

aclu NEWS

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Bank Secrecy Act Is Restrained

The nationwide temporary restraining order, issued June 30 to prohibit implementation of the Bank Secrecy Act, was continued July 17 by a three-judge Federal Court, which took the matter under submission. The restraining order is against the government disclosure requirements only, allowing the requirement of filmed records on all checks until the merits of the constitutional argument are ruled on.

U.S. District Judge William T. Sweigert, who had issued the TRO, was joined on the panel by U.S. District Judge William G. East of Oregon and Oliver D. Hamblin, U.S. Circuit Court Judge.

The Court heard from Legal Director Charles Marson and from Board member



A plaintiff in the Bank Secrecy Act Suit is Fortney H. Stark, Jr., President of Walnut Creek's Security National Bank, Democratic Congressional Candidate from the Eighth District, and former ACLU-NC Board Member.

and volunteer attorney Neil Horton, who said the act imposes "wholesale invasion of privacy on millions of individuals for the government's purpose of obtaining information about a handful of tax or criminal violators." Marson said it amounted to "exploitation of a regulated industry to make banks government spies on their customers."

The California Bankers Association has filed a companion suit, and the Court heard their attorney John Anderson state that compliance would involve 250 million checks a month in California alone, at an estimated cost to the banks of \$50,000.

Anderson also pointed out that an assurance of privacy is a bank service and that they have no wish to violate it. He said, "We don't want to be a diarist of our customers financial affairs, we don't want to be someone's Boswell."

In reply the attorney for Department of Justice's tax division, John J. McCarthy, simply stated that no right of privacy exists for bank customers and their financial records.

In a legislative development to maintain financial records privacy, California Senator John V. Tunney introduced a bill on July 20 which he described as "an insurance policy against unwarranted and improper intrusion by anyone, including government, into a person's bank-life."

The bill would permit banks to provide customers' records only:

—When the customer gives his consent, or

—When a subpoena is served on the customer, or

—When a court order is issued, based on a showing of "probable cause."

In reference to the government's contention that bank customers have no right of privacy, Tunney states, "It is very apparent that our government, with its insatiable appetite for information, has an incredible lack of sensitivity concerning the people's right to be let alone."

Executive Director Jay A. Miller had written both Senators Tunney and Cranston in April calling for such legislation following a Bay Area incident of FBI surveillance of bank records



California Senator John V. Tunney has introduced legislation which is designed to prevent improper intrusion into financial records. More details on the bill are on Page 7.

without proper authorization.

ACLU members will shortly be receiving a letter from Senator Tunney explaining his bill, which is being sent through ACLU's mailing house. More details on the bill are on page 7.

The national ACLU has also filed suit challenging the Bank Secrecy Act, in early July in Washington DC. They are in conversation with the American Bankers Association about filing a companion suit, although no final decision has been reached at this time.

ACLU Executive Director Aryeh Neier sent letters to the nation's 100 largest banks last April expressing concern over the role banks have been playing in the government's increasing surveillance of citizens. He stated that, "many banks voluntarily allow agents of the government — police, FBI agents, investigators for Congressional committees — to examine at will the records of individual and organizational accounts, without the permission or indeed the knowledge of any of the people involved."

ACLU's challenge to the Bank Secrecy Act has received nationwide attention — even worldwide, to quote Wirtschafts publicist Dr. Eckard Paul Imhof, "Nachdem die lokale fresse über die Klage der ACLU berichtet hatte, die die Aufhebung eines angeblich verfassungswidrigen," and he goes on like that for three or four columns in the *Basler Nachrichten*.