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THURSDAY, JANUARY 24, 2008

EDITORIAL>> Court slams check cashers

The wheels of justice grind slow yet they grind fine. In Arkansas, in fact, it takes precisely nine years. That is how long it took from the time that the legislature and Gov. Mike Huckabee tried to legalize loan sharking until the Arkansas Supreme Court said they could not do it.

Last Thursday, the court delivered what we think ought to be a lethal blow to the payday-lending industry, which set up after Huckabee signed the Check Cashers Act of 1999. The check cashers, or payday lenders, charge interest rates often exceeding 300 percent although the Arkansas Constitution prohibits interest charges greater than 17 percent. But the act does not call the advances loans or

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the fees interest.

The court's unanimous decision was a narrow one, as the news accounts and the attorney general's office described it, but it was nevertheless clear. The lawsuit was over a surety bond for a check-cashing company.

Customers who paid the exorbitant fees on a payday advance from one of the lending companies sought to collect on the surety bond for the company's usurious charges. The case has bounced around the courts for years; this was its second appearance before the Supreme Court. This time, the justices said that the lending company and the insurance company that provided the surety bond could not hide behind the veil of the Check Cashers Act.

The payday advances were loans and the charges were interest, and they were more than the Constitution allows, the court said.

The state agency that purports to regulate the payday lenders had denied the bond because it said the advances and the charges were legal under the Check Cashers Act and that is all that counted. Circuit Judge Ellen Brantley said the Constitution prevailed over the act, and the Supreme Court agreed.

Another case that directly addresses the constitutionality of the Check Cashers Act will be ripe for a decision soon. Another Pulaski judge, Barry Sims, ruled in that case in

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2005 that the act was constitutional. It is hard to imagine that the Supreme Court, after its crystal-clear ruling this week, could conclude anything else but that law is unconstitutional and that the shameful and heartless practices must end.



The late great Justice George Rose Smith, who laid down the law on usury so firmly in 1952 in the landmark Schuck v. Murdock Acceptance Corp., can rest in peace. Justice did grind fine.

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