89th Year ·· No. 191 Phone RE. 7-1234 Copyright © 1966 The Washington Post Co. TUESDAY,

High Court Curbs

JUNE 14, 1966 Second class postage paid at Washington, D.C. Printed at 1515 L st. nw. 20005 WTOP-TV (9) Radio (150) TEN CENTS

Police Questioning

Suspects' Confessions Are Held Inadmissible Unless Told of Rights

Decisions handed down by the Supreme Court yesterday will have broad impact in major areas of American society — police stations, corporate board rooms and voting booths.

To the police stations the Court brought advanced new rules to protect the rights of arrested persons to remain silent and to have the benefit of counsel.

To the board rooms the Court brought some additional deterrents against mergers that might be seen as increasing economic concentration, or that might arouse resistance from the Federal Trade Commission. [Details on Page D9.]

And to the voting booths the Court brought vindication of the broadened franchise given non-English-speaking Puerto Rican voters by the Civil Rights Act of 1965.

Congress Is Upheld On Intervention in State Voting Laws

Congress has ample power under the 14th Amendment to strike down State election laws that limit the ballot to persons literate in English, the Supreme Court ruled yesterday.

By a 7-to-2 vote, the Court upheld the Kennedy-Javits amendments to the 1965 Voting Rights Act, which offered the severest test in recent years of Federal power to interfere in the election process of a State.

In another major decision, the Court struck down the latest in a long line of contempt of Congress convictions, holding the House Un-American Activities Committee had broken its own rules in 1955 when it asked questions about alleged communism in the labor movement.

Earlier this term the Voting Act was upheld in its key provisions, which suspended literacy tests in several Southern states so that more Negroes could qualify to vote. But yesterday's ruling brought Federal restrictions on a Northern state that was not accused of outright racial discrimination.

The provisions offered last year by Sens. Robert F. Kennedy (D-N.Y.) and Jacob K. Javits (R-N.Y.) were criticized at the time as not germane to Negro voting rights and a threat to passage of the basic law.

New York has required since 1922 that its voters be literate in English. As a substitute for an English literacy test, the

See COURT, A6, Col. 1

COURT—*From Page A1*

Top Court Upholds Right of Congress To Intervene in State Election Laws

State allows proof of completion of six grades of schooling, an exemption not allowed for citizens born in Puerto Rico and educated in Spanish-speaking schools there.

The justices refused to decide whether natives of Puerto Rico who come to New York to live are denied rights under the 14th Amendment itself. They said the 1965 law made it necessary to decide only whether Congress had the power to eliminate the discrepancy.

Justice William J. Brennan Jr., writing for the Court, gave a broad reading to the 14th Amendment's enforcement section, which gives Congress power to enact "appropriate legislation" to promote its goal of equal treatment for all Americans.

Brennan said the Reconstruction Amendment's enforcement section was designed to give Congress "the same broad powers" that are already granted in national matters under the Constitution's "necessary and proper" clause. He noted that Chief Justice John Marshall had given that clause its classic, broad reading back in 1819.

New York contended that the voting law made no legal difference if the literacy-in-English requirements passed muster under the Equal Protection clause standing alone. A divided three-judge District Court here agreed, but its decision was reversed.

The legal challenge had been launched by a Brooklyn couple, Mr. and Mrs. John P. Morgan, who claimed that their voting power was being diluted by an influx of voters who could not read English. Brennan said Spanish-language news media and other factors made literate Puerto Ricans potentially as well informed as those who attended six grades in mainland schools.

Justices William O. Douglas and Abe Fortas contended in a companion case that the Kennedy-Javits amendments were not needed to strike down the literacy rule. But the majority held that a lower court should find out whether Martha Cardona of Rochester, N.Y., could qualify under the new law.

In total dissent were Justices John M. Harlan and Potter Stewart. They said the Federal law had laudable objectives but it intruded on state prerogatives.

In other section, the Court agreed to revise another lower court decision involving the Government's power to punish criminally travel to foreign countries ruled off-limits by the State Department. A Federal court in Brooklyn dismissed an indictment against three organizers of an unauthorized 1963 trip to Cuba, holding that Congress had failed to make such travel a crime.

Present Practice Declared Coercive; Justices Divided

By John P. MacKenzie
Washington Post Staff Writer

The Supreme Court ruled yesterday that police questioning of suspects in their custody is inherently coercive, rendering inadmissible confessions obtained in the absence of strict constitutional safeguards.

Unless a prisoner is informed of his right to remain silent and to have counsel, and he voluntarily, knowingly and intelligently waives his rights, "there can be no questioning," the Court said.

The closely and bitterly divided Court laid down a set of guide lines that stopped short of outlawing all confessions in criminal cases but forbids the use in court of most confessions obtained ununder current police practice.

It was the latest and most controversial in a series of decisions expanding the rights of accused persons and restricting the powers of police and prosecutors. Though long-awaited, the decision was considered certain to produce a storm of national debate on the sensitive crime issue.

The ruling applies to criminal trials in all state and Federal courts, including the Nation's Capital where the argu-

See CONFESS, A6, Col. 5

Excerpts from high court's decision and dissents on admissibility of confessions. Page A7.

Court's view on confessions practiced here since August, police say. Page A6.

ment has raged over the "rights of the accused" and the "rights of the law-abiding public" since the Court's 1957 Mallory decision limited the use of confessions here.

New guidelines for law enforcement officials ranged far beyond the prompt-arraignment requirements of the Federal courts. They pointed emphatically toward the right to counsel as the chief guarantee against self-incrimination unless "other fully effective means" could be devised to insure that suspects know their constitutional rights.

Extraordinary Rules

The rules were extraordinary in their detail. They provided not only that a suspect must be warned of his rights, but also that he can break off a police interview at any point by indicating a desire to see a lawyer.

Even a suspect who has answered some questions or volunteered some statements to police may "refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned," the Court said.

The warning by police, the Court added, must include the statement that the prisoner has "a right to the presence of an attorney," either retained or appointed.

Yesterday's ruling came in four cases selected from about 200 on the Court's docket raising similar questions. Three cases were decided by a 5-4 vote. A fourth decision was a 6-3 affirmance of the California Supreme Court's broad reading of prior High Court doctrines.

These were the so-called "Escobedo" cases that arose in the wake of the Court's ruling two years ago throwing out incriminating statements made to Chicago police by murder suspect Danny Escobedo.

Escobedo implicated himself under stationhouse questioning after police had refused to let him see his already retained lawyer. Left unclarified until yesterday was the question whether the Escobedo decision covered persons who did not yet have lawyers.

Chief Justice Earl Warren delivered the 61-page majority opinion. He was joined by Justices Hugo L. Black, William O. Douglas, William J. Brennan Jr. and Abe Fortas. Fortas replaced U.N. Ambassador Arthur J. Goldberg, author of the Escobedo decision, but otherwise the 5-man majority was the same.

Dissenting in all four cases were Justices John M. Harlan, Potter Stewart and Byron R. White. Justice Tom C. Clark joined them in three cases but concurred with the majority in the California case.

A fifth decision, which will determine whether the new self-incrimination safeguards apply to cases long-since settled on direct appellate review, was not announced. The Chief Justice promised a ruling "soon" in that case. The Court is expected to adjourn for the summer next Monday.

Cases Involved

The four cases, which touched off impassioned courtroom statements both by the Chief Justice and by Justice Harlan, were these:

1. Ernesto A. Miranda, convicted of kidnaping and rape in Arizona with the help of a confession obtained without a

warning of his right to counsel but without a specific request from the suspect.

2. Michael Vignera, who confessed to robbing a Brooklyn dress shop after 12 hours of police questioning with no warning as to his rights.

3. Carl C. Westover, convicted of two holdups of federally insured banks. He confessed after 17 hours in the custody of state police and a few hours in FBI custody. As in the Miranda and Vignera cases, authorities had strong evidence against Westover without the confession.

4. Roy A. Stewart, whose conviction for robbery and first-degree murder was set aside by California's highest court on grounds that the Escobedo decision required a warning from police before he confessed and proof that Stewart knowingly waived his rights to silence and counsel.

Warren Reads Opinion

The Chief Justice read his opinion to a crowded courtroom for more than an hour. He went out of his way several times to emphasize that he did not expect the new rules to hamper effective law enforcement.

Warren said his conclusion was supported by "graphic evidence" in the form of information supplied by the FBI at the justices' request. He said the FBI had demonstrated that a regard for the rights of an accused can nevertheless produce "an admirable record of law enforcement."

FBI procedures include warnings and prompt termination of questioning of suspects who say they want lawyers, Warren said. This practice "can readily be emulated by state and local enforcement agencies," the Chief Justice said.

Answering the argument that FBI agents investigate only certain kinds of crime, Warren said the contention "does not mitigate the significance of the FBI experience" in kidnaping, bank robbery and other cases.

Warren noted that the Court's new rules added one element to FBI procedures: the advice to prisoners that they have a right to the presence of a lawyer.

Burden on Prosecution

Warren did not say how the courts were to decide disputes between prosecution and defense over the warning procedure. But he said the prosecution would have the heavy burden of proving that effective warnings were given.

The Chief Justice discussed at length the history of the self - incrimination privilege and recalled case histories of police abuse of defendants' rights. He relied heavily on interrogation manuals prepared for police by law teachers who have been highly critical of Supreme Court decisions in the criminal law field.

These manuals show a modern trend away from physical abuse to psychological coercion, Warren said. He said the manuals buttressed the key conclusion that confessions are coerced when a suspect is alone and without counsel.

Nor can the rule be limited to confessions, Warren said. Other incriminating statements and statements designed to exculpate must come under the same rule, he said, because they, too, are effectively used by prosecutors.

Police Move To Meet New Court Ruling

6/15/66

By Leonard Downie Jr.
Washington Post Staff Writer

THE WASHINGTON POST

Following detailed guidelines set down by the Supreme Court Monday, U.S. Attorney David G. Bress and Washington Police Chief John B. Layton have begun a far-reaching revision of police interrogation procedures here.

Both officials believe that the planned restrictions on police questioning "will cut down tremendously" on the number of "valid" confessions obtained by police.

Bress said he feared that this might result in "some impairment of law enforcement in Washington."

But he added that "eventually the changes have to sharpen

See DECISION, A6, Col. 3

Washington police solved 10 per cent fewer crimes in the last 12 months than in the previous 12-month period. *Page B1.*

police investigation in other areas and the public will benefit.

"The Supreme Court is saying that it is dedicated to the rights of the indivdual even if it means some cost to society. The rights of the individual have been held paramount."

Layton said the police "must abide" by the court's new rules for questioning and the admissability of confessions even though "we will not have the same freedom as before."

Loud grumbles were heard, however, from the force's top detectives. Insp. John L. Sullivan, head of the robbery squad, told a reporter that the decision "puts another handcuff on the police."

Already, under previous court decisions, Washington had been moving closer to the Supreme Court's new questioning guidelines than perhaps any other city in the Nation.

Layton issued an order nearly a year ago requiring all members of his force to warn all arrested suspects carefully at the stationhouse that they have the right to remain silent, that anything they tell police can be used against him in court and that they can immediately notify a lawyer.

Two weeks ago, Bress announced a plan to furnish free lawyers around-the-clock to indigent suspects at the police precincts.

If the suspect requests a lawyer, he will be given a phone number by police that will put him in contact with a volunteer from the Neighborhood Legal Services Project, D.C. Bar Association or Washington Bar Association.

Bress said that program is due to start "any day now" as soon as the participating legal groups provide police with the central phone number.

But the Supreme Court decision forces police to go even further in warning suspects of their rights to remain silent and get a lawyer, putting particularly tight restrictions on the court admissability of confessions gained by police.

The planned procedures to be used by Washington police, as outlined yesterday by Bress and Layton, would work like this:

- As soon as police actually arrest a man — no matter where the arrest is made— they will be under orders clearly to inform him of his rights to remain silent and to get a lawyer. This is not usually done now until the suspect and police arrive at the stationhouse.
- The police will be told that no statements about guilt or innocence are to be taken from the suspect until he either "expressly waives" his rights to silence and counsel or obtains a lawyer who then comes to the stationhouse to advise him.

Waivers Likely

Until now, police have assumed that when a suspect does not ask for a lawyer after he is told of his right to have one it is all right to continue questioning him.

It will now be necessary to prove in court that the suspect "knowingly and intelligently" refused to get a lawyer's advice before talking further with police. Bress believes it probably will be necessary for the suspect to sign a formal waiver stating this.

- If the suspect wants a lawyer and says he cannot afford one, the police will have to provide him one under Bress's new stationhouse lawyer plan.

"Before, we thought that the police could question the man until his lawyer got there," Bress said. "But now it appears that as soon as he asks for a lawyer all questioning will stop until the attorney gets to the stationhouse."

Coercion Claims Feared

- If the lawyer wants to be present during the police interrogation, he can be. Until now, Insp. Sullivan said yesterday, after a suspect had conferred with his attorney, the police resumed questioning within sight but out of earshot of the lawyer.

Bress and the police are concerned about how they will be able to obtain a suspect's waiver of counsel in a way that will convince a judge that the suspect understood what he was saying or signing and had not been coerced by police.

"He might say in court that he was told he was signing something that would get him extra meals at the jail or something," one detective said.

"I expect that there will have to be further court decisions on this," Bress said.

Spontaneous Confessions

The only confessions that apparently remain untouched by the court's decision are those made spontaneously by a suspect at the scene of the crime before he is ever arrested.

"But anything he says under any sort of interrogation once he is under arrest," Bress said, "cannot be used in court if he has not gotten a lawyer or clearly waived his right to one"

The prosecutor wonders if this limits even the conversations that the arresting officers carries on with a suspect in the scout car as they go from the scene of the arrest to the stationhouse.

He and Layton will meet today to iron out these problem areas in their guidelines for the police. Bress then plans to explain the decision personally to the force's detectives.

"No Guy Will Talk"

The detectives themselves, who conduct most of the interrogation carried out by the police, believe that the court decision limits their investigative powers too severely.

"The result of it all," one said, "is that no guy will talk to us until he gets a lawyer and when his lawyer arrives he'll tell him to stay quiet."

"It's all right to tell us to rely on evidence other than confessions in cases that produce other evidence," another detective added, "but what about those without witnesses or meaningful fingerprints, like the murder of some woman by her boy friend in a room with no one else present."

A robbery squad detective said that many suspects themselves will be hurt by the new rules if the police and courts and left to rely on "nothing but often reliable eyewitness identifications.

"If a man's lawyer tells him to shut up right away, how can he give us an alibi or something else that may get him off the hook right away and save some unnecessary time in jail awaiting trial?" he asked.

Most suburban police and court officials did not believe that the Supreme Court decision would change their current practices much.

They said that previous court rulings had already made them "very, very careful" about interrogations and they are already taking pains to inform suspects of their rights.

They are still unsure, however, of what to do about providing lawyers at the stationhouse for suspects who cannot afford their own and how to determine to a judge's satisfaction when a suspect has waived his right to counsel.

Across the country, however, wherever current practices were not so stringent, police officials and prosecutors complained that the new rules would hamstring their crime-stopping efforts.