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Supreme Court Upholds Bank 'Snooping' Law

Washington

The U.S. Supreme Court upheld as constitutional yesterday the controversial 1970 Bank Secrecy Act that opponents had claimed gave the government too much power to spy on Americans.

The 6-to-3 decision overruled a 1972 decision by a three-judge federal panel in San Francisco, headed by U. S. District Judge William T. Sweigert and including U. S. District Judge William G. East of Oregon and the late Court of Appeals Judge Oliver D. Hamlin.

They ruled banks did not have to report to the government the records the bank made of each customer's transaction, though the banks did have to make the records.

The local jurists had ruled that reporting such records to the government on request "so far transcends the constitutional limits . . . as to unreasonably invade the right of privacy."

Yesterday's Supreme Court majority opinion, written by Justice William H. Rehnquist, acknowledged that the record reporting gives the Treasury Department an "impressive sweep of authority."

But he said this is necessary now when there is "the heavy utilization if our domestic banking system by the minions of organized crime as well as by millions of legitimate businessmen."

"I am not yet ready," Justice William O. Douglas declared in one of his angrier dissents, "to agree that America is so possessed with evil that we must level all constitutional barriers to give our civil authorities the tools to catch criminals."

Besides the reporting on each person's bank account, the law requires banks to report the names of persons involved in each domestic cash transaction of more than $10,000 and movements of more than $5000 in international transactions. The three judges here had not quarreled with those requirements.

But the American Civil Liberties Union and the California Bankers Association had, and wanted those sections of the law stricken also.

The ACLU claimed on appeal that the act violated the

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Fourth and Fifth Amendments because it could subject the banking citizen to illegal search and seizure and to self-incrimination.

Bankers had argued that, since the record-reporting provision was blocked by the three-judge court, there was no need for them to keep voluminous copies of each person's transactions.

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And they joined the ACLU in arguing that the record keeping and reporting violated the privacy of individuals.

Disappointment at yesterday's ruling was expressed by several members of San Francisco's banking community.

Donald K. White, a vice president of Crocker National Bank, said, "We are disappointed at the multiplicity of record keeping required and the reporting of it, the added expense we and all banks will be put to."

A vice president at Wells Fargo Bank, Harold R. Arthur, said, "We did not feel banks should be put in the position to maintain records they would not keep in the normal course of business.

"Our real cost, though, is in retrieving the records, trying to find that one particular check someone is looking for.

"It's like mowing the grass each week, saving all the clippings for years and then hunting for one special blade. We haven't heard of anyone who is willing to reimburse us for this cost."

And Perry Joy, administrative vice president of the bankers association, said, "Our hope now is there may be some relief from bills being considered by Congress which would ameliorate the court's decision and lessen the record-keeping and reporting requirements."

One of the two local attorneys who argued the case here and before the Supreme Court, Charles C. Marson of the ACLU, said he feels the decision yesterday is "terribly disappointing."

The other local attorney, who represented the statewide bankers association, John Anderson, said he is "not in a position to comment until I see the opinion."

The government, which won yesterday, claimed it needed the banking information so it could follow closely sophisticated schemes to evade taxes and "launder" illegally obtained money.

Yesterday's ruling agreed the controversial law could be used for illegal purposes but it said the contention that it invaded privacy was a premature attack without a specific example.

The dissenting opinion of Justice Douglas, concurred in by Justices William J. Brennan Jr. and Thurgood Marshall, said the legislation was symptomatic of "the slow eclipse of Congress by the mounting Executive power" and allowed the Executive branch to "make law as it chooses."

These justices also argued the language of the law was too broad and that, by the same logic, the government could require records of bookstores and hardware stores because these records, on occasion, could be "useful" in criminal investigations.

Our Correspondent