

Abuse of Power Charged

Legal Challenge to HUAC Reinstated by U.S. Court

8.11.69
By John P. MacKenzie
Washington Post Staff Writer

A Federal court has ruled that the old House Un-American Activities Committee must defend itself against charges of unconstitutionality before a group of uncooperative witnesses can be tried for legal contempt in hearings of the subversive-hunting Committee.

In a decision certain to stir new complaints in Congress about the boldness of the judiciary, the 7th U.S. Circuit Court of Appeals has reinstated a suit by Dr. Jeremiah Stamler and two others charging the Committee with unconstitutional abuse of investigative power.

The Court of Appeals added an extra irritant by relying heavily on language of the Supreme Court's June 16 decision that reinstated Rep. Adam Clayton Powell's (D-N.Y.) suit against the House of Representatives over his exclusion in 1967. That decision prompted howls of protest on the House floor.

For Stamler, a world renowned heart specialist, the victory could be only temporary as the Court of Appeals gave no indication that he will necessarily win his suit. But it was the physician's first victory of any sort in the legal battle that has been waged since his appearance at the Committee's 1965 inquiry into alleged subversion in Illinois.

If Stamler prevails in his lawsuit, the court ruling probably would have little or no effect on the current operations of the reconstituted House Committee on Internal Security. The new Committee has

been operating since February under a new and differently worded mandate from the House.

When the Committee held its Chicago hearings it received no cooperation from Stamler or from Yolanda Hall, a nutritionist, and Milton M. Cohen, operator of a home for the aged. They claimed they were called as witnesses only to be harassed for their political beliefs in violation of their First Amendment rights.

Their joint suit, which sought initially to enjoin the hearings and later to block further Committee activities as unconstitutional, was thrown out by Federal Judge Julius J. Hoffman in Chicago, chiefly on grounds that the Committee members were immune from suit.

The Constitution's "Speech or Debate" clause provides that members of Congress "shall not be questioned in any other place" for legislative activity.

In the Powell case, the House raised the same immunity claim. The Supreme Court agreed that House members were immune but not the Doorkeeper, Sergeant-at-Arms and other non-elected functionaries.

Following the same reasoning, the Seventh Circuit said Judge Hoffman had correctly dismissed the Stamler complaint against Committee members but added that Stamler was entitled now to amend his complaint to embrace Committee staff personnel in addition to Federal prosecutors already named as defendants.

Pending the civil trial, the Court of Appeals said the low-

er court should defer the prosecution of the three individuals on their 1965 indictment for contempt in refusing to testify.

Judges Walter J. Cummings, Luther M. Swygert and Jesse E. Eschbach, again reciting the language of retired Chief Justice Earl Warren in the Powell case, said the ruling implied no disrespect for Congress as the courts are the ultimate authority on the Constitution.