

# Review Denied in 'Gag Order' on Press

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The Supreme Court refused yesterday to hear the case of two Baton Rouge, La., newspaper reporters who were held in contempt of court for disobeying a judge's order—which was later held unconstitutional — forbidding them to publish stories about proceedings in open court.

With only Justice William O. Douglas announcing his vote to consider the case, the court let stand \$300 contempt fines against Larry Dickinson of the Baton Rouge Morning Advocate and Gibbs Adams of the State Times.

News media groups had urged the court to grant review and strike down judicial "gag orders" silencing the press, but the court rejected requests by the National Association of Broadcasters and the Reporters Committee for Freedom of the Press to file typewritten legal briefs.

News men said they should not be saddled with the burden of appealing flagrantly unconstitutional orders before they print accounts of open court proceedings. They argued that the court order becomes a prior restraint on

publication that the courts must be obeyed unless his error is "transparent."

But the Fifth U.S. Circuit Court of Appeals, which held that the order against Dickinson and Adams violated the First Amendment, also held that the reporters had a duty to obey the order until it was overturned by a higher court.

The order was issued by Judge W. Harold Cox of the U.S. District Court in Baton Rouge, where a Louisiana civil rights worker had asked for an injunction to block prosecution on a murder conspiracy charge.

Cox said that his hearing should not be reported because stories might prejudice the accused man's right to a fair trial. The newspapers printed the reporters' stories anyway.

When the newsmen petitioned for high court review, Solicitor General Robert H. Bork defended the correctness of lower court rulings but did not say the case was unworthy of Supreme Court consideration.

Bork said the court of appeals had a special procedure for quick appeals that would have held publishing delays to a minimum. He said the judge

must be obeyed unless his error is "transparent."

A spokesman for the reporters committee called the court's action "most unfortunate" because it forces newsmen to risk imprisonment for covering public events. In the future, he said, newsmen may have to ask courts to hold up trials while they appeal invalid "gag" orders.

One lawyer involved in First Amendment cases said Dickinson and Adams "may have been caught in Watergate." He said the justices may have been reluctant to decide whether newsmen are "above the law" at a time when critics of President Nixon contend that he must obey court orders or appeal them.

In other action:

## Military Law

The court agreed to hear the government's case for reinstating the court-martial conviction of Army Capt. Howard B. Levy for refusing to give medical training to Vietnam-bound Green Beret troops.

A lower court, granting Levy's habeas corpus petition six years after his 1967 military trial, held that two gen-

eral laws punishing "conduct unbecoming an officer and a gentleman" and conduct "of a nature to bring discredit upon the armed forces" were constitutionally vague.

Levy's case will be heard together with that of Marine Sgt. Mark Avrech, who won a ruling from the U.S. Court of Appeals here that the law against bringing discredit on the military was void for vagueness.

Both laws predate the American Revolution, but the lower courts held that they are so loosely worded that a serviceman can't tell what conduct would break the law. The Defense and Justice departments say it would open a major gap in military discipline if the courts wiped out the laws, articles 133 and 134 of the Uniform Code of Military Justice.

## Sex Discrimination

The court called for oral argument on the claim of a Florida man that he is the victim of reverse sex discrimination. A widower who lives in Miami, he is challenging a law that grants widows, but not widowers, a \$500 exemption from the state's personal property tax.