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High Court Bars Review In Cambodia Raids Case

By WARREN WEAVER Jr.
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WASHINGTON, April 15—The Supreme Court refused today to review a decision upholding President Nixon's right to bomb Cambodia without authorization from Congress. The vote was unanimous, and there was no opinion.

The case was brought by Representative Elizabeth Holtzman, Democrat of Brooklyn, and four Air Force officers in an effort to establish the legal principle that a President cannot declare war on his own authority alone.

The effect of the high court decision was to leave standing a ruling by the United States Court of Appeals for th esecond Circuit in New York, that the legality of the Cambodian action was a political question not reviewable by the courts and that the initiators of the suit lacked standing.

Congress Ordered End

The Court of Appeals also held that Congress had implicitly acknowledged the legality of the bombing when it ordered the military to end it by Aug. 15, 1973.

The Justice Department had urged the high court to let the lower court ruling stand, both because a political question was involved and because no real legal controversy remained once the Cambodian action had been ended.

Miss Holtzman said she was "disappointed but not surprised" by the Court's action. She expressed regret that the Justices had not taken advantage of the opportunity to declare that a President cannot wage war unilaterally.

"The important thing," she said, "is that the Court's refusal to take the case does not mean that it approves of the Cambodian bombing or that it found it to be constitutional."

Backed by the American Civil Liberties Union, Representative Holtzman and the Air Force officers insisted that there was an important continuing question of the President's authority involved and that the ruling by the Court of Appeals had set "a disastrous precedent" that should be corrected.

The military plaintiffs in the case were members of B-52 flight crews who refused to participate in the bombing in May and June of 1973. They argued that they had legal standing to press the case because two of them were grounded and a third court-martialed as a result of their action.

Constitutional Issue Avoided

The decision was the latest in which the high court avoided answering the question of whether the war in Southeast Asia was unconstitutional because Congress had never formally declared war.

Representative Holtzman won a temporary victory in Federal District Court in New York City last July, when Judge Orrin G. Judd ruled that Congress had not authorized the Cambodian bombing. The Court of Appeals stayed his ruling pending appeal, however, and that stay was sustained, after some maneuvering, by the Supreme Court until after the bombing was halted on Aug. 14.

FREE SPEECH

In other action, the high court followed up a March decision invalidating a New Orleans ordinance prohibiting verbal abuse of the police by vacating similar convictions and sending four cases back to state courts to be re-examined in the light of the New Orleans ruling.

The action prompted a crossfrie of criticism. Associate Justice William O. Douglas dissented in all four cases, maintaining that the Supreme Court should have reversed all the convictions rather than trusting that the state courts would do so.

In one of the cases, involving particularly vulgar and abusive language, Chief Justice Warren E. Burger and Associate Justices Harry A. Blackmun and William H. Rehnquist dissented, maintaining that the conviction should have been affirmed, based on the Court's earlier rulings that "fighting words" may be punished.

EDUCATION

Accepting a relatively unusual case, the Justices agreed to decide whether two Arkansas high school girls had been denied due process of law when they were suspended for most of a semester for pouring 24 ounces of a malt beverage called Right Time into more than a gallon of otherwise nonalcoholic punch for a school function.

A Federal District Court upheld the school's right to suspend the two 10th-grade pupils, but the United States Court of Appeals for the Eighth-Circuit in St. Louis reversed, saying the suspension was too long and the school board had never determined whether the added liquid was alcoholic or how powerful.

TRANSPORTATION

Dividing 6 to 3, the high court declined to review a decision refusing to permit the parents of a child killed in a Pennsylvania bus accident to sue that state on the ground that its highways did not conform to Federal safety standards.

In a dissent, Justice Douglas said the Court should have considered the case and determined whether statutes permitting the withholding of Federal highway aid from states with substandard roads should permit individual citizens to sue the state when those roads contributed to accidents.

Tax Evasion Case

Joining Mr. Douglas in the minority were Associate Justices William J. Brennan Jr. and Thurgood Marshall.

The Court also declined to review the convictions for tax evasion of the owners of the Nevele Country Club, a Catskill resort. Ben J. Slutsky had been sentenced to five years in prison and a $40,000 fine, and Julius Slutsky to five years and $35,000.

Actions by Supreme Court

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WASHINGTON, April 15—The Supreme Court took the following actions today:

CRIMINAL LAW

Agreed to review a decision that a defendant could not be convicted of conspiring to assault a Federal officer unless he knew beforehand that the victim was such an officer. (No. 73-1123, United States v. Feola.)

Agreed to review a decision denying the Internal Revenue Service the right to compel a bank to produce records of a large deposit of suspicious currency without specifying any person as the subject of its investigation. (No. 73-1245, United States v. Bisceglia.)

DELINQUENCY

Ordered Federal District Court to reconsider a decision enjoining as unconstitutionally vague a California law that gives juvenile court jurisdiction of anyone under 21 "in danger of leading an idle, dissoulte, lewd or immoral life." (No. 70-120, Mailliard v. Gonzalez.) Dissenting Douglas.

ELECTION LAW

Remanded to lower courts decisions upholding filing fees for candidates in Florida, New Mexico and South Carolina, for revision in the light of the high court's decision last month that such (No. 71-1511, Norvill v. Apodaca; No. 72-1973, Fowler v. Culbertson; No. 72-455, Bush v. Sebesta; No. 72-5187, Fair v. Taylor.)

EDUCATION

Vacated a decision upholding the right of a Unitarian church in Wisconsin to enjoin an obscenity prosecution against its sex education course, remanding the case to a lower court for reconsideration in the light of a March decision of the High Court limiting the use of injunctions against law enforcement officials. (No. 72-1671, McConnell v. Unitarian Church West.) Dissenting: Douglas.

Agreed to review a decision reversing the suspension of two Arkansas high school pupils for spiking one and one-half gallons of punch at a home economics social with two cans of malt liquor beverage. (No. 73-1285, Wood v. Strickland.)

Declined to review a decision upholding the right of the University of Connecticut to reverse the decision of a professor who flunked 15 students who failed to take final examinations in 1970 in the wake of the Cambodian bombing and Kent State killings. (No. 73-1331, Simmons v. Budds.)

Declined to review a decision invalidating convictions for unlawful assembly and disturbing the peace of 12 San Francisco State College students in connection with a 1969 student rally. (No. 73-931, California v. Brown.)

ENVIRONMENT

Declined to review a decision permitting the construction of a 13-story Federal jail in lower Manhattan, over objections that its impact on the environment of the neighborhood had not been adequately considered. (No. 73-913, Hanly v. Saxbe.)

FREE SPEECH

Remanded to state courts for reconsideration three convictions for using abusive, vulgar, insulting and boisterous language, in the light of the high court's February decision invalidating a New Orleans ordinance barring the use of "opprobious language" to a policeman. (No. 73-537, Karlan v. Cincinnati; No. 72-1379, Kelly v. Ohio; No. 72-1738, Rosen v. California.) Dissenting: Douglas, who would have reversed rather than remanded.

Remanded to a state court a conviction for the use of profane, vulgar and abusive language, for reconsideration in the light of the same February decision. (No. 75-544, Lucas v. Arkansas.) Dissenting: Blackmun, Burger and Rehnquist, who would have affirmed, and Douglas, who would have reversed.

OBSCENITY

Agreed to review the contempt conviction of a Texas attorney that was based on his advising a newsstand operator to refuse to produce four dozen allegedly obscene magazines on the ground that they might tend to incriminate him. (No. 73-689, Maness v. Meyers.)