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The Oath would have bound him to answer to all questions posed to him on any subject.

Star Chamber Oath in 1637. ¹⁸ The Trial of John Lilburn and John Wharton, 3 How. St. Tr. 1315 (1637-1645). He resisted the oath and declaimed the proceedings, stating:

“Another fundamental right I then contended for, was, that no man’s conscience ought to be racked by oaths imposed, to answer to questions concerning himself in matters criminal, or pretended to be so.” Heller and Davies, *The Leveller Tracts 1647-1653* (1944), 454.

On account of the Lilburn Trial, Parliament abolished the inquisitorial Court of Star Chamber and went further in giving him generous reparation. The lofty principles to which Lilburn had appealed during his trial gained popular acceptance in England. ²⁸ These sentiments worked their way over to the Colonies and were implanted after great struggle into the Bill of Rights. ²⁹

Thus we may view the historical development of the privilege as one which groped for the proper scope of governmental power over the citizen. As a “noble principle often transcends its origins,” the privilege has come rightfully to be recognized in part as an individual’s substantive right, a “right to a private enclave where he may lead a private life. That right is the hallmark of our democracy.” *United States v. Grunewald*, 233 F. 2d 556, 579, 581-582 (Frank, J., dissenting), rev’d, 353 U. S. 391 (1957). We have recently noted that the privilege against self-incrimination—the essential mainstay of our

²⁸ See Morgan, *The Privilege Against Self-Incrimination*, 34 *Minn. L. Rev.* 1, 9-11 (1949); 8 *Wigmore, Evidence* (McNaughton rev., 1961), 289-295. See also Lowell, *The Judicial Use of Torture*, 11 *Harv. L. Rev.* 220, 290 (1897).

²⁹ See Pittman, *The Colonial and Constitutional History of the Privilege Against Self-Incrimination in America*, 21 *Va. L. Rev.* 763 (1935); *Ullmann v. United States*, 350 U. S. 422, 445-449 (1956) (DOUGLAS, J., dissenting).

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~~accusatory~~ ^{adversary} system—is founded on a complex of values, *Murphy v. Waterfront Comm'n*, 378 U. S. 52, 55–57, n. 5 (1964); *Tehan v. Shott*, 382 U. S. 406, 414–415, n. 12 (1966). All these policies point to one overriding thought: the constitutional foundation underlying the privilege is the respect a government—state or federal—must accord to the dignity and integrity of its citizens. To maintain a “fair state-individual balance,” to require the government “to shoulder the entire load,” 8 Wigmore, Evidence (McNaughton rev., 1961), 317, to respect the inviolability of the human personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth. *Chambers v. Florida*, 309 U. S. 227, 235–238 (1940); *Malloy v. Hogan*, 378 U. S. 1, 8 (1964).

The question in these cases is whether the privilege is fully applicable during a period of custodial interrogation. Keeping in mind that the privilege is neither an historical relic nor a legal eunuch, decisions in this Court have consistently accorded it a liberal construction. *Hoffman v. United States*, 341 U. S. 479, 486 (1951); *Arndstein v. McCarthy*, 254 U. S. 71, 72–73 (1920); *Counselman v. Hitchcock*, 142 U. S. 547, 562 (1892). We are satisfied that all the principles embodied in the privilege apply to informal compulsion exerted by law-enforcement officers during in-custody questioning. An individual swept from familiar surroundings into police custody, surrounded by antagonistic forces, and subjected to the techniques of persuasion described above cannot be otherwise than under compulsion to speak. As a practical matter, the compulsion to speak in the isolated setting of the police station may well be greater than in courts or other official investigations, where there are

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In sum, the privilege is fulfilled only when the person is guaranteed the right "to remain silent unless he chooses to speak in the unfettered exercise of his own will."

often impartial observers to guard against intimidation or trickery. ³⁰

This question, in fact, could have been taken as settled in federal courts almost 70 years ago, when, in *Bram v. United States*, 168 U. S. 532, 542 (1897), this Court held:

“In criminal trials, in the Courts of the United States, whenever a question arises whether a confession is incompetent because not voluntary, the issue is controlled by that portion of the Fifth Amendment . . . commanding that no person ‘shall be compelled in any criminal case to be a witness against himself.’ ”

In *Bram*, the Court reviewed the British and American history and case law and set down the federal standard for compulsion which we implement today:

“Much of the confusion which has resulted from the effort to deduce from the adjudged cases what would be a sufficient quantum of proof to show that a confession was or was not voluntary, has arisen from a misconception of the subject to which the proof must address itself. The rule is not that in order to render a statement admissible the proof must be adequate to establish that the particular communications contained in a statement were voluntarily made, but it must be sufficient to establish that the making of the statement was voluntary; that is to say, that from the causes, which the law treats as legally sufficient to engender in the mind of the accused hope or fear in respect to the crime charged, the accused was not involuntarily impelled to make a statement, when but for the improper influences he would have remained silent . . .” 168 U. S., at 549. *And see, id., at 542.*

³⁰ Compare *Brown v. Walker*, 161 U. S. 596 (1896); *Quinn v. United States*, 349 U. S. 155 (1955).