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Court-Rules Line-Up Lawyers Not Needed

WASHINGTON (AP) — The Supreme Court says police may place arrested suspects in line-ups without a lawyer on hand.

The 5-4 decision Wednesday in a Chicago case runs counter to a series of earlier rulings that expanded arrested persons' right to counsel.

As a result, a suspect must be offered a lawyer from the moment police start to question him. But he can't insist on one if police put him in a lineup or a showup for identification by witnesses.

The ruling was produced by the four Nixon appointees plus Justice Potter Stewart. Its logic was challenged by the dissenters.

In a flurry of actions on a

busy day, the court agreed also to rule on the way all states except Hawaii finance their public schools. And the justices unanimously barred the states from indefinitely committing criminal suspects found incompetent to stand trial.

The Chicago case tested whether a suspect already arrested was entitled to a lawyer when a holdup victim came to the station house to view him at a lineup.

Stewart said the suspect, Thomas Kirby, did not have this right either under the Constitution or under a 1967 decision by the high court providing lawyers to suspects in lineups after they have been indicted.

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The decision is likely to have a nationwide impact. In at least 13 states courts had ordered police not to place an arrested suspect in a lineup or show-up without a lawyer on hand. They are California, Louisiana, Massachusetts, Maryland, Michigan, Nevada, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Washington and Wisconsin.

Similarly, police have been barred by eight of the 11 federal appeals courts from the procedure approved by the high court in the Kirby case.

Stewart was backed by Chief Justice Warren Burger and Justices Harry A. Blackmun, Lewis F. Powell Jr. and William H. Rehnquist. Dissenting were Justices William O. Douglas, William J. Brennan, Byron White and Thurgood Marshall.

Brennan said there is no good reason to supply lawyers at lineups after indictment and yet to deny them when the lineup is held at an earlier point, after arrest.

The school case, to be heard next winter, tests whether children in poor areas are being illegally shortchanged when the amount states spend on education is tied to the revenue raised from property taxes in the district.

A half-dozen courts across the country have cast doubt on the present financing system, including a three-judge panel in San Antonio, which found it dis-

criminates against the poor. Thirty states backed Texas in an appeal, but six governors urged the high court to require the states to adopt another system.

The commitment ruling, delivered by Blackmun, came on an appeal by an Indiana retarded deaf mute who had been accused of stealing \$5 in 1968 from two Marion County women.

When two psychiatrists determined the mute, Theon Jackson, was incompetent to stand trial he was placed in a mental institution. There he was to remain according to state law, until he became "sane."

Blackmun said this amounted to a life sentence. The justice said the state must either set him free or begin the regular procedures used to commit the feeble-minded and mentally ill.

Six other states appear to commit indefinitely a defendant found incompetent to stand trial. They are California, Connecticut, New Jersey, Minnesota, Ohio and Wisconsin.

Like Indiana, they evidently will have to change their ways.

In other rulings, the court:

— Held a defendant who wishes to take the witness stand at his trial may not be required by law to be the first defense witness. The 5-4 decision served to upset a practice in Tennessee and Kentucky in an appeal brought by Donald L. Brooks, a Chattanooga man convicted in 1969 of robbing a food store.

— Strengthened the Federal Communications Commission's authority to regulate cable television. The 5-4 decision upset the federal appeals court in St. Louis in a case involving Midwest Video Corp., which operates CATV systems in Missouri, New Mexico and Texas. The FCC in 1969 held no CATV system having 3,500 or more subscribers could relay programs unless it also originated its own shows.

— Upheld the Air Force's contention that it cannot be sued for damage to private homes by sonic booms unless there is proof of negligence.

— The Interstate Commerce Commission has the right to impose rules to return freight cars on all the nation's railroads. The unanimous decision given by Rehnquist reversed a court in Pennsylvania, and went against 15 steel companies and the American Iron and Steel Institute.

In commenting on the court's cable-television decision, the National Cable Television Association said it wants to study the action further.

"But it would seem that the FCC's authority to regulate and encourage the growth of CATV has been given a significant boost. We are pleased with this clarification of the commission's authority."