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THE CRIMINAL CODE REFORM ACT OF 1979 (S.1722)

INTRODUCTION

One of the most potentially far-reaching -- and, ironically, perhaps one of the least generally understood -- legislative proposals of the past decade has been slowly moving through the 96th Congress under the aegis of Senator Edward M. Kennedy (D-Mass.), chairman of the Senate Committee on the Judiciary, and Representative Robert F. Drinan (D-Mass.), chairman of the Subcommittee on Criminal Justice of the House Committee on the Judiciary. Introduced on September 7, 1979, by Senator Kennedy for himself and four other members of the Judiciary Committee, one of them Senator Strom Thurmond (R-S.C.), the Committee's ranking minority member,* this bill, S. 1722, known as the Criminal Code Reform Act of 1979, is a 395-page package that purports to effect nothing less than, in the words of the Committee's report of January 17, 1980, "to restructure Federal criminal law so as to better serve the ends of justice in their broadest sense -- justice to the individual and justice to society as a whole." The significance

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*The other sponsors are Senators Dennis DeConcini (D-Ariz.), Orrin G. Hatch (R-Utah), and Alan K. Simpson (R-Wyo.). When the Judiciary Committee voted to approve S. 1722, as amended, on December 4, 1979, Senators Kennedy, Thurmond, DeConcini, Hatch, and Simpson all voted in favor of the bill, Senator Charles McC. Mathias, Jr. (R-Md.), being the only member of the Committee to be recorded in opposition; more recently, however, Senators Thurmond, Hatch, and Simpson have been described as attempting to work certain changes in the bill in order, as expressed by the conservative newsweekly Human Events, "to improve the code and remove liberal adornments." Senator Mathias has introduced an amendment to retain present law on marijuana possession; the proposed legislation as reported by the Committee is widely viewed as virtually decriminalizing possession of marijuana despite recent evidence that the drug is far more harmful than previously believed.

of this effort may be seen in the following passage from remarks by Senator Kennedy as published in the May 2, 1977, edition of the Congressional Record and quoted in the Committee report:

> The Criminal Code Reform Act...constitutes the most important attempt in 200 years to reorganize and streamline the administration of Federal criminal justice. It is a major undertaking, of critical importance to our people. As I have repeatedly stated in recent months, I view this legislation as the cornerstone of the Federal Government's commitment to the critical problem of crime in America. I believe it is the key to progress on every other front, and that is why I have made this effort one of my principal legislative goals in the current Congress.

This wholesale overhaul of the Federal criminal laws is seen as necessary because of a belief that present "statutory criminal law on the Federal level is often a hodgepodge of conflicting, contradictory, and imprecise laws with little relevance to each other or to the state of the criminal law as a whole." Supporters of S. 1722 argue that the "administration of the law, the character of the people dealing with it, and other fundamental aspects of the criminal justice process" are all "highly dependent upon the existence of rationally conceived and clearly formulated criminal statutes" and that, in the words of the Committee report, "It is the substantive law that is at the core of efforts to foster widespread belief that the government and the social order deserve credence, respect, and loyalty."

Such a proposition is, of course, hardly in dispute. It would be hard indeed to imagine an aspect of society more basic to its survival than its criminal law; and to the extent that legislation is designed to bring currently-scattered provisions of the Federal criminal law together in consolidated form in a new title 18 of the code, as S. 1722 manifestly does, or to the extent that it would eliminate genuinely archaic provisions of the present code or do away with needless duplication and conflicting language, there would seem to be little or no ground for substantive controversy. S. 1722, however, goes far beyond this in several key areas. As reported by the Judiciary Committee, it repeals certain provisions, for example, covering conspiracy to overthrow the United States government and the teaching or advocacy of same; it completely revamps Federal sentencing procedures, abolishing the present Parole Commission and creating a Sentencing Commission; and it reduces penalties for, or makes it, in the view of some critics, more difficult to prosecute in, cases involving such offenses as possession of marijuana and the importation of pornographic materials. At the same time, it would enable the government to employ "several innovations" to deal more effectively with "white collar crime" and would create a "new offense...to prohibit sabotage of political campaigns." It

also, according to the Committee, "takes a more enlightened approach toward the offense of rape" and alters current Federal law prohibiting discrimination "on the basis of sex."

These provisions, along with several others dealing with offenses like racketeering and extortion, as well as with the death penalty and the expansion of criminal penalties for corporations, have engendered heated controversy. Certain organized labor groups, for instance, are known to be opposed to provisions covering Federal prosecutions for extortion during labor disputes, while groups like the National Association of Manufacturers and the U.S. Chamber of Commerce are concerned about the new crime of "endangerment," by which it is meant that a company could be held criminally liable for subjecting persons to risk of death or serious bodily injury as a result of the company's violation of certain Federal environmental, health, and safety statutes. Organizations like the American Civil Liberties Union, on the other hand, oppose S. 1722 because of its allegedly "adverse impact upon civil liberties," the ACLU's objections being grounded in a belief that the bill would allow the government to appeal sentences it regarded as excessively lenient, would provide for new bail restrictions amounting to preventive detention, and would allow the government too much power in the areas of conspiracy, attempt, and obscenity.

The Department of Justice has also registered opposition, especially to the House version, introduced in the Senate on September 7, 1979, also by Senator Kennedy, as S. 1723, a companion measure to S. 1722. The Department has objected to provisions in the House bill that it sees as unnecessarily restrictive of the government's ability to investigate and prosecute in certain areas. Interestingly, however, Mr. Drinan, certainly never regarded as unfriendly to the view of even the more extreme civil libertarians, has come under severe criticism for being too prone to accommodate the Department's views. The Washington Star for February 24, 1980, reported that "'Drinan's been spooked by the department,' one [House Judiciary] committee liberal says. 'He's scared of them, and he's willing to give in on things.'" The same source quoted Mr. Drinan as saying that "A lot of the libertarians are anti-law enforcement. I don't want the feds to have any more power than they have now, but I don't want to take away any. If it takes federal control to get rid of crime, I'm prepared to have that. I'm not a stickler for that sort of thing."

BACKGROUND

S. 1722 has a long history. In 1952, for example, the American Law Institute began drafting of a "Model Penal Code," followed in March 1953 by a meeting of the Council of the American Law Institute at which "Tentative Draft No. 1" of the Model Penal Code was considered. After some ten years, in 1962, the Institute finally published the "Proposed Official Draft" of a Model Penal Code. Revised and modernized criminal codes have been enacted in

various states, among them Louisiana (1942), Illinois (1962), Minnesota (1963), New Mexico (1963), and Wisconsin (1965). In 1965, Governor Nelson Rockefeller approved the New York Revised Penal Law, a statute which grew out of the deliberations of a Temporary Commission on Revision of the Penal Law and Criminal Code established by the New York State legislature in 1961.

A major boost to this effort was provided in 1966 when Congress enacted legislation creating the National Commission on Reform of Federal Criminal Laws, commonly known as the Brown Commission because its chairman was former California Governor Edmund G. "Pat" Brown. Based on nearly three years of deliberations, the recommendations of the Commission were submitted in its Final Report, intended as a "work basis" for congressional choices, to the Congress and the President of the United States on January 7, 1971. Subsequently, extensive hearings were held during 1971 and 1972 by the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee, three of whose members (Senators John L. McClellan of Arkansas, Roman L. Hruska of Nebraska, and Sam J. Ervin of North Carolina) had also served on the Brown Commission. Then, on January 4, 1973, Senator McClellan, joined by Senators Ervin and Hruska, introduced S. 1, first in the series of omnibus bills to reform, revise, and recodify the Federal Criminal Code that have been introduced in successive Congresses, culminating in the present-day S. 1722 as introduced by Senator Kennedy.*

The history of this legislation and the many changes that have been worked in successive versions are best traced in the published hearings and reports of the Senate Judiciary Committee and its Subcommittee on Criminal Laws and Procedures, a record that encompasses some 11,750 pages of testimony, statements, and exhibits printed in 18 volumes of hearings conducted during 1971, 1972, 1973, 1974, 1975, 1977, and 1979 under the overall title Reform of the Federal Criminal Laws. During the 93rd, 94th,

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*After S. 1 was introduced by Senator McClellan in 1973, the Justice Department produced its own proposal, introduced by Senators Hruska and McClellan on March 27, 1973, as S. 1400; like S. 1, S. 1400 drew heavily on the work of the Brown Commission. On January 15, 1975, Senator McClellan, joined by ten co-sponsors, introduced S. 1 again as the Criminal Justice Reform Act of 1975; on May 2, 1977, Senator McClellan, joined this time by Senator Kennedy, reintroduced it as S. 1437, the Criminal Code Reform Act of 1977. During the 94th Congress, the Criminal Justice Reform Act of 1975 was considered during lengthy hearings before the Subcommittee on Criminal Laws and Procedures, after which, on October 21, 1975, it was reported, as amended, to the full Judiciary Committee; the full Committee did not act on the bill because of "controversy surrounding a relatively small number of issues." The legislation fared somewhat better during the 95th Congress; reported favorably by the full Judiciary Committee on November 15, 1977, S. 1437 was passed by the Senate on January 30, 1978. It should also be noted that none of these bills has ever been brought to a vote on the floor of the House of Representatives.

95th, and 96th Congresses, these hearings have been supplemented by detailed Committee reports of great length and comprehensiveness; the most recent such report (Senate Report No. 96-553, Criminal Code Reform Act of 1979, January 17, 1980) is a full 1,517 pages in length. The hearings are an invaluable source of information, reflecting as they do the detailed analyses, both pro and con, of some of the nation's most eminent legal authorities, representatives of concerned special interest groups, and officials of the Department of Justice, as well as members of the United States Senate.

Given the massive nature of the record, to say nothing of the comprehensiveness and length of the bill itself, an exhaustive section-by-section analysis of S. 1722 is clearly beyond the scope of so brief an account as this. It is, however, both feasible and appropriate to present below an overall summary of the bill and to provide an assessment of the extent to which, in several areas of key significance, it would effect important changes in existing law. Such a summarization may perhaps serve to simplify what must otherwise seem, especially to the more general reader, a bewilderingly long and complex piece of legislation.

The Senate Judiciary Committee report on S. 1722 describes the bill in the following language:

> The bill is divided into seven titles. Title I would amend title 18 of the United States Code by replacing it with a new Code. Title I is the heart of the bill and consists of a thorough revision of substantive Federal criminal law and its codification into an integrated Federal Criminal Code, and a reorganization and revision of the administrative and procedural sections in present title 18 of the United States Code. Titles II and III of the bill consist of amendments to the Federal Rules of Criminal Procedure and to title 28 of the United States Code, respectively. Title IV of the bill contains general provisions including those dealing with severability and the effective date of the legislation. The effective date is delayed for thirty months to afford federal judges, other officials, defense counsel, legal scholars, and the community at large ample time to prepare for a facilitated conversion to the new Code. Titles V, VI, and VII are essentially conforming amendments preserving certain provisions of current title 18 in other places in the United States Code and conforming nontitle 18 titles to the new Criminal Code.

Part II of title I, described by the Committee as "the substantive part of the Code," is an attempt to make the code "comprehensive as to felonies. All Federal felonies, many of which are presently codified outside title 18, will be integrated into the new Code. Obsolete or unuseable sections are eliminated." Further, terms used throughout the new Code "are defined in order to avoid inconsistent and confusing interpretations." According to the Committee report,

> The bill's treatment of culpability, the mental element of an offense, is a striking example. Instead of 79 undefined different terms, or combinations of terms, presently found in title 18, the Code uses four defined terms -- intentional, knowing, reckless, and negligent -- to describe the state of mind. This treatment is used throughout the Code.

A similar attempt at streamlining has been made with respect to "consolidation of numerous existing offenses consisting of basically the same type of conduct":

> For example, approximately 70 theft offenses under current law -- each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations -- have been replaced by a single section. Almost 80 forgery, counterfeiting, and related offenses have been replaced by five sections. About 50 statutes involving perjury and false statements have been consolidated into four sections, and approximately 70 arson and property destruction offenses have been reduced to four. In addition to the elimination of the multiplication of offenses, this change in the treatment of jurisdiction allows the tailoring of punishment to the specific conduct engaged in because the focus of the statutes is on the criminal misconduct instead of the breach of a jurisdictional factor.

As the Committee itself acknowledges, the "proposed Code is more than" mere codification and revision of the old law. Rather, "It is an effort at reform as well, and, in this respect, some new offenses are created and some existing offenses drafted in a way to make them more effective."

CIVIL RIGHTS

With regard to civil rights, for example, S. 1722 consolidates provisions of current Federal law prohibiting discrimination in such areas as housing, education, public accommodations, jury

service, and employment and adds sex as one of the bases for such discrimination to be prohibited under the statute. The Committee regards this as part of its attempt to modernize and to make more effective such statutes "in recognition of the legitimate interest of the Federal government in vindicating the civil rights of its citizens." Some observers, however, have raised the question of whether or not this amounts to a provision rendering adoption of the Equal Rights Amendment moot since its objectives would already be effectively realized through the new Code. Also, some are concerned about possible interpretation of the term "sex" as synonymous with "sexual preference," which raises the specter of a more permissive attitude toward homosexuality. Senator Kennedy has been quoted in press accounts as saying the "there has to be elimination of all discrimination against gay rights in our society" and that "We made some progress in the area of the recodification of the criminal code in that area." Should the new Code eventually be approved as written, and should the term "sex" be so interpreted by the courts, the implications contained in, for example, S. 1722's prohibition against such discrimination in "employment, or a perquisite thereof, by a state or local government agency" would seem to be obvious, especially in view of recent controversy surrounding the employment of homosexuals as teachers in the public schools.

RAPE

In dealing with the crime of rape, the Committee observes that the new law "takes a more enlightened attitude" by, among other things, making the offense "apply without discrimination to both men and women." The proposed statute would also reject "the requirements that the victim's testimony must be corroborated before the offender can be convicted. In this sense, it treats rape victims like any other victim." Further, "to eliminate the situation where the rapist feels that he -- or she --has nothing more to lose by killing his victim, the Code lowers the penalty for the basic rape offense to a grade less than that provided for murder." A major alteration in present law is the deletion of "the common law limitation, embodied in present Federal statutory law, against interspousal rape." Thus, under S. 1722 as it stands at this point, traditional husband-wife immunity is overridden in favor of possible prosecution for rape between husband and wife -- a major innovation.

FIREARMS OFFENSES

In the area of firearms offenses, the proposed Code would mandate a one-year or two-year minimum term of imprisonment, depending on which subsection of section 1823 was applicable, for an offender convicted of using a weapon in the course of a crime. The section effects a change in existing law by reaching the use, display, or possession of a firearm or destructive device during a "crime of violence" rather than during a felony and by requiring

that the offense be committed "in relation to" rather than merely "during" such a crime. The scope of the offense is thereby expanded because the definition of the term "crime of violence" in the new Code "reaches certain misdemeanors as well as felonies." To remove ambiguities resulting from court decisions, S. 1722 also "broadens the offense in current law to include the use or display of dangerous weapons other than a firearm or destructive device, and the use or display of an imitation of a firearm or destructive device."

PORNOGRAPHY

The proposed Code deals more leniently with dissemination of obscene material than does existing law. For example, prior to 1971, Federal law punished traffic in any writing or advertising showing that any article may be used for "preventing conception or producing abortion." An amendment to a 1971 statute did away with the words "preventing conception," and it is the view of the Judiciary Committee that the "restriction as to writings concerning abortion" appears to be "of dubious validity" so that "It is not carried forward in the present section." Generally, it has been argued that S. 1722 would loosen restrictions on distribution of pornographic materials as laid down in the 1973 case of Miller v. California; and, while emphasizing the harmful effects of exposure to such material on the part of minors, the Committee does observe as a general proposition that, "as compared with current law," the "Federal interest in punishing the dissemination of obscene material is less urgent and pervasive." To many concerned observers, of course, such a statement connotes an acceptance of a more permissive attitude with respect to material that is clearly harmful and therefore properly subject to regulation by government in the interests of society as a whole. Also, S. 1722 provides that it is a defense against prosecution that "dissemination of the material was legal in the political subdivision or locality in which it was disseminated." The Committee concedes that this defense is "wholly new to Federal law" but contends that it "is designed to reflect the viewpoint that Federal anti-obscenity laws (other than with respect to the dissemination of obscene material to minors...) have as their sole mission the enforcement of State or local policy with respect to obscenity." It is explicitly stated that, absent State or local statutory provisions, "no Federal interest exists that is sufficient to warrant prosecution and conviction." This would seem to raise the possibility that an importer of smutty material could be held immune to Federal prosecution so long as the state or locality in which he distributes his material has no applicable statutory standard against which it might be adjudged obscene.

PROSTITUTION

A similar situation applies with regard to section 1843, "Conducting a prostitution business." It is the Committee's

position that current law reaches "behavior which there is no real Federal interest in punishing (e.g., transporting a woman in interstate commerce for the purpose of prostitution or debauchery), while failing to reach some activities of organized crime" such as controlling a chain of houses of prostitution or an interstate network of call girl services. The proposed Code, by contrast, would purportedly focus "on the operation of a prostitution business, directing penalties primarily at the persons responsible for its operation." A prostitute would not be subject to Federal jurisdiction "unless also engaged in activities such as procuring patrons or recruiting participants in the business." (The new law would also, consistent with its other applicable provisions, make "clear that the offense is not limited to members of a single sex.") A defense to prosecution under this section would be "that the prostitution business and any prostitution involved were lawful under the laws of all States or localities in which the offense occurred." Under the present White Slave Traffic Act, this is not an allowable element of a defense; and this notion was specifically upheld in 1978 in a Federal Circuit Court decision (United States v. Pelder) which sustained convictions involving transportation of women to the state of Nevada for purposes of prostitution despite the fact that prostitution is legal in that state.

EXTORTION

The question of prosecution for extortion offenses committed in connection with a labor dispute has caused strong opposition from within the labor movement. Certain labor spokesmen appear convinced that S. 1722 provides too easy a basis for such prosecution, while others from outside the labor movement have expressed apprehension that the bill would make labor organizations virtually immune from it. The nub of the issue is contained in a Committee decision to establish "a bar to prosecution in circumstances involving a labor dispute." This modifies present usage as determined by the Hobbs Act, which had specified "wrongful use of... force, violence, or fear," and the 1973 U.S. Supreme Court decision in United States v. Enmons, which held that the law did not proscribe extortionate activity by employees or union officials in the course of a collective bargaining dispute when the aim was the achievement of an end that could legitimately be secured through collective bargaining. Subsection (b) of section 1722 prohibits application of this section to labor disputes involving "legitimate collective bargaining objectives" generally, and this prohibition is explicitly intended to encompass "activities to secure non-corrupt labor union objectives even if, as in Enmons, those activities would violate other laws and excludes such objectives as efforts to obtain personal payoffs or payments for superfluous services." Further,

> the Committee has eliminated from the definition of the substantive offense itself the reference in the Hobbs Act to the "wrongful"

> use of force, violence, or threats, on which the Supreme Court majority predicated its holding, and intends that in situations not covered by section 1722(b) this offense be given an interpretation consistent with its deliberately broad language.

There are two exceptions to this bar in the bill as reported by the Committee: proof by the government that a defendant engaged in conduct which, if there were Federal jurisdiction, would be a felony under the code (this must be an overt act rather than "a mere statement or threat to act") and proof that the defendant acted not only "knowingly" but with "preestablished intent to (a) cause death or severe bodily injury, and (b) by so doing to force acceptance of the union's demands." Also, certification that Federal prosecution was necessary would have to be forthcoming from the Justice Department, specifically from the Attorney General of the United States, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division.

ENDANGERMENT

The most controversial provision of the new Code from the perspective of the business community is probably section 1617, which creates the crime of "endangerment," which, as the Committee observes, has no precedent in existing Federal law. Under this new provision, it would be a crime knowingly to place another person in imminent danger of death or serious bodily injury through conduct whicn "manifests an extreme indifference to human life" or which "manifests an unjustified disregard for human life." Federal jurisdiction under this section would include instances of violation of such Federal laws as statutes regulating environmental pollution, the Occupational Safety and Health Act of 1970, the Federal Mine Safety and Health Act of 1977, the Public Health Service Act, the Federal Food, Drug, and Cosmetic Act, and the Federal Hazardous Substances Act. This offense could carry penalties as high as five years' imprisonment and fines as great as $250,000. Inclusion of this offense in the proposed Code has been advocated with particular force by the Justice Department, which sees its role in the area of regulatory crimes as increasing markedly in the future and which takes the official position that regulatory offenses that involve knowing violation of health and safety, and that thereby create increasingly serious risks, warrant harsher criminal penalties for purposes of both deterrence and punishment. Opposition has come from such quarters as the National Association of Manufacturers, the U.S. Chamber of Commerce, and the Associated General Contractors of America and has focused on problems of definition, such as proper interpretation of a term like "unjustified," and Federal jurisdiction over business enterprise, which would obviously be drastically broadened in this instance. It is felt that certain business activity that is, however regrettably, unavoidably hazardous would become subject to increasing Federal jurisdiction amounting to virtual harrassment.

INTERNAL SECURITY

From the standpoint of traditional internal security concerns, despite the fact that they seem not to have been accorded the general notice given to such offenses as the foregoing, two repealers in the bill are of interest. The first occurs in subchapter A of chapter 12, "Offenses Involving Foreign Relations," which does not carry forward the so-called Logan Act into the proposed revised Code. The act, which was passed in 1799, punishes unauthorized communication by a U.S. citizen with a foreign government or with an officer or agent thereof with "intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States." This law has never been used as a basis for Federal prosecution, so that a court determination as to constitutionality has never been made; nevertheless, its repeal has been a part of every draft of the proposed revised code since 1973, and it is regarded by the Committee (and, presumably, within the Justice Department itself) as "constitutionally suspect," especially on grounds of free speech. Its potential for application in certain cases, such as those involving Ramsey Clark and Jane Fonda especially, has been raised many times, however, both within Congress and elsewhere.

A major departure in the area of conspiracy has also been effected in chapter 11, "Offenses Involving National Defense." Previous versions of this legislation have carried forward into the new code the provisions of existing Federal law applicable to seditious conspiracy and to teaching and advocating the forcible overthrow of the United States government. These provisions, 18 U.S.C. 2384 and 2385, the latter popularly known as the Smith Act, "are not carried forward in the Code" as proposed in S. 1722. Rather, the Committee has elected to rely on the "general conspiracy provision," which penalizes violation of sections relating to treason and armed rebellion or insurrection. It is true that the Smith Act's impact has been sharply blunted over the years by court decisions dealing with such issues as the nature of one's membership in, for example, the Communist Party of the United States and the immediacy of the violent action being advocated. Nevertheless, one of the leading cases in this area is still Dennis v. United States, decided by the U.S. Supreme Court in 1951, in which the Court made the common-sense finding that "Obviously, the words [of the clear-and-present-danger standard] cannot mean that before the Government may act, it must wait until the putsch is about to be executed, the plans have been laid and the signal is awaited." As the Court further observed,

> Certainly an attempt to overthrow the Government by force, even though doomed from the outset because of inadequate numbers or power of the revolutionaries, is a sufficient evil for Congress to prevent. The damage which

> such attempts create both physically and politically to a nation makes it impossible to measure the validity in terms of the probability of success, or the immediacy of a successful attempt.

There are at least two problems that come to mind. In the first place, treason as defined in the Constitution is generally understood to apply to proscribed activity in behalf of enemies of the United States in time of open hostilities or war; history in this century shows, however, with great clarity that activity of a conspiratorial nature designed to bring about the destruction of the United States government in behalf of a hostile power may be carried on with the greatest assiduity during what is technically peacetime. In the second place, armed rebellion and insurrection are by definition overt acts that may well result from precisely the sort of conspiratorial activity contemplated by the terms of the very Smith Act that the supporters of S. 1722 propose to repeal. It can be argued that a body of Federal law that is denied a provision at least attempting to deal with such diligently-conducted, albeit preparatory, activity which has as its ultimate aim the bringing about of revolutionary change with attendant violence is an open invitation to exactly the sort of clearly illogical situation posited by the Supreme Court in Dennis v. United States as quoted in the preceding paragraph.

CONCLUSION

The foregoing, it should be noted, does not presume to be an all-inclusive discussion of this legislation. As noted earlier, S. 1722 is a legislative package of great scope that does not lend itself to brief analysis. This paper has, however, attempted to set forth some representative examples of the types of changes worked in existing law by various provisions of the new code bill so that the reader may gain at least a small glimpse of the nature of the controversy that surrounds certain of its provisions. At this juncture, Senate Judiciary Committee staff personnel advise that, barring unforeseen difficulties, it is hoped S. 1722 will reach the floor of the Senate for debate at an early date; it had been the intention to have the bill brought up for consideration before the end of June. The situation with respect to the House bill is less certain. Even assuming its eventual approval after consideration on the floor of the House, and assuming further that this approval were of the bill substantially as it exists at present, a conference committee would be necessary to resolve the many differences between the two bills; and it is not believed at this point that this process would, especially given the position of the Justice Department on a number a material issues, necessarily be an easy one.

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