

Paper Told to Yield Watergate Tape

By Lawrence Meyer
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The Los Angeles Times and two of its reporters were ordered yesterday to produce tapes and other materials from more than five hours of interviews with a key government witness in the Watergate break-in case.

The subpoenas, authorized yesterday by Chief U.S. District Judge John J. Sirica, were served immediately on the Times' Washington bureau chief, John Lawrence, and reporters Ronald J. Ostrow and Jack Nelson.

Lawyers for both the Times and the reporters, who have retained separate counsel, said they would oppose the subpoenas, and would take the issue to the Supreme Court if necessary. The subpoenas order the three to appear in court Dec. 19 with the materials.

Defense and prosecution lawyers had urged Sirica to

make the subpoenas returnable before the scheduled Jan. 8 trial of seven suspects in the Watergate case to avoid a delay in that trial if the Times appealed the order.

William O. Bittman, one of the defense lawyers, said yesterday that it is possible that an appeal would trigger such a delay.

The defense in the Watergate case is seeking the tapes and other materials from an interview that Ostrow and Nelson conducted with Alfred C. Baldwin III. In the interview, accounts of which were published in The Washington Post on Oct. 5 and 6, Baldwin outlined how he electronically monitored telephone conversations in the Democratic National Committee's Watergate headquarters.

Initially, the defense attempted to subpoena Baldwin's tapes of the interviews.

Baldwin, however, filed an affidavit stating that he had destroyed his tapes on the advice of his lawyers. The defense then decided to move against the Times.

Timothy Dyk, the lawyer representing the Times, said that no firm decision has been made on how the opposition to the subpoenas will proceed. "I assume we will be filing a motion to quash," Dyk said. If necessary, Dyk said, the Times is prepared to take the issue to the Supreme Court.

Herbert J. Miller Jr., the lawyer for Ostrow and Nelson, also said he would take the case to the Supreme Court if necessary.

Asked what course the Times would take if the subpoenas were ultimately upheld, Dyk had no response. Miller said, "That's something that will have to be decided at the time. There's no way that I can prognosticate what will happen."

Bittman, the attorney for former White House consultant E. Howard Hunt Jr., emphasized yesterday that the purpose of issuing the subpoenas well before the trial was to avoid delays if the Times appealed.

If the appeal process runs past the Jan. 8 trial date, Bittman said he "probably would" ask for a continuance, "but that's not to say that the judge would grant it."

Bittman has said that he wants the tapes and other materials primarily to compare them with Baldwin's testimony to see if there are inconsistencies.

In pressing for the subpoenas, Bittman cited the June, 1972, Supreme Court decision that no journalistic privilege under the First Amendment prevents the government from calling a reporter to testify before a grand jury. The issue before the court was a reporter's right to protect his sources.

More recently, the Supreme Court refused to stay the imprisonment for contempt of court of former Newark News reporter Peter Bridge, who refused to answer questions before a grand jury about an alleged bribe attempt he had reported. Bridge gave the source of his story, but refused to divulge to the grand jury what was said in the interview beyond what he had reported.