

Supreme Court Ruling

Police Search Power Widened

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For the second time in three months, the Supreme Court yesterday expanded powers for police to search arrested persons without court warrants.

By a 5-to-4 vote the court ruled that police had the right to seize the clothing of a suspect without court permission 10 hours after his arrest and to subject the clothing to a scientific search for incriminating evidence.

In another decision, an 8-to-1 majority, broadly interpreting the 1968 federal gun law, said the law makes it a crime to lie to a pawnbroker about a

previous felony record when redeeming a pawned weapon.

Writing for the majority in the search case, Justice Byron R. White said the court felt "that the Fourth Amendment should not be extended" to exclude the use of telltale paint scrapings from the clothing of Eugene H. Edwards to convict him of trying to break into a post office at Lebanon, Ohio.

"On the contrary," said Justice Potter Stewart for the dissenters, "the real question in this case is whether the Fourth Amendment is to be ignored."

The Bill of Rights provision protects against "un-

reasonable" searches and seizures. For decades the court has ruled in contrary ways on the question of whether police must obtain a warrant when they have time to do so.

In December the court gave broad approval to warrantless thorough body searches of lawfully arrested suspects and indicated that it would suppress evidence only if the seizure methods were outrageous.

Yesterday's majority again declined to hold police to the traditional justification for searches incident to arrest—

the need for arresting officers to protect themselves, to prevent escape or to forestall the destruction of evidence.

White said the search of Edwards' clothing did not require the court to decide at what point searches "incident to incarceration" would violate reasonable standards "because of their number or their manner of perpetration."

As for the length of delay, White said longer delays would not make much difference as long as police had the suspect and his clothing in custody lawfully.

"With or without probable cause, the authorities were entitled at that point in time not only to search Edwards' clothing but also to take it from him and keep it in official custody," White said.

He was joined by the four appointees of President Nixon, Chief Justice Warren E. Burger and Justices Harry A. Blackmun, Lewis F. Powell Jr. and William H. Rehnquist. Dissenting with Stewart were Justices William O. Douglas, William J. Brennan Jr. and Thurgood Marshall.

"The intrusion here was hardly a shocking one, and it cannot be said that the police acted in bad faith," said Stewart. However, he went on to quote an 88-year-old high court decision saying, "Illegitimate and unconstitutional practices get their first footing . . . by silent approaches and slight deviations from legal modes of procedure."