

70 M

TIMES PUBLISHER IN SUBPOENA CASE

MAR 16 1973

Asserts Ownership of Files
Sought by G.O.P. in Suit
NYTimes

Special to The New York Times

WASHINGTON, March 15 —

The New York Times, through its publisher, Arthur Ochs Sulzberger, has asserted ownership of the notes and files of one of its reporters, subpoenaed by the Committee for the Re-election of the President.

The materials were sought by the Republicans' lawyer, Kenneth Wells Parkinson, in a countersuit against the Democrats in connection with the bugging of Democratic headquarters here last June.

Because these materials are now in the files of The Times, the reporter, John M. Crewdson of the Times Washington Bureau, said he would not be able to produce them in response to the subpoena, issued to him Feb. 26.

Presumably, if Mr. Parkinson still insists that he needs the notes and papers, he will have to ask Mr. Sulzberger for them. If the publisher then refuses to deliver the papers, he would be the responsible officer of the newspaper who could be held in contempt of court, should the presiding Federal District Court judge, Charles R. Richey, so decide.

Dozen Subpoenas Served

A dozen reporters and news executives were served with subpoenas on the same day in connection with a series of civil suits. They were ordered to submit all notes, tape recordings and interviews relating to news articles dealing with the bugging of the headquarters of the Democratic National Committee at the Watergate complex.

On Feb. 28 Mr. Sulzberger said that the subpoena served on Mr. Crewdson "violates the First Amendment rights of The Times, its reporters and the public," and that The Times would take "all legal steps" to have it quashed.

Attorneys for The Times and Mr. Crewdson filed on Monday a series of papers, including a motion for the quashing of the subpoena, an assertion by The Times of its interest in the case with a motion to intervene, and an affidavit by Mr. Sulzberger.

In his affidavit the publisher asserted that "all such materials are owned by, and I believe, are contained within the files of The Times."

He also stated, "Only by intervening in the instant motion [by Mr. Crewdson to quash] will The Times be able to properly defend the First Amendment freedoms threatened by the subpoena and its own files from wholesale rummaging by the parties serving the subpoena."

Other Moves to Quash

Joseph Volz, Patrick Collins, Jeremiah O'Leary and James Polk, all reporters for the Washington Star-News, and Dean E. Fisher, a reporter for Times magazine, have moved to have their subpoenas quashed. However, according to court records, their publishers have not asserted ownership of their materials on the Watergate case.

Katharine Graham, publisher of The Washington Post; Howard Simons, its managing editor, and Carl Bernstein, Bob Woodward and Jim Mann, all reporters, were served subpoenas. They have also moved to quash subpoenas. Since Mrs. Graham was directed to produce all relevant materials connected with The Post's reporting of the Watergate case, she presumably had no occasion to assert ownership.

Walter J. Sheridan, an author, has complied with his subpoena because he felt he did not have a newsman's privilege to withhold information.

Soon after the watergate case arose, Lawrence F. O'Brien, then Democratic National Chairman, charged that the eavesdropping had been accomplished with the help of Maurice H. Stans, former Secretary of Commerce, who was chairman of the Finance Committee to reelect the President. He also accused other Republicans of conspiring "to commit political espionage."

Conflicting Suits Filed

The Democratic National Committee and its chairman filed a \$3.5-million civil suit. The Finance Committee to Reelect the President, the Republican Finance Committee and Mr. Stans countered with a \$5-million libel suit and a second suit alleging "abuse of process," contending, in effect, that the Democrats' suit had been filed not for legal redress but for political purposes.

With various claims and counterclaims, the Democrats are now asking \$14-million and the Republicans \$7-million. These suits are distinct from the criminal case filed by the Federal Government, in which five defendants pleaded guilty and two were convicted in the burglary and bugging of Democratic headquarters.

Judge Richey will hear arguments on the motions to quash the subpoenas on March 21.

Question of Immunity

Over the last several months, House and Senate Judiciary subcommittees have held hearings on several bills that would grant reporters absolute or qualified immunity from subpoenas seeking to force them to disclose confidential sources of information. The bills were prompted by a Supreme Court ruling last June that newsmen have no constitutional right to refuse such testimony.

Mr. Parkinson has said, "We're not asking for confidential sources. We're asking for information they [the reporters] secured in interviews." This information, he said, could include "false, libelous, malicious statements" allegedly made by Mr. O'Brien about several prominent Republicans.

However, Mr. Parkinson has acknowledged that the requested notes and interviews, as well as the questioning of those subpoenaed, could lead to identification of confidential sources.