cases. It is a dispute that has run most consistently throughout the cases involving the scope of the right to search incident to arrest.[12] Although the right to search the person of the arrestee without a warrant is unquestioned, how far afield into areas within and without the control of the arrestee a search may range is an interesting and crucial matter.

The Court has drawn a wavering line.[13] In *Harris v. United States*,[14] it approved as "reasonable" the warrantless search of a four-room apartment pursuant to the arrest of the man found there. A year later, however, a reconstituted Court majority set aside a conviction based on evidence seized by a warrantless search pursuant to an arrest and adopted the "cardinal rule that, in seizing goods and articles, law enforcement agents must secure and use search warrants wherever reasonably practicable." [15] This rule was set aside two years later by another reconstituted majority, which adopted the premise that the test "is not whether it is reasonable to procure a search warrant, but whether the search was reasonable." Whether a search is reasonable, the Court said, "must find resolution in the facts and circumstances of each case." [16] However, the Court soon returned to its emphasis upon the warrant. "The [Fourth] Amendment was in large part a reaction to the general warrants and warrantless searches that had so alienated the colonists and had helped speed the movement for independence. In the scheme of the Amendment, therefore, the requirement that 'no Warrants shall issue, but upon probable cause,' plays a crucial part." [17] Therefore, "the police must, whenever practicable, obtain advance judicial approval of searches and seizures through a warrant proce-

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den v. Hayden, 387 U.S. 294 (1967); *but see* id. at 303 (reserving the question whether "there are items of evidential value whose very nature precludes them from being the object of a reasonable search and seizure.")

[12] Approval of warrantless searches pursuant to arrest first appeared in dicta in several cases. Weeks v. United States, 232 U.S. 383, 392 (1914); Carroll v. United States, 267 U.S. 132, 158 (1925); Agnello v. United States, 269 U.S. 20, 30 (1925). Whether or not there is to be a rule or a principle generally preferring or requiring searches pursuant to warrant to warrantless searches, however, has ramifications far beyond the issue of searches pursuant to arrest. United States v. United States District Court, 407 U.S. 297, 320 (1972).

[13] *Compare* Marron v. United States, 275 U.S. 192 (1927), *with* Go-Bart Importing Co. v. United States, 282 U.S. 344 (1931), *and* United States v. Lefkowitz, 285 U.S. 452 (1932).

[14] 331 U.S. 145 (1947).

[15] Trupiano v. United States, 334 U.S. 699, 705 (1948). *See also* McDonald v. United States, 335 U.S. 451 (1948).

[16] United States v. Rabinowitz, 339 U.S. 56, 66 (1950).

[17] Chimel v. California, 395 U.S. 752, 761 (1969).