

Press-Telegram

TUESDAY

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High court OKs base closings

L.B. Navy shipyard backers to fight on

By Aaron Epstein
From Our National Bureau

WASHINGTON — In a decision that assures the shutdown of scores of military installations across the nation, the Supreme Court ruled unanimously Monday that judges have no power to overturn government base-closing decisions under a 1990 law.

The ruling was a victory for the Clinton administration, which argued against court intervention, and a rebuff to the campaign of Sen. Arlen Specter, R-Pa., and regional political and union leaders to save the 192-year-old Philadel-

phia Naval Shipyard from scheduled extinction in 1996.

The administration defended the procedures as essential to its goal of cutting the armed forces in the post-Cold War era. Up to 200,000 jobs are expected to be lost in the base-closing program, according to some estimates.

Officials in Long Beach said Monday that the Supreme Court decision will not immediately affect the city's fight to save the Long Beach Naval Shipyard, which could be closed in 1995 by the federal base-closing commission.

"I hope people will wake up now that this decision has come out," said Louis Rodriguez, president of the 500-member International Federation of

Professional Technicians and Engineers, Local 174.

"We really have to have our act in order for when the federal base closure commission comes to town."

The shipyard barely missed being on last year's federal base closure list, but supporters are anticipating it will be targeted in 1995.

Federal officials have already ordered that the Long Beach Naval Station close Sept. 30. And the Navy has already closed the Savannah Cabrillo naval housing site, which had two 400-unit parts, and the Long Beach Naval Hospital.

Rodriguez said the Supreme

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Court decision makes it more difficult for his union and others that represent the shipyard's 3,500 employees.

"I think people need to be heard rather than making decisions based on politics," he said.

In effect, the justices barred virtually all legal challenges to a president's base-closing decisions under the Defense Base Closure and Realignment Act of 1990 — even if procedural requirements weren't followed.

The unusual 1990 law was designed to speed the process of shutting down unneeded installations and avoid the endless political and legal skirmishes that preserved bases that the Pentagon considered obsolete.

Since 1991, Congress and Presidents George Bush and Bill Clinton have agreed to shut 164 military bases, as recommended by a special commission and the secretary of defense.

Dozens already have been closed.

Specter claimed that the Navy had rigged the base-closing process by suppressing evidence in support of keeping the shipyard open. Such misconduct

must be reviewed by the courts to assure compliance with the Constitution and the 1990 law, he argued.

Despite his failure to win a vote from a single justice, Specter said he was "more than a little surprised that the court will not grant review when there is so much evidence of fraud and cheating and lying by the Navy."

A divided appeals panel in Philadelphia had agreed with Specter last year. It relied primarily on the Supreme Court's landmark 1952 ruling that President Harry Truman had exceeded his legal authority by his emergency seizure of steel mills during the Korean War.

But another appeals court spurned a similar attempt by Maine's two U.S. senators, Democratic Majority Leader George J. Mitchell and Republican William S. Cohen, to stop the shutdown of Loring Air Force Base in their state.

Chief Justice William H. Rehnquist, writing the main court opinion, rejected each of Specter's arguments.

The 1952 steel-seizure precedent, he said, "cannot be read for the proposition that an action taken by the president in excess of his statutory authority necessarily violates the Constitution."

A president's base-closing decision, Rehnquist concluded, raises no constitutional questions and can't be reviewed by the courts under the Administrative Procedures Act or under a 1990 base-

closing law.

The 1990 law "grants the president unfettered discretion to accept the commission's base-closing report or to reject it, for a good reason, a bad reason or no reason at all," Justice David Souter said in a concurring opinion.

Staff writer Luis Monteagudo contributed to this report

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