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NEWS NOTES

A.G. CALLS FOR END TO VIOLENCE ON NATION'S COLLEGE CAMPUSES

May 1, 1969: Attorney General John N. Mitchell has called "for an end to minority tyranny on college campuses and for the immediate reestablishment of civil peace and the protection of individual rights".

"If arrests must be made, then arrests there should be. If violators must be prosecuted, then prosecutions there should be", the Attorney General said in a speech before the Annual Law Day Dinner of the Detroit Bar Association.

In pointing out that peaceful students also have rights--the right to study in an atmosphere of reason and civility--the Attorney General said:

"Let me be specific. University officials are not law enforcement experts or judges . . . they should not take it upon themselves to decide how long the violence should endure and what rights should be trampled upon before local government is called in . . . .

"When people may be injured, when personal property may be destroyed, and when chaos begins, the university official only aids lawlessness by procrastination and negotiation."

The Attorney General rejected the notion that the university is an "extraterritorial enclave" further from the reach of law enforcement than other institutions in our society. As one alternative to dealing with student demonstrations, he suggested that university officials consider applying to courts for injunctions to remove demonstrators.

At the same time, Mr. Mitchell suggested that there should be full participation by students, faculty, and administration officials in the decision-making process on campuses.

"What this means, at a minimum, is that university administrators must offer a serious forum for responsible student criticism--and more than that, it must be clear to the students that their grievances will be honestly considered and will not be lightly dismissed under the procedural ruse of an artificial dialogue", he said.

TWO TEXAS JAILERS CHARGED WITH CIVIL RIGHTS VIOLATIONS IN THE BEATING OF ESCAPED PRISONERS

May 7, 1969: Two Texas county jailers have been charged with inflicting summary punishment on three escaped prisoners after their recapture.

Attorney General John N. Mitchell said two indictments were returned by a federal grand jury in San Angelo, Texas, against Henry E. Hill, chief jailer of Tom Green County Jail, and Billy F. Woodham, assistant jailer.

The prisoners--James L. Carmon, 23; James A. Watkins, 26; and Darrell G. Stephens, 24--escaped from jail February 9, 1969, and were recaptured the same day.

The indictments charged that Hill and Woodham, while acting under color of the laws of the State of Texas, beat, struck, and assaulted the prisoners, with the intent of punishing them summarily without due process of law, thereby depriving them of their constitutional rights, in violation of Section 242, Title 18, U.S. Code.

Maximum penalty upon conviction is one year in prison and a $1000 fine.

MASSACHUSETTS ATTORNEY GIVEN JUSTICE DEPARTMENT PUBLIC SERVICE AWARD BY A.G.

May 7, 1969: Attorney General John N. Mitchell has presented a special Justice Department Public Service Award to a Massachusetts attorney who aided in the protection of a key government witness against the Mafia.

Myles J. Schlichte, Vice Mayor of Gloucester, was cited for his behind-the-scenes role in the year-long protective custody of Joseph Baron by U.S. Marshals in the Boston area.

Baron's testimony was instrumental in obtaining convictions against Raymond Patriarca, reputed New England boss of La Cosa Nostra, and two others in Federal court. Six others were convicted of murder in state court.

From July, 1967, to August, 1968, Baron and his wife and their two children were kept in seclusion in the Gloucester area after their lives had been threatened.

Mr. Schlichte, a 39-year-old attorney and father of eight children, volunteered to make all arrangements in his name for the security of the Baron family, including the rental of a home, marketing for groceries, purchase of clothing, and securing of medical services.

The Attorney General noted that Mr. Schlichte served without compensation and at "a substantial expense to himself", contributing evenings and weekends to his assignment.

In presenting a special plaque to Mr. Schlichte, the Attorney General observed:

"It is most heart warming to me in these sad days of non-involvement on the part of many of our good citizens toward law enforcement that we can offer the Federal Government's appreciation to a private citizen for his personal involvement."

"It is my sincere hope that as our fight against organized crime continues with increased fervor, our fellow Americans will respond in a manner similar to that of Mr. Schlichte's, when requested to do so by law enforcement officers", Mr. Mitchell added.

Patriarca was convicted in March, 1968, of traveling interstate with the intent to commit murder and was sentenced to five years in Federal Penitentiary in Atlanta, Georgia.

LEAA AWARDS GRANT TO IACP FOR CONFERENCES ON DISORDERS

May 9, 1969: Deputy Attorney General Richard G. Kleindienst announced that the Law Enforcement Assistance Administration has awarded an $80,717 grant to finance conferences on disorders and other law enforcement problems for police chiefs from 150 of the nation's major cities.

Mr. Kleindienst said the grant was given to the International Association of Chiefs of Police (IACP), which will hold six week-long meetings from May 11 to June 13. They will be at two locations, Port Deposit, Maryland, and Fredericksburg, Virginia.

Charles H. Rogovin, the LEAA Administrator, said planning has been underway for several months for the new series of conferences, which will be similar to the national meetings held a year ago for police on prevention and control of civil disorders.

The general theme of this second round of conferences will be "The Changing Nature of Conflict", Mr. Rogovin said, and discussion topics will include civil disorders, campus disorders, the role of police executives in an era of change, and personnel and management problems.

Mr. Rogovin noted that the police chiefs will have a great deal of latitude in shaping their discussions. He added that in a letter of invitation to police chiefs on April 15, Attorney General John N. Mitchell said the conferences "have been designed to provide you with an important opportunity to meet with other police executives to share each other's views on several of your major problems".

GEORGE REED APPOINTED CHAIRMAN OF U.S. BOARD OF PAROLE

May 9, 1969: Deputy Attorney General Richard G. Kleindienst has announced the appointment of George J. Reed, Eugene, Oregon, as chairman of the eight-member United States Board of Parole.

Mr. Reed was nominated by President Richard M. Nixon as a member of the Board and designated chairman by Attorney General John N. Mitchell.

Mr. Reed previously was a member of the Parole Board from August 5, 1953, to November 30, 1964, serving as chairman of the full Board and as chairman of the Federal Youth and Juvenile Corrections Division. He was born in Haigler, Nebraska, on May 31, 1914. He is a graduate of Pasadena College and holds honorary Doctor of Laws degrees from Pasadena College and Eastern Nazarene College.

Mr. Reed has been a deputy probation officer in Los Angeles, a field representative for the California Youth Authority, an official of the Minnesota Youth Conservation Commission, chief parole and probation officer for the State of Nevada, professor of criminology at the College of the Sequoias, and for the past year director of the Lane County Juvenile Department, Eugene, Oregon.

LEAA TO CONDUCT ORGANIZED CRIME CONFERENCES

May 9, 1969: Deputy Attorney General Richard G. Kleindienst announced that the Department of Justice will hold a series of conferences throughout the country to help state and local law enforcement officials develop more effective organized crime programs.

Mr. Kleindienst said that the conferences, to be conducted by the Law Enforcement Assistance Administration (LEAA), are an important part of the Department's intensified new drive against organized crime.

The first conference will be held July 13 to 17 in Zion, Illinois for about 100 police officials and prosecutors from 15 states. The dates and locations of the meetings for other regions of the nation will be announced later.

Charles H. Rogovin, the LEAA administrator, said the opening conference will mark the first time that policemen and prosecutors have been brought together for intensive training in organized crime programs.

A series of lectures and workshops will cover every aspect of organized criminal activity, Mr. Rogovin said, including infiltration of legitimate businesses, how to conduct grand jury investigations, corruption of public officials, tax fraud, contempt proceedings, perjury, conspiracy investigations and indictments, general investigative techniques, internal security, special squads, electronic surveillance, intelligence gathering and evaluation, and cooperation among state and local agencies.

HENRY RUTH NAMED DIRECTOR OF NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

May 13, 1969: Attorney General John N. Mitchell announced the appointment of Henry S. Ruth, Jr. of Swarthmore, Pennsylvania as the new director of the National Institute of Law Enforcement and Criminal Justice.

The Attorney General said Mr. Ruth's long experience in the criminal justice field, including being deputy director of the National Crime Commission, ideally equips him to head the Institute, the research arm of the Law Enforcement Assistance Administration (LEAA).

Mr. Ruth's appointment as acting director of the Institute was announced by Charles H. Rogovin, the LEAA Administrator, on April 10, and he now has assumed his new duties on a full-time basis.

Mr. Rogovin said that Mr. Ruth, 38, will direct all of the Institute's work in every major area of crime--including new programs and techniques for apprehension of offenders and crime prevention, development of new law enforcement equipment, research into the causes and conditions of crime, and research for more effective rehabilitation programs in corrections.

The new director joined the Department of Justice as a special attorney in the Organized Crime and Racketeering Section in October 1961. From then until June of 1964, he conducted grand jury investigations and prosecuted a number of organized crime cases.

Mr. Ruth then spent two and one-half months on special assignment with the Department's Civil Rights Division, working with white and Negro groups to help maintain order in Mississippi following the slaying of three civil rights workers there.

In September of 1964, he joined the Office of Criminal Justice in the Department, and helped draft the plans that led to creation of the President's Commission on Law Enforcement and Administration of Justice.

Mr. Ruth was named the deputy director of the Commission in November of 1965, and held that position until the Commission's work was concluded in June of 1967. Recommendations by the Commission helped lead to the creation of the Law Enforcement Assistance Administration by Congress a year later.

After leaving the Commission, Mr. Ruth became an associate professor of law at the University of Pennsylvania Law School, a post he held until being named head of the Institute.

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POINTS TO REMEMBER

Acceptance of Settlements in Condemnation Cases

Recent purported acceptance of offers in compromise reflects that there has been some misunderstanding with respect to the requirement for obtaining departmental approval of offers in excess of $10,000. The United States Attorneys' Manual provides in this connection (pp. 13-14):

> Every offer of compromise in a condemnation case, with the exception of certain offers which involve payments of $10,000 or less, as hereinafter set out, which the United States Attorney or field attorney considers may be recommended for acceptance must be submitted to the Department for consideration and acceptance or rejection.***

With the sole exception of tracts for which options were obtained and accepted prior to referral of the case to the Department of Justice, there are no exceptions to the requirement for departmental approval of all settlements in excess of the $10,000 limit delegated to the United States Attorney. This also applies to tracts settled in the amount of the deposit. The reason for departmental consideration in such cases is that the deposit is merely an estimate, it is not evidence of value, and the appraisals must be carefully reviewed to determine whether the estimate represents the fair market value of the property.

Accordingly, each United States Attorney should use particular care in all settlement negotiations with condemnees, especially those conferences that may be brought to the court's attention, to insure that all parties are aware of these limitations. Recent instances where Assistants purported to settle cases in excess of their authority have created embarrassing situations where the Department had to disavow the action of the Assistant or accept a compromise offer not supportable by competent appraisal evidence or demonstrable trial risks.

ANTITRUST DIVISION
Assistant Attorney General Richard W. McLaren

DISTRICT COURT

CLAYTON ACT

COMPLAINT UNDER SECTION 7 OF ACT.

United States v. International Telephone & Telegraph Corporation (N. D. Ill., Civ. 69 C 924; April 28, 1969; D. J. 60-270-037-1)

On April 28, 1969, a civil action was filed in the U.S. District Court for the Northern District of Illinois, Eastern Division, challenging, under Section 7 of the Clayton Act, the recent acquisition of Canteen Corporation, a leading food and vending company by International Telephone and Telegraph Corporation ("ITT") one of the nation's largest conglomerates.

The complaint alleges that the defendant ITT ranks among the 12 largest industrial concerns in the United States and that its 1967 revenues and those of companies controlled by it at the end of 1968 totaled $3.578 billion. Companies acquired by ITT in 1968 had combined sales of over one billion dollars and included Continental Baking Co., the largest baking company in the United States, Sheraton Corporation of America, one of the two largest hotel chains in the United States, and Levitt & Sons Inc., one of the largest residential construction firms in the United States.

Canteen Corporation, which was acquired on April 25, 1969, is one of the few nationwide vending organizations and had 1968 revenues of $322,202,000. In addition to vending food and related items Canteen offers manual food service, such as executive dining-rooms and employee cafeterias. Canteen also operates public restaurants and concessions at such locations as Yankee Stadium. It is estimated in the complaint that Canteen accounts for over 10% of the in-plant feeding business (providing vending and manual food services for employees while on the job).

The complaint states that ITT presently makes purchases in excess of $550,000,000 from domestic suppliers, and in 1967 purchased more than $100,000 in goods or services from each of approximately 725 companies, including 61 of the top 100 corporations on the "Fortune 500". The complaint also estimates that ITT's actual and potential suppliers employ about one-third of the nation's industrial labor force.

The complaint states that industrial plants and offices are an important market for venders and that industrial plants are a very important market

for full-time venders--those who vend a wide variety of food including hot canned foods and prepared foods and who thus have the capacity to provide a full meal through machines.

The complaint alleges that the power of ITT and Canteen to employ reciprocity or benefit from reciprocity effect in the furnishing of vending and in-plant feeding services will be substantially increased by the acquisition and that actual and potential competitors of Canteen may be foreclosed from competing for vending and in-plant food business at industrial and business locations owned by ITT and its subsidiaries. The complaint also alleges that barriers to entry in vending and in-plant feeding will be increased and that the acquisition will tend to trigger similar mergers by competitors of Canteen.

The complaint asks that ITT be divested of all its stock interest in Canteen and also that the court order preliminary relief to insure that the business and financial operations of Canteen be maintained completely separate and independent from those of ITT.

Staff: John W. Poole, Jr., Gary M. Cohen,
Joseph A. Tate and Gordon A. Noe
(Antitrust Division)

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CRIMINAL DIVISION
Assistant Attorney General Will Wilson

COURT OF APPEALS

MILITARY SELECTIVE SERVICE ACT

REGISTRANT'S SELECTIVE SERVICE FILE ALONE MAY CONTAIN EVIDENCE SUFFICIENT FOR CONVICTION FOR REFUSING INDUCTION. AFTER DEFT. MOVED FOR ACQUITTAL FOR LACK OF EVIDENCE CORROBORATING FILE, PERMITTING REOPENING OF CASE FOR INTRODUCTION OF SUCH EVIDENCE DOES NOT PLACE DEFT. IN DOUBLE JEOPARDY.

Melvin Rhyne v. United States (C.A. 7, No. 16768, February 20, 1969; D.J. 25-23-3541)

The Court of Appeals for the Seventh Circuit affirmed the conviction of defendant for knowingly failing and refusing to submit to induction into the armed forces at Chicago, Illinois, in violation of 50 U.S.C. App. 462(a). He was sentenced to three years' imprisonment.

At the trial the Government, after introducing into evidence, through the local board clerk, defendant's selective service file and calling two FBI agents to testify as to defendant's identity, rested its case. The file contained a copy of a letter to the United States Attorney from the assistant adjutant of the induction center stating that defendant in a signed statement in his own handwriting had refused to be inducted. The letter named persons who witnessed defendant's refusal of induction; and it also indicated that in accordance with governing regulations defendant was informed that it was a felony to refuse induction, and he was advised of the possible consequences of such refusal. The file also contained defendant's statement of refusal, as well as the local board's minutes and other writing indicating that defendant refused induction.

After the Government rested, defendant filed a motion for judgment of acquittal on the ground of failure to establish an offense, claiming that the selective service file alone, without other corroborating evidence, was insufficient to prove that defendant failed to submit to induction. Thereupon, the trial court, over defendant's objection, granted Government's request for leave to reopen its case in an effort to adduce evidence in corroboration of that contained in the selective service file.

On appeal, the Court of Appeals found that the "undenied" and "uncontroverted" evidence contained in the selective service file was "more than

sufficient" to establish beyond a reasonable doubt defendant's guilt of refusing to submit to induction. Concerning defendant's question whether prescribed procedure for dealing with defendant's refusal of induction was followed at the induction center, the Court found not only that the file showed that there was substantial compliance with the prescribed procedure for induction, but that, in the absence of probative evidence to the contrary, the presumption of validity and regularity of the induction process obtains.

The Court further found that the trial court did not commit prejudicial error in exercising its discretion to allow the Government to reopen its case, since the additional evidence offered after the reopening of the case did not surprise the defendant and the latter did not claim that this evidence was more detrimental to him than it would have been if it had been offered originally, and particularly since the permission to reopen came out of the trial court's desire to assure defendant fair protection of his interests.

The Court also found no merit to the contention that defendant was placed in double jeopardy as a result of the reopening, because the reopening of a case does not equate with a new trial.

Staff: United States Attorney Thomas A. Foran;
Assistant United States Attorney John P. Lulinski
(N. D. Ill.)

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LAND AND NATURAL RESOURCES DIVISION

Assistant Attorney General Shiro Kashiwa

SUPREME COURT

SEABED RESOURCES

SUBMERGED LANDS ACT: GRANT MEASURED BY FIXED HISTORIC STATE BOUNDARY IN GULF OF MEXICO IS SUBJECT TO MINIMUM AND MAXIMUM LIMITS OF THREE MILES AND THREE LEAGUES FROM PRESENT AMBULATORY COAST LINE.

United States v. Louisiana, et al. (Texas) (Sup. Ct., March 3, 1969; D.J. 90-1-18-260)

With respect to Texas, United States v. Louisiana, et al., 363 U.S. 1 (1960), had held that the statutory boundary of the Republic of Texas, three leagues (nine miles) from land in the Gulf of Mexico, was the boundary of the State "as it existed at the time such State became a member of the Union" in 1845, within the meaning of the Submerged Lands Act which gave states the submerged lands within such boundaries in the Gulf of Mexico, not exceeding three leagues from the coast. Thereafter, United States v. Louisiana, et al., 389 U.S. 155 (1967), held that the boundary "as it existed" in 1845 means a fixed line where the boundary was at that time, and that the State is not entitled to measure the historic three-league boundary from harbor works subsequently constructed. In an effort to agree on a proposed decree that would not only effectuate that holding but would also settle the whole Texas boundary, the parties jointly commissioned the Coast and Geodetic Survey to make maps showing the 1845 coast line as nearly as it can be ascertained. However, in drafting a proposed decree embodying a specific boundary measured from the immovable 1845 coast, the United States contended that the maximum limit of three leagues from the coast, imposed by the Submerged Lands Act, is measured from the current, ambulatory coast line, whereas Texas contended that it is measured from the immovable 1845 coast line in the same way that the historic boundary itself is measured. On March 3 the Court sustained the position of the United States. The result is that Texas is entitled to so much of the submerged land within its fixed 1845 boundary as is at any given time within three leagues of the current, ambulatory coast line. As a minimum, the Act also entitles Texas to all submerged land within three miles of the current, ambulatory coast line, even if future accretion or artificial construction extend that beyond the 1845 boundary.

Staff: Deputy Solicitor General Louis F. Claiborne and George S. Swarth (Land & Natural Resources Division)

SUBMERGED LANDS ACT; "COAST LINE" FROM WHICH TO MEASURE SUBMERGED LANDS GRANTED TO STATES IS DEFINED BY INTERNATIONAL LAW PRINCIPLES; REFERENCE TO SPECIAL MASTER ORDERED.

United States v. Louisiana, et al. (Sup. Ct., March 3, 1969; D.J. 90-1-18-260)

United States v. Louisiana, 363 U.S. 1 (1960), had sustained the federal contention that the Submerged Lands Act gave Louisiana only the submerged lands within three miles of the coast, the Federal Government retaining exclusive rights in the resources of the continental shelf beyond that distance. On cross-motions for a supplemental decree to identify the boundary specifically, the Court on March 3 handed down a 63-page opinion, deciding many legal questions and ordering the case referred to a Special Master for further proceedings. The Court adhered to its ruling in United States v. California, 381 U.S. 139 (1965), that the "coast line" referred to in the Submerged Lands Act is the ambulatory baseline of the territorial sea as defined by the Convention on the Territorial Sea and the Contiguous Zone, rejecting Louisiana's request to use the line drawn by the Coast Guard to delimit waters within which the Inland Rules of Navigation must be observed. The latter line is mostly 10 or 20 miles seaward from the Louisiana shore, and would have given the State about 3,000 square miles more of submerged land.

The Court considered and answered in detail some 20 or 30 points of difference as to the meaning of the Convention, leaving for the Special Master one legal question on which it felt need for further materials, together with all questions of fact or application of principles to particular facts. At the Court's invitation, both parties have suggested candidates to serve as Special Master.

Some relatively minor points were decided adversely but this is essentially a victory for the United States and will ultimately entitle it to most of the impounded receipts from the disputed area, now amounting to about $1,300,000,000.

Staff: Special Assistant to the Attorney General Archibald Cox; Deputy Solicitor General Louis F. Claiborne; and George S. Swarth (Land & Natural Resources Division)

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TAX DIVISION

Assistant Attorney General Johnnie M. Walters

DISTRICT COURT

BANKRUPTCY

GOVERNMENT'S RIGHTS UNDER SURETY BOND NOT AFFECTED BY EQUITIES OR OTHER REMEDIES.

In the Matter of Interstate Manufacturing, Inc. (M. D. Ga., In Bankruptcy No. 1625, February 20, 1969; D. J. 5-19M-657) (69-1 U. S. T. C. par. 9333)

Contrary to the orders of court, the Receiver in the Chapter XI phase of this bankruptcy had admittedly not paid over federal withholding taxes while he operated the business. When the arrangement failed and a discharge in bankruptcy ensued, the Government chose not to claim as a creditor and did not participate in final distribution. Instead demand was made on the surety of the Receiver for payment of the taxes, on the theory that the Receiver had violated his court-imposed obligations. Upon refusal, the Government brought its petition for payment before the same bankruptcy court pursuant to Section 50n of the Bankruptcy Act.

The surety strenuously defended on the equitable grounds that the Receiver had never actually received the money, but had merely paid his employees the net amount earned, that this procedure actually benefited the business by prolonging its life and indirectly increasing the amount the United States would have received had it worked out, and that the United States had waived its rights by not seeking payment first from the funds in the estate.

The Referee determined that the contract of the surety was controlling and any violation thereof, despite the equities, required payment to the offended party. The Referee found no requirement that the beneficiary exhaust other remedies before seeking its rights under the surety bond.

Staff: George W. Shaffer, Jr. (Tax Division)

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