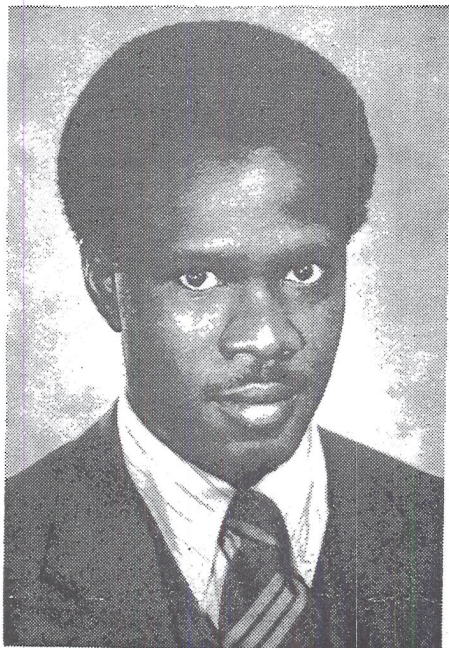


Bank Secrecy Act Called Illegal Search

By Charles Marson

ACLU-NC filed, on June 7, a major attack against the so-called Bank Secrecy Act of 1970 and the Regulations promulgated under the Act. The Act and its accompanying regulations require banks to report certain categories of financial transactions directly to the government, with no consultation with the customer, and to maintain expensive records of financial transactions of its customers which are open to inspection.

The Act itself requires very little to be done, but delegates unlimited authority to the Secretary of the Treasury to prescribe regulations concerning reporting and record keeping. The Secretary has done so, and the Regulations go into effect on July 1. ACLU-NC's suit seeks to enjoin the implementation of the Act and the Regulations.



The suit is being handled by Henry Ramsey, Jr., (pictured above) Professor at Boalt Hall and co-chairman of ACLU-NC's Legal Committee, with the assistance of Neil Horton, ACLU-NC's Board member, and Deene Solomon of Horton's firm.

In the view of ACLU-NC, these regulations amount both to a seizure without probable cause (as to those transactions already required to be reported by the banks), and (as to those records required to be kept), a general search warrant which the Secretary of the Treasury may fill out at his will. Unlike the present procedure — where the IRS (for example) must serve a summons on the bank, which can notify the customer, who can intervene to quash the summons

— this Act and its Regulations establish procedures whereby, on pain of terrific penalties, the Secretary of the Treasury may search through anybody's bank account for any purpose he wants to, in the total absence of any probable cause or any intervention by any judicial authority.

ACLU-NC's suit is premised on two basic theories.

First, it is alleged that the Fourth Amendment is violated because of the seizures of the reported transactions without probable cause and the searches of the transactions for which records are kept without probable cause.

Second, the First Amendment's right of association is flagrantly violated since the Secretary of the Treasury can perform an easy end run around a long line of Supreme Court decisions holding that the membership lists and lists of contributors to political organizations such as the NAACP or the ACLU are immune from government scrutiny. Obviously, under

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the Bank Secrecy Act and its regulations, the Secretary of the Treasury can by himself or at the request of some group, such as the FBI, scrutinize the bank account of the United Committee to Free Angela Davis, the ACLU, the John Birch Society, the Pete McCloskey for Congress Fund, or any other group he wants. It is very easy to determine who belongs to what group by means of looking at membership checks and contributions.

ACLU-NC demands the convening of a three-judge court and asks that the entire Act and Regulations be enjoined and that a declaratory judgment be issued declaring the entire structure unconstitutional.

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See Summary of Bank Secrecy Act Rules, separate sheet.