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Police Interrogation

Apparently, the Supreme Court is determined to take all this jazz about civil liberty seriously. It seems to have swallowed the Constitution whole, including even all those technicalities in the Bill of Rights. Instead relegating the minatory stipulations of the Fourth, Fifth and Sixth Amendments to the Archives as hallowed platitudes, it has chosen to treat them as though the Founding Fathers meant them to be real and practical restraints on police authority. It insists upon reading the Constitution as though it had been intended as a charter of freedom for individuals who had deliberately chosen to live under a government of limited powers. Even that antiquated bit inscribed over the portals of the Court about "Equal Justice Under Law" is now being given literal application.

It is said in reproach to the Supreme Court majority which has chosen to read the Bill of Rights as meaning what it says that such a course will cripple law enforcement. The wails are familiar. When the Wickersham Commission 35 years ago disclosed that third-degree tactics were commonly employed to extort confessions from suspects in police stations, the cry was that abandonment of them would lead to a total breakdown of law and order. Today some policemen rely more on trickery than on torture; techniques of interrogation recommended in some police manuals are simply disgusting—and wholly unworthy of a free and civilized society. Yet some of the police again are crying that they cannot discharge their duties if they are required to abandon these techniques.

The convictions overturned by the Supreme Court in the cases decided on Monday all rested on confessions obtained from suspects questioned alone, without counsel or any adequate warning as to their rights, in the intimidating atmosphere of a police station. To allow such confessions to be admitted in evidence would be to make courts the accomplices of the police in a wanton disregard of the Constitution. For these confessions were obtained by ignoring the Fifth Amendment's pledge of a privilege against self-incrimination and the Sixth Amendment's assurance of a right to counsel.

It is said in reproach to the Court's insistence on the right to counsel that granting it will mean an end to all confessions. We think the prediction too dire. In any case, however, to say that the presence of a lawyer would preclude a confession is to acknowledge that a confession obtained without opportunity to consult a lawyer is essentially involuntary or based upon ignorance of constitutional rights. The only genuinely voluntary confession is a volunteered confession.

We beseech those who may be frightened by the Court's outright insistence on constitutional rights to read the Chief Justice's admirable opinion. It is a long opinion—but a fascinating one. It sets forth with clarity and precision the procedure which the police must pursue; and it makes inescapably plain the constitutional mandate behind them.

One happy dividend of this Supreme Court opinion, let us hope, is that we shall hear no more of the ridiculous omnibus crime bill for the District of Columbia still in a congressional conference committee. And the model pre-arraignment code submitted to the American Law Institute can now be filed and forgotten. Like a fresh breeze, the Court's opinion blows away great clouds of confusion. It is in the highest tradition of the Court's service as the guardian of constitutional rights.