

decline imposed on broadcasters.

It proposed that licensees who present a series of broadcasts on controversial issues, or who editorialize, be required to invite specific spokesmen for contrasting views to state their position ("Closed Circuit", April 6). Except for the first program in a series, the commission said, the licensee would not be permitted to rely solely on a broadcast announcement offering time for the presentation of contrasting views.

The proposal was contained in a combined notice of inquiry and notice of rulemaking, which the commission said was issued in light of the Supreme

Court's decision in *Red Lion*. The proposal was issued on a 6-to-1 vote, with Commissioner Robert Wells the lone dissenter.

The "basic thrust and spirit" of the *Red Lion* decision, the commission said, is that a broadcaster "who can and should be as outspoken and hard-hitting as he wishes in presenting his view of an issue should be equally vigorous in getting the other side before the public."

The doctrine, which requires broadcasters to afford a reasonable opportunity for the discussion of conflicting views of controversial issues of public importance, evolved as policy was expressed in a policy statement in

1959, has been unsuccessful in subpoenaing President Johnson personally. Newton Minow, attorney for CBS, appeared Thursday before U. S. District Judge Hubert L. Will with a preliminary motion to quash the subpoena. He charged that any compulsory production of such nonbroadcast material violates the First Amendment with respect to confidential communications between newsmen and their sources.

An affidavit filed with the court by Burton Benjamin, senior executive producer, CBS News, explained that the Johnson interviews were obtained only on the condition that the former President would be allowed to edit mistakes or matters of security. He said the three one-hour programs used on CBS-TV were edited from nearly 13 hours of films and the last show, aired May 2 and including Kennedy assassination information, was edited from six hours and 22 minutes of film.

The May 2 program, "LBJ: Tragedy and Transition," also included a portion cut on request by President Johnson because of national security. The fact a cut was made was explained by CBS in the broadcast. Mr. Benjamin said that "if CBS News were compelled to produce the non-

broadcast material relating to the assassination of President Kennedy... it is my belief that no public figure will ever sit for an autobiographical broadcast and a vital dimension of journalism will be lost to the American public."

Mr. Minow felt the peril to effective news gathering could go even further and affect news in general to the detriment of the public.

Mr. Minow noted that U. S. District Judge A. J. Zirpoli in San Francisco in early April ruled that Earl Caldwell, a *New York Times* reporter, could not be compelled to testify about confidential Black Panther news source information before a grand jury probing an alleged threat on the life of President Nixon because it would violate constitutional protection of the press and impede the news process.

CBS participated in the Caldwell case as a friend of the court. Affidavits submitted in that proceeding by Walter Cronkite, Eric Sevareid, Mike Wallace, Dan Rather and Marvin Kalb, all of CBS News, explained why news sources must be protected and similar points. Their affidavits also were filed last week in the Chicago case.

The judge will withhold acting on the CBS motion until further briefs are

filed in about two weeks. Meanwhile, he said, the effective date of the subpoena is postponed.

The Chicago case, however, is complicated by other legal issues and demands by Mr. Skolnick's complaint. In addition to seeking to obtain release of documents from the National Archives and to have the Warren Report voided, Mr. Skolnick is attempting to help a former secret service agent win freedom from prison on the basis of a principal witness's admitted perjury and another federal judge's refusal to reopen that case.

The allegation contends the agent was sent to jail falsely to keep him from telling the Warren Commission about another secret service agent's implication in the plans to attempt a Kennedy assassination in Chicago.

Because the agent's case was before another U. S. District judge in Chicago, Mr. Skolnick contends no judge of that district should hear his complaint, including Judge Will, and a judge from another district should be called. Judge Will agreed he must rule on this point first before deciding what to do about the CBS petition to protect its Johnson interview films from compulsory disclosure.

A ploy to reveal what LBJ cut

CBS trying to stop Chicago subpoena for excised portions of special

CBS Inc. went to court in Chicago last week in an effort to block a subpoena for all its television interview films with former President Lyndon Johnson, including portions not used on CBS-TV because of national security in connection with the Kennedy assassination.

The subpoena had been issued April 29 in U. S. district court there at the request of Sherman H. Skolnick, a legal crusader. He seeks the films in connection with his suit filed in early April to compel the National Archives and Record Service to make public certain documents alleged to pertain to an attempt by several persons, including Lee Harvey Oswald, to assassinate President John F. Kennedy at the Army-Navy football game in Chicago Nov. 2, 1963, three weeks before the Dallas tragedy. Mr. Skolnick, who also wants the Warren Commission report ruled