

Court Bars Search Without Warrant

With President Nixon and searches incidental to arrests were permitted throughout a man's house because it was under his "possession" and "control."

FBI Director J. Edgar Hoover looking on, the Supreme Court held yesterday that police and Federal agents must not rummage around a man's house when making a legal arrest without a search warrant.

The Court voted, 6 to 2, to disapprove specifically decisions rendered in 1947 and 1950 that had been used widely by prosecutors to justify expansive searches as "incidental" to lawful arrests.

Acknowledging that the Court had seen-sawed over the years in its search-and-seizure decisions, the Court said it was trying to lay down a rule to guide law enforcement officers in confining searches to the needs of their personal safety and of saving evidence from destruction.

Under the old decisions giving police the greatest leeway, In reversing the burglary conviction of Ted S. Chimel of Santa Ana, Calif., the Court did not say whether it believed police were resorting to what it called "the simple expedient of arranging to arrest suspects at home rather than elsewhere." But Stewart had pointed out that if Chimel had been arrested elsewhere, the police would have needed a warrant to search his home.

Conviction Upheld by 2

Chimel was under suspicion in the burglary of a coin shop and the theft of rare coins. Voting to uphold his conviction and sentence of five years to life were Justices Byron R. White and Hugo L. Black.

White said there was no sense making police get a search warrant to look for the stolen coins because the authorities had ample probable cause to conduct the search.

Noting that "rapid reversal" in Court decisions are rare, White recalled a dissenting opinion by Justice Felix Frankfurter in the 1950 decision criticizing "about-face" rulings that occur when the Court's own personnel changes.

Without mentioning that the Court will have two new members in the fall, White quoted Frankfurter as saying "the Court should not give 'fair ground for the belief that law is the expression of chance—for instance, of unexpected changes in the Court's composition and the contingencies in the choice of successors.'"

In a related case the Court overturned the convictions of a man and a woman in Newark, N.J., who were arrested in 1965 for operating a "sex-and-sadism" house of search-and-seizure law. Even the permissive rules of the 1947 Harris case and the 1950 Rabinowitz case did not permit the rummaging through the 16-room house conducted by Newark police, the Court said in an unsigned opinion. The successful appellants in the case were Monique von Cleef, 42, and James Beard, 39.

In other action:

Poverty

The Court agreed to hear two cases next fall that could provide clues to the Burger Court's attitude toward the equal protection principles applied vigorously by the Court under Earl Warren.

A group of public housing tenants in Atlanta is challenging a Georgia law requiring persons under eviction notice to post a high bond before the local court will consider their legal arguments against the eviction.