

# Press Suit By Agnew Held Moot

By Douglas Watson

Washington Post Staff Writer

Spiro T. Agnew's "no contest" plea to an income tax evasion charge automatically ended the former Vice President's attempt to force reporters to reveal their confidential sources in articles written about the Agnew investigation.

After sentencing Agnew on Wednesday, U.S. District Court Judge Water E. Hoffman said that the subpoenaing of nine newsmen was canceled and the anticipated major battle over the press's First Amendment rights had become moot.

Agnew's acceptance of a criminal sentence came after lawyers for the reporters had filed motions arguing that the attempt to force newsmen to reveal their sources was clearly unconstitutional and prohibited by Maryland law.

"The fact that Spiro Agnew is Vice President gives him no special license to trample the First Amendment rights of the press and the public and to lead this court into a political jungle in an attempt to put his career in politics back together again," Joseph A. Califano Jr., lawyer for The Washington Post and Newsweek magazine, said in his motion.

Attorneys for the New York Times called the court-authorized subpoenas "a uniquely dangerous threat to the entire process of news gathering and reporting. . . . The issue posed by these subpoena is the very continuation of investigative reporting itself."

In addition to subpoenaing the nine reporters, Agnew's lawyers also subpoenaed six officials: Attorney General Elliot L. Richardson, Associate Attorney General Jonathan Moore, Assistant Attor-

ney General Henry Petersen, acting Assistant Attorney General Glen E. Pommerening, U.S. Attorney for Maryland George Beall, and Barnet D. Skolini, Beall's principal assistant prosecutor in the Agnew probe.

The subpoenas were issued in the search for evidence to support Agnew's contention that he could not get a fair trial because of press reports of the allegations against him, which he charged were deliberately "leaked" by Justice Department officials.

The six subpoenaed Justice officials and other officials signed affidavits denying they had leaked anything.

U. S. Solicitor General Robert H. Bork also filed a brief strongly objecting to the subpoenaing of the newsmen, saying the Justice Department has "never supported incursions into this sensitive area for the mere purpose of conducting fishing expeditions, and it is plain that that is all that is involved here."

Since the court never ruled on the arguments of the reporters' lawyers, no legal precedents were set on the right of the press. But the arguments undoubtedly will be kept on file, ready to be used the next time reporters' rights to keep sources confidential are challenged.

The basic argument of the reporters' lawyers was that the subpoenas violated First Amendment rights. "At stake is the right and duty of the press to alert the voters and their representatives to activities which may constitute grounds for impeachment," said attorneys for Time magazine.

Maryland's press shield law also was cited as a solid basis for throwing out the subpoenas. Califano's legal memorandum cited that Maryland law's prohibition of compelled disclosure of reporters' sources in "any legal proceeding or trial or before any committee of the legislature or elsewhere."

The reporters' lawyers also contended that the subpoenas should be quashed because they were premature since Agnew had not been indicted and because there had been no attempt to otherwise obtain evidence

for Agnew's contention that the Justice Department was leaking allegations.

The reporters' lawyers further maintained that even if it could be shown that Justice Department had leaked information, it didn't necessarily mean that grand jury action would be prejudiced against Agnew. They also noted that most of the subpoenas were served outside the Baltimore court's jurisdiction.

Agnew's motives were attacked by some of the reporters' lawyers. "It is quite plain that what Mr. Agnew seeks by means of these subpoenas is not a fair and objective assessment of the evidence by the grand jury, but vengeance against those



ROBERT H. BORK

. . . objects to subpoenas

who are investigating him," Califano said.

The memorandums opposing the subpoenas also said forced disclosure of sources would have a chilling effect on investigative reporting.