

# Seizing Files in Others' Hands Upheld

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Individuals do not have a constitutional right to prevent federal agents from seizing their business records in other people's possession, the Supreme Court ruled yesterday.

The privilege against compulsory self-incrimination under the Fifth Amendment is "intimate and personal" and does not extend to a taxpayer's records left with an accountant, Justice Lewis F. Powell Jr. said for a 7 to 2 majority.

Justices William O. Douglas and Thurgood Marshall dissented. Douglas said the court had handed the government

"yet another tool of the ever-widening governmental invasion and oversight of our private lives."

Douglas, who has charged in the past that he himself has been the target of Internal Revenue Service harassment, said the decision "will lead those of us who cherish our privacy to refrain from recording our thoughts or trusting anyone with even temporary custody of documents we want to protect from public exposure."

The majority said it was not deciding issues of temporary custody but was ruling that Lillian V. Couch, a restaurant owner in Roanoke, Va., had

"surrendered" possession of her financial records by leaving them with her accountant every year since 1955.

Mrs. Couch had no "legitimate expectation of privacy" in treating her records that way, Powell said, and she was in no position to claim the Fourth Amendment's protection against unreasonable search and seizure.

Powell said he was not downgrading the Bill of Rights, but reserving some of its safeguards for "a private inner sanctum of individual feeling and thought."

He added, "It is extortion of information from the accused himself that offends our sense of justice." He said respect for

constitutional principles "is eroded when they leap their proper bounds to interfere with the legitimate interest of society in enforcement of its laws and collections of the revenues."

Justice William J. Brennan Jr. filed a concurring opinion emphasizing that Mrs. Couch's accountant was obliged to file a complete and lawful tax return for his client.

Attempts to establish a privileged accountant-client relationship have been rejected by the courts. Mrs. Couch's case did not directly involve a lawyer-client relationship or any other basis for a claim of confidentiality.