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GEORGIA *v.* RANDOLPH

CERTIORARI TO THE SUPREME COURT OF GEORGIA

No. 04–1067. Argued November 8, 2005—Decided March 22, 2006

Respondent's estranged wife gave police permission to search the marital residence for items of drug use after respondent, who was also present, had unequivocally refused to give consent. Respondent was indicted for possession of cocaine, and the trial court denied his motion to suppress the evidence as products of a warrantless search unauthorized by consent. The Georgia Court of Appeals reversed. In affirming, the State Supreme Court held that consent given by one occupant is not valid in the face of the refusal of another physically present occupant, and distinguished *United States* v. *Matlock*, 415 U. S. 164, which recognized the permissibility of an entry made with the consent of one co-occupant in the other's absence.

Held: In the circumstances here at issue, a physically present co-occupant's stated refusal to permit entry renders warrantless entry and search unreasonable and invalid as to him. Pp. 109–123.

(a) The Fourth Amendment recognizes a valid warrantless entry and search of a premises when the police obtain the voluntary consent of an occupant who shares, or is reasonably believed to share, common authority over the property, and no present co-tenant objects. *Matlock*, *supra*, at 170; *Illinois* v. *Rodriguez*, 497 U. S. 177, 186. The constant element in assessing Fourth Amendment reasonableness in such cases is the great significance given to widely shared social expectations, which are influenced by property law but not controlled by its rules. Thus, *Matlock* not only holds that a solitary co-inhabitant may sometimes consent to a search of shared premises, but also stands for the proposition that the reasonableness of such a search is in significant part a function of commonly held understandings about the authority that co-inhabitants may exercise in ways that affect each other's interests. Pp. 109–111.

(b) *Matlock*'s example of common understanding is readily apparent. The assumption tenants usually make about their common authority when they share quarters is that any one of them may admit visitors, with the consequence that a guest obnoxious to one may be admitted in his absence. *Matlock* placed no burden on the police to eliminate the possibility of atypical arrangements, absent reason to doubt that the regular scheme was in place. Pp. 111–112.

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(c) This Court took a step toward addressing the issue here when it held in *Minnesota* v. *Olson*, 495 U. S. 91, that overnight houseguests have a legitimate expectation of privacy in their temporary quarters. If that customary expectation is a foundation of a houseguest's Fourth Amendment rights, it should follow that an inhabitant of shared premises may claim at least as much. In fact, a co-inhabitant naturally has an even stronger claim. No sensible person would enter shared premises based on one occupant's invitation when a fellow tenant said to stay out. Such reticence would show not timidity but a realization that when people living together disagree over the use of their common quarters, a resolution must come through voluntary accommodation, not by appeals to authority. Absent some recognized hierarchy, *e. g.*, parent and child, there is no societal or legal understanding of superior and inferior as between co-tenants. Pp. 113–114.

(d) Thus, a disputed invitation, without more, gives an officer no better claim to reasonableness in entering than the officer would have absent any consent. Disputed permission is no match for the Fourth Amendment central value of "respect for the privacy of the home," *Wilson* v. *Layne*, 526 U. S. 603, 610, and the State's other countervailing claims do not add up to outweigh it.

A co-tenant who has an interest in bringing criminal activity to light or in deflecting suspicion from himself can, *e. g.*, tell the police what he knows, for use before a magistrate in getting a warrant. This case, which recognizes limits on evidentiary searches, has no bearing on the capacity of the police, at the invitation of one tenant, to enter a dwelling over another tenant's objection in order to protect a resident from domestic violence. Though alternatives to disputed consent will not always open the door to search for evidence that the police suspect is inside, nothing in social custom or its reflection in private law argues for placing a higher value on delving into private premises to search for evidence in the face of disputed consent, than on requiring clear justification before the government searches private living quarters over a resident's objection. Pp. 114–120.

(e) There are two loose ends. First, while *Matlock*'s explanation for the constitutional sufficiency of a co-tenant's consent to enter and search recognized a co-inhabitant's "right to permit the inspection in his own right," 415 U. S., at 171, n. 7, the right to admit the police is not a right as understood under property law. It is, instead, the authority recognized by customary social usage as having a substantial bearing on Fourth Amendment reasonableness in specific circumstances. The question here is whether customary social understanding accords the consenting tenant authority to prevail over the co-tenant's objection, a question *Matlock* did not answer. Second, a fine line must be drawn to

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avoid undercutting *Matlock*—where the defendant, though not present, was in a squad car not far away—and *Rodriguez*—where the defendant was asleep in the apartment and could have been roused by a knock on the door; if a potential defendant with self-interest in objecting is in fact at the door and objects, the co-tenant's permission does not suffice for a reasonable search, whereas the potential objector, nearby but not part of the threshold colloquy, loses out. Such formalism is justified. So long as there is no evidence that the police have removed the potentially objecting tenant from the entrance specifically to avoid a possible objection, there is practical value in the simple clarity of complementary rules, one recognizing the co-tenant's permission when no fellow occupant is on hand, the other according dispositive weight to the fellow occupant's expressed contrary indication. Pp. 120–122.

(f) Here, respondent's refusal is clear, and nothing in the record justifies the search on grounds independent of his wife's consent. Pp. 122–123.

278 Ga. 614, 604 S. E. 2d 835, affirmed.

SOUTER, J., delivered the opinion of the Court, in which STEVENS, KENNEDY, GINSBURG, and BREYER, JJ., joined. STEVENS, J., *post*, p. 123, and BREYER, J., *post*, p. 125, filed concurring opinions. ROBERTS, C. J., filed a dissenting opinion, in which SCALIA, J., joined, *post*, p. 127. SCALIA, J., *post*, p. 142, and THOMAS, J., *post*, p. 145, filed dissenting opinions. ALITO, J., took no part in the consideration or decision of the case.

Paula K. Smith, Senior Assistant Attorney General of Georgia, argued the cause for petitioner. With her on the briefs were *Thurbert E. Baker*, Attorney General, and *Mary Beth Westmoreland*, Deputy Attorney General.

Deputy Solicitor General Dreeben argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Clement*, *Acting Assistant Attorney General Richter*, *Sri Srinivasan*, and *Deborah Watson*.

Thomas C. Goldstein argued the cause for respondent. With him on the brief were *Amy Howe*, *Kevin K. Russell*, *Donald F. Samuel*, and *Pamela S. Karlan*.*

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*A brief of *amici curiae* urging reversal was filed for the State of Colorado et al. by *John W. Suthers*, Attorney General of Colorado, *John J. Krause*, Interim Solicitor General, and *Rebecca A. Adams*, Assistant At-

JUSTICE SOUTER delivered the opinion of the Court.

The Fourth Amendment recognizes a valid warrantless entry and search of premises when police obtain the voluntary consent of an occupant who shares, or is reasonably believed to share, authority over the area in common with a co-occupant who later objects to the use of evidence so obtained. *Illinois* v. *Rodriguez*, 497 U. S. 177 (1990); *United States* v. *Matlock*, 415 U. S. 164 (1974). The question here is whether such an evidentiary seizure is likewise lawful with the permission of one occupant when the other, who later seeks to suppress the evidence, is present at the scene and expressly refuses to consent. We hold that, in the circumstances here at issue, a physically present co-occupant's stated refusal to permit entry prevails, rendering the warrantless search unreasonable and invalid as to him.

I

Respondent Scott Randolph and his wife, Janet, separated in late May 2001, when she left the marital residence in Americus, Georgia, and went to stay with her parents in Canada, taking their son and some belongings. In July, she returned to the Americus house with the child, though the record does not reveal whether her object was reconciliation or retrieval of remaining possessions.

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torney General, and by the Attorneys General for their respective States as follows: *Troy King* of Alabama, *M. Jane Brady* of Delaware, *Mark J. Bennett* of Hawaii, *Lisa Madigan* of Illinois, *Phill Kline* of Kansas, *J. Joseph Curran, Jr.*, of Maryland, *Michael A. Cox* of Michigan, *Jeremiah W. (Jay) Nixon* of Missouri, *Mike McGrath* of Montana, *Brian Sandoval* of Nevada, *Wayne Stenehjem* of North Dakota, *Jim Petro* of Ohio, *W. A. Drew Edmondson* of Oklahoma, *Hardy Myers* of Oregon, *Thomas W. Corbett, Jr.*, of Pennsylvania, *Lawrence E. Long* of South Dakota, *Mark L. Shurtleff* of Utah, *William Sorrell* of Vermont, *Rob McKenna* of Washington, and *Patrick J. Crank* of Wyoming.

Jeffrey A. Lamken and *Pamela Harris* filed a brief for the National Association of Criminal Defense Lawyers as *amicus curiae* urging affirmance.

On the morning of July 6, she complained to the police that after a domestic dispute her husband took their son away, and when officers reached the house she told them that her husband was a cocaine user whose habit had caused financial troubles. She mentioned the marital problems and said that she and their son had only recently returned after a stay of several weeks with her parents. Shortly after the police arrived, Scott Randolph returned and explained that he had removed the child to a neighbor's house out of concern that his wife might take the boy out of the country again; he denied cocaine use, and countered that it was in fact his wife who abused drugs and alcohol.

One of the officers, Sergeant Murray, went with Janet Randolph to reclaim the child, and when they returned she not only renewed her complaints about her husband's drug use, but also volunteered that there were "'items of drug evidence'" in the house. Brief for Petitioner 3. Sergeant Murray asked Scott Randolph for permission to search the house, which he unequivocally refused.

The sergeant turned to Janet Randolph for consent to search, which she readily gave. She led the officer upstairs to a bedroom that she identified as Scott's, where the sergeant noticed a section of a drinking straw with a powdery residue he suspected was cocaine. He then left the house to get an evidence bag from his car and to call the district attorney's office, which instructed him to stop the search and apply for a warrant. When Sergeant Murray returned to the house, Janet Randolph withdrew her consent. The police took the straw to the police station, along with the Randolphs. After getting a search warrant, they returned to the house and seized further evidence of drug use, on the basis of which Scott Randolph was indicted for possession of cocaine.

He moved to suppress the evidence, as products of a warrantless search of his house unauthorized by his wife's consent over his express refusal. The trial court denied the

motion, ruling that Janet Randolph had common authority to consent to the search.

The Court of Appeals of Georgia reversed, 264 Ga. App. 396, 590 S. E. 2d 834 (2003), and was itself sustained by the State Supreme Court, principally on the ground that "the consent to conduct a warrantless search of a residence given by one occupant is not valid in the face of the refusal of another occupant who is physically present at the scene to permit a warrantless search," 278 Ga. 614, 604 S. E. 2d 835, 836 (2004). The Supreme Court of Georgia acknowledged this Court's holding in *Matlock*, 415 U. S. 164, that "the consent of one who possesses common authority over premises or effects is valid as against the absent, nonconsenting person with whom that authority is shared," *id.*, at 170, and found *Matlock* distinguishable just because Scott Randolph was not "absent" from the colloquy on which the police relied for consent to make the search. The State Supreme Court stressed that the officers in *Matlock* had not been "faced with the physical presence of joint occupants, with one consenting to the search and the other objecting." 278 Ga., at 615, 604 S. E. 2d, at 837. It held that an individual who chooses to live with another assumes a risk no greater than "'an inability to control access to the premises during [his] absence,'" *ibid.* (quoting 3 W. LaFave, Search and Seizure § 8.3(d), p. 731 (3d ed. 1996) (hereinafter LaFave)), and does not contemplate that his objection to a request to search commonly shared premises, if made, will be overlooked.

We granted certiorari to resolve a split of authority on whether one occupant may give law enforcement effective consent to search shared premises, as against a co-tenant who is present and states a refusal to permit the search.[1] 544 U. S. 973 (2005). We now affirm.

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[1] All four Courts of Appeals to have considered this question have concluded that consent remains effective in the face of an express objection. See *United States* v. *Morning*, 64 F. 3d 531, 533–536 (CA9 1995); *United States* v. *Donlin*, 982 F. 2d 31, 33 (CA1 1992); *United States* v. *Hendrix*,

II

To the Fourth Amendment rule ordinarily prohibiting the warrantless entry of a person's house as unreasonable *per se*, *Payton* v. *New York*, 445 U. S. 573, 586 (1980); *Coolidge* v. *New Hampshire*, 403 U. S. 443, 454–455 (1971), one "jealously and carefully drawn" exception, *Jones* v. *United States*, 357 U. S. 493, 499 (1958), recognizes the validity of searches with the voluntary consent of an individual possessing authority, *Rodriguez*, 497 U. S., at 181. That person might be the householder against whom evidence is sought, *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 222 (1973), or a fellow occupant who shares common authority over property, when the suspect is absent, *Matlock*, *supra*, at 170, and the exception for consent extends even to entries and searches with the permission of a co-occupant whom the police reasonably, but erroneously, believe to possess shared authority as an occupant, *Rodriguez*, *supra*, at 186. None of our co-occupant consent-to-search cases, however, has presented the further fact of a second occupant physically present and refusing permission to search, and later moving to suppress evidence so obtained.[2] The significance of such a refusal turns on the underpinnings of the co-occupant consent rule, as recognized since *Matlock*.

A

The defendant in that case was arrested in the yard of a house where he lived with a Mrs. Graff and several of her

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595 F. 2d 883, 885 (CADC 1979) *(per curiam)*; *United States* v. *Sumlin*, 567 F. 2d 684, 687–688 (CA6 1977). Of the state courts that have addressed the question, the majority have reached that conclusion as well. See, *e. g.*, *Love* v. *State*, 355 Ark. 334, 342, 138 S. W. 3d 676, 680 (2003); *Laramie* v. *Hysong*, 808 P. 2d 199, 203–205 (Wyo. 1991); but cf. *State* v. *Leach*, 113 Wash. 2d 735, 744, 782 P. 2d 1035, 1040 (1989) (en banc) (requiring consent of all present co-occupants).

[2] Mindful of the multiplicity of living arrangements, we vary the terms used to describe residential co-occupancies. In so doing we do not mean, however, to suggest that the rule to be applied to them is similarly varied.

relatives, and was detained in a squad car parked nearby. When the police went to the door, Mrs. Graff admitted them and consented to a search of the house. 415 U. S., at 166. In resolving the defendant's objection to use of the evidence taken in the warrantless search, we said that "the consent of one who possesses common authority over premises or effects is valid as against the absent, nonconsenting person with whom that authority is shared." *Id.*, at 170. Consistent with our prior understanding that Fourth Amendment rights are not limited by the law of property, cf. *Katz* v. *United States*, 389 U. S. 347, 352–353 (1967), we explained that the third party's "common authority" is not synonymous with a technical property interest:

> "The authority which justifies the third-party consent does not rest upon the law of property, with its attendant historical and legal refinements, but rests rather on mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched." 415 U. S., at 171, n. 7 (citations omitted).

See also *Frazier* v. *Cupp*, 394 U. S. 731, 740 (1969) ("[I]n allowing [his cousin to share use of a duffel bag] and in leaving it in his house, [the suspect] must be taken to have assumed the risk that [the cousin] would allow someone else to look inside"). The common authority that counts under the Fourth Amendment may thus be broader than the rights accorded by property law, see *Rodriguez*, *supra*, at 181–182 (consent is sufficient when given by a person who reasonably appears to have common authority but who, in fact, has no property interest in the premises searched), although its limits, too, reflect specialized tenancy arrangements apparent to the police, see *Chapman* v. *United States*, 365 U. S.

610 (1961) (landlord could not consent to search of tenant's home).

The constant element in assessing Fourth Amendment reasonableness in the consent cases, then, is the great significance given to widely shared social expectations, which are naturally enough influenced by the law of property, but not controlled by its rules. Cf. *Rakas* v. *Illinois*, 439 U. S. 128, 144, n. 12 (1978) (an expectation of privacy is reasonable if it has "a source outside of the Fourth Amendment, either by reference to concepts of real or personal property law or to understandings that are recognized and permitted by society"). *Matlock* accordingly not only holds that a solitary co-inhabitant may sometimes consent to a search of shared premises, but stands for the proposition that the reasonableness of such a search is in significant part a function of commonly held understanding about the authority that co-inhabitants may exercise in ways that affect each other's interests.

B

Matlock's example of common understanding is readily apparent. When someone comes to the door of a domestic dwelling with a baby at her hip, as Mrs. Graff did, she shows that she belongs there, and that fact standing alone is enough to tell a law enforcement officer or any other visitor that if she occupies the place along with others, she probably lives there subject to the assumption tenants usually make about their common authority when they share quarters. They understand that any one of them may admit visitors, with the consequence that a guest obnoxious to one may nevertheless be admitted in his absence by another. As *Matlock* put it, shared tenancy is understood to include an "assumption of risk," on which police officers are entitled to rely, and although some group living together might make an exceptional arrangement that no one could admit a guest without the agreement of all, the chance of such an eccentric scheme is too remote to expect visitors to investigate a particular

household's rules before accepting an invitation to come in. So, *Matlock* relied on what was usual and placed no burden on the police to eliminate the possibility of atypical arrangements, in the absence of reason to doubt that the regular scheme was in place.

It is also easy to imagine different facts on which, if known, no common authority could sensibly be suspected. A person on the scene who identifies himself, say, as a landlord or a hotel manager calls up no customary understanding of authority to admit guests without the consent of the current occupant. See *Chapman* v. *United States*, *supra* (landlord); *Stoner* v. *California*, 376 U. S. 483 (1964) (hotel manager). A tenant in the ordinary course does not take rented premises subject to any formal or informal agreement that the landlord may let visitors into the dwelling, *Chapman*, *supra*, at 617, and a hotel guest customarily has no reason to expect the manager to allow anyone but his own employees into his room, see *Stoner*, *supra*, at 489; see also *United States* v. *Jeffers*, 342 U. S. 48, 51 (1951) (hotel staff had access to room for purposes of cleaning and maintenance, but no authority to admit police). In these circumstances, neither state-law property rights, nor common contractual arrangements, nor any other source points to a common understanding of authority to admit third parties generally without the consent of a person occupying the premises. And when it comes to searching through bureau drawers, there will be instances in which even a person clearly belonging on premises as an occupant may lack any perceived authority to consent; "a child of eight might well be considered to have the power to consent to the police crossing the threshold into that part of the house where any caller, such as a pollster or salesman, might well be admitted," 4 LaFave § 8.4(c), at 207 (4th ed. 2004), but no one would reasonably expect such a child to be in a position to authorize anyone to rummage through his parents' bedroom.

C

Although we have not dealt directly with the reasonableness of police entry in reliance on consent by one occupant subject to immediate challenge by another, we took a step toward the issue in an earlier case dealing with the Fourth Amendment rights of a social guest arrested at premises the police entered without a warrant or the benefit of any exception to the warrant requirement. *Minnesota* v. *Olson*, 495 U. S. 91 (1990), held that overnight houseguests have a legitimate expectation of privacy in their temporary quarters because "it is unlikely that [the host] will admit someone who wants to see or meet with the guest over the objection of the guest," *id.*, at 99. If that customary expectation of courtesy or deference is a foundation of Fourth Amendment rights of a houseguest, it presumably should follow that an inhabitant of shared premises may claim at least as much, and it turns out that the co-inhabitant naturally has an even stronger claim.

To begin with, it is fair to say that a caller standing at the door of shared premises would have no confidence that one occupant's invitation was a sufficiently good reason to enter when a fellow tenant stood there saying, "stay out." Without some very good reason, no sensible person would go inside under those conditions. Fear for the safety of the occupant issuing the invitation, or of someone else inside, would be thought to justify entry, but the justification then would be the personal risk, the threats to life or limb, not the disputed invitation.[3]

The visitor's reticence without some such good reason would show not timidity but a realization that when people living together disagree over the use of their common quar-

[3] Cf. *Mincey* v. *Arizona*, 437 U. S. 385, 393 (1978) (acknowledging the right of police to respond to emergency situations "threatening life or limb" and indicating that police may conduct a warrantless search provided that the search is "'strictly circumscribed by the exigencies which justify its initiation'").

ters, a resolution must come through voluntary accommodation, not by appeals to authority. Unless the people living together fall within some recognized hierarchy, like a household of parent and child or barracks housing military personnel of different grades, there is no societal understanding of superior and inferior, a fact reflected in a standard formulation of domestic property law, that "[e]ach cotenant . . . has the right to use and enjoy the entire property as if he or she were the sole owner, limited only by the same right in the other cotenants." 7 R. Powell, Powell on Real Property § 50.03[1], p. 50–14 (M. Wolf gen. ed. 2005). The want of any recognized superior authority among disagreeing tenants is also reflected in the law's response when the disagreements cannot be resolved. The law does not ask who has the better side of the conflict; it simply provides a right to any co-tenant, even the most unreasonable, to obtain a decree partitioning the property (when the relationship is one of co-ownership) and terminating the relationship. See, *e. g.*, 2 H. Tiffany, Real Property §§ 468, 473, 474, pp. 297, 307–309 (3d ed. 1939 and 2006 Cum. Supp.). And while a decree of partition is not the answer to disagreement among rental tenants, this situation resembles co-ownership in lacking the benefit of any understanding that one or the other rental co-tenant has a superior claim to control the use of the quarters they occupy together. In sum, there is no common understanding that one co-tenant generally has a right or authority to prevail over the express wishes of another, whether the issue is the color of the curtains or invitations to outsiders.

D

Since the co-tenant wishing to open the door to a third party has no recognized authority in law or social practice to prevail over a present and objecting co-tenant, his disputed invitation, without more, gives a police officer no better claim to reasonableness in entering than the officer would have in the absence of any consent at all. Accordingly, in the bal-

ancing of competing individual and governmental interests entailed by the bar to unreasonable searches, *Camara* v. *Municipal Court of City and County of San Francisco*, 387 U. S. 523, 536–537 (1967), the cooperative occupant's invitation adds nothing to the government's side to counter the force of an objecting individual's claim to security against the government's intrusion into his dwelling place. Since we hold to the "centuries-old principle of respect for the privacy of the home," *Wilson* v. *Layne*, 526 U. S. 603, 610 (1999), "it is beyond dispute that the home is entitled to special protection as the center of the private lives of our people," *Minnesota* v. *Carter*, 525 U. S. 83, 99 (1998) (KENNEDY, J., concurring). We have, after all, lived our whole national history with an understanding of "the ancient adage that a man's house is his castle [to the point that t]he poorest man may in his cottage bid defiance to all the forces of the Crown," *Miller* v. *United States*, 357 U. S. 301, 307 (1958) (internal quotation marks omitted).[4]

Disputed permission is thus no match for this central value of the Fourth Amendment, and the State's other countervailing claims do not add up to outweigh it.[5] Yes, we recognize the consenting tenant's interest as a citizen in bringing crim-

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[4] In the principal dissent's view, the centuries of special protection for the privacy of the home are over. The dissent equates inviting the police into a co-tenant's home over his contemporaneous objection with reporting a secret, *post*, at 142 (opinion of ROBERTS, C. J.), and the emphasis it places on the false equation suggests a deliberate intent to devalue the importance of the privacy of a dwelling place. The same attitude that privacy of a dwelling is not special underlies the dissent's easy assumption that privacy shared with another individual is privacy waived for all purposes including warrantless searches by the police. *Post*, at 131.

[5] A generalized interest in expedient law enforcement cannot, without more, justify a warrantless search. See *Mincey*, *supra*, at 393 ("[T]he privacy of a person's home and property may not be totally sacrificed in the name of maximum simplicity in enforcement of the criminal law"); *Coolidge* v. *New Hampshire*, 403 U. S. 443, 481 (1971) ("The warrant requirement . . . is not an inconvenience to be somehow 'weighed' against the claims of police efficiency").

inal activity to light, see *Coolidge*, 403 U. S., at 488 ("[I]t is no part of the policy underlying the Fourth . . . Amendmen[t] to discourage citizens from aiding to the utmost of their ability in the apprehension of criminals"). And we understand a co-tenant's legitimate self-interest in siding with the police to deflect suspicion raised by sharing quarters with a criminal, see 4 LaFave § 8.3(d), at 162, n. 72 ("The risk of being convicted of possession of drugs one knows are present and has tried to get the other occupant to remove is by no means insignificant"); cf. *Schneckloth*, 412 U. S., at 243 (evidence obtained pursuant to a consent search "may insure that a wholly innocent person is not wrongly charged with a criminal offense").

But society can often have the benefit of these interests without relying on a theory of consent that ignores an inhabitant's refusal to allow a warrantless search. The co-tenant acting on his own initiative may be able to deliver evidence to the police, *Coolidge*, *supra*, at 487–489 (suspect's wife retrieved his guns from the couple's house and turned them over to the police), and can tell the police what he knows, for use before a magistrate in getting a warrant.[6] The reliance

[6] Sometimes, of course, the very exchange of information like this in front of the objecting inhabitant may render consent irrelevant by creating an exigency that justifies immediate action on the police's part; if the objecting tenant cannot be incapacitated from destroying easily disposable evidence during the time required to get a warrant, see *Illinois* v. *McArthur*, 531 U. S. 326, 331–332 (2001) (denying suspect access to his trailer home while police applied for a search warrant), a fairly perceived need to act on the spot to preserve evidence may justify entry and search under the exigent circumstances exception to the warrant requirement, cf. *Schmerber* v. *California*, 384 U. S. 757, 770–771 (1966) (warrantless search permitted when "the delay necessary to obtain a warrant . . . threatened the destruction of evidence" (internal quotation marks omitted)).

Additional exigent circumstances might justify warrantless searches. See, *e. g.*, *Warden, Md. Penitentiary* v. *Hayden*, 387 U. S. 294, 298 (1967) (hot pursuit); *Chimel* v. *California*, 395 U. S. 752 (1969) (protecting the safety of the police officers); *Michigan* v. *Tyler*, 436 U. S. 499 (1978) (immi-

on a co-tenant's information instead of disputed consent accords with the law's general partiality toward "police action taken under a warrant [as against] searches and seizures without one," *United States* v. *Ventresca*, 380 U. S. 102, 107 (1965); "the informed and deliberate determinations of magistrates empowered to issue warrants as to what searches and seizures are permissible under the Constitution are to be preferred over the hurried action of officers," *United States* v. *Lefkowitz*, 285 U. S. 452, 464 (1932).

Nor should this established policy of Fourth Amendment law be undermined by the principal dissent's claim that it shields spousal abusers and other violent co-tenants who will refuse to allow the police to enter a dwelling when their victims ask the police for help, *post*, at 138 (opinion of ROBERTS, C. J.) (hereinafter the dissent). It is not that the dissent exaggerates violence in the home; we recognize that domestic abuse is a serious problem in the United States. See U. S. Dept. of Justice, National Institute of Justice, P. Tjaden & N. Thoennes, Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women 25–26 (2000) (noting that over 20 million women and 6 million men will, in the course of their lifetimes, be the victims of intimate-partner abuse); U. S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Costs of Intimate Partner Violence Against Women in the United States 19 (2003) (finding that nearly 5.3 million intimate-partner victimizations, which result in close to 2 million injuries and 1,300 deaths, occur among women in the United States each year); U. S. Dept. of Justice, Bureau of Justice Statistics, Crime Data Brief, C. Rennison, Intimate Partner Violence, 1993–2001 (Feb. 2003) (noting that in 2001 intimate-partner violence made up 20% of violent crime against women); see also Becker, The Politics of Women's

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nent destruction to building); *Johnson* v. *United States*, 333 U. S. 10, 15 (1948) (likelihood that suspect will imminently flee).

Wrongs and the Bill of "Rights": A Bicentennial Perspective, 59 U. Chi. L. Rev. 453, 507–508 (1992) (noting that women may feel physical insecurity in their homes as a result of abuse from domestic partners).

But this case has no bearing on the capacity of the police to protect domestic victims. The dissent's argument rests on the failure to distinguish two different issues: when the police may enter without committing a trespass, and when the police may enter to search for evidence. No question has been raised, or reasonably could be, about the authority of the police to enter a dwelling to protect a resident from domestic violence; so long as they have good reason to believe such a threat exists, it would be silly to suggest that the police would commit a tort by entering, say, to give a complaining tenant the opportunity to collect belongings and get out safely, or to determine whether violence (or threat of violence) has just occurred or is about to (or soon will) occur, however much a spouse or other co-tenant objected. (And since the police would then be lawfully in the premises, there is no question that they could seize any evidence in plain view or take further action supported by any consequent probable cause, see *Texas* v. *Brown*, 460 U. S. 730, 737–739 (1983) (plurality opinion).) Thus, the question whether the police might lawfully enter over objection in order to provide any protection that might be reasonable is easily answered yes. See 4 LaFave § 8.3(d), at 161 ("[E]ven when . . . two persons quite clearly have equal rights in the place, as where two individuals are sharing an apartment on an equal basis, there may nonetheless sometimes exist a basis for giving greater recognition to the interests of one over the other. . . . [W]here the defendant has victimized the third-party . . . the emergency nature of the situation is such that the third-party consent should validate a warrantless search despite defendant's objections" (internal quotation marks omitted; third omission in original)). The undoubted right of the po-

lice to enter in order to protect a victim, however, has nothing to do with the question in this case, whether a search with the consent of one co-tenant is good against another, standing at the door and expressly refusing consent.[7]

None of the cases cited by the dissent support its improbable view that recognizing limits on merely evidentiary searches would compromise the capacity to protect a fearful occupant. In the circumstances of those cases, there is no danger that the fearful occupant will be kept behind the closed door of the house simply because the abusive tenant refuses to consent to a search. See *United States* v. *Donlin*, 982 F. 2d 31, 32 (CA1 1992) (victimized individual was already outside of her apartment when police arrived and, for all intents and purposes, within the protective custody of law enforcement officers); *United States* v. *Hendrix*, 595 F. 2d 883, 885–886 (CADC 1979) *(per curiam)* (even if the consent of the threatened co-occupant did not justify a warrantless search, the police entry was nevertheless allowable on exigent circumstances grounds); *People* v. *Sanders*, 904 P. 2d 1311, 1313–1315 (Colo. 1995) (en banc) (victimized individual gave her consent to search away from her home and was not present at the time of the police visit; alternatively, exigent circumstances existed to satisfy the warrantless exception); *Brandon* v. *State*, 778 P. 2d 221, 223–224 (Alaska App. 1989) (victimized individual consented away from her home and was not present at the time of the police visit); *United States* v. *Davis*, 290 F. 3d 1239, 1241 (CA10 2002) (immediate harm extinguished after husband "order[ed]" wife out of the home).

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[7] We understand the possibility that a battered individual will be afraid to express fear candidly, but this does not seem to be a reason to think such a person would invite the police into the dwelling to search for evidence against another. Hence, if a rule crediting consent over denial of consent were built on hoping to protect household victims, it would distort the Fourth Amendment with little, if any, constructive effect on domestic abuse investigations.

The dissent's red herring aside, we know, of course, that alternatives to disputed consent will not always open the door to search for evidence that the police suspect is inside. The consenting tenant may simply not disclose enough information, or information factual enough, to add up to a showing of probable cause, and there may be no exigency to justify fast action. But nothing in social custom or its reflection in private law argues for placing a higher value on delving into private premises to search for evidence in the face of disputed consent, than on requiring clear justification before the government searches private living quarters over a resident's objection. We therefore hold that a warrantless search of a shared dwelling for evidence over the express refusal of consent by a physically present resident cannot be justified as reasonable as to him on the basis of consent given to the police by another resident.[8]

E

There are two loose ends, the first being the explanation given in *Matlock* for the constitutional sufficiency of a cotenant's consent to enter and search: it "rests . . . on mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right . . . ." 415 U. S., at 171, n. 7. If *Matlock*'s co-tenant is giving permission "in his own right," how can his "own right" be eliminated by another tenant's objection? The answer appears in the very footnote from which the quoted statement is taken: the "right" to admit the police to which *Matlock* refers is not an enduring and enforceable ownership right as understood by the

[8] The dissent is critical that our holding does not pass upon the constitutionality of such a search as to a third tenant against whom the government wishes to use evidence seized after a search with consent of one co-tenant subject to the contemporaneous objection of another, *post,* at 137. We decide the case before us, not a different one.

private law of property, but is instead the authority recognized by customary social usage as having a substantial bearing on Fourth Amendment reasonableness in specific circumstances. Thus, to ask whether the consenting tenant has the right to admit the police when a physically present fellow tenant objects is not to question whether some property right may be divested by the mere objection of another. It is, rather, the question whether customary social understanding accords the consenting tenant authority powerful enough to prevail over the co-tenant's objection. The *Matlock* Court did not purport to answer this question, a point made clear by another statement (which the dissent does not quote): the Court described the co-tenant's consent as good against "the absent, nonconsenting" resident. *Id.*, at 170.

The second loose end is the significance of *Matlock* and *Rodriguez* after today's decision. Although the *Matlock* defendant was not present with the opportunity to object, he was in a squad car not far away; the *Rodriguez* defendant was actually asleep in the apartment, and the police might have roused him with a knock on the door before they entered with only the consent of an apparent co-tenant. If those cases are not to be undercut by today's holding, we have to admit that we are drawing a fine line; if a potential defendant with self-interest in objecting is in fact at the door and objects, the co-tenant's permission does not suffice for a reasonable search, whereas the potential objector, nearby but not invited to take part in the threshold colloquy, loses out.

This is the line we draw, and we think the formalism is justified. So long as there is no evidence that the police have removed the potentially objecting tenant from the entrance for the sake of avoiding a possible objection, there is practical value in the simple clarity of complementary rules, one recognizing the co-tenant's permission when there is no fellow occupant on hand, the other according dispositive weight to the fellow occupant's contrary indication when he

expresses it. For the very reason that *Rodriguez* held it would be unjustifiably impractical to require the police to take affirmative steps to confirm the actual authority of a consenting individual whose authority was apparent, we think it would needlessly limit the capacity of the police to respond to ostensibly legitimate opportunities in the field if we were to hold that reasonableness required the police to take affirmative steps to find a potentially objecting co-tenant before acting on the permission they had already received. There is no ready reason to believe that efforts to invite a refusal would make a difference in many cases, whereas every co-tenant consent case would turn into a test about the adequacy of the police's efforts to consult with a potential objector. Better to accept the formalism of distinguishing *Matlock* from this case than to impose a requirement, time consuming in the field and in the courtroom, with no apparent systemic justification. The pragmatic decision to accept the simplicity of this line is, moreover, supported by the substantial number of instances in which suspects who are asked for permission to search actually consent,[9] albeit imprudently, a fact that undercuts any argument that the police should try to locate a suspected inhabitant because his denial of consent would be a foregone conclusion.

III

This case invites a straightforward application of the rule that a physically present inhabitant's express refusal of consent to a police search is dispositive as to him, regardless of

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[9] See 4 LaFave § 8.1, at 4 ("The so-called consent search is frequently relied upon by police as a means of investigating suspected criminal conduct" (footnote omitted)); Strauss, Reconstructing Consent, 92 J. Crim. L. & C. 211, 214 (2001–2002) ("Although precise figures detailing the number of searches conducted pursuant to consent are not—and probably can never be—available, there is no dispute that these type of searches affect tens of thousands, if not hundreds of thousands, of people every year" (footnote omitted)).

the consent of a fellow occupant. Scott Randolph's refusal is clear, and nothing in the record justifies the search on grounds independent of Janet Randolph's consent. The State does not argue that she gave any indication to the police of a need for protection inside the house that might have justified entry into the portion of the premises where the police found the powdery straw (which, if lawfully seized, could have been used when attempting to establish probable cause for the warrant issued later). Nor does the State claim that the entry and search should be upheld under the rubric of exigent circumstances, owing to some apprehension by the police officers that Scott Randolph would destroy evidence of drug use before any warrant could be obtained.

The judgment of the Supreme Court of Georgia is therefore affirmed.

It is so ordered.

JUSTICE ALITO took no part in the consideration or decision of this case.

JUSTICE STEVENS, concurring.

The study of history for the purpose of ascertaining the original understanding of constitutional provisions is much like the study of legislative history for the purpose of ascertaining the intent of the lawmakers who enact statutes. In both situations the facts uncovered by the study are usually relevant but not necessarily dispositive. This case illustrates why even the most dedicated adherent to an approach to constitutional interpretation that places primary reliance on the search for original understanding would recognize the relevance of changes in our society.

At least since 1604 it has been settled that in the absence of exigent circumstances, a government agent has no right to enter a "house" or "castle" unless authorized to do so by a valid warrant. See *Semayne's Case*, 5 Co. Rep. 91a, 77 Eng. Rep. 194 (K. B.). Every occupant of the home has a

right—protected by the common law for centuries and by the Fourth Amendment since 1791—to refuse entry. When an occupant gives his or her consent to enter, he or she is waiving a valuable constitutional right. To be sure that the waiver is voluntary, it is sound practice—a practice some Justices of this Court thought necessary to make the waiver voluntary[1]—for the officer to advise the occupant of that right.[2] The issue in this case relates to the content of the advice that the officer should provide when met at the door by a man and a woman who are apparently joint tenants or joint owners of the property.

In the 18th century, when the Fourth Amendment was adopted, the advice would have been quite different from what is appropriate today. Given the then-prevailing dramatic differences between the property rights of the husband and the far lesser rights of the wife, only the consent of the husband would matter. Whether "the master of the house" consented or objected, his decision would control. Thus if "original understanding" were to govern the outcome of this case, the search was clearly invalid because the husband did not consent. History, however, is not dispositive because it is now clear, as a matter of constitutional law, that

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[1] See, *e. g.*, *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 284–285 (1973) (Marshall, J., dissenting) (pointing out that it is hard to comprehend "how a decision made without knowledge of available alternatives can be treated as a choice at all," and arguing that "[i]f consent to search means that a person has chosen to forgo his right to exclude the police from the place they seek to search, it follows that his consent cannot be considered a meaningful choice unless he knew that he could in fact exclude the police").

[2] Such advice is surely preferable to an officer's expression of his or her desire to enter and to search in words that may be construed either as a command or a question. See *id.*, at 275–276 (Douglas, J., dissenting) (noting that "'[u]nder many circumstances a reasonable person might read an officer's "May I" as the courteous expression of a demand backed by force of law'" (quoting *Bustamonte* v. *Schneckloth*, 448 F. 2d 699, 701 (CA9 1971))).

the male and the female are equal partners. *Reed* v. *Reed*, 404 U. S. 71 (1971).

In today's world the only advice that an officer could properly give should make it clear that each of the partners has a constitutional right that he or she may independently assert or waive. Assuming that both spouses are competent, neither one is a master possessing the power to override the other's constitutional right to deny entry to their castle.

With these observations, I join the Court's opinion.

JUSTICE BREYER, concurring.

If Fourth Amendment law forced us to choose between two bright-line rules, (1) a rule that always found one tenant's consent sufficient to justify a search without a warrant and (2) a rule that never did, I believe we should choose the first. That is because, as THE CHIEF JUSTICE's dissent points out, a rule permitting such searches can serve important law enforcement needs (for example, in domestic abuse cases), and the consenting party's joint tenancy diminishes the objecting party's reasonable expectation of privacy.

But the Fourth Amendment does not insist upon bright-line rules. Rather, it recognizes that no single set of legal rules can capture the ever-changing complexity of human life. It consequently uses the general terms "unreasonable searches and seizures." And this Court has continuously emphasized that "[r]easonableness . . . is measured . . . by examining the totality of the circumstances." *Ohio* v. *Robinette*, 519 U. S. 33, 39 (1996); see also *Illinois* v. *Wardlow*, 528 U. S. 119, 136 (2000) (STEVENS, J., concurring in part and dissenting in part); *Florida* v. *Bostick*, 501 U. S. 429, 439 (1991); *Michigan* v. *Chesternut*, 486 U. S. 567, 572–573 (1988); *Florida* v. *Royer*, 460 U. S. 491, 506 (1983) (plurality opinion).

The circumstances here include the following: The search at issue was a search solely for evidence. The objecting

party was present and made his objection known clearly and directly to the officers seeking to enter the house. The officers did not justify their search on grounds of possible evidence destruction. Cf. *Thornton* v. *United States*, 541 U. S. 615, 620–622 (2004); *Skinner* v. *Railway Labor Executives' Assn.*, 489 U. S. 602, 623 (1989); *Schmerber* v. *California*, 384 U. S. 757, 770–771 (1966). And, as far as the record reveals, the officers might easily have secured the premises and sought a warrant permitting them to enter. See *Illinois* v. *McArthur*, 531 U. S. 326 (2001). Thus, the "totality of the circumstances" present here do not suffice to justify abandoning the Fourth Amendment's traditional hostility to police entry into a home without a warrant.

I stress the totality of the circumstances, however, because, were the circumstances to change significantly, so should the result. The Court's opinion does not apply where the objector is not present "and object[ing]." *Ante*, at 121.

Moreover, the risk of an ongoing crime or other exigent circumstance can make a critical difference. Consider, for example, instances of domestic abuse. See *ante*, at 117–118. "Family disturbance calls . . . constitute the largest single category of calls received by police departments each year." Mederer & Gelles, Compassion or Control: Intervention in Cases of Wife Abuse, 4 J. of Interpersonal Violence 25 (Mar. 1989) (emphasis deleted); see also, *e. g.*, Office of the Attorney General, California Criminal Justice Statistics Center, Domestic Violence Related Calls for Assistance, 1987–2003, County by Year, http://ag.ca.gov/cjsc/publications/misc/dvsr/tabs/ 8703.pdf (as visited Mar. 1, 2006, and available in Clerk of Court's case file) (providing data showing that California police received an average of 207,848 domestic violence related calls each year); Cessato, Defenders Against Domestic Abuse, Washington Post, Aug. 25, 2002, p. B8 ("In the District [of Columbia], police report that almost half of roughly 39,000 violent crime calls received in 2000 involved domestic violence"); Zorza, Women Battering: High Costs

and the State of the Law, Clearinghouse Review 383, 385 (Special Issue 1994) ("One-third of all police time is spent responding to domestic disturbance calls"). And, law enforcement officers must be able to respond effectively when confronted with the possibility of abuse.

If a possible abuse victim invites a responding officer to enter a home or consents to the officer's entry request, that invitation (or consent) itself could reflect the victim's fear about being left alone with an abuser. It could also indicate the availability of evidence, in the form of an immediate willingness to speak, that might not otherwise exist. In that context, an invitation (or consent) would provide a special reason for immediate, rather than later, police entry. And, entry following invitation or consent by one party ordinarily would be reasonable even in the face of direct objection by the other. That being so, contrary to THE CHIEF JUSTICE's suggestion, *post*, at 139, today's decision will not adversely affect ordinary law enforcement practices.

Given the case-specific nature of the Court's holding, and with these understandings, I join the Court's holding and its opinion.

CHIEF JUSTICE ROBERTS, with whom JUSTICE SCALIA joins, dissenting.

The Court creates constitutional law by surmising what is typical when a social guest encounters an entirely atypical situation. The rule the majority fashions does not implement the high office of the Fourth Amendment to protect privacy, but instead provides protection on a random and happenstance basis, protecting, for example, a co-occupant who happens to be at the front door when the other occupant consents to a search, but not one napping or watching television in the next room. And the cost of affording such random protection is great, as demonstrated by the recurring cases in which abused spouses seek to authorize police entry into a home they share with a nonconsenting abuser.

The correct approach to the question presented is clearly mapped out in our precedents: The Fourth Amendment protects privacy. If an individual shares information, papers, *or places* with another, he assumes the risk that the other person will in turn share access to that information or those papers *or places* with the government. And just as an individual who has shared illegal plans or incriminating documents with another cannot interpose an objection when that other person turns the information over to the government, just because the individual happens to be present at the time, so too someone who shares a place with another cannot interpose an objection when that person decides to grant access to the police, simply because the objecting individual happens to be present.

A warrantless search is reasonable if police obtain the voluntary consent of a person authorized to give it. Cooccupants have "assumed the risk that one of their number might permit [a] common area to be searched." *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974). Just as Mrs. Randolph could walk upstairs, come down, and turn her husband's cocaine straw over to the police, she can consent to police entry and search of what is, after all, her home, too.

I

In *Illinois* v. *Rodriguez*, 497 U. S. 177 (1990), this Court stated that "[w]hat [a person] is assured by the Fourth Amendment . . . is not that no government search of his house will occur unless he consents; but that no such search will occur that is 'unreasonable.'" *Id.*, at 183. One element that can make a warrantless government search of a home "'reasonable'" is voluntary consent. *Id.*, at 184; *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 219 (1973). Proof of voluntary consent "is not limited to proof that consent was given by the defendant," but the government "may show that permission to search was obtained from a third party who possessed common authority over or other sufficient re-

lationship to the premises." *Matlock*, *supra*, at 171. Today's opinion creates an exception to this otherwise clear rule: A third-party consent search is unreasonable, and therefore constitutionally impermissible, if the co-occupant against whom evidence is obtained was present and objected to the entry and search.

This exception is based on what the majority describes as "widely shared social expectations" that "when people living together disagree over the use of their common quarters, a resolution must come through voluntary accommodation." *Ante*, at 111, 113–114. But this fundamental predicate to the majority's analysis gets us nowhere: Does the objecting co-tenant accede to the consenting co-tenant's wishes, or the other way around? The majority's assumption about voluntary accommodation simply leads to the common stalemate of two gentlemen insisting that the other enter a room first.

Nevertheless, the majority is confident in assuming—confident enough to incorporate its assumption into the Constitution—that an invited social guest who arrives at the door of a shared residence, and is greeted by a disagreeable co-occupant shouting "'stay out,'" would simply go away. *Ante*, at 113. The Court observes that "no sensible person would go inside under those conditions," *ibid.*, and concludes from this that the inviting co-occupant has no "authority" to insist on getting her way over the wishes of her co-occupant, *ante*, at 114. But it seems equally accurate to say—based on the majority's conclusion that one does not have a right to prevail over the express wishes of his co-occupant—that the objector has no "authority" to insist on getting *his* way over his co-occupant's wish that her guest be admitted.

The fact is that a wide variety of differing social situations can readily be imagined, giving rise to quite different social expectations. A relative or good friend of one of two feuding roommates might well enter the apartment over the objection of the other roommate. The reason the invitee

appeared at the door also affects expectations: A guest who came to celebrate an occupant's birthday, or one who had traveled some distance for a particular reason, might not readily turn away simply because of a roommate's objection. The nature of the place itself is also pertinent: Invitees may react one way if the feuding roommates share one room, differently if there are common areas from which the objecting roommate could readily be expected to absent himself. Altering the numbers might well change the social expectations: Invitees might enter if two of three co-occupants encourage them to do so, over one dissenter.

The possible scenarios are limitless, and slight variations in the fact pattern yield vastly different expectations about whether the invitee might be expected to enter or to go away. Such shifting expectations are not a promising foundation on which to ground a constitutional rule, particularly because the majority has no support for its basic assumption—that an invited guest encountering two disagreeing co-occupants would flee—beyond a hunch about how people would typically act in an atypical situation.

And in fact the Court has not looked to such expectations to decide questions of consent under the Fourth Amendment, but only to determine when a search has occurred and whether a particular person has standing to object to a search. For these latter inquiries, we ask whether a person has a subjective expectation of privacy in a particular place, and whether "the expectation [is] one that society is prepared to recognize as 'reasonable.'" *Katz* v. *United States*, 389 U. S. 347, 361 (1967) (Harlan, J., concurring); see *Minnesota* v. *Olson*, 495 U. S. 91, 95–96, 100 (1990) (extending *Katz* test to standing inquiry). But the social expectations concept has not been applied to all questions arising under the Fourth Amendment, least of all issues of consent. A criminal might have a strong expectation that his longtime confidant will not allow the government to listen to their private conversations, but however profound his shock might be

upon betrayal, government monitoring with the confidant's consent is reasonable under the Fourth Amendment. See *United States* v. *White*, 401 U. S. 745, 752 (1971) (plurality opinion).

The majority suggests that "widely shared social expectations" are a "constant element in assessing Fourth Amendment reasonableness," *ante*, at 111 (citing *Rakas* v. *Illinois*, 439 U. S. 128, 144, n. 12 (1978)), but that is not the case; the Fourth Amendment precedents the majority cites refer instead to a "legitimate expectation of *privacy*," *id.*, at 143, n. 12 (emphasis added; internal quotation marks omitted). Whatever social expectation the majority seeks to protect, it is not one of privacy. The very predicate giving rise to the question in cases of shared information, papers, containers, or places is that privacy has been shared with another. Our common social expectations may well be that the other person will not, in turn, share what we have shared with them with another—including the police—but that is the risk we take in sharing. If two friends share a locker and one keeps contraband inside, he might trust that his friend will not let others look inside. But by sharing private space, privacy has "already been frustrated" with respect to the lockermate. *United States* v. *Jacobsen*, 466 U. S. 109, 117 (1984). If two roommates share a computer and one keeps pirated software on a shared drive, he might assume that his roommate will not inform the government. But that person has given up his privacy with respect to his roommate by saving the software on their shared computer.

A wide variety of often subtle social conventions may shape expectations about how we act when another shares with us what is otherwise private, and those conventions go by a variety of labels—courtesy, good manners, custom, protocol, even honor among thieves. The Constitution, however, protects not these but privacy, and once privacy has been shared, the shared information, documents, or places remain private only at the discretion of the confidant.

II

Our cases reflect this understanding. In *United States* v. *White*, we held that one party to a conversation can consent to government eavesdropping, and statements made by the other party will be admissible at trial. 401 U. S., at 752. This rule is based on privacy: "Inescapably, one contemplating illegal activities must realize and risk that his companions may be reporting to the police. . . . [I]f he has no doubts, or allays them, or risks what doubt he has, the risk is his." *Ibid.*

The Court has applied this same analysis to objects and places as well. In *Frazier* v. *Cupp*, 394 U. S. 731 (1969), a duffel bag "was being used jointly" by two cousins. *Id.*, at 740. The Court held that the consent of one was effective to result in the seizure of evidence used against both: "[I]n allowing [his cousin] to use the bag and in leaving it in his house, [the defendant] must be taken to have assumed the risk that [his cousin] would allow someone else to look inside." *Ibid.*

As the Court explained in *United States* v. *Jacobsen*, *supra:*

> "It is well settled that when an individual reveals private information to another, he assumes the risk that his confidant will reveal that information to the authorities, and if that occurs the Fourth Amendment does not prohibit governmental use of that information. Once frustration of the original expectation of privacy occurs, the Fourth Amendment does not prohibit governmental use of the now nonprivate information: 'This Court has held repeatedly that the Fourth Amendment does not prohibit the obtaining of information revealed to a third party and conveyed by him to Government authorities, even if the information is revealed on the assumption that it will be used only for a limited purpose and the confidence placed in a third party will not be betrayed.' "

Id., at 117 (quoting *United States* v. *Miller*, 425 U. S. 435, 443 (1976)).

The same analysis applies to the question whether our privacy can be compromised by those with whom we share common living space. If a person keeps contraband in common areas of his home, he runs the risk that his co-occupants will deliver the contraband to the police. In *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971), Mrs. Coolidge retrieved four of her husband's guns and the clothes he was wearing the previous night and handed them over to police. We held that these items were properly admitted at trial because "when Mrs. Coolidge of her own accord produced the guns and clothes for inspection, . . . it was not incumbent on the police to stop her or avert their eyes." *Id.*, at 489.

Even in our most private relationships, our observable actions and possessions are private at the discretion of those around us. A husband can request that his wife not tell a jury about contraband that she observed in their home or illegal activity to which she bore witness, but it is she who decides whether to invoke the testimonial marital privilege. *Trammel* v. *United States*, 445 U. S. 40, 53 (1980). In *Trammel*, we noted that the former rule prohibiting a wife from testifying about her husband's observable wrongdoing at his say-so "goes far beyond making 'every man's house his castle,' and permits a person to convert his house into 'a den of thieves.'" *Id.*, at 51–52 (quoting 5 J. Bentham, Rationale of Judicial Evidence 340 (1827)).

There is no basis for evaluating physical searches of shared space in a manner different from how we evaluated the privacy interests in the foregoing cases, and in fact the Court has proceeded along the same lines in considering such searches. In *Matlock*, police arrested the defendant in the front yard of a house and placed him in a squad car, and then obtained permission from Mrs. Graff to search a shared bedroom for evidence of Matlock's bank robbery. 415 U. S., at 166. Police certainly could have assumed that Matlock

would have objected were he consulted as he sat handcuffed in the squad car outside. And in *Rodriguez*, where Miss Fischer offered to facilitate the arrest of her sleeping boyfriend by admitting police into an apartment she apparently shared with him, 497 U. S., at 179, police might have noted that this entry was undoubtedly contrary to Rodriguez's social expectations. Yet both of these searches were reasonable under the Fourth Amendment because Mrs. Graff had authority, and Miss Fischer apparent authority, to admit others into areas over which they exercised control, despite the almost certain wishes of their *present* co-occupants.

The common thread in our decisions upholding searches conducted pursuant to third-party consent is an understanding that a person "assume[s] the risk" that those who have access to and control over his shared property might consent to a search. *Matlock*, 415 U. S., at 171, n. 7. In *Matlock*, we explained that this assumption of risk is derived from a third party's "joint access or control for most purposes" of shared property. *Ibid.* And we concluded that shared use of property makes it "reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right." *Ibid.*

In this sense, the risk assumed by a joint occupant is comparable to the risk assumed by one who reveals private information to another. If a person has incriminating information, he can keep it private in the face of a request from police to share it, because he has that right under the Fifth Amendment. If a person occupies a house with incriminating information in it, he can keep that information private in the face of a request from police to search the house, because he has that right under the Fourth Amendment. But if he shares the information—or the house—with another, that other can grant access to the police in each instance.[1]

[1] The majority considers this comparison to be a "false equation," and even discerns "a deliberate intent to devalue the importance of the privacy of a dwelling place." *Ante*, at 115, n. 4. But the differences between the

To the extent a person wants to ensure that his possessions will be subject to a consent search only due to his *own* consent, he is free to place these items in an area over which others do *not* share access and control, be it a private room or a locked suitcase under a bed. Mr. Randolph acknowledged this distinction in his motion to suppress, where he differentiated his law office from the rest of the Randolph house by describing it as an area that "was solely in his control and dominion." App. 3. As to a "common area," however, co-occupants with "joint access or control" may consent to an entry and search. *Matlock*, *supra*, at 171, n. 7.

By emphasizing the objector's presence and noting an occupant's understanding that obnoxious guests might "be admitted in [one's] absence," *ante*, at 111, the majority appears to resurrect an agency theory of consent suggested in our early cases. See *Stoner* v. *California*, 376 U. S. 483, 489 (1964) (stating that a hotel clerk could not consent to a search of a guest's room because the guest had not waived his rights

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majority and this dissent reduce to this: Under the majority's view, police may not enter and search when an objecting co-occupant is *present at the door*, but they *may* do so when he is asleep in the next room; under our view, the co-occupant's consent is effective in both cases. It seems a bit overwrought to characterize the former approach as affording great protection to a man in his castle, the latter as signaling that "the centuries of special protection for the privacy of the home are over." *Ibid.* The Court in *United States* v. *Matlock*, 415 U. S. 164 (1974), drew the same comparison the majority faults today, see *id.*, at 171, n. 7, and the "deliberate intent" the majority ascribes to this dissent is apparently shared by all Courts of Appeals and the great majority of State Supreme Courts to have considered the question, see *ante*, at 108–109, n. 1.

The majority also mischaracterizes this dissent as assuming that "privacy shared with another individual is privacy waived for all purposes including warrantless searches by the police." *Ante*, at 115, n. 4. The point, of course, is not that a person waives his privacy by sharing space with others such that police may enter at will, but that sharing space necessarily entails a limited yielding of privacy *to the person with whom the space is shared*, such that the other person shares authority to consent to a search of the shared space. See *supra*, at 128, 132–136.

"by word or deed, either directly or through an agent"); *Chapman* v. *United States*, 365 U. S. 610, 616–617 (1961). This agency theory is belied by the facts of *Matlock* and *Rodriguez*—both defendants were present but simply not asked for consent—and the Court made clear in those cases that a co-occupant's authority to consent rested not on an absent occupant's delegation of choice to an agent, but on the consenting co-occupant's "joint access or control" of the property. *Matlock*, *supra*, at 171, n. 7; see *Rodriguez*, *supra*, at 181; *United States* v. *McAlpine*, 919 F. 2d 1461, 1464, n. 2 (CA10 1990) ("[A]gency analysis [was] put to rest by the Supreme Court's reasoning in *Matlock*").

The law acknowledges that although we might not expect our friends and family to admit the government into common areas, sharing space entails risk. A person assumes the risk that his co-occupants—just as they might report his illegal activity or deliver his contraband to the government—might consent to a search of areas over which they have access and control. See *United States* v. *Karo*, 468 U. S. 705, 726 (1984) (O'Connor, J., concurring in part and concurring in judgment) (finding it a "relatively easy case . . . when two persons share identical, overlapping privacy interests in a particular place, container, or conversation. Here *both* share the power to surrender each other's privacy to a third party").

III

The majority states its rule as follows: "[A] warrantless search of a shared dwelling for evidence over the express refusal of consent by a physically present resident cannot be justified as reasonable as to him on the basis of consent given to the police by another resident." *Ante*, at 120.

Just as the source of the majority's rule is not privacy, so too the interest it protects cannot reasonably be described as such. That interest is not protected if a co-owner happens to be absent when the police arrive, in the backyard gardening, asleep in the next room, or listening to music

through earphones so that only his co-occupant hears the knock on the door. That the rule is so random in its application confirms that it bears no real relation to the privacy protected by the Fourth Amendment. What the majority's rule protects is not so much privacy as the good luck of a co-owner who just happens to be present at the door when the police arrive. Usually when the development of Fourth Amendment jurisprudence leads to such arbitrary lines, we take it as a signal that the rules need to be rethought. See *California* v. *Acevedo*, 500 U. S. 565, 574, 580 (1991). We should not embrace a rule at the outset that its *sponsors* appreciate will result in drawing fine, formalistic lines. See *ante*, at 121.

Rather than draw such random and happenstance lines—and pretend that the Constitution decreed them—the more reasonable approach is to adopt a rule acknowledging that shared living space entails a limited yielding of privacy to others, and that the law historically permits those to whom we have yielded our privacy to in turn cooperate with the government. Such a rule flows more naturally from our cases concerning Fourth Amendment reasonableness and is logically grounded in the concept of privacy underlying that Amendment.

The scope of the majority's rule is not only arbitrary but obscure as well. The majority repeats several times that a present co-occupant's refusal to permit entry renders the search unreasonable and invalid "as to him." *Ante*, at 106, 120, 122. This implies entry and search would be reasonable "as to" someone else, presumably the consenting co-occupant and any other absent co-occupants. The normal Fourth Amendment rule is that items discovered in plain view are admissible if the officers were legitimately on the premises; if the entry and search were reasonable "as to" Mrs. Randolph, based on her consent, it is not clear why the cocaine straw should not be admissible "as to" Mr. Randolph, as discovered in plain view during a legitimate search "as

to" Mrs. Randolph. The majority's differentiation between entry focused on discovering whether domestic violence has occurred (and the consequent authority to seize items in plain view), and entry focused on searching for evidence of other crime, is equally puzzling. See *ante*, at 118–119. This Court has rejected subjective motivations of police officers in assessing Fourth Amendment questions, see *Whren* v. *United States*, 517 U. S. 806, 812–813 (1996), with good reason: The police do not need a particular reason to ask for consent to search, whether for signs of domestic violence or evidence of drug possession.

While the majority's rule protects something random, its consequences are particularly severe. The question presented often arises when innocent co-tenants seek to disassociate or protect themselves from ongoing criminal activity. See, *e. g.*, *United States* v. *Hendrix*, 595 F. 2d 883, 884 (CADC 1979) *(per curiam)* (wife asked police "'to get her baby and take [a] sawed-off shotgun out of her house'"); *People* v. *Cosme*, 48 N. Y. 2d 286, 288–289, 293, 397 N. E. 2d 1319, 1320, 1323 (1979) (woman asked police to remove cocaine and a gun from a shared closet); *United States* v. *Botsch*, 364 F. 2d 542, 547 (CA2 1966). Under the majority's rule, there will be many cases in which a consenting co-occupant's wish to have the police enter is overridden by an objection from another present co-occupant. What does the majority imagine will happen, in a case in which the consenting co-occupant is concerned about the other's criminal activity, once the door clicks shut? The objecting co-occupant may pause briefly to decide whether to destroy any evidence of wrongdoing or to inflict retribution on the consenting co-occupant first, but there can be little doubt that he will attend to both in short order. It is no answer to say that the consenting co-occupant can depart with the police; remember that it is her home, too, and the other co-occupant's very presence, which allowed him to object, may also prevent the consenting co-occupant from doing more than urging the police to enter.

Perhaps the most serious consequence of the majority's rule is its operation in domestic abuse situations, a context in which the present question often arises. See *Rodriguez*, 497 U. S., at 179; *United States* v. *Donlin*, 982 F. 2d 31 (CA1 1992); *Hendrix*, *supra; People* v. *Sanders*, 904 P. 2d 1311 (Colo. 1995) (en banc); *Brandon* v. *State*, 778 P. 2d 221 (Alaska App. 1989). While people living together might typically be accommodating to the wishes of their co-tenants, requests for police assistance may well come from co-inhabitants who are having a disagreement. The Court concludes that because "no sensible person would go inside" in the face of disputed consent, *ante*, at 113, and the consenting co-tenant thus has "no recognized authority" to insist on the guest's admission, *ante*, at 114, a "police officer [has] no better claim to reasonableness in entering than the officer would have in the absence of any consent at all," *ibid.* But the police officer's superior claim to enter is obvious: Mrs. Randolph did not invite the police to join her for dessert and coffee; the officer's precise purpose in knocking on the door was to assist with a dispute between the Randolphs—one in which Mrs. Randolph felt the need for the protective presence of the police. The majority's rule apparently forbids police from entering to assist with a domestic dispute if the abuser whose behavior prompted the request for police assistance objects.[2]

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[2] In response to this concern, the majority asserts that its rule applies "merely [to] evidentiary searches." *Ante*, at 119. But the fundamental premise of the majority's argument is that an inviting co-occupant has "no recognized authority" to "open the door" over a co-occupant's objection. *Ante*, at 114; see also *ante*, at 106 ("[A] physically present co-occupant's stated refusal to permit *entry* prevails, rendering the warrantless search unreasonable and invalid as to him" (emphasis added)); *ante*, at 113 ("[A] caller standing at the door of shared premises would have no confidence . . . to *enter* when a fellow tenant stood there saying 'stay out'" (emphasis added)); *ante*, at 114 ("[A] disputed invitation, without more, gives a police officer no . . . claim to reasonableness in *entering*" (emphasis added)). The point is that the majority's rule transforms what may have begun as a

The majority acknowledges these concerns, but dismisses them on the ground that its rule can be expected to give rise to exigent situations, and police can then rely on an exigent circumstances exception to justify entry. *Ante*, at 116–117, n. 6. This is a strange way to justify a rule, and the fact that alternative justifications for entry might arise does not show that entry pursuant to consent is unreasonable. In addition, it is far from clear that an exception for emergency entries suffices to protect the safety of occupants in domestic disputes. See, *e. g.*, *United States* v. *Davis*, 290 F. 3d 1239, 1240–1241 (CA10 2002) (finding no exigent circumstances justifying entry when police responded to a report of domestic abuse, officers heard no noise upon arrival, defendant told officers that his wife was out of town, and wife then appeared at the door seemingly unharmed but resisted husband's efforts to close the door).

Rather than give effect to a consenting spouse's authority to permit entry into her house to avoid such situations, the majority again alters established Fourth Amendment rules to defend giving veto power to the objecting spouse. In response to the concern that police might be turned away under its rule before entry can be justified based on exigency, the majority creates a new rule: A "good reason" to enter, coupled with one occupant's consent, will ensure that a police officer is "lawfully in the premises." *Ante*, at 118. As support for this "consent plus a good reason" rule, the majority cites a treatise, which itself refers only to *emergency* entries. *Ibid.* (citing 4 W. LaFave, Search and Seizure § 8.3(d), p. 161 (4th ed. 2004)). For the sake of defending what it concedes are fine, formalistic lines, the ma-

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request for consent to conduct an evidentiary search into something else altogether, by giving veto power over the consenting co-occupant's wishes to an occupant who would exclude the police from *entry*. The majority would afford the now quite vulnerable consenting co-occupant sufficient time to gather her belongings and leave, see *ante*, at 118, apparently putting to one side the fact that it is her castle, too.

jority spins out an entirely new framework for analyzing exigent circumstances. Police may now enter with a "good reason" to believe that "violence (or threat of violence) has just occurred or is about to (or soon will) occur." *Ante*, at 118. And apparently a key factor allowing entry with a "good reason" short of exigency is the very consent of one co-occupant the majority finds so inadequate in the first place.

The majority's analysis alters a great deal of established Fourth Amendment law. The majority imports the concept of "social expectations," previously used only to determine when a search has occurred and whether a particular person has standing to object to a search, into questions of consent. *Ante*, at 111, 113. To determine whether entry and search are reasonable, the majority considers a police officer's subjective motive in asking for consent, which we have otherwise refrained from doing in assessing Fourth Amendment questions. *Ante*, at 118. And the majority creates a new exception to the warrant requirement to justify warrantless entry short of exigency in potential domestic abuse situations. *Ibid.*

Considering the majority's rule is solely concerned with protecting a person who happens to be present at the door when a police officer asks his co-occupant for consent to search, but not one who is asleep in the next room or in the backyard gardening, the majority has taken a great deal of pain in altering Fourth Amendment doctrine, for precious little (if any) gain in privacy. Perhaps one day, as the consequences of the majority's analytic approach become clearer, today's opinion will be treated the same way the majority treats our opinions in *Matlock* and *Rodriguez*—as a "loose end" to be tied up. *Ante*, at 121.

One of the concurring opinions states that if it had to choose between a rule that a co-tenant's consent was valid or a rule that it was not, it would choose the former. *Ante*, at 125 (opinion of BREYER, J.). The concurrence advises,

however, that "no single set of legal rules can capture the ever-changing complexity of human life," *ibid.*, and joins what becomes the majority opinion, "[g]iven the case-specific nature of the Court's holding," *ante*, at 127. What the majority establishes, in its own terms, is "*the rule* that a physically present inhabitant's express refusal of consent to a police search *is dispositive* as to him, regardless of the consent of a fellow occupant." *Ante*, at 122–123 (emphasis added). The concurrence joins with the apparent "understandin[g]" that the majority's "rule" is not a rule at all, but simply a "case-specific" holding. *Ante*, at 127 (opinion of BREYER, J.). The end result is a complete lack of practical guidance for the police in the field, let alone for the lower courts.

* * *

Our third-party consent cases have recognized that a person who shares common areas with others "assume[s] the risk that one of their number might permit the common area to be searched." *Matlock*, 415 U. S., at 171, n. 7. The majority reminds us, in high tones, that a man's home is his castle, *ante*, at 115, but even under the majority's rule, it is not his castle if he happens to be absent, asleep in the keep, or otherwise engaged when the constable arrives at the gate. Then it is his co-owner's castle. And, of course, it is not his castle if he wants to consent to entry, but his co-owner objects. Rather than constitutionalize such an arbitrary rule, we should acknowledge that a decision to share a private place, like a decision to share a secret or a confidential document, necessarily entails the risk that those with whom we share may in turn choose to share—for their own protection or for other reasons—with the police.

I respectfully dissent.

JUSTICE SCALIA, dissenting.

I join the dissent of THE CHIEF JUSTICE, but add these few words in response to JUSTICE STEVENS' concurrence.

It is not as clear to me as it is to JUSTICE STEVENS that, at the time the Fourth Amendment was adopted, a police officer could enter a married woman's home over her objection, and could not enter with only her consent. Nor is it clear to me that the answers to these questions depended solely on who owned the house. It is entirely clear, however, that *if* the matter *did* depend solely on property rights, a latter-day alteration of property rights would also produce a latter-day alteration of the Fourth Amendment outcome—without altering the Fourth Amendment itself.

JUSTICE STEVENS' attempted critique of originalism confuses the original import of the Fourth Amendment with the background sources of law to which the Amendment, on its original meaning, referred. From the date of its ratification until well into the 20th century, violation of the Amendment was tied to common-law trespass. See *Kyllo* v. *United States*, 533 U. S. 27, 31–32 (2001); see also *California* v. *Acevedo*, 500 U. S. 565, 581, 583 (1991) (SCALIA, J., concurring in judgment). On the basis of that connection, someone who had power to license the search of a house by a private party could authorize a police search. See 1 Restatement of Torts § 167, and Comment *b* (1934); see also *Williams* v. *Howard*, 110 S. C. 82, 96 S. E. 251 (1918); *Fennemore* v. *Armstrong*, 29 Del. 35, 96 A. 204 (Super. Ct. 1915). The issue of *who* could give such consent generally depended, in turn, on "historical and legal refinements" of property law. *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974). As property law developed, individuals who previously could not authorize a search might become able to do so, and those who once could grant such consent might no longer have that power. But changes in the law of property to which the Fourth Amendment referred would not alter the Amendment's meaning: that anyone capable of authorizing a search by a private party could consent to a warrantless search by the police.

There is nothing new or surprising in the proposition that our unchanging Constitution refers to other bodies of law that might themselves change. The Fifth Amendment provides, for instance, that "private property" shall not "be taken for public use, without just compensation"; but it does not purport to define property rights. We have consistently held that "the existence of a property interest is determined by reference to 'existing rules or understandings that stem from an independent source such as state law.'" *Phillips* v. *Washington Legal Foundation*, 524 U. S. 156, 164 (1998) (quoting *Board of Regents of State Colleges* v. *Roth*, 408 U. S. 564, 577 (1972)). The same is true of the Fourteenth Amendment Due Process Clause's protection of "property." See *Castle Rock* v. *Gonzales*, 545 U. S. 748, 756 (2005). This reference to changeable law presents no problem for the originalist. No one supposes that the *meaning* of the Constitution changes as States expand and contract property rights. If it is indeed true, therefore, that a wife in 1791 could not authorize the search of her husband's house, the fact that current property law provides otherwise is no more troublesome for the originalist than the well-established fact that a State must compensate its takings of even those property rights that did not exist at the time of the founding.

In any event, JUSTICE STEVENS' panegyric to the *equal* rights of women under modern property law does not support his conclusion that "[a]ssuming . . . both spouses are competent, neither one is a master possessing the power to override the other's constitutional right to deny entry to their castle." *Ante*, at 125. The issue at hand is what to do when there is a *conflict* between two equals. Now that women have authority to consent, as JUSTICE STEVENS claims men alone once did, it does not follow that the spouse who *refuses* consent should be the winner of the contest. JUSTICE STEVENS could just as well have followed the same historical developments to the opposite conclusion: Now that

"the male and the female are equal partners," *ibid.*, and women can consent to a search of their property, men can no longer obstruct their wishes. Men and women are no more "equal" in the majority's regime, where both sexes can veto each other's consent, than on the dissent's view, where both sexes cannot.

Finally, I must express grave doubt that today's decision deserves JUSTICE STEVENS' celebration as part of the forward march of women's equality. Given the usual patterns of domestic violence, how often can police be expected to encounter the situation in which a man urges them to enter the home while a woman simultaneously demands that they stay out? The most common practical effect of today's decision, insofar as the contest between the sexes is concerned, is to give men the power to stop women from allowing police into their homes—which is, curiously enough, *precisely* the power that JUSTICE STEVENS disapprovingly presumes men had in 1791.

JUSTICE THOMAS, dissenting.

The Court has long recognized that "[i]t is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement." *Miranda* v. *Arizona*, 384 U. S. 436, 477–478 (1966). Consistent with this principle, the Court held in *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971), that no Fourth Amendment search occurs where, as here, the spouse of an accused voluntarily leads the police to potential evidence of wrongdoing by the accused. *Id.*, at 486–490. Because *Coolidge* squarely controls this case, the Court need not address whether police could permissibly have conducted a general search of the Randolph home, based on Mrs. Randolph's consent. I respectfully dissent.

In the instant case, Mrs. Randolph told police responding to a domestic dispute that respondent was using a substan-

tial quantity of cocaine. Upon police request, she consented to a general search of her residence to investigate her statements. However, as the Court's recitation of the facts demonstrates, *ante*, at 107, the record is clear that no such general search occurred. Instead, Sergeant Brett Murray asked Mrs. Randolph where the cocaine was located, and she showed him to an upstairs bedroom, where he saw the "piece of cut straw" on a dresser. Corrected Tr. of Motion to Suppression Hearing in Case No. 2001R–699 (Super. Ct. Sumter Cty., Ga., Oct. 3, 2002), pp. 8–9. Upon closer examination, Sergeant Murray observed white residue on the straw, and concluded the straw had been used for ingesting cocaine. *Id.*, at 8. He then collected the straw and the residue as evidence. *Id.*, at 9.

Sergeant Murray's entry into the Randolphs' home at the invitation of Mrs. Randolph to be shown evidence of respondent's cocaine use does not constitute a Fourth Amendment search. Under this Court's precedents, only the action of an agent of the government can constitute a search within the meaning of the Fourth Amendment, because that Amendment "was intended as a restraint upon the activities of *sovereign authority*, and was not intended to be a limitation upon other than governmental agencies." *Burdeau* v. *McDowell*, 256 U. S. 465, 475 (1921) (emphasis added). See also *Coolidge*, 403 U. S., at 487. Applying this principle in *Coolidge*, the Court held that when a citizen leads police officers into a home shared with her spouse to show them evidence relevant to their investigation into a crime, that citizen is not acting as an agent of the police, and thus no Fourth Amendment search has occurred. *Id.*, at 488–498.

Review of the facts in *Coolidge* clearly demonstrates that it governs this case. While the police interrogated Coolidge as part of their investigation into a murder, two other officers were sent to his house to speak with his wife. *Id.*, at 485. During the course of questioning Mrs. Coolidge, the

police asked whether her husband owned any guns. *Id.*, at 486. Mrs. Coolidge replied in the affirmative, and offered to retrieve the weapons for the police, apparently operating under the assumption that doing so would help to exonerate her husband. *Ibid.* The police accompanied Mrs. Coolidge to the bedroom to collect the guns, as well as clothing that Mrs. Coolidge told them her husband had been wearing the night of the murder. *Ibid.*

Before this Court, Coolidge argued that the evidence of the guns and clothing should be suppressed as the product of an unlawful search because Mrs. Coolidge was acting as an "'instrument,'" or agent, of the police by complying with a "'demand'" made by them. *Id.*, at 487. The Court recognized that, had Mrs. Coolidge sought out the guns to give to police wholly on her own initiative, "there can be no doubt under existing law that the articles would later have been admissible in evidence." *Ibid.* That she did so in cooperation with police pursuant to their request did not transform her into their agent; after all, "it is no part of the policy underlying the Fourth and Fourteenth Amendments to discourage citizens from aiding to the utmost of their ability in the apprehension of criminals." *Id.*, at 488. Because the police were "acting normally and properly" when they asked about any guns, and questioning Mrs. Coolidge about the clothing was "logical and in no way coercive," the Fourth Amendment did not require police to "avert their eyes" when Mrs. Coolidge produced the guns and clothes for inspection.[1] *Id.*, at 488–489.

[1] Although the Court has described *Coolidge* as a "'third party consent'" case, *United States* v. *Matlock*, 415 U. S. 164, 171 (1974), the Court's opinion, by its own terms, does not rest on its conception of Mrs. Coolidge's authority to consent to a search of her house or the possible relevance of Mr. Coolidge's absence from the scene. *Coolidge*, 403 U. S., at 487 ("[W]e need not consider the petitioner's further argument that Mrs. Coolidge could not or did not 'waive' her husband's constitutional protection against unreasonable searches and seizures"). See also *Walter* v. *United States*,

This case is indistinguishable from *Coolidge*, compelling the conclusion that Mrs. Randolph was not acting as an agent of the police when she admitted Sergeant Murray into her home and led him to the incriminating evidence.[2] Just as Mrs. Coolidge could, of her own accord, have offered her husband's weapons and clothing to the police without implicating the Fourth Amendment, so too could Mrs. Randolph have simply retrieved the straw from the house and given it to Sergeant Murray. Indeed, the majority appears to concede as much. *Ante*, at 116 ("The co-tenant acting on his own initiative may be able to deliver evidence to the police, *Coolidge*, *supra*, at 487–489 . . . , and can tell the police what he knows, for use before a magistrate in getting a warrant"). Drawing a constitutionally significant distinction between what occurred here and Mrs. Randolph's independent production of the relevant evidence is both inconsistent with *Coolidge* and unduly formalistic.[3]

Accordingly, the trial court appropriately denied respondent's motion to suppress the evidence Mrs. Randolph pro-

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447 U. S. 649, 660–661, n. 2 (1980) (White, J., concurring in part and concurring in judgment) ("Similarly, in *Coolidge* v. *New Hampshire*, the Court held that a wife's voluntary action in turning over to police her husband's guns and clothing did not constitute a search and seizure by the government").

[2] The Courts of Appeals have disagreed over the appropriate inquiry to be performed in determining whether involvement of the police transforms a private individual into an agent or instrument of the police. See *United States* v. *Pervaz*, 118 F. 3d 1, 5–6 (CA1 1997) (summarizing approaches of various Circuits). The similarity between this case and *Coolidge* avoids any need to resolve this broader dispute in the present case.

[3] That Sergeant Murray, unlike the officers in *Coolidge*, may have intended to perform a general search of the house is inconsequential, as he ultimately did not do so; he viewed only those items shown to him by Mrs. Randolph. Nor is it relevant that, while Mrs. Coolidge intended to aid the police in apprehending a criminal because she believed doing so would exonerate her husband, Mrs. Randolph believed aiding the police would implicate her husband.

vided to the police and the evidence obtained as a result of the consequent search warrant. I would therefore reverse the judgment of the Supreme Court of Georgia.

ARIZONA *v.* CALIFORNIA ET AL.

ON BILL OF COMPLAINT

No. 8, Orig. Decided June 3, 1963—Decree entered March 9, 1964—Amended decree entered February 28, 1966—Decided and supplemental decree entered January 9, 1979—Decided March 30, 1983—Second supplemental decree entered April 16, 1984—Decided June 19, 2000—Supplemental decree entered October 10, 2000—Consolidated decree entered March 27, 2006

Supplemental decree entered.

Opinion reported: 373 U. S. 546; decree reported: 376 U. S. 340; amended decree reported: 383 U. S. 268; opinion and supplemental decree reported: 439 U. S. 419; opinion reported: 460 U. S. 605; second supplemental decree reported: 466 U. S. 144; opinion reported: 530 U. S. 392; supplemental decree reported: 531 U. S. 1.

The final settlement agreements are approved, the joint motion for entry of decree is granted, and the proposed consolidated decree is entered. Frank J. McGarr, Esq., of Downers Grove, Illinois, the Special Master in this case, is hereby discharged with the thanks of the Court.

CONSOLIDATED DECREE

On January 19, 1953, the Court granted the State of Arizona leave to file a bill of complaint against the State of California and seven of its public agencies, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, Metropolitan Water District of Southern California, City of Los Angeles, City of San Diego, and County of San Diego. 344 U. S. 919. The United States and the State of Nevada intervened. 344 U. S. 919 (1953) (intervention by the United States); 347 U. S. 985 (1954) (intervention by Nevada). The State of New Mexico and the State of Utah were joined as parties. 350 U. S. 114, 115 (1955). The Court referred the case to George I. Haight, Esquire, and upon his death to Simon H. Rifkind, Esquire, as Special Master. 347 U. S. 986 (1954); 350 U. S.

812 (1955). On January 16, 1961, the Court received and ordered filed the report of Special Master Rifkind. 364 U. S. 940. On June 3, 1963, the Court filed an opinion in the case, 373 U. S. 546, and on March 9, 1964, the Court entered a decree in the case. 376 U. S. 340.

On February 28, 1966, the Court granted the joint motion of the parties to amend Article VI of the decree, and so amended Article VI to extend the time for submission of lists of present perfected rights. 383 U. S. 268.

On January 9, 1979, the Court filed an opinion granting the joint motion for entry of a supplemental decree, entered a supplemental decree, denied in part the motion to intervene of the Fort Mojave Indian Tribe, and otherwise referred the case and the motions to intervene of the Fort Mojave Indian Tribe and the Colorado River Indian Tribes, et al., to Judge Elbert Tuttle as Special Master. 439 U. S. 419, 437. On April 5, 1982, the Court received and ordered filed the report of Special Master Tuttle. 456 U. S. 912. On March 30, 1983, the Court filed an opinion rendering a decision on the several exceptions to the report of the Special Master, approving the recommendation that the Fort Mojave Indian Tribe, the Chemehuevi Indian Tribe, the Colorado River Indian Tribes, the Quechan Tribe, and the Cocopah Indian Tribe be permitted to intervene, and approving some of his further recommendations and disapproving others, 460 U. S. 605, 609, 615. On April 16, 1984, the Court entered a second supplemental decree implementing that decision. 466 U. S. 144.

On October 10, 1989, the Court granted the motion of the state parties to reopen the decree to determine the disputed boundary claims with respect to the Fort Mojave, Colorado River, and Fort Yuma Indian Reservations. 493 U. S. 886. The case was referred to Robert B. McKay, Esquire, and upon his death to Frank McGarr, Esquire, as Special Master. 493 U. S. 971 (1989); 498 U. S. 964 (1990). On October 4, 1999, the Court received and ordered filed the report of Special Master McGarr. 528 U. S. 803. On June 19, 2000, the Court filed an opinion rendering a decision on the several

exceptions to the report of the Special Master, approving the settlements of the parties with respect to the Fort Mojave and Colorado River Indian Reservations and remanding the case to the Special Master with respect to the Fort Yuma Indian Reservation. 530 U. S. 392, 418, 419–420. On October 10, 2000, the Court entered a supplemental decree. 531 U. S. 1.

On June 14, 2005, Special Master McGarr submitted his report recommending approval of the settlements of the federal reserved water rights claim with respect to the Fort Yuma Indian Reservation and a proposed supplemental decree to implement those settlements.

The State of Arizona, the State of California, the Metropolitan Water District of Southern California, Coachella Valley Water District, the United States, and the Quechan Tribe, at the direction of the Court, have filed a joint motion to enter a consolidated decree.

This decree consolidates the substantive provisions of the decrees previously entered in this action at 376 U. S. 340 (1964), 383 U. S. 268 (1966), 439 U. S. 419 (1979), 466 U. S. 144 (1984), and 531 U. S. 1 (2000), implements the settlements of the federal reserved water rights claim for the Fort Yuma Indian Reservation, which the Court has approved this date, and reflects changes in the names of certain parties and Indian reservations. This decree is entered in order to provide a single convenient reference to ascertain the rights and obligations of the parties adjudicated in this original proceeding, and reflects only the incremental changes in the original 1964 decree by subsequent decrees and the settlements of the federal reserved water rights claim for the Fort Yuma Indian Reservation.

Accordingly,

IT IS ORDERED, ADJUDGED, AND DECREED

Except where the text of this decree differs from the previous decrees, this decree does not vacate the previous de-

crees nor alter any of their substantive provisions, and all mandates, injunctions, obligations, privileges, and requirements of this decree are deemed to remain effective as of the date of their respective entry in the prior decrees. Entry of this decree shall not affect the validity or effect of, nor affect any right or obligation under, any existing statute, regulation, policy, administrative order, contract, or judicial decision or judgment in other actions that references any of the previous decrees, and any such reference shall be construed as a reference to the congruent provisions of this decree.

I. For purposes of this decree:

(A) "Consumptive use" means diversions from the stream less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican Treaty obligation;

(B) "Mainstream" means the mainstream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon;

(C) Consumptive use from the mainstream within a State shall include all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping, and including, but not limited to, consumptive uses made by persons, by agencies of that State, and by the United States for the benefit of Indian reservations and other federal establishments within the State;

(D) "Regulatory structures controlled by the United States" refers to Hoover Dam, Davis Dam, Parker Dam, Headgate Rock Dam, Palo Verde Dam, Imperial Dam, Laguna Dam, and all other dams and works on the mainstream now or hereafter controlled or operated by the United States which regulate the flow of water in the mainstream or the diversion of water from the mainstream;

(E) "Water controlled by the United States" refers to the water in Lake Mead, Lake Mohave, Lake Havasu, and all

other water in the mainstream below Lee Ferry and within the United States;

(F) "Tributaries" means all stream systems the waters of which naturally drain into the mainstream of the Colorado River below Lee Ferry;

(G) "Perfected right" means a water right acquired in accordance with state law, which right has been exercised by the actual diversion of a specific quantity of water that has been applied to a defined area of land or to definite municipal or industrial works, and in addition shall include water rights created by the reservation of mainstream water for the use of federal establishments under federal law whether or not the water has been applied to beneficial use;

(H) "Present perfected rights" means perfected rights, as here defined, existing as of June 25, 1929, the effective date of the Boulder Canyon Project Act;

(I) "Domestic use" shall include the use of water for household, stock, municipal, mining, milling, industrial, and other like purposes, but shall exclude the generation of electrical power;

(J) "Annual" and "Year," except where the context may otherwise require, refer to calendar years;

(K) Consumptive use of water diverted in one State for consumptive use in another State shall be treated as if diverted in the State for whose benefit it is consumed.

II. The United States, its officers, attorneys, agents and employees be and they are hereby severally enjoined:

(A) From operating regulatory structures controlled by the United States and from releasing water controlled by the United States other than in accordance with the following order of priority:

(1) For river regulation, improvement of navigation, and flood control;

(2) For irrigation and domestic uses, including the satisfaction of present perfected rights; and

(3) For power;

Provided, however, that the United States may release water in satisfaction of its obligations to the United States of Mexico under the Treaty dated February 3, 1944, without regard to the priorities specified in this subdivision (A);

(B) From releasing water controlled by the United States for irrigation and domestic use in the States of Arizona, California, and Nevada, except as follows:

(1) If sufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy 7,500,000 acre-feet of annual consumptive use in the aforesaid three States, then of such 7,500,000 acre-feet of consumptive use, there shall be apportioned 2,800,000 acre-feet for use in Arizona, 4,400,000 acre-feet for use in California, and 300,000 acre-feet for use in Nevada;

(2) If sufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy annual consumptive use in the aforesaid States in excess of 7,500,000 acre-feet, such excess consumptive use is surplus, and 50% thereof shall be apportioned for use in Arizona and 50% for use in California; provided, however, that if the United States so contracts with Nevada, then 46% of such surplus shall be apportioned for use in Arizona and 4% for use in Nevada;

(3) If insufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy annual consumptive use of 7,500,000 acre-feet in the aforesaid three States, then the Secretary of the Interior, after providing for satisfaction of present perfected rights in the order of their priority dates without regard to state lines and after consultation with the parties to major delivery contracts and such representatives as the respective States may designate, may ap-

portion the amount remaining available for consumptive use in such manner as is consistent with the Boulder Canyon Project Act as interpreted by the opinion of this Court herein, and with other applicable federal statutes, but in no event shall more than 4,400,000 acre-feet be apportioned for use in California including all present perfected rights;

(4) Any mainstream water consumptively used within a State shall be charged to its apportionment, regardless of the purpose for which it was released;

(5) Notwithstanding the provisions of Paragraphs (1) through (4) of this subdivision (B), mainstream water shall be released or delivered to water users (including but not limited to public and municipal corporations and other public agencies) in Arizona, California, and Nevada only pursuant to valid contracts therefor made with such users by the Secretary of the Interior, pursuant to Section 5 of the Boulder Canyon Project Act or any other applicable federal statute;

(6) If, in any one year, water apportioned for consumptive use in a State will not be consumed in that State, whether for the reason that delivery contracts for the full amount of the State's apportionment are not in effect or that users cannot apply all of such water to beneficial uses, or for any other reason, nothing in this decree shall be construed as prohibiting the Secretary of the Interior from releasing such apportioned but unused water during such year for consumptive use in the other States. No rights to the recurrent use of such water shall accrue by reason of the use thereof;

(C) From applying the provisions of Article 7(d) of the Arizona water delivery contract dated February 9, 1944, and the provisions of Article 5(a) of the Nevada water delivery contract dated March 30, 1942, as amended by the contract dated January 3, 1944, to reduce the apportionment or delivery of mainstream water to users within the States of Ari-

zona and Nevada by reason of any uses in such States from the tributaries flowing therein;

(D) From releasing water controlled by the United States for use in the States of Arizona, California, and Nevada for the benefit of any federal establishment named in this subdivision (D) except in accordance with the allocations made herein; provided, however, that such release may be made notwithstanding the provisions of Paragraph (5) of subdivision (B) of this Article; and provided further that nothing herein shall prohibit the United States from making future additional reservations of mainstream water for use in any of such States as may be authorized by law and subject to present perfected rights and rights under contracts theretofore made with water users in such State under Section 5 of the Boulder Canyon Project Act or any other applicable federal statute:

(1) The Chemehuevi Indian Reservation in annual quantities not to exceed (i) 11,340 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 1,900 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of February 2, 1907;

(2) The Cocopah Indian Reservation in annual quantities not to exceed (i) 9,707 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 1,524 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with priority dates of September 27, 1917, for lands reserved by the Executive Order of said date; June 24, 1974, for lands reserved by the Act of June 24, 1974 (88 Stat. 266, 269);

(3) The Fort Yuma Indian Reservation in annual quantities not to exceed (i) 77,966 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required

for irrigation of 11,694 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of January 9, 1884;

(4) The Colorado River Indian Reservation in annual quantities not to exceed (i) 719,248 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 107,903 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with priority dates of March 3, 1865, for lands reserved by the Act of March 3, 1865 (13 Stat. 541, 559); November 22, 1873, for lands reserved by the Executive Order of said date; November 16, 1874, for lands reserved by the Executive Order of said date, except as later modified; May 15, 1876, for lands reserved by the Executive Order of said date; November 22, 1915, for lands reserved by the Executive Order of said date;

(5) The Fort Mojave Indian Reservation in annual quantities not to exceed (i) 132,789 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 20,544 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with priority dates of September 19, 1890, for lands transferred by the Executive Order of said date; February 2, 1911, for lands reserved by the Executive Order of said date;

(6) The Lake Mead National Recreation Area in annual quantities reasonably necessary to fulfill the purposes of the Recreation Area, with priority dates of May 3, 1929, for lands reserved by the Executive Order of said date (No. 5105), and April 25, 1930, for lands reserved by the Executive Order of said date (No. 5339);

(7) The Havasu Lake National Wildlife Refuge in annual quantities reasonably necessary to fulfill the purposes of the Refuge, not to exceed (i) 41,839 acre-feet of

water diverted from the mainstream or (ii) 37,339 acre-feet of consumptive use of mainstream water, whichever of (i) or (ii) is less, with a priority date of January 22, 1941, for lands reserved by the Executive Order of said date (No. 8647), and a priority date of February 11, 1949, for land reserved by the Public Land Order of said date (No. 559);

(8) The Imperial National Wildlife Refuge in annual quantities reasonably necessary to fulfill the purposes of the Refuge not to exceed (i) 28,000 acre-feet of water diverted from the mainstream or (ii) 23,000 acre-feet of consumptive use of mainstream water, whichever of (i) or (ii) is less, with a priority date of February 14, 1941;

(9) Boulder City, Nevada, as authorized by the Act of September 2, 1958, 72 Stat. 1726, with a priority date of May 15, 1931;

Provided, further, that consumptive uses from the mainstream for the benefit of the above-named federal establishments shall, except as necessary to satisfy present perfected rights in the order of their priority dates without regard to state lines, be satisfied only out of water available, as provided in subdivision (B) of this Article, to each State wherein such uses occur and subject to, in the case of each reservation, such rights as have been created prior to the establishment of such reservation by contracts executed under Section 5 of the Boulder Canyon Project Act or any other applicable federal statute.

III. The States of Arizona, California, and Nevada, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California, City of Los Angeles, City of San Diego, and County of San Diego, and all other users of water from the mainstream in said States, their officers, at-

torneys, agents, and employees, be and they are hereby severally enjoined:

(A) From interfering with the management and operation, in conformity with Article II of this decree, of regulatory structures controlled by the United States;

(B) From interfering with or purporting to authorize the interference with releases and deliveries, in conformity with Article II of this decree, of water controlled by the United States;

(C) From diverting or purporting to authorize the diversion of water from the mainstream the diversion of which has not been authorized by the United States for use in the respective States; provided, however, that no party named in this Article and no other user of water in said States shall divert or purport to authorize the diversion of water from the mainstream the diversion of which has not been authorized by the United States for its particular use;

(D) From consuming or purporting to authorize the consumptive use of water from the mainstream in excess of the quantities permitted under Article II of this decree.

IV. The State of New Mexico, its officers, attorneys, agents, and employees, be and they are after March 9, 1968, hereby severally enjoined:

(A) From diverting or permitting the diversion of water from San Simon Creek, its tributaries, and underground water sources for the irrigation of more than a total of 2,900 acres during any one year, and from exceeding a total consumptive use of such water, for whatever purpose, of 72,000 acre-feet during any period of ten consecutive years; and from exceeding a total consumptive use of such water, for whatever purpose, of 8,220 acre-feet during any one year;

(B) From diverting or permitting the diversion of water from the San Francisco River, its tributaries, and underground water sources for the irrigation within each of the

following areas of more than the following number of acres during any one year:

Luna Area	225
Apache Creek-Aragon Area	316
Reserve Area	725
Glenwood Area	1,003

and from exceeding a total consumptive use of such water for whatever purpose, of 31,870 acre-feet during any period of ten consecutive years; and from exceeding a total consumptive use of such water, for whatever purpose, of 4,112 acre-feet during any one year;

(C) From diverting or permitting the diversion of water from the Gila River, its tributaries (exclusive of the San Francisco River and San Simon Creek and their tributaries), and underground water sources for the irrigation within each of the following areas of more than the following number of acres during any one year:

Upper Gila Area	287
Cliff-Gila and Buckhorn-Duck Creek Area	5,314
Red Rock Area	1,456

and from exceeding a total consumptive use of such water (exclusive of uses in Virden Valley, New Mexico), for whatever purpose, of 136,620 acre-feet during any period of ten consecutive years; and from exceeding a total consumptive use of such water (exclusive of uses in Virden Valley, New Mexico), for whatever purpose, of 15,895 acre-feet during any one year;

(D) From diverting or permitting the diversion of water from the Gila River and its underground water sources in the Virden Valley, New Mexico, except for use on lands determined to have the right to the use of such water by the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in *United States* v. *Gila Valley Irrigation District et al.* (Globe Equity No. 59) (herein referred to as the *Gila Decree*), and except pursuant

to and in accordance with the terms and provisions of the *Gila Decree;* provided, however, that:

(1) This decree shall not enjoin the use of underground water on any of the following lands:

Owner	Subdivision and Legal Description	Sec.	Twp.	Rng.	Acreage
Marvin Arnett and	Part Lot 3	6	19S	21W	33.84
J. C. O'Dell	Part Lot 4	6	19S	21W	52.33
	NW¼ SW¼	5	19S	21W	38.36
	SW¼ SW¼	5	19S	21W	39.80
	Part Lot 1	7	19S	21W	50.68
	NW¼ NW¼	8	19S	21W	38.03
Hyrum M. Pace,	SW¼ NE¼	12	19S	21W	8.00
Ray Richardson,	SW¼ NE¼	12	19S	21W	15.00
Harry Day and	SE¼ NE¼	12	19S	21W	7.00
N. O. Pace, Est.					
C. C. Martin	S. part SE¼				
	SW¼ SE¼	1	19S	21W	0.93
	W½ W½ W½				
	NE¼ NE¼	12	19S	21W	0.51
	NW¼ NE¼	12	19S	21W	18.01
A. E. Jacobson	SW part Lot 1	6	19S	21W	11.58
W. LeRoss Jones	E. Central part:	12	19S	21W	0.70
	E½ E½ E½				
	NW¼ NW¼				
	SW part NE¼				
	NW¼	12	19S	21W	8.93
	N. Central part:	12	19S	21W	0.51
	N½ N½ NW½				
	SE¼ NW¼				
Conrad and James	N½ N½ N½				
R. Donaldson	SE¼	18	19S	20W	8.00
James D.					
Freestone	Part W½ NW¼	33	18S	21W	7.79
Virgil W. Jones	N½ SE¼	12	19S	21W	7.40
	NW¼; SE¼				
	NE¼ NW¼				
Darrell Brooks	SE¼ SW¼	32	18S	21W	6.15
Floyd Jones	Part N½ SE¼				
	NE¼	13	19S	21W	4.00
	Part NW¼				
	SW¼ NW¼	18	19S	20W	1.70
L. M. Hatch	SW¼ SW¼	32	18S	21W	4.40
	Virden Townsite				3.90

Owner	Subdivision and Legal Description	Sec.	Twp.	Rng.	Acreage
Carl M. Donaldson	SW¼ SE¼	12	19S	21W	3.40
Mack Johnson	Part NW¼ NW¼ NE¼	10	19S	21W	2.80
	Part NE¼ NW¼ NE¼	10	19S	21W	0.30
	Part N½ N½ S½ NW¼ NE¼	10	19S	21W	0.10
Chris Dotz	SE¼ SE¼; SW¼ SE¼	3	19S	21W	2.66
	NW¼ NE¼; NE¼ NE¼	10	19S	21W	
Roy A. Johnson	NE¼ SE¼ SE¼	4	19S	21W	1.00
Ivan and Antone Thygerson	NE¼ SE¼ SE¼	32	18S	21W	1.00
John W. Bonine	SW¼ SE¼ SW¼	34	18S	21W	1.00
Marion K. Mortenson	SW¼ SW¼ SE¼	33	18S	21W	1.00
Total					380.81

or on lands or for other uses in the Virden Valley to which such use may be transferred or substituted on retirement from irrigation of any of said specifically described lands, up to a maximum total consumptive use of such water of 838.2 acre-feet per annum, unless and until such uses are adjudged by a court of competent jurisdiction to be an infringement or impairment of rights confirmed by the *Gila Decree;* and

(2) This decree shall not prohibit domestic use of water from the Gila River and its underground water sources on lands with rights confirmed by the *Gila Decree*, or on farmsteads located adjacent to said lands, or in the Virden Townsite, up to a total consumptive use of 265 acre-feet per annum in addition to the uses confirmed by the *Gila Decree*, unless and until such use is adjudged by a court of competent jurisdiction to be an infringement or impairment of rights confirmed by the *Gila Decree;*

(E) Provided, however, that nothing in this Article IV shall be construed to affect rights as between individual water users in the State of New Mexico; nor shall anything in this Article be construed to affect possible superior rights of the United States asserted on behalf of National Forests, Parks, Memorials, Monuments, and lands administered by the Bureau of Land Management; and provided further that in addition to the diversions authorized herein the United States has the right to divert water from the mainstream of the Gila and San Francisco Rivers in quantities reasonably necessary to fulfill the purposes of the Gila National Forest with priority dates as of the date of withdrawal for forest purposes of each area of the forest within which the water is used;

(F) Provided, further, that no diversion from a stream authorized in Article IV(A) through (D) may be transferred to any of the other streams, nor may any use for irrigation purposes within any area on one of the streams be transferred for use for irrigation purposes to any other area on that stream.

V. The United States shall prepare and maintain, or provide for the preparation and maintenance of, and shall make available, annually and at such shorter intervals as the Secretary of the Interior shall deem necessary or advisable, for inspection by interested persons at all reasonable times and at a reasonable place or places, complete, detailed, and accurate records of:

(A) Releases of water through regulatory structures controlled by the United States;

(B) Diversions of water from the mainstream, return flow of such water to the stream as is available for consumptive use in the United States or in satisfaction of the Mexican Treaty obligation, and consumptive use of such water. These quantities shall be stated separately as to each diverter from the mainstream, each point of diversion, and each of the States of Arizona, California, and Nevada;

(C) Releases of mainstream water pursuant to orders therefor but not diverted by the party ordering the same, and the quantity of such water delivered to Mexico in satisfaction of the Mexican Treaty or diverted by others in satisfaction of rights decreed herein. These quantities shall be stated separately as to each diverter from the mainstream, each point of diversion, and each of the States of Arizona, California, and Nevada;

(D) Deliveries to Mexico of water in satisfaction of the obligations of Part III of the Treaty of February 3, 1944, and, separately stated, water passing to Mexico in excess of treaty requirements;

(E) Diversions of water from the mainstream of the Gila and San Francisco Rivers and the consumptive use of such water, for the benefit of the Gila National Forest.

VI. By March 9, 1967, the States of Arizona, California, and Nevada shall furnish to this Court and to the Secretary of the Interior a list of the present perfected rights, with their claimed priority dates, in waters of the mainstream within each State, respectively, in terms of consumptive use, except those relating to federal establishments. Any named party to this proceeding may present its claim of present perfected rights or its opposition to the claims of others. The Secretary of the Interior shall supply similar information, by March 9, 1967, with respect to the claims of the United States to present perfected rights within each State. If the parties and the Secretary of the Interior are unable at that time to agree on the present perfected rights to the use of mainstream water in each State, and their priority dates, any party may apply to the Court for the determination of such rights by the Court. A list of present perfected rights, with priority dates, in waters of the mainstream in the States of Arizona, California, and Nevada is set forth in Parts I–A, II–A, and III of the Appendix to this decree and is incorporated herein by reference.

VII. The State of New Mexico shall, by March 9, 1968, prepare and maintain, or provide for the preparation and maintenance of, and shall annually thereafter make available for inspection at all reasonable times and at a reasonable place or places, complete, detailed, and accurate records of:

(A) The acreages of all lands in New Mexico irrigated each year from the Gila River, the San Francisco River, San Simon Creek, and their tributaries and all of their underground water sources, stated by legal description and component acreages and separately as to each of the areas designated in Article IV of this decree and as to each of the three streams;

(B) Annual diversions and consumptive uses of water in New Mexico, from the Gila River, the San Francisco River, San Simon Creek, and their tributaries and all their underground water sources, stated separately as to each of the three streams.

VIII. This decree shall not affect:

(A) The relative rights *inter sese* of water users within any one of the States, except as otherwise specifically provided herein;

(B) The rights or priorities to water in any of the Lower Basin tributaries of the Colorado River in the States of Arizona, California, Nevada, New Mexico, and Utah except the Gila River System;

(C) The rights or priorities, except as specific provision is made herein, of any Indian Reservation, National Forest, Park, Recreation Area, Monument or Memorial, or other lands of the United States;

(D) Any issue of interpretation of the Colorado River Compact.

IX. Any of the parties may apply at the foot of this decree for its amendment or for further relief. The Court retains jurisdiction of this suit for the purpose of any order, direction, or modification of the decree, or any supplementary de-

cree, that may at any time be deemed proper in relation to the subject matter in controversy.

APPENDIX

The present perfected rights to the use of mainstream water in the States of Arizona, California, and Nevada, and their priority dates are determined to be as set forth below, subject to the following:

(1) The following listed present perfected rights relate to the quantity of water which may be used by each claimant and the list is not intended to limit or redefine the type of use otherwise set forth in this decree.

(2) This determination shall in no way affect future adjustments resulting from determinations relating to settlement of Indian reservation boundaries referred to in Article II(D)(5) of this decree.

(3) Article IX of this decree is not affected by this list of present perfected rights.

(4) Any water right listed herein may be exercised only for beneficial uses.

(5) In the event of a determination of insufficient mainstream water to satisfy present perfected rights pursuant to Article II(B)(3) of this decree, the Secretary of the Interior shall, before providing for the satisfaction of any of the other present perfected rights except for those listed herein as "MISCELLANEOUS PRESENT PERFECTED RIGHTS" (rights numbered 7–21 and 29–80 below) in the order of their priority dates without regard to state lines, first provide for the satisfaction in full of all rights of the Chemehuevi Indian Reservation, Cocopah Indian Reservation, Fort Yuma Indian Reservation, Colorado River Indian Reservation, and the Fort Mojave Indian Reservation as set forth in Article II(D)(1)–(5) of this decree, provided that the quantities fixed in paragraphs (1) through (5) of Article II(D) of this decree shall continue to be subject to appropriate adjustment by agreement or decree of this Court in the event that the boundaries of the respective reservations are finally deter-

mined except for the western boundaries of the Fort Mojave and Colorado River Indian Reservations in California and except for the boundaries of the Fort Yuma Indian Reservation in Arizona and California. Additional present perfected rights so adjudicated by such adjustment shall be in annual quantities not to exceed the quantities of mainstream water necessary to supply the consumptive use required for irrigation of the practicably irrigable acres which are included within any area determined to be within a reservation by such final determination of a boundary and for the satisfaction of related uses. The quantities of diversions are to be computed by determining net practicably irrigable acres within each additional area using the methods set forth by the Special Master in this case in his report to this Court dated December 5, 1960, and by applying the unit diversion quantities thereto, as listed below:

Indian Reservation	Unit Diversion Quantity Acre-Feet Per Irrigable Acre
Cocopah	6.37
Colorado River	6.67
Chemehuevi	5.97
Ft. Mojave	6.46
Ft. Yuma	6.67

The foregoing reference to a quantity of water necessary to supply consumptive use required for irrigation, and as that provision is included within paragraphs (1) through (5) of Article II(D) of this decree, shall constitute the means of determining quantity of adjudicated water rights but shall not constitute a restriction of the usage of them to irrigation or other agricultural application. If all or part of the adjudicated water rights of any of the five Indian reservations is used other than for irrigation or other agricultural application, the total consumptive use, as that term is defined in

Article I(A) of this decree, for said reservation shall not exceed the consumptive use that would have resulted if the diversions listed in subparagraph (i) of paragraphs (1) through (5) of Article II(D) of this decree had been used for irrigation of the number of acres specified for that reservation in said paragraphs and for the satisfaction of related uses. Effect shall be given to this paragraph notwithstanding the priority dates of the present perfected rights as listed below. However, nothing in this paragraph (5) shall affect the order in which such rights listed below as "MISCELLANEOUS PRESENT PERFECTED RIGHTS" (numbered 7–21 and 29–80 below) shall be satisfied. Furthermore, nothing in this paragraph shall be construed to determine the order of satisfying any other Indian water rights claims not herein specified.

I

ARIZONA

A. Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (2), (3), (4), and (5) of this decree, such rights having been decreed in Article II:

Defined Area of Land	Annual Diversions (Acre-Feet)	Net Acres[1]	Priority Date
1) Cocopah Indian Reservation	7,681	1,206	Sept. 27, 1917
2) Colorado River Indian Reservation	358,400	53,768	Mar. 3, 1865
	252,016	37,808	Nov. 22, 1873
	51,986	7,799	Nov. 16, 1874
3) Fort Mojave Indian Reservation	27,969	4,327	Sept. 18, 1890
	75,566	11,691	Feb. 2, 1911
3a) Fort Yuma Indian Reservation	6,350	952	Jan. 9, 1884

[1] The quantity of water in each instance is measured by (i) diversions or (ii) consumptive use required for irrigation of the respective acreage and for satisfaction of related uses, whichever of (i) or (ii) is less.

In addition to the mainstream diversion rights in favor of the Indian reservations specified in Paragraph I(A) of this Appendix, a mainstream diversion right of 2,026 acre-feet for the Cocopah Reservation shall be charged against the State of Arizona with a priority date of June 24, 1974.

B. Water Projects' Present Perfected Rights

(4) *The Valley Division, Yuma Project* in annual quantities not to exceed (i) 254,200 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 43,562 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of 1901.

(5) *The Yuma Auxiliary Project, Unit B* in annual quantities not to exceed (i) 6,800 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 1,225 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of July 8, 1905.

(6) *The North Gila Valley Unit, Yuma Mesa Division, Gila Project* in annual quantities not to exceed (i) 24,500 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 4,030 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of July 8, 1905.

C. Miscellaneous Present Perfected Rights

1. The following miscellaneous present perfected rights in Arizona in annual quantities of water not to exceed the listed acre-feet of diversion from the mainstream to supply the consumptive use required for irrigation and the satisfaction of related uses within the boundaries of the land described and with the priority dates listed:

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
7) 160 Acres in Lots 21, 24, and 25, Sec. 29 and Lots 15, 16, 17 and 18, and the SW¼ of the SE¼, Sec. 30, T.16S., R.22E., San Bernardino Base and Meridian, Yuma County, Arizona. (Powers)[2]	960	1915
8) Lots 11, 12, 13, 19, 20, 22 and S½ of SW¼, Sec. 30, T.16S., R.22E., San Bernardino Base and Meridian, Yuma County, Arizona. (United States)[3]	1,140	1915
9) 60 acres within Lot 2, Sec. 15 and Lots 1 and 2, Sec. 22, T.10N., R.19W., G&SRBM. (Graham)[2]	360	1910
10) 180 acres within the N½ of the S½ and the S½ of the N½ of Sec. 13 and the SW¼ of the NE¼ of Sec. 14, T.18N., R.22W., G&SRBM. (Hulet)[2]	1,080	1902
11) 45 acres within the NE¼ of the SW¼, the SW¼ of the SW¼ and the SE¼ of the SW¼ of Sec. 11, T.18N., R.22W., G&SRBM. 80 acres within the N½ of the SW¼ of Sec. 11, T.18N., R.22W., G&SRBM. 10 acres within the NW¼ of the NE¼ of the NE¼ of Sec. 15, T.18N., R.22W., G&SRBM. 40 acres within the SE¼ of the SE¼ of Sec. 15, T.18N., R.22W., G&SRBM. (Hurschler)[2]	1,050	1902
12) 40 acres within Sec. 13, T.17N., R.22W., G&SRBM. (Miller)[2]	240	1902

[2] The names in parentheses following the description of the "Defined Area of Land" are used for identification of present perfected rights only; the name used is the first name appearing as the Claimants identified with a parcel in Arizona's 1967 list submitted to this Court.

[3] Included as a part of the Powers' claim in Arizona's 1967 list submitted to this Court. Subsequently, the United States and Powers agreed to a Stipulation of Settlement on land ownership whereby title to this property was quieted in favor of the United States.

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
13) 120 acres within Sec. 27, T.18N., R.22W., G&SRBM. 15 acres within the NW¼ of the NW¼, Sec. 23, T.18N., R.22W., G&SRBM. (McKellips and Granite Reef Farms)[4]	810	1902
14) 180 acres within the NW¼ of the NE¼, the SW¼ of the NE¼, the NE¼ of the SW¼, the NW¼ of the SE¼, the NE¼ of the SE¼, and the SW¼ of the SE¼, and the SE¼ of the SE¼, Sec. 31, T.18N., R.21W., G&SRBM. (Sherrill & Lafolette)[4]	1,080	1902
15) 53.89 acres as follows: Beginning at a point 995.1 feet easterly of the NW corner of the NE¼ of Sec. 10, T.8S., R.22W., Gila and Salt River Base and Meridian; on the northerly boundary of the said NE¼, which is the true point of beginning, then in a southerly direction to a point on the southerly boundary of the said NE¼ which is 991.2 feet E. of the SW corner of said NE¼ thence easterly along the S. line of the NE¼, a distance of 807.3 feet to a point, thence N. 0°7′ W., 768.8 feet to a point, thence E. 124.0 feet to a point, thence northerly 0°14′ W., 1,067.6 feet to a point, thence E. 130 feet to a point, thence northerly 0°20′ W., 405.2 feet to a point, thence northerly 63°10′ W., 506.0 feet to a point, thence northerly 90°15′ W., 562.9 feet to a point on the northerly boundary of the said NE¼, thence easterly along the said northerly boundary of the said NE¼, 116.6 feet to the true point of the beginning containing 53.89 acres. All as more particularly described and set forth in that survey executed by Thomas A. Yowell, Land Surveyor on June 24, 1969. (Molina)[4]	318	1928

[4] The names in parentheses following the description of the "Defined Area of Land" are the names of claimants, added since the 1967 list, upon whose water use these present perfected rights are predicated.

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
16) 60 acres within the NW¼ of the NW¼ and the north half of the SW¼ of the NW¼ of Sec. 14, T.8S., R.22W., G&SRBM. 70 acres within the S½ of the SW¼ of the SW¼, and the W½ of the SW¼, Sec. 14, T.8S., R.22W., G&SRBM. (Sturges)[4]	780	1925
17) 120 acres within the N½ NE¼, NE¼ NW¼, Section 23, T.18N., R.22W., G&SRBM. (Zozaya)[4]	720	1912
18) 40 acres in the W½ of the NE¼ of Section 30, and 60 acres in the W½ of the SE¼ of Section 30, and 60 acres in the E½ of the NW¼ of Section 31, comprising a total of 160 acres all in Township 18 North, Range 21 West of the G&SRBM. (Swan)[4]	960	1902
19) 7 acres in the East 300 feet of the W½ of Lot 1 (Lot 1 being the SE¼ SE¼, 40 acres more or less), Section 28, Township 16 South, Range 22 East, San Bernardino Meridian, lying North of U. S. Bureau of Reclamation levee right of way. EXCEPT that portion conveyed to the United States of America by instrument recorded in Docket 417, page 150 EXCEPTING any portion of the East 300 feet of W½ of Lot 1 within the natural bed of the Colorado River below the line of ordinary high water and also EXCEPTING any artificial accretions waterward of said line of ordinary high water, all of which comprises approximately seven (7) acres. (Milton and Jean Phillips)[4]	42	1900

2. The following miscellaneous present perfected rights in Arizona in annual quantities of water not to exceed the listed number of acre-feet of (i) diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use, whichever of (i) or (ii) is less, for domestic,

[Footnote 4 is on p. 172]

municipal, and industrial purposes within the boundaries of the land described and with the priority dates listed:

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
20) City of Parker[2]	630	400	1905
21) City of Yuma[2]	2,333	1,478	1893

II

CALIFORNIA

A. Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (1), (3), (4), and (5) of this decree, such rights having been decreed by Article II:

Defined Area of Land	Annual Diversions (acre-feet)[5]	Net Acres[5]	Priority Date
22)			
Chemehuevi Indian Reservation	11,340	1,900	Feb. 2, 1907
23)			
Fort Yuma Indian Reservation	71,616	10,742	Jan. 9, 1884
24)			
Colorado River Indian Reservation	10,745	1,612	Nov. 22, 1873
	40,241	6,037	Nov. 16, 1874
	5,860	879	May 15, 1876
25)			
Fort Mojave Indian Reservation	16,720	2,587	Sept. 18, 1890

B. Water Districts' and Projects' Present Perfected Rights

26)

The Palo Verde Irrigation District in annual quantities not to exceed (i) 219,780 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to

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[Footnote 2 is on p. 171]

[5] The quantity of water in each instance is measured by (i) diversions or (ii) consumptive use required for irrigation of the respective acreage and for satisfaction of related uses, whichever of (i) or (ii) is less.

supply the consumptive use required for irrigation of 33,604 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of 1877.

27)

The Imperial Irrigation District in annual quantities not to exceed (i) 2,600,000 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 424,145 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of 1901.

28)

The Reservation Division, Yuma Project, California (non-Indian portion) in annual quantities not to exceed (i) 38,270 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 6,294 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less, with a priority date of July 8, 1905.

C. Miscellaneous Present Perfected Rights

1. The following miscellaneous present perfected rights in California in annual quantities of water not to exceed the listed number of acre-feet of diversions from the mainstream to supply the consumptive use required for irrigation and the satisfaction of related uses within the boundaries of the land described and with the priority dates listed:

Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
29)		
130 acres within Lots 1, 2, and 3, SE¼ of NE¼ of Section 27, T.16S., R.22E., S.B.B. & M. (Wavers)[6]	780	1856

[6] The names in parentheses following the description of the "Defined Area of Land" are used for identification of present perfected rights only; the name used is the first name appearing as the claimant identified with a parcel in California's 1967 list submitted to this Court.

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Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
30) 40 acres within W½, W½ of E½ of Section 1, T.9N., R.22E., S.B.B. & M. (Stephenson)[6]	240	1923
31) 20 acres within Lots 1 and 2, Sec. 19, T.13S., R.23E., and Lots 2, 3, and 4 of Sec. 24, T.13S., R.22E., S.B.B. & M. (Mendivil)[6]	120	1893
32) 30 acres within NW¼ of SE¼, S½ of SE¼, Sec. 24, and NW¼ of NE¼, Sec. 25, all in T.9S., R.21E., S.B.B. & M. (Grannis)[6]	180	1928
33) 25 acres within Lot 6, Sec. 5; and Lots 1 and 2, SW¼ of NE¼, and NE¼ of SE¼ of Sec. 8, and Lots 1 & 2 of Sec. 9, all in T.13S., R.22E., S.B.B. & M. (Morgan)[6]	150	1913
34) 18 acres within E½ of NW¼ and W½ of NE¼ of Sec. 14, T.10S., R.21E., S.B.B. & M. (Milpitas)[6]	108	1918
35) 10 acres within N½ of NE¼, SE¼ of NE¼, and NE¼ of SE¼, Sec. 30, T.9N., R.23E., S.B.B. & M. (Simons)[6]	60	1889
36) 16 acres within E½ of NW¼ and N½ of SW¼, Sec. 12, T.9N., R.22E., S.B.B. & M. (Colo. R. Sportsmen's League)[6]	96	1921
37) 11.5 acres within E½ of NW¼, Sec. 1, T.10S., R.21E., S.B.B. & M. (Milpitas)[6]	69	1914
38) 11 acres within S½ of SW¼, Sec. 12, T.9N., R.22E., S.B.B. & M. (Andrade)[6]	66	1921
39) 6 acres within Lots 2, 3, and 7 and NE¼ of SW¼, Sec. 19, T.9N., R.23E., S.B.B. & M. (Reynolds)[6]	36	1904
40) 10 acres within N½ of NE¼, SE¼ of NE¼ and NE¼ of SE¼, Sec. 24, T.9N., R.22E., S.B.B. & M. (Cooper)[6]	60	1905

[Footnote 6 is on p. 175]

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Priority Date
41) 20 acres within SW¼ of SW¼ (Lot 8), Sec. 19, T.9N., R.23E., S.B.B. & M. (Chagnon)[7]	120	1925
42) 20 acres within NE¼ of SW¼, N½ of SE¼, SE¼ of SE¼, Sec. 14, T.9S., R.21E., S.B.B. & M. (Lawrence)[7]	120	1915

2. The following miscellaneous present perfected rights in California in annual quantities of water not to exceed the listed number of acre-feet of (i) diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use, whichever of (i) or (ii) is less, for domestic, municipal, and industrial purposes within the boundaries of the land described and with the priority dates listed:

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
43) City of Needles[6]	1,500	950	1885
44) Portions of: Secs. 5, 6, 7 & 8, T.7N., R.24E.; Sec. 1, T.7N., R.23E.; Secs. 4, 5, 9, 10, 15, 22, 23, 25, 26, 35, & 36, T.8N., R.23E.; Secs. 19, 29, 30, 32 & 33, T.9N., R.23E., S.B.B. & M. (Atchison, Topeka and Santa Fe Railway Co.)[6]	1,260	273	1896
45) Lots 1, 2, 3, 4, 5, & SW¼ NW¼ of Sec. 5, T.13S., R.22E., S.B.B. & M. (Conger)[7]	1.0	0.6	1921

[Footnote 6 is on p. 175]

[7] The names in parentheses following the description of the "Defined Area of Land" are the names of the homesteaders upon whose water use these present perfected rights, added since the 1967 list submitted to this Court, are predicated.

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
46) Lots 1, 2, 3, 4 of Sec. 32, T.11S., R.22E., S.B.B. & M. (G. Draper)[7]	1.0	0.6	1923
47) Lots 1, 2, 3, 4, and SE¼ SW¼ of Sec. 20, T.11S., R.22E., S.B.B. & M. (McDonough)[7]	1.0	0.6	1919
48) SW¼ of Sec. 25, T.8S., R.22E., S.B.B. & M. (Faubion)[7]	1.0	0.6	1925
49) W½ NW¼ of Sec. 12, T.9N., R.22E., S.B.B. & M. (Dudley)[7]	1.0	0.6	1922
50) N½ SE¼ and Lots 1 and 2 of Sec. 13, T.8S., R.22E., S.B.B. & M. (Douglas)[7]	1.0	0.6	1916
51) N½ SW¼, NW¼ SE¼, Lots 6 and 7, Sec. 5, T.9S., R.22E., S.B.B. & M. (Beauchamp)[7]	1.0	0.6	1924
52) NE¼ SE¼, SE¼ NE¼, and Lot 1, Sec. 26, T.8S., R.22E., S.B.B. & M. (Clark)[7]	1.0	0.6	1916
53) N½ SW¼, NW¼ SE¼, SW¼ NE¼, Sec. 13, T.9S., R.21E., S.B.B. & M. (Lawrence)[7]	1.0	0.6	1915
54) N½ NE¼, E½ NW¼, Sec. 13, T.9S., R.21E., S.B.B. & M. (J. Graham)[7]	1.0	0.6	1914
55) SE¼, Sec. 1, T.9S., R.21E., S.B.B. & M. (Geiger)[7]	1.0	0.6	1910
56) Fractional W½ of SW¼ (Lot 6) Sec. 6, T.9S., R.22E., S.B.B. & M. (Schneider)[7]	1.0	0.6	1917

[Footnote 7 is on p. 177]

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
57) Lot 1, Sec. 15; Lots 1 & 2, Sec. 14; Lots 1 & 2, Sec. 23; all in T.13S., R.22E., S.B.B. & M. (Martinez)[7]	1.0	0.6	1895
58) NE¼, Sec. 22, T.9S., R.21E., S.B.B. & M. (Earle)[7]	1.0	0.6	1925
59) NE¼ SE¼, Sec. 22, T.9S., R.21E., S.B.B. & M. (Diehl)[7]	1.0	0.6	1928
60) N½ NW¼, N½ NE¼, Sec. 23, T.9S., R.21E., S.B.B. & M. (Reid)[7]	1.0	0.6	1912
61) W½ SW¼, Sec. 23, T.9S., R.21E., S.B.B. & M. (Graham)[7]	1.0	0.6	1916
62) S½ NW¼, NE¼ SW¼, SW¼ NE¼, Sec. 23, T.9S., R.21E., S.B.B. & M. (Cate)[7]	1.0	0.6	1919
63) SE¼ NE¼, N½ SE¼, SE¼ SE¼, Sec. 23, T.9S., R.21E., S.B.B. & M. (McGee)[7]	1.0	0.6	1924
64) SW¼ SE¼, SE¼ SW¼, Sec. 23, NE¼ NW¼, NW¼ NE¼, Sec. 26; all in T.9S., R.21E., S.B.B. & M. (Stallard)[7]	1.0	0.6	1924
65) W½ SE¼, SE¼ SE¼, Sec. 26, T.9S., R.21E., S.B.B. & M. (Randolph)[7]	1.0	0.6	1926
66) E½ NE¼, SW¼ NE¼, SE¼ NW¼, Sec. 26, T.9S., R21E., S.B.B. & M. (Stallard)[7]	1.0	0.6	1928

[Footnote 7 is on p. 177]

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
67) S½ SW¼ Sec. 13, N½ NW¼, Sec. 24; all in T.9S., R.21E., S.B.B. & M. (Keefe)[7]	1.0	0.6	1926
68) SE¼ NW¼, NW¼, SE¼, Lots 2, 3, & 4, Sec. 25, T.13S., R.23E., S.B.B. & M. (C. Ferguson)[7]	1.0	0.6	1903
69) Lots 4 & 7, Sec. 6; Lots 1 & 2, Sec. 7; all in T.14S., R.24E., S.B.B. & M. (W. Ferguson)[7]	1.0	0.6	1903
70) SW¼ SE¼, Lots 2, 3, and 4, Sec. 24, T.12S., R.21E., Lot 2, Sec. 19, T.12S., R.22E., S.B.B. & M. (Vaulin)[7]	1.0	0.6	1920
71) Lots 1, 2, 3, and 4, Sec. 25, T.12S., R21E., S.B.B. & M. (Salisbury)	1.0	0.6	1920
72) Lots 2, 3, SE¼ SE¼, Sec. 15, NE¼ NE¼, Sec. 22; all in T.13S., R.22E., S.B.B. & M. (Hadlock)[7]	1.0	0.6	1924
73) SW¼ NE¼, SE¼ NW¼, and Lots 7 & 8, Sec. 6, T.9S., R.22E., S.B.B. & M. (Streeter)[7]	1.0	0.6	1903
74) Lot 4, Sec. 5; Lots 1 & 2, Sec. 7; Lots 1 & 2, Sec. 8; Lot 1, Sec. 18; all in T.12S., R.22E., S.B.B. & M. (J. Draper)[7]	1.0	0.6	1903
75) SW¼ NW¼, Sec. 5; SE¼ NE¼ and Lot 9, Sec. 6; all in T.9S., R.22E., S.B.B. & M. (Fitz)[7]	1.0	0.6	1912

[Footnote 7 is on p. 177]

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Annual Consumptive Use (acre-feet)	Priority Date
76) NW¼ NE¼, Sec. 26; Lots 2 & 3, W½ SE¼, Sec. 23; all in T.8S., R.22E., S.B.B. & M. (Williams)[7]	1.0	0.6	1909
77) Lots 1, 2, 3, 4, & 5, Sec. 25, T.8S., R.22E., S.B.B. & M. (Estrada)[7]	1.0	0.6	1928
78) S½ NW¼, Lot 1, frac. NE¼ SW¼, Sec. 25, T.9S., R.21E., S.B.B. & M. (Whittle)[7]	1.0	0.6	1925
79) N½ NW¼, Sec. 25; S½ SW¼, Sec. 24; all in T.9S., R.21E., S.B.B. & M. (Corington)[7]	1.0	0.6	1928
80) S½ NW¼, N½ SW¼, Sec. 24, T.9S., R.21E., S.B.B. & M. (Tolliver)[7]	1.0	0.6	1928

III

NEVADA

Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (5) and (6) of this decree, such rights having been decreed by Article II:

Defined Area of Land	Annual Diversions (acre-feet)	Net Acres	Priority Date
81) Fort Mojave Indian Reservation	12,534[8]	1,939[8]	Sept. 18, 1890

[Footnote 7 is on p. 177]

[8] The quantity of water in each instance is measured by (i) diversions or (ii) consumptive use required for irrigation of the respective acreage and for satisfaction of related uses, whichever of (i) or (ii) is less.

Appendix to decree

Defined Area of Land	Annual Diversions (acre-feet)	Net Acres	Priority Date
82)			
Lake Mead National Recreation Area (The Overton Area of Lake Mead N.R.A. provided in Executive Order 5105)	500	300[9]	May 3, 1929

[9] Refers to acre-feet of annual consumptive use, not to net acres.