

## Police Access to Bank Records Curbed

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SAN FRANCISCO, Jan. 1—The California Supreme Court has unanimously ruled that law enforcement officers may not examine bank records for individuals or businesses without a warrant or a court order.

The decision is the first, the ruling indicated, to state categorically that police officers cannot have automatic access to a bank's records to make a criminal case against one of its customers.

There is no justification, Justice Stanley Mosk wrote, "for such a sweeping exploratory invasion into an individual's privacy."

The ruling, which examines "the intimate and confidential relationship" between a bank and its customers, states, finally, that turning bank records over to the police without "the scrutiny of a neutral magistrate" violates a person's "reasonable expectation of privacy."

### Controversy for Years

The issue of whether banks should keep records and turn them over to the authorities, the judge wrote, has been a matter of controversy for some years, especially with regard to its potential violation of a client's civil liberties.

However, the question whether and under what circumstances these confidential records should, in effect, be made public, has never been fully clarified, he said.

For example, the Bank Secrecy Act, passed by Congress in 1970, compels banks to keep records of all customer transactions and report any financial deal involving more than \$10,000 to the Department of the Treasury.

The United States Supreme

Court has since upheld the constitutionality of the act, the judge noted.

In the present case, however, the local law enforcement authorities in San Bernadino County in southern California simply requested local banks to give them copies of the records of a lawyer who was under investigation.

At least one bank voluntarily complied and, in time, the lawyer, Wesley S. Burrows, was indicted for grand theft.

The lower court in the case ruled that the records were legally admissible as evidence. After his conviction, Mr. Burrows appealed the issue to the higher court and last week was upheld.

### 'Virtual Biography'

"For all practical purposes," Justice Mosk wrote in a dissertation on the issue of privacy, "the disclosure by individuals or businesses of their financial affairs to a bank is not entirely volitional, since it is impossible to participate in the economic life of contemporary society without maintaining a bank account."

These records, he said, provide "a virtual current biography" of the depositor's personal affairs, opinions, habits and associations.

"To permit a police officer access to these records merely upon his request opens the door to a vast and unlimited range of very real abuses of police power."

"Cases are legion," he went

on, "that condemn violent searches and invasions of an individual's right to the privacy of his dwelling. The imposition upon privacy may be equally devastating" when other methods, such as photocopying machines, electronic computers and others, are used. Such devices, he said, "have accelerated the ability of government to intrude" into private and confidential areas.

"Consequently," he concluded, "judicial interpretations of the reach of the constitutional protection of individual privacy must keep pace with the perils created by these new devices."