

Bar to Use of Confessions Modified

Court Decision Marks a Victory for President

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WASHINGTON — The Supreme Court gave a major political and constitutional victory to President Nixon yesterday by ruling illegally obtained police confessions could be used against a criminal defendant who testified in his own defense.

The 5-to-4 decision represents the first significant retreat from the Supreme Court's controversial 1966 Miranda ruling, which holds that confessions to the police are unconstitutional if the suspect is not warned of his rights to a free lawyer and to remain silent.

Fourteen state supreme courts and six U.S. courts of appeals have interpreted the Miranda case to mean a confession may not be used in court for any purposes if the police fail to warn the suspect of his rights.

But Chief Justice Warren F. Burger, writing for the majority, reversed these rulings and said a confession — although still illegal for purposes of proving the state's case — now could be introduced into evidence if the defendant decided to testify in his own behalf.

A DISSENT by Justice William J. Brennan Jr. called the Burger decision "monstrous" because it permitted criminal courts to aid "the lawbreaking police officer" and because it would "seriously un-

determine" the requirement that police warn suspects of their rights to free lawyers.

The ruling is a major victory for Nixon in two ways. During his campaign he declared the "Miranda . . . decisions of the high court have had the effect of hamstringing the peace forces in our society . . ."

Also, his two "strict constructionist" nominees — Burger and Justice Harry Blackmun — both were needed for the 5-4 victory.

The decision will be applauded by the law enforcement community, which has agreed with Nixon that the Miranda decision was "strengthening the criminal forces" in the nation.

THE CASE involved a New York City drug addict who took the stand at his trial and said he had sold baking powder, not heroin, to an undercover police agent. The state introduced a confession the prosecutor admitted had been obtained illegally because no Miranda warning was given. The confession stated that the defendant had sold heroin.

In explaining why the high court was fashioning an "exception" to the 1966 Miranda confession warning requirements, Burger said:

"The shield provided by Miranda cannot be perverted into a license to use perjury by way of a defense, free from the risk of confrontation

with prior inconsistent utterances."

Brennan replied that the court was undermining the right to testify in one's defense because now a defendant must remain silent or risk the introduction of an illegally obtained confession that may prove his guilt.

THE CHIEF justice — when he was a U.S. court of appeals judge — strongly opposed the Miranda case and in several speeches accused the Supreme Court of forgetting that "nice people have rights, too."

He obviously was pleased to have authored the decision because he opened his oral recitation by noting facetiously that this opinion "is really only of interest to the bar."

Voting with Burger and Blackmun were three of the original 1966 dissenters: Justices John M. Harlan, Potter Stewart and Byron M. White.

VOTING WITH Brennan were Justice William O. Douglas and Hugo L. Black, the majority justices in Miranda, and Justice Thurgood Marshall, who was not on the court in 1966.

Of all the Supreme Court's decisions in years under Chief Justice Earl Warren, the four most controversial were school desegregation, school prayers, police confessions and obscenity.

In two days this week, the court has moved to soften two

of those four. On Tuesday, it limited the ability of the federal courts to intervene in

freedom of speech cases involving civil rights workers and sellers of obscene books.