

GRAND JURY REPORT ON I.R.S. IS RELEASED

Judge Also Orders Times Publisher,
Reporter and Editor to Appear in
Miami on Possible Contempt
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MIAMI, Jan. 10—A Federal judge released today an expunged version of a grand jury report that The Miami News had sought to suppress because the report was critical of the newspaper's handling of articles about a controversial tax investigation.

At the same time, the judge, C. Clyde Atkins of the Federal District Court for Southern Florida, ordered Arthur Ochs Sulzberger, publisher of The New York Times, an unspecified "editor" of The Times, and Seymour Hersh, a Times reporter, to appear in his court on Jan. 24 to "show cause why they should not be held in criminal contempt" for disclosing portions of the grand jury report in an article printed in The Times last Thursday. 6 JAN

The judge contended that The Times had knowingly violated an order that the report be kept secret until the courts could determine whether to release it.

A. J. Rosenthal, executive editor of The Times, said in response to Judge Atkins's action, "We have just received the text of the court's order and we are studying it."

Charging that "the principals involved appear to have placed themselves above the law," Judge Atkins asked the Attorney General to determine who had given the grand jury report to The Times. He also ordered The Times to disclose its sources.

'Public Trust in Jeopardy'

"The court is of the opinion that there is no constitutional right to withhold sources of grand jury leaks," Judge Atkins said in a statement read from his bench in the Federal Court building in downtown Miami. "The public trust and confidence in the criminal justice system is now in jeopardy, thus eclipsing any public interest which a newsman may have in not disclosing sources who made unauthorized leaks of grand jury reports."

Judge Atkins said The Times article had "completely frustrated" his efforts to keep the grand jury report secret until he could determine what portions of it, if any, merited public disclosure. He added:

"The principals involved flagrantly flouted the court's orders and decrees. The principals involved showed a callous indifference to the trial and appellate administration of justice. The principals involved placed their fellow journalists who displayed the respect so essential to the preservation of our democratic institutions at a grossly unfair and unjust position regarding the public dissemination of the report. The principals involved appeared to show arrogant and utter contempt for, and may thus have defiled, our sacrosanct institution of the grand jury, and the principals involved appear to have placed themselves above the law."

1972 I.R.S. Inquiry Cited

In the version of the report obtained by The Times, the grand jury charged The Miami News with "knowingly publishing false information" about Operation Leprechaun, a 1972 Internal Revenue Service intelligence investigation into the sexual and drinking habits of several dozen prominent Floridians.

In the version of the grand jury report released today, the reference to The News read as follows:

"Based upon the inquiry into the allegations of misconduct by the I.R.S. employees inside Florida, as reported by the news media, it is the conclusion of the grand jury that news media, and specifically The Miami News, in exercise of their responsibilities, should have exercised greater care in placing reliance upon sources for their news stories as well as in the verification of the credibility of their sources and the accuracy of the information provided by these sources."

The version of the report released today was noteworthy otherwise only in that it called on the I.R.S. to "exercise greater control" over the intelligence program. Judge Atkins said the parts of the report that were expunged and not published today constituted "unauthorized grand jury conduct and accordingly the same shall be expunged." He did not elaborate. There were no indictments in the report.

Matters of Public Interest

Federal grand jury reports seldom are made public if they contain no indictments. However, jury reports emanating from state grand juries frequently contain comments on matters of public interest, such as the quality of law enforcement and education.

In attempting to suppress the original report here, The Miami News argued that a grand jury report that did not indict should remain secret. The paper contended that grand jury comments on press performance constituted interference with press freedom.

The Miami Herald disagreed and, in a special court motion filed a few days ago, urged the court to release the whole report in the interest of the public's "right to know."

After The Herald entered the dispute, The News withdrew its objection to publication of the report, saying that its "symbolic objection" to press interference had been misunderstood.

Judge Atkins denied The Herald's motion today but praised the local press for its conduct during the month since existence of the Federal grand jury report first became known.

In ordering The Times to show why it should not be cited for contempt of court for disclosing the contents of the grand jury report, Judge Atkins conceded that "a free press is indispensable for the maintenance of a free society," but he added:

"Unfortunately, our constitutional freedoms are at times at loggerheads with each other, and interests must be balanced in determining which freedom or right is to prevail. The critical ingredient in balancing these two conflicting interests has been whether or not the matter sought to be disclosed is part of the public record. . . Members of the press are given a virtually unqualified privilege to report on those judicial proceedings which are part of the public record. This privilege gives way, however, when in competition with a judicial order or decree sealing a grand jury report."