

Unregistered Weapon Ban Upheld by Supreme Court

Unanimous Ruling Supports 1968 Law on Possession of Sawed-Off Shotguns, Grenades, Bombs and Rockets

By FRED P. GRAHAM APR 6 1971
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WASHINGTON, April 5—The Supreme Court upheld today the constitutionality of the Federal law that makes it a crime to possess unregistered sawed-off shotguns and automatic weapons and such destructive devices as grenades, bombs and rockets.

In the unanimous ruling the Court held that the 1968 amendments to the National Firearms Act do not violate the privilege against self-incrimination of persons who obtain outlawed weapons that have not been registered in their names.

Doubts about Congress's capacity to pass a valid firearms registration law were raised in 1968 when the Supreme Court held that the law existing then violated the self-incrimination clause of the Fifth Amendment. The law punished persons who possessed weapons without registering them.

Congress quickly amended the law to require the manufacturer or importers of the

outlawed weapons to register them in the names of persons who purchase them.

Today the Court held that this law did not violate the self incrimination rights of the person who possesses the unregistered weapon since the possessor has no duty to register it.

The opinion by Justice William O. Douglas also held that the statute did not violate due process of law by making persons who possess unregistered weapons liable for prosecution even if they did not intend to violate the registration law.

The ruling reinstated an indictment against Shirley Jean Sutherland and Donald Freed, who had been accused in Los Angeles of obtaining 10 hand grenades to pass on to the Black Panther party. A lower court had declared the law unconstitutional and had thrown

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out the indictment.

Seven other criminal appeals were decided today as the Court dealt with several key issues that had been held for a year or more until Justice Harry A. Blackman joined the Court. Among the rulings were the following:

That the Constitution does not forbid electronic eavesdropping by the police when it is carried out with the consent of one party to a "bugged" conversation. In a 5-to-4 ruling the Court held that the Fourth Amendment was not violated when Government agents plante a hidden transmitter on an informer, listened to a conversation between the informer and a suspected narcotics peddler, and then testified against the peddler in court. The decision reaffirmed a 1952 holding that the subject of such a police tactic suffers because of his misplaced trust in the informer, not because of electronic eavesdropping.

That proprietors of local gambling operations cannot be prosecuted under the 1961 Federal "travel act" simply because bettors come from another state to gamble. The travel act makes it illegal to cross a state line to engage in illegal gambling, liquor, narcotics or prostitution.

In overturning the convictions of two persons who operated a numbers game in North Florida that attracted customers from Georgia, the Court ruled that Congress intended to cover only illegal operators who crossed state lines.

That the Supreme Court's 1969 decision in *Chimel v. California*, which limited the authority of policemen to search while making arrests, shall not be applied retroactively to invalidate any searches made before the *Chimel* decision was announced. A five-man majority of Justices Blackmun, Byron R. White, William J.

Brennan Jr., Potter Stewart, and Chief Justice Warren E. Burger agreed that the courts should let prosecutors use evidence obtained in searches made before the *Chimel* ruling was announced. They reasoned that the police had a right to rely upon the law as it then was and that evidence obtained in illegal searches was still likely to be true.

Different on Retroactivity

The Justices found little agreement in their efforts to decide how much retroactive effect to give to the Supreme Court's 1968 decision that the Federal gambling tax law violates the Constitution's privilege against self-incrimination.

In one case, a five-man majority composed of Justices Brennan, Thurgood Marshall, Hugo L. Black, Douglas and John M. Harlan ruled against the Government's efforts to make a Chicago gambler forfeit \$8,674 found in his possession when he was arrested for violation of the gambling tax law. The Court reasoned that forfeitures were designed to punish lawbreakers and that the Government should not be allowed to enforce a forfeiture based on an unenforceable law.

In another retroactivity decision, Justice Harlan lined up with Justices Stewart, Blackmun, White and Burger to rule that the 1968 law will not be applied retroactively to overturn old income tax evasion convictions that were obtained with the use of evidence taken from gambling tax returns.

The Court reasoned that the facts on such forms were true despite the defect in the law that required them to be filed and that final convictions should not be lightly overturned.