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Bank Records Not Private, Court Rules

Lawmen Aided

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Rejecting claims by citizens that their privacy was invaded or that they were compelled to incriminate themselves, the Supreme Court strengthened the hand of law enforcement officers in major decisions yesterday.

In three cases, the court:

- Ruled, 7 to 2, that individuals have no right to contest government subpoenas of their bank records because the records belong to the bank and customers have "no legitimate expectation of privacy" in bank transactions.
- Held, 7 to 1, that criminal investigators for the Internal Revenue Service are not required to advise taxpayers before questioning them of their rights to be silent and to have a lawyer.
- Decided, 8 to 0, that targets of federal criminal investigations cannot escape subpoenas for their financial records by turning them over to their lawyers.

The decision in the bank subpoena case, in addition to making clear that customers are not entitled to privacy in their dealings, said neither banks nor federal agents are required to inform customers when records of their transactions have been seized or inspected.

Failure to notify the customer is "a neglect without legal consequences," Justice Lewis F. Powell Jr. said for the court, "however unattractive it may be."

The decision reinstated the conviction of Mitchell Miller of Macon, Ga., for operating an illegal whisky still and other offenses. Evidence seized from Miller's bank accounts had been ordered suppressed by the Fifth U.S. Circuit Court of Appeals.

Powell said checks, deposit slips and other records, which banks must retain under the 1970 Bank Se-

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crecy Act, "are not confidential communications but negotiable instruments to be used in commercial transactions."

Those documents "contain only information voluntarily conveyed to the banks and exposed to their employees in the ordinary course of business," Powell said. "The depositor takes the risk, in revealing his affairs to another, that the information will be conveyed by that person to the government."

Separate dissents were filed by Justices William J. Brennan Jr. and Thurgood Marshall, who renewed their argument from dissents in a 1974 case that the Bank Secrecy Act itself was unconstitutional. They argued that the Constitution requires agents to obtain warrants based on probable cause before seizing bank records.

In the case involving "Miranda warnings" for suspected tax evaders, the court disapproved a line of recent decisions by the Seventh U.S. Circuit Court of Appeals, one of which was written by Justice John Paul Stevens when he sat on that court.

Instead, the high court, in an opinion by Chief Justice Warren E. Burger, affirmed a judgment of the U.S. Court of Appeals for the District of Columbia and an opinion by its chief judge, David L. Bazelon.

Bazelon held last year that the principle of the 1966 Miranda vs. Arizona decision requiring police to warn suspects of their rights did not carry over into the tax investigation field.

Police are required to give the warnings because of the coercive atmosphere of station house interrogation, Bazelon and Burger agreed. In contrast, tax interrogation, Bazelon and Burger agreed. In contrast, tax interviews are usually conducted in tht taxpayer's home where the taxpayer has a freer choice about cutting off questioning.

Stevens had held "the practical effect" of a visit by the IRS is just as coercive on a suspected tax evader as a police grilling at headquarters.

Over Brennan's lone dissent, the decision sustained a tax evasion conviction of Alvin A. Beckwith Jr. of Washington, D.C., who was sentenced to five years in prison and a $10,000 fine.

In the third case, the court closed off another avenue of escape for indviduals who try to keep their financial records out of the hands of revenue agents.

Justice Byron R. White said business records could not be immunized from investigation by turning them over to a lawyer. Brennan and Marshall concurred but said they feared the court would soon rule that personal records could also be seized.