

Both Sides Cite '68 Opinion By Burger

NEW YORK — (NNS) — Until last Tuesday when the New York Times series on the Pentagon papers was stopped no federal court had ever barred an established newspaper from publishing facts it considered newsworthy.

The Justice Department is relying mainly on those constitutional cases which approve of censorship for obscenity.

And both the government and the Times are claiming that a 1968 opinion by Chief Justice Warren E. Burger when he was a lower court judge supports their case.

Burger refused to stop Washington columnist Jack Anderson from publishing the contents of documents taken without authorization from the files of the Liberty Lobby, a conservative lobbying group.

But Burger emphasized that he was refusing to censor Anderson because there was no clear evidence "as to the ownership of the . . . private papers."

In the Pentagon papers case the government said it owns the information in the classified documents. The Times contended that it has copies made by the "Xerox" process and is not in possession of any papers owned by the government.
