

THE NEW YORK TIMES, THURSDAY, APRIL 2, 1970

## A.P. and Newsweek Support Caldwell Subpoena Challenge

SAN FRANCISCO, April 1 (AP) — The Associated Press and Newsweek magazine filed memorandums today in support of the motion by Earl Caldwell and The New York Times for an order quashing subpoenas served on Mr. Caldwell, a Times reporter, in connection with a Federal grand jury investigation of the Black Panther movement.

The two organizations submitted the memorandums as friends of the court, in the United States District Court for Northern California.

The motion to quash the subpoenas will be argued Friday before United States District Judge Alfonso J. Zirpoli.

Last Friday, the United States Justice Department filed a brief opposing The Times's and Mr. Caldwell's motion to quash the subpoenas.

The subpoenas require Mr. Caldwell to testify and to produce his notes and tape recordings of interviews with Black Panther leaders. The Associated Press said:

"If . . . newsmen are regularly required to produce such information for the use of grand juries, prosecuting attorneys, investigating committees and the like, their sources of confidential information will soon dry up.

"Without access to such sources, the role which the newsman has heretofore played in our society, in ferreting out crime, corruption, governmental mismanagement, and other matters of legitimate interest and concern will inevitably be restricted and impaired."

### Newsweek's Stand

Newsweek said, "Nothing less than a full and unqualified privilege to newsmen, empowering them to decline to testify as to any information professionally obtained, will truly

preserve and protect the news-gathering activities of the media."

Government attorneys argued last Friday:

"If Mr. Caldwell's personal testimony before the grand jury turns out to be sufficient for the needs of the jury, it may not be necessary for the grand jury to examine the tapes and documents.

"But a claim of right or privilege by a newspaper reporter summoned as a grand jury witness cannot be made prospectively."

It must be done in response to specific questions asked before the grand jury, according to the Government brief.

The Justice Department also contended there was no judicially recognized journalist's privilege as to these admittedly nonconfidential statements not to be called before the grand jury at all.

"And not even be asked, for example, whether he did write the article, whether statements he attributes to Dave Hilliard and whether they were made seriously."

Mr. Hilliard, Black Panther chief of staff, is under indictment here for threatening the life of President Nixon in a speech Nov. 15.

### Cancer Cost \$5-Million Here

The American Cancer Society spent more than \$5.2-million last year in New York City in its attack on cancer, former Federal Judge Paul W. Williams, chairman of the board of the society's New York City Division, reported yesterday on the opening of the 1970 Cancer Crusade. He said \$3.5-million had been spent at 14 medical and scientific institutions here for research and more than \$1.5-million had gone for patient care, education and community service.