

Court Quashes Subpoenas On Watergate Reporting

NYTimes

MAR 22 1973

By WALTER RUGABER
Special to The New York Times

WASHINGTON, March 21 — The United States District Court for the District of Columbia blocked today efforts by President Nixon's campaign organization to compel 10 reporters and news executives to turn over notes and other unpublished material in the Watergate case.

Judge Charles R. Richey, acting on First Amendment grounds, quashed subpoenas served on representatives of four news organizations by the Committee for the Re-election of the President.

"This court cannot blind itself to the possible chilling effect the enforcement of . . . these subpoenas would have on the press and the public," Judge Richey said in an oral opinion immediately after oral arguments on the issue this afternoon.

He said he did not believe that journalists had an absolute privilege against testifying, but he held that the courts "must be flexible to some extent" and that the current cases "are all exceptional."

Judge Richey said that lawyers for the Nixon committee had made no showing that other sources of evidence "have been exhausted or even approached." They also failed to show that the material demanded of the 10 journalists is central to the case, he said.

The subpoenas had been served on representatives of The New York Times, The Washington Post, The Washington Star-News and Time magazine in connection with civil lawsuits dealing with the Watergate affair.

The Democratic National Committee and party leaders have demanded \$3.2-million in damages from the Nixon organ-

Continued on Page 19, Column 1

Continued From Page 1, Col. 3

ization and others in connection with the break-in and bugging of the party headquarters in the Watergate apartment-office complex last June.

In response, Republican leaders filed suits charging Lawrence F. O'Brien, the former Democratic National Chairman and a plaintiff in the original case, with libel and malicious abuse of the judicial process.

Kenneth Wells Parkinson, a lawyer for the Nixon committee, had sought to force the journalists to give depositions, or pretrial testimony out of court, and to bring all material dealing with the Watergate case with them.

Mr. Parkinson argued today that the public had "a right to every man's evidence," and that the subpoenas were "not as broad and deep and all-encompassing as it might appear on the surface."

Freedom of Press Stressed

While lawyers for the journalists cited the constitutional bar to unreasonable searches and seizures and the Federal rules of procedure, they relied principally on the First Amendment guarantee of freedom of the press.

They argued that much of the material sought had been obtained from confidential sources, and that such confidentiality was essential in reporting the news, especially on sensitive developments such as the Watergate case.

Both the journalists' lawyers and Judge Richey noted that the current case, unlike most of those in which courts have ordered testimony to be given, was a civil action with fewer competing needs than a criminal case would have.

The judge refused to declare that the subpoenas were too broad under Federal rules, but he said that the First Amendment question involved was of the "first magnitude."

He said he was "well aware" that other courts, including the Supreme Court, "have been re-

luctant in the absence of a statute to recognize even a qualified newsman's-privilege [not to disclose information]."

But Judge Richey then noted circumstances in the present case, such as its civil rather than criminal nature, and in effect ruled that a qualified privilege did exist.

Question May Recur

Some journalists have sought nothing more from the courts, and lawyers for some of those subpoenaed in the Watergate case were therefore encouraged by the finding that the First Amendment could dominate in some instances.

The judge remarked that at "some future date" in the suit, if it was established that the information sought was unavailable elsewhere and that it would be of "compelling and overriding interest," the issue might be raised again.

Mr. Parkinson said an appeal of the decision would be considered.

The journalists subpoenaed were John M. Crewdson of The Times; Carl Bernstein and Bob Woodward of The Post; The Post's publisher, Mrs. Katharine Graham, and its managing editor, Howard Simons; Jeremiah O'Leary, Patrick Collins and James Polk of The Star-News; Joseph Volz, formerly with The Star-News, and Dean Fisher of Time.