Court Upholds Surprise Gun

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The right of federal agents to make surprise inspections of licensed firearms dealers without a warrant was upheld yesterday by the Supreme Court.

The court ruled, 8 to 1, that the broad inspection provisions of the 1968 federal Gun Control Act do not violate the privacy of regulated weapons dealers even though the Fourth Amendment usually requires court warrants for official searches and seizures.

Justice Byron R. White delivered the opinion of the court, emphasizing the "urgent federal interest" in adequate gun regulation and what the court considered the minimal concern for privacy by a businessman who accepts a federal license knowing his records and inventories will be inspected.

White likened the government's power in weapons control to its authority to subject the liquor industry to extensive controls.

Firearms control "is not as deeply rooted in history," White said, "but close scrutiny of this traffic is undeniably of central importance in federal efforts to prevent violent crime and to assist the states in regulating the firearms traffic within their borders."

He added, "If inspection is to be effective and serve as a credible deterrent, unannounced, even frequent, inspections are essential."

The case arose in Hobbs, N.M., where a pawn shop operator, Loarn A. Biswell, was convicted of the unlicensed possession of two sawed-off rifles.

Biswell's conviction was reversed by the Tenth U.S. Circuit Court of Appeals in an opinion by retired Justice Tom C. Clark, who often helps out lower courts. Ironically, it was Clark who dissented vigorously in 1967 when the Supreme Court, in an opinion by White, held that business premises ordinarily may not be searched by health inspectors or other regulators without a warrant.

Justice William O. Douglas dissented. He argued that an inspector's seizure of the contraband rifles was unconstitutional and that the rifles therefore could not be used as evidence against him.

Douglas said the majority mistakenly ignored the official coercion through which the agent obtained Biswell's consent to permit a search of his storeroom.

In other action:

Wiretapping

The court passed up an opportunity to rule on the constitutionality of the controversial 1968 federal wiretap law. The test had been sought by a convicted bank robber and, until recently, by the Justice Department as well.

An attack on the law's system of court-authorized eavesdropping had been launched by counsel for Eddie D. Cox, reputed white leader of a Kansas City criminal ring nicknamed the "Black Mafia."

Cox is under a 20-year prison sentence for his part in the 1970 holdup of a Missouri bank. Wiretap evidence, based on a warrant to search for evidence of illegal drug traffic, led to Cox's arrest for the bank robbery.

When Cox petitioned to the high court, the Justice Department said it had no objection to using his case as a vehicle to test whether the 1968 law squared with the Fourth Amendment. Later, the government advised the court that the case was mired in further litigation over whether the Justice Department had observed the law's procedures

Shop Search Without Warrant

in obtaining the wiretap order from a federal judge.

Double Jeopardy

The court agreed to decide next term whether to apply to old cases a 1970 decision that successive prosecutions for the same crime by state and local authorities violates the constitutional guarantee against double jeopardy.

Disability

The court agreed to decide whether a New Jersey welfare agency had the right to confiscate a federal disability check made out to a worker who had belatedly been held eligible for Social Security benefits. Officials in Newark say their payments to the worker, considered a "loan" under state law, could have been smaller if William Wilkes had been getting a federal check right along. Antipoverty lawyers contend that the federal Social Security Act forbids this method of recouping funds.

Labor

Fulfilling a prediction and a lament by the late Justice Hugo L. Black, the court overruled a 1941 precedent and held, 7 to 1, that an injured railroad worker may not sue his employer until he has exhausted the grievance procedure spelled out in his union's collective bargaining contract. Justice William H. Rehnquist wrote the court's opinion and Justice Douglas dissented alone

The court agreed to decide whether a union that engages in rough tactics to strike a better bargain with an employer can be prosecuted under the federal extortion law. A federal court at Baton Rouge, La., said even violent union activity could not be labeled extortion unless the union was trying to foist unwanted and unnecessary services on a company.

The court ruled, 5 to 4, that an employer who takes over another firm's business must recognize the union that had bargained with his predecessor. But by a 9 to 0 vote the court said the company is not bound by the old contract.

Grand Juries

The court refused to prevent the trial of Cook County States Attorney Edward V. Hanrahan, who claims that the grand jury that indicted him on conspiracy charges had been spellbound and coerced by special prosecutor Barnabas F. Sears.

Hunrahan, accused of covering up police misconduct in the shooting deaths of two Black Panther leaders in Chicago, contended that he should not have to stand trial under an improper indictment. The high court rarely hears claims of a defective grand jury proceeding at the pretrial stage.

Hanrahan, a candidate for re-election, said in Chicago that the ruling meant he could never prove the impropriety of the indictment He said he was the victim of an injustice.