statement whose admission is sought is relevant to the issue of guilt or innocence and shown to be otherwise voluntary and not coerced. The latter limitation, meant to guarantee the statement's reliability, is derived from *Harris v. New York, supra,* where the U.S. Supreme Court observed, "Petitioner makes no claim that the statements made to the police were coerced or involuntary." 401 U.S. at 224, 28 L.Ed.2d at 4.

The second exception governs evidence obtained in violation of the fourth amendment and/or its Alaska counterpart, article I, section 14. Again a limitation is imposed: the evidence must be relevant to the issue of guilt or innocence, and must not have been obtained "in substantial violation of rights." This limitation is not imposed to ensure reliability of the evidence, but rather recognizes that judicial integrity requires the exclusion of evidence for all purposes if the police misconduct involved in obtained it was flagrant. The concept of a "substantial violation of rights" is necessarily flexible, and

whether or not such a violation occurred will depend on the facts of each case. The simple reference to "rights" is intended to emphasize that this section has no bearing on the law of standing in search and seizure cases.

HB 106

MSG 83-000003282 PRTY 1 01/24/83 12 28 07 ORIG: LA02 IN= 0004 OUT= 0054
FROM: SHIRLEE, ANCHORAGE LIO TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POM

1/24/83, SHIRLEE ANCH LIO, MSG 3282

TO: SENATOR KERTTULA, SENATE PRESIDENT
SENATOR RAY, CHAIRMAN, S JUD
SENATORS JOSEPHSON, ELIASON, PETTYJOHN, ZIEGLER

FROM: HOLLY PLOOG, REPRESENTING THE ANCH. POLICE DEPT. EMP. ASSOC.
701 W. 58TH, ANCHORAGE, AK 99502 (H) 276-3644

RE: SENATE BILL 49

ANCHORAGE POLICE DEPARTMENT EMPLOYEE ASSOC. STRONGLY SUGGESTS THAT THE SENATE JUDICIARY COMMITTEE WAIT UNTIL RESEARCH BEING PREPARED BY BARRY STERN IS COMPLETE BEFORE ACTING UPON SB 49. THE EXCLUSIONARY RULE NEEDS TO BE ALTERED. WE WOULD PREFER THAT THE LEGISLATURE LOOK AT THE ENTIRE PICTURE RATHER THAN PIECEMEALING THE LAW.

****

MSG 83 00002945 PRTY 1 01/21/83 10:30:28 ORIG: LA02 IN= 0001 OUT= 0013
FROM: SHIRLEE, ANC LIO TO: POMS, JUNEAU INFO
TARGET LJHL SUBJ: POM

1/21/83 SHIRLEE, ANC LIO, MSG 2945

TO: SENATOR KERTTULA
SENATOR JOSEPHSON
SENATOR PETTYJOHN
SENATOR ELIASON
SENATOR RAY
SENATOR ZIEGLER

FROM: DOLORES WEILER
FIELD DIRECTOR, ACLU OF ALASKA
SRA BOX 2094K
ANCHORAGE, AK 99507 (H) 344-7673

HAVE RECEIVED MANY CALLS THROUGHOUT STATE EXPRESSING CONCERN OVER RAMIFICATIONS OF SB 49. URGENTLY REQUEST HEARINGS BE HELD IN ANCH AND FBKS BEFORE THIS BILL PASSES COMMITTEE.

January 24, 1983

Silas Wasserstrom, Esq.
Associate Professor of Law
Georgetown University Law Center
600 New Jersey Ave., N.W.
Washington, D.C. 20001

Re: Exclusionary Rule

Dear Professor Wasserstrom:

I am counsel to the Alaska State Senate Judiciary Committee.

This session, our committee has before it a bill seeking to enact a good faith exception to the exclusionary rule along the lines recently proposed in Congress, pursuant to which you testified before the House Judiciary Sub-Committee on Criminal Justice.

As you may recall, Sue Marie Johnson of the Police Executive Research Forum also testified at the sub-committee hearings.

Attached hereto please find a detailed summary of Ms. Johnson's testimony setting forth her organization's recommendations regarding the exclusionary rule.

It would be most helpful to our committee to obtain your detailed comments about Ms. Johnson's proposal. I have already provided copies of the 1981 Georgetown Law Journal article you co-authored to all our committee members.

For example, one question that quickly comes to mind upon reading Ms. Johnson's proposal is your point about the good faith exception stifling the development of Fourth Amendment Law. Is this still true in light of her proposed procedure whereby the first issue determined by the Trial Court is whether the search and seizure is constitutional?

The bill we are considering has already stirred up a great deal of widespread interest among groups of divergent views such as our State Attorney General's Office, local Bar Associations, the A.C.L.U. and others. Therefore, your assistance would be put to very good use in helping to frame

all the relevant issues and place them in the proper context.

If you wish, please feel free to contact me by phone, collect. I can be reached at (907) 465-4451 or 465-4452. Our time is three hours earlier than yours.

Very truly yours,

John C. Gabrielli
Counsel

JCG:jm

— GABRIELLI —

Uniform Law Memo

Published by the National Conference of Commissioners on Uniform State Laws Winter 1982-83

ULC creates a single condo, co-op & planned community 'package'

BY NORMAN GEIS

High land costs and the growing use of flexible zoning techniques provide powerful inspiration for real estate developers to try to squeeze more housing on less land. One result is the explosive growth in the number of projects served by community facilities owned or managed by condominium, cooperative and homeowner associations. In recent years, these shared-use projects have become known as common-interest housing communities.

For nearly two decades the predominant form of common-interest housing community has been the condominium. Widespread acceptance of the condominium form of ownership was produced by many causes. But underlying them all was the simple fact that the condominium form is supported by enabling legislation in every state while all other forms are creations of the common law.

Flawed legal structure

The remarkable success of the condominium obscured criticism of a material flaw in its time-honored legal structure. This flaw — which goes to the very essence of the condominium scheme of ownership — is the requirement that every unit owner must hold legal title to a fractional interest in the project common elements as a tenant in common with every other unit owner.

The resulting fragmentation of common element titles is the root cause of myriads of drafting complexities and of innumerable problems of condominium administration. Surprisingly, this cumbersome arrangement seems t have resulted from the blind assumption of early condominium legislation that the condominium regime must be operated by the unit owners acting together as an unincorporated association. Since such associations were not separate entities having the legal capacity to hold title to real estate, there simply was no place to lodge the common element titles except in the unit owners themselves.

Straightforward approach

The splintered ownership arrangement for community facilities in a condominium contrasts sharply with the straightforward scheme of ownership for such facilities in homeowner association regimes where common area titles are held in the name of the association rather than being fragmented among its members.

That single difference, more than any other, may explain why homeowner association regimes operate under the common law without benefit of statutory enablement while the condominium form only came into wide use after the first-generation enabling legislation of the 1960s.

In 1980, Uniform Law Commissioners took their first step toward statutory enablement of an alternative to the condominium by adopting the Uniform Planned Community Act (UPCA). UPCA not only codified the law of homeowner associations but also provided statutory enablement for a common-interest housing regime defined as a "planned community." UPCA permits title to all common areas — including hallways and

other interior spaces in a high-rise – to be held in the name of the governing association instead of being fragmented among its members.

In 1981, ULC adopted the Model Real Estate Cooperative Act (MRECA) which codified cooperative law and provided a statutory mechanism for characterizing cooperative apartment units as mortgageable interests in real estate.

Both UPCA and MRECA were closely patterned on the Uniform Condominium Act (UCA). They were drafted in anticipation of their ultimate consolidation into the Uniform Common Interest Ownership Act (UCIOA). That final step was taken during the 1982 ULC annual meeting.

UCIOA makes no substantive changes in UCA, UPCA or MRECA. Like them, it provides developers with the flexible legal tools they need to create common interest communities including the right to expand, contract, or change the function of a development to meet shifting market demands.

In addition, UCIOA provides purchasers of housing in cooperative and planned community developments with some consumer protection benefits that previously were available only to condominium purchasers. But most important of all, UCIOA provides a statutory framework for fair and efficient administration of housing regimes that, until UCIOA, were subject to the vagaries of the common law and the whims of the draftsman of the project documents.

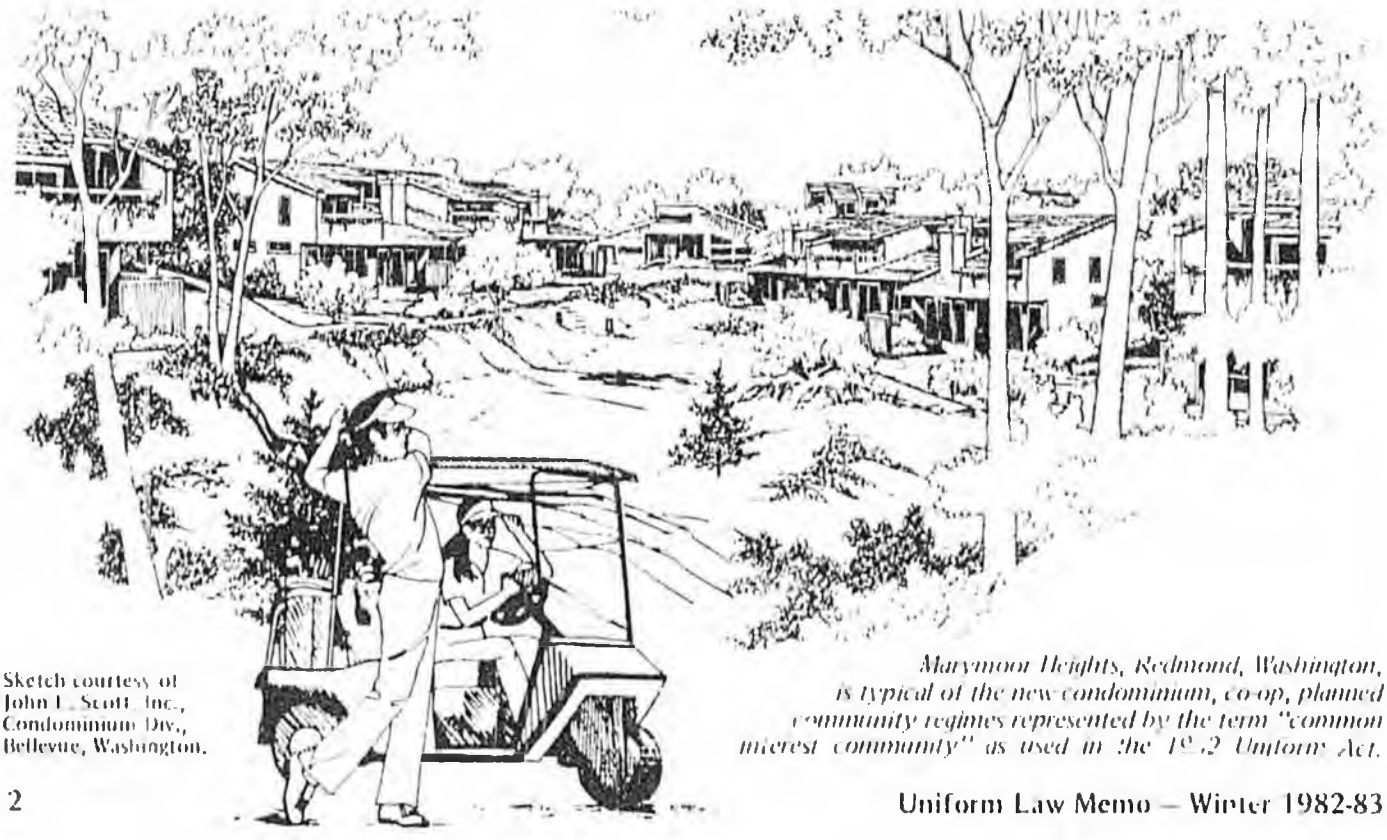
Seven states – four in 1982 – have adopted the Uniform Condominium Act. They are Maine, Minnesota, New Mexico, Pennsylvania, Rhode Island, Virginia and West Virginia. Virginia has also adopted the Model Real Estate Cooperative Act.

UCIOA does create a new defined term -- the "common interest community" – to collectively describe the condominium, cooperative and homeowner association regimes.

This new definition eliminates the need for repetition in UCIOA of the innumerable provisions of UCA, UPCA and MRECA which are identical in all three acts. The remarkable result is that the length of UCIOA is only slightly greater than the length of UCA alone. States which already have adopted UCA, or are contemplating its adoption, can easily transform UCA into UCIOA by a series of amendments which need only make necessary changes or additions to key UCA definitions and add a handful of special provisions unique to the regimes enabled by UPCA and MRECA.

UCIOA creates a new language that identifies and coheres the basic concepts that make the common-interest ownership community work. A broader understanding of its unifying concepts will encourage development of superior alternative forms of common interest developments drawing their enablement from UCIOA. These should displace the condominium as the reigning species.

Norman Geis served as the American Bar Association's liaison-adviser to the ULC drafting committees that prepared UCA, UPCA, MRECA and UCIOA. He practices law in Chicago with Greenberger, Krauss & Jacobs, Chartered.



Sketch courtesy of John L. Scott, Inc., Condominium Div., Bellevue, Washington.

Marymoor Heights, Redmond, Washington, is typical of the new condominium, co-op, planned community regimes represented by the term "common interest community" as used in the 1982 Uniform Act.

New Drafting Committees

ULC has created six new drafting committees. Two of them will be responsible for preparing preliminary drafts of projected additions to the Uniform Information Practices Code (UIPC).

If the project is completed, health and criminal records also would be governed by UIPC. The first part of UIPC, completed in 1980, deals with records maintained by state and local governments.

The proposed additions could add private health records – including those kept by hospitals and insurance companies – along with law enforcement agency records to UIPC. K. King Burnett, who practices law in Salisbury, Md., was appointed chairman of the Drafting Committee on Health Records. Northwestern University School of Law professor Harry B. Reese chairs the Drafting Committee on Criminal Records.

Other new ULC drafting committees are responsible for preparing preliminary drafts of the proposed:

Personal Property Leasing Act to provide a legal structure for the $100 billion-plus-a-year leasing industry which "rents" everything from television sets to oil rigs. The committee chairman is Edward I. Cutler who practices in Tampa, Fla.

Defense of Insanity Act to help states deal with a problem dramatized by the trial following the assassination attempt on President Reagan. Chairman of the committee is University of Pennsylvania School of Law professor Curtis R. Reitz.

Statutory Wills Act to design a low-cost solution to the problem of delivering high-quality legal work in will preparation. Committee chairman is Thomas L. Jones, a professor at the University of Alabama School of Law.

Revision of the Uniform Fraudulent Conveyance Act to conform the 1918 act – adopted by 26 states – to the Uniform Commercial Code, the Bankruptcy Code and the Model Business Corporation Act. Committee chairman is Morris W. Macey, who practices law in Atlanta.

Some of these committees are expected to have drafts ready for preliminary consideration during the 1983 annual meeting. That would make them eligible for completion during a subsequent annual meeting.

Court extends habitability warranty

The Illinois Supreme Court has extended the state's "implied warranty of habitability" for subsequent purchasers of new homes.

Allan Ashman said in the "What's New in the Law" section of the November, 1982, *American Bar Association Journal* that the court noted that "extending the implied warranty to subsequent buyers also was consistent with the Uniform Land Transactions Act."

Ashman wrote: "Section 1-312 of the act provides that a subsequent purchase carries with it an assignment of the seller's warranty of quality rights to the buyer."

The Illinois court said home buyers "traditionally assumed the burden of inequitable transactions, as the doctrine of *caveat emptor* dominated sales of real property well into the 20th Century." Therefore home buyers were forced to make claims for defects based on breach of contract by a builder for failing to perform in a workmanlike manner.

That view has changed. The Illinois court said that by 1980 at least 35 states had given home buyers some protection by implying a warranty of habitability. The Illinois court said this warranty was a "creature of public policy" – a "judicial innovation that has evolved to protect purchasers of new houses upon discovery of latent defects in their homes. While the warranty has roots in the execution of the contract for sale, we emphasize that it exists independently. Privity of contract is not required."

That was the policy followed by ULC in drafting the Uniform Land Transactions Act. ULTA, like the Illinois court, also extended this warranty to subsequent purchasers of a home.

The Illinois court said that "the subsequent purchaser should not be denied the protection of the warranty of habitability because he happened to purchase the home about one year after the original buyer.... The purpose of the warranty is to protect purchasers' expectations by holding building-vendors accountable. We do not believe it is logical to arbitrarily limit that protection to the first purchaser of a new house."

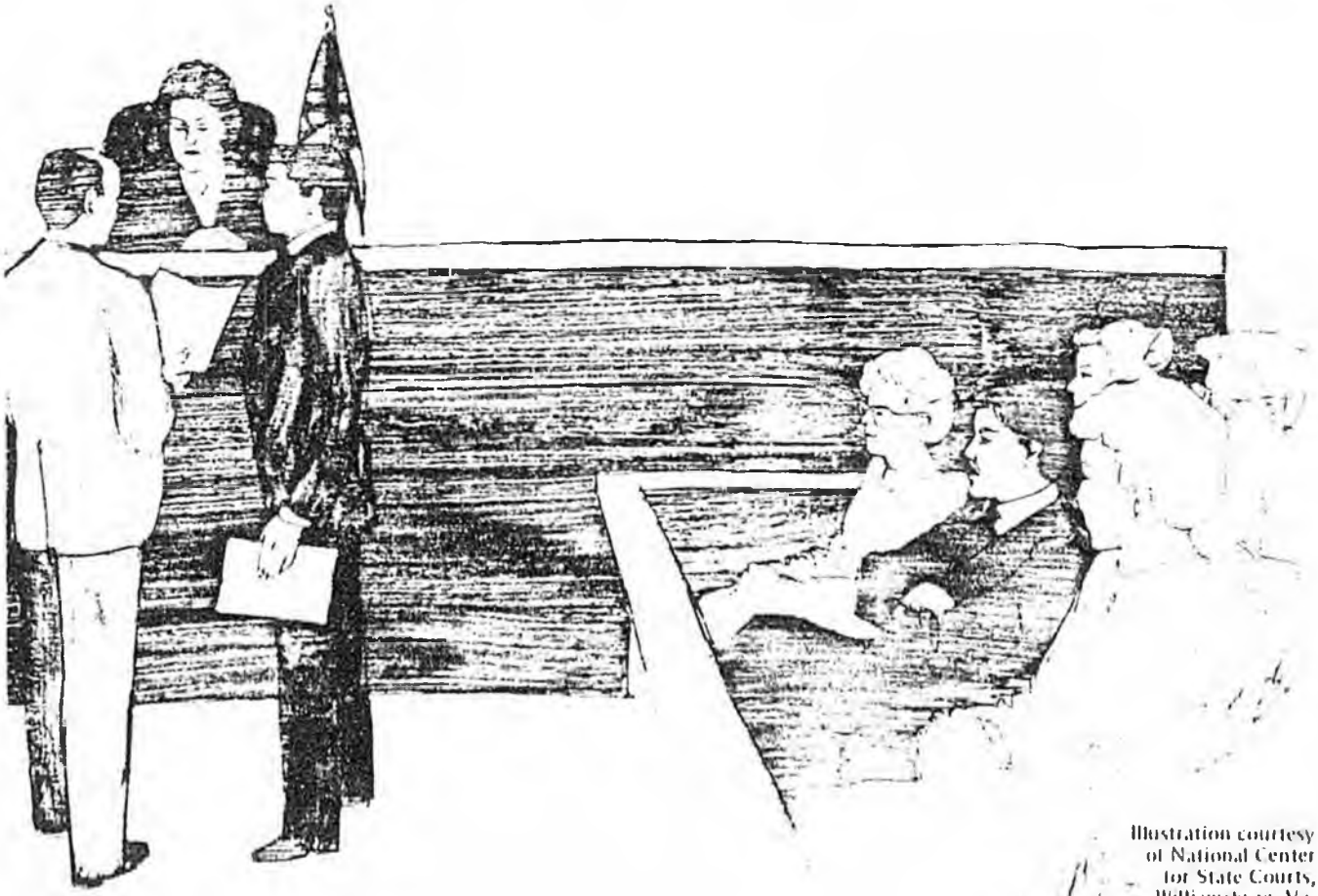


Illustration courtesy of National Center for State Courts, Williamsburg, Va.

Selecting Juries That Work

"It is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this act to be considered for jury service in this state, and an obligation to serve as jurors when summoned for that purpose." — *Uniform Jury Selection and Service Act Declaration of Policy.*

Americans have a constitutional right to jury trials. The right is based upon the ideal that a group of citizens with a wide variety of educational, vocational and cultural backgrounds will produce a jury whose combined experience and wisdom will make fair decisions.

This ideal too often is not realized because many states rely on outmoded methods of selecting jurors. They build in "exemptions" for large portions of their populations by using lists that are biased against the poor, women, non-voters and others. Then they further dilute the talent available for juries by exempting lawyers, physicians, dentists, funeral directors, government officials, school teachers, mothers, newspeople, farmers, etc. And when called, too many Americans look for ways to "get out of jury duty."

This can result in a jury drawn from a "juror class" that excludes large segments of the population. In the 1960s, courts found this result conflicted with the ideal of "fair trials" and they questioned the validity of selection procedures at the state and federal level. This attack on the validity of juries centered on whether all citizens had an opportunity to be considered for service.

In 1968, Congress enacted the Federal Jury Selection and Service Act in an attempt to deal with the problem in the federal courts. In 1970, ULC completed its Uniform Jury Selection and Service Act and urged all states enact it.

The Uniform Act creates a system for insuring random selection of jurors from a "master list" that's based on voter registration lists, with additions from other sources such as "lists of utility customers, property (and income) taxpayers, motor vehicle registrations, and drivers' licenses."

Because of advances in computerization, creation of master lists by merging several lists and purging duplicate names is much easier now than when the act was first promulgated. For example,

Colorado uses three source lists – voter registration, drivers licenses and city directories.

"At one time, motor vehicle registrations were used," recalls Harry O. Lawson who was Colorado State Court Administrator when the Uniform Act was implemented in his state. "This list was discarded, because of male bias and duplication, and because we got tired of being the subject of news stories concerning the summoning of ABC company for jury duty. Other lists were examined but discarded also because of duplication and male bias – property tax lists, telephone directories and utility lists."

Broadened Base

Lawson, who now teaches at the University of Denver College of Law, believes that two more lists should be added to further broaden the base. But welfare recipient lists are barred by law and state income taxpayer lists could only be reached with a Colorado Supreme Court order that might result in an array or panel challenge that it would be forced to decide.

Once a master list is compiled, under the act, jurors are selected on a "key number" basis. This means that if there are 360,000 names on a master list and 4,800 prospective jurors are needed, then every 75th name on the master list will be selected. After a starting number is determined at random, a computer can produce the list of 4,800 prospects in moments by printing out the name and address of every 75th entry on the master list.

The Uniform Act makes it clear in Section 10 titled "No Exemptions" that "no qualified prospective juror is exempt from jury service."

Those not qualified include: non-citizens and non-residents; those under age or unable to read, speak and understand English; those who can prove that a physical or mental disability makes it impossible to serve; and convicted criminals who have lost their right to vote. Some states have disqualified those who are over 70 years old and have asked to be excused in writing.

Though automatic exemptions by class are prohibited, the act provides for excuses from jury service on proof of "undue hardship, extreme inconvenience, or public necessity." But such excuses are not easy to get and when the time allotted to take care of a problem expires, a prospective juror will be recalled.

In contrast, the federal act permits federal courts to specify classes which may be excused automatically. In some districts, such excuses have included: "ministers of the gospel," lawyers, physicians, surgeons, dentists, veterinarians, pharmicists, nurses, school teachers, mothers with children under 16, and sole operators of businesses.

ULC rejected any automatic excuse. Drafters commented that "there should be no automatic exemptions or excuses from jury service, but rather that excuse should be only upon a showing of actual need or public reason therefor. The Uniform Act proceeds on the principle that jurors should be selected by random methods from the widest possible list of citizens. The corollary is that actual service on the jury should be shared as widely as possible and, in particular, that professional and business groups should be excused only in cases of demonstrated need. The so-called 'blue ribbon jury' is outlawed by the Uniform Act. At the same time, business and professional groups within the community should not be permitted to avoid jury service. It is also believed that citizens in general will be more willing to perform jury service if it is known throughout the community that jury service is universal, barring only particular hardship in specific cases."

The difficulty in reaching the ideal expressed in that comment is dramatized in the state of the chairman of the drafting committee that developed preliminary drafts of the Uniform Jury Selection and Service Act – Vincent L. McKusick who then practiced law in Portland and who now serves as Chief Justice of the Maine Supreme Court. Maine adopted most of the act that McKusick guided to completion in 1972. But it didn't touch the laundry list of exemptions then and now in effect.

That means Maine's exemptions include: the governor, judges, court clerks, the secretary and treasurer of state, physicians, surgeons, dentists, sheriffs, lawyers, members of the National Guard and Reserves, retired officers and retired enlisted men holding the Certificate of Merit.

No Exemptions

States – such as Colorado – which eliminated all exemptions have been pleased with the results. The quality of juries has improved. This was dramatized when Colorado Gov. Richard D. Lamm was called for jury duty. Judges and others usually exempted from jury service also have been called in Colorado and other states without exemptions.

The act does protect jurors from serving too often because of the chance of the draw. It recommends that states limit the length and frequency of jury service to times that make sense when compared to need and the population pool.

The act also includes a section designed to protect jurors from employers. Section 17 states

(see JURIES, page 10)

7 ULC proposals ready for legislatures

1982 saw ULC complete seven new proposals. Six of them – Uniform Transboundary Pollution Reciprocal Access Act; Uniform Law on Notarial Acts; Uniform Guardianship and Protective Proceedings Act; Succession Without Administration amendments to the Uniform Probate Code; Uniform Conflict of Laws – Limitations Act; and Model Health-Care Consent Act – are described here. An article on the seventh, the Uniform Common Interest Ownership Act – begins on page one.

Succession Without Administration

The Uniform Probate Code (UPC) offers the most flexible system of estate administration available to states. Now the 14 states which have adopted the major provisions of UPC could offer their citizens the simplest of all administration schemes with no judicial interference.

"Succession Without Administration" amounts to acceptance of the assets and assumption of the debts of an undisputed estate by its heirs or devisees – whether or not there is a will. This sidesteps the traditional "executor" and attendant red tape.

"The concept of succession without administration is drawn from civil law and is a variation of the method which is followed largely on the continent of Europe, in Louisiana and in Quebec," say drafters of Succession Without Administration amendments to UPC.

The amendments would enable intestate heirs or "residuary devisees under a will" to become "universal successors" by filing an application with the probate court. An official of the court could approve an application as soon as five days after the decedent's death. If there were no challenges from other successors or creditors, and other simple criteria were met, the official could certify that the applicants were the universal successors to the assets of the estate and responsible for its liabilities and distribution.

"The liability of universal successors who assume the decedent's debts is subject to any defenses that would have been available to the decedent," the proposal states. "Other than liability arising from fraud, conversion or other wrongful conduct of a successor, the personal liability of each universal successor to any creditor, claimant, or other heir, devisee or person entitled to decedent's property shall not exceed the proportion of the claim that the universal successor's share bears to the share of all heirs and residuary devisees." Since the debts of the decedent might exceed the value of the estate, this procedure means that a successor's liability could exceed his share of the estate.

So if a family suspected that the assets of an estate would not cover its debts, the family could opt for appointment of a "personal representative" of the decedent. This would be a simple procedure that would limit liability to the value of the estate.

Drafters believe the Succession Without Administration concept should be added to the