

Court Cuts Right to Sue U.S.

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The Supreme Court cut back sharply yesterday on the right of individuals, as citizens or as taxpayers, to take the government to court over alleged violations of the Constitution.

In a 6-to-3 decision the court held that individual taxpayers lack legal standing to sue the Pentagon over the reserve commissions issued to members of Congress. The Constitution forbids legislators from holding incompatible federal offices.

And in a separate 5-to-4 ruling the court denied legal standing to a taxpayer demanding a public accounting, which he said was specifically mandated by the Constitution, of the Central Intelligence Agency budget.

Both decisions were delivered by Chief Justice Warren E. Burger and marked a victory in his campaign to rid the courts of cases that might be resolved by the political process.

"Slow, cumbersome and unresponsive though the traditional electoral process may be thought at times," Burger said, the nation's system "provides for changing members of the political branches" when citizens are dissatisfied, not a "New England town meeting" manned by the judiciary.

The dissenters denied Burger's complaint that the legal rights asserted by citizens and taxpayers had no boundaries unless the court set strict limits. They said the provisions over which they sued were put in the Constitution to be enforced in the interest of individuals affected by them.

Although Burger said no Supreme Court precedent was being overturned, the two decisions indicated that there would be little future growth to principles set forth by former Chief Justice Earl War-

ren in 1968. Warren's opinion expanded on the standing of taxpayers to contest money paid to religious institutions.

In each of yesterday's cases, lower courts had held that previously expanding concepts of citizen legal rights entitled them to challenge the military commissions or CIA budget secrecy.

U.S. District Court Judge Gerhard A. Gesell had refused to dismiss the reserve commission suit brought by a group called Reservists Committee to Stop the War.

The Third U.S. Circuit court of Appeals in Philadelphia had sustained the right of William B. Richardson of Greensburg, Pa., to compel disclosure of CIA funding.

Gesell had said that only citizens could vindicate the right to have senators and representatives who were free from the executive inducements of reservists' privileges—if they could prove their claim that the commissions were unconstitutional.

According to the Third Circuit, the Constitution is quite specific about public accounting. It states, without exception, that "a regular statement of account of the receipts and expenditures of all public money shall be published from time to time."

But Burger said the plaintiffs in each case were airing only their "generalized grievances" about government actions they disapproved. They did not suffer the direct personal injury required for them to be in court, he said.

Joining Burger in the reservists' case were Justices Potter Stewart, Byron R. White, Harry A. Blackmun, Lewis F. Powell Jr. and William H. Rehnquist. Dissenting were Justices William O. Douglas, William J. Brennan Jr. and Thurgood Marshall.

Justice Stewart joined the dissenters in the CIA case, saying Richardson had a strong case that officials were neglecting an "affirmative duty" of budget disclosure spelled out in the Constitution.

The decisions are not expected to curtail the rights of environmentalists and other public interest groups to sue the government for alleged failure to enforce new pro-consumer laws. The court has held that such laws generally carry with them an intent to confer legal standing on individuals to protect the rights the laws establish.