

High Court to Hear Libel Case Brought by Walker Against A.P.

WASHINGTON, Feb. 23 (UPI)—The Supreme Court called up for argument today two cases expected eventually to result in far-reaching and important rulings on libel.

The cases, involving The Associated Press and The Saturday Evening Post, would be a sequel to the high court's decision of 1964 involving The Times.

The Times ruling held that a public official might not collect damages for statements made about his official conduct unless he could show malice.

The A. P., represented by former Attorney General William P. Rogers, urged the Court to extend its principle to cover prominent persons who are not public officials.

The case stemmed from a \$500,000 libel judgment won from the A.P. in 1964 in a Fort Worth, Tex., state court by former Maj. Gen. Edwin A. Walker. Mr. Walker's suit was based on two A.P. dispatches dealing with his activities on the campus of the University of Mississippi during the 1962 disturbances when James H. Meredith, a Negro, was enrolled.

Prominence Is Noted

The A.P. contended that Mr. Walker was a person of "nation-wide political prominence" who had "willfully, aggressively and defiantly thrust himself into the vortex of controversy."

The news service also argued that an award of such size for the publication of dispatches about newsworthy events, "without actual malice or any proof of pecuniary or other loss," impaired free speech.

Clyde J. Watts of Oklahoma City, representing Mr. Walker, contended that the judgment satisfied all constitutional requirements even if The Times decision were to be expanded to cover prominent persons.

Mr. Watts told the Court a sufficient degree of malice had been shown to bring the case within the Justices' 1964 defini-

tion: "With knowledge that [the statement] was false or with reckless disregard of whether it was false or not."

The A.P. told the Court that Mr. Walker had brought 15 cases against the news service, its members, or both, asking damages of more than \$35-million—all based on the same or similar news reports.

Only one other has been tried, Mr. Rogers said. It is now before the Louisiana Supreme Court. A Louisiana jury returned a verdict of \$3-million, which was reduced on appeal to \$75,000.

The Saturday Evening Post case stemmed from a \$460,000 award to Wallace Butts, former University of Georgia athletic director, and was based on a 1963 article titled "The Story of a College Football Fix" by Frank Graham Jr.

The article alleged that Mr. Butts conspired with Paul Bryant, University of Alabama football coach, to rig the 1962 Georgia-Alabama game, which Alabama won 35 to 0.

The award originally brought in by the Butts jury was \$3,060,000.

Herbert Wechsler, New York attorney representing Curtis Publishing Company, publishers of The Post, contended that Mr. Butts was a "public official." But in any event, "the integrity of college football is a matter about which the public has important and legitimate concern, whoever the participants, because it is a phase of higher education." This public interest brings the subject within the first amendment's protection, he said.

Mr. Butt's attorney, Allen E. Lockerman of Atlanta, contended that Curtis was asserting its constitutional arguments too late, but that even if it was not the verdict should not be reversed.

"The undisputed evidence shows conclusively that actual malice was proved," Mr. Lockerman said.