speech—its authorship, motivation, and content—that the Court found foreclosed by the Speech or Debate Clause.[456]

However, in *United States v. Brewster*,[457] while continuing to assert that the clause "must be read broadly to effectuate its purpose of protecting the independence of the legislative branch,"[458] the Court substantially reduced the scope of the coverage of the clause. In *Brewster*, the Court upheld the validity of an indictment which charged that a Member had accepted a bribe to be "influenced in his performance of official acts in respect to his action, vote, and decision" on legislation. The Court drew a distinction between a prosecution that caused an inquiry into the motivation for the performance of legislative acts and a prosecution for taking or agreeing to take money for a promise to perform such acts. The former is proscribed, the latter is not.

"Taking a bribe is, obviously, no part of the legislative process or function; it is not a legislative act. It is not, by any conceivable interpretation, an act performed as a part of or even incidental to the role of a legislator. . . . Nor is inquiry into a legislative act or the motivation for a legislative act necessary to a prosecution under this statute or this indictment. When a bribe is taken, it does not matter whether the promise for which the bribe was given was for the performance of a legislative act as here or, as in *Johnson*, for use of a Congressman's influence with the Executive Branch."[459] In other words, it is the fact of having taken a bribe, not the act the bribe is intended to influence, which is the subject of the prosecution, and the Speech or Debate Clause interposes no obstacle to this type of prosecution.[460]

Congressional Employees.—Until recently, the Court distinguished between Members of Congress, who were immune from suit arising out of their legislative activities, and legislative employees

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[456] Reserved was the question whether a prosecution that entailed inquiry into legislative acts or motivation could be founded upon "a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." 383 U.S. at 185. The question was similarly reserved in United States v. Brewster, 408 U.S. 501, 529 n.18 (1972), although Justices Brennan and Douglas would have answered in the negative. Id. at 529, 540.

[457] 408 U.S. 501 (1972).

[458] 408 U.S. at 516.

[459] 408 U.S. at 526.

[460] The holding was reaffirmed in United States v. Helstoski, 442 U.S. 477 (1979). On the other hand, the Court did hold that the protection of the clause is so fundamental that, assuming a Member may waive it, a waiver could be found only after explicit and unequivocal renunciation, rather than by failure to assert it at any particular point. Similarly, Helstoski v. Meanor, 442 U.S. 500 (1979), held that since the clause properly applied is intended to protect a Member from even having to defend himself, he may appeal immediately from a judicial ruling of nonapplicability rather than wait to appeal after conviction.