

GOP Subpoenas Aimed At 4 Publications Denied

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JUDGE CHARLES R. RICHEY ... "possible chilling effect"

U.S. District Court Judge Charles R. Richey yesterday barred President Nixon's re-election committee from requiring reporters and officials of four publications, including The Washington Post, to testify and turn over documents concerning the Watergate bugging incident.

In an oral opinion delivered after three hours of argument, Judge Richey said: "This court cannot blind itself to the possible chilling effect the enforcement of these subpoenas would have on the flow of information to the press and, thus, to the public.

"This court stands convinced that if it allows the discouragement of investigative reporting into the highest levels of government, that no amount of legal theorizing could allay the public's suspicions engendered by its actions and by the matters alleged in this lawsuit."

The Committee for the Re-Election of the President in February issued subpoenas to

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reporters and officials of The Washington Post, The Washington Evening Star-News, The New York Times and Time Magazine.

The re-election committee demanded, in addition to the testimony of 11 persons, that they produce all notes, tapes, story drafts, and other documents concerning the June 17 break-in and bugging of the Democratic National Committee's Watergate headquarters as well as materials concerning other acts of political espionage.

Officials of the re-election committee are being sued by and in turn are suing officials of the Democratic Party in three lawsuits growing out of the Watergate incident. Lawyers for the re-election committee contended that they needed the testimony and materials from the journalists in connection with the litigation.

The four publications, in separate briefs, opposed the subpoenas on two basic grounds: that they were not permissible under the federal rules of civil procedure governing civil lawsuits in federal courts and that the subpoenas violated the First Amendment

strated that the testimony and material sought here go to the heart of the claim.

"What is ultimately involved

in these cases between the major political parties, as I said at the outset, is the very integrity of the judicial, as well as the executive, branches of our government and our political processes in this country," Richey said.

"For, without information concerning the workings of government, the public's confidence in that integrity will inevitably suffer. This is especially true where, as here, strong allegations have been made of corruption within the highest circles of government and in a campaign for the Presidency itself."

The re-election committee officials have a right "to receive evidence going to the substance of their claims," Richey said. "Yet there has been no showing that the alternative sources of evidence have been exhausted or even approached as to the possible gleaning of facts alternatively available from the movants herein.

"In the face of these considerations, it appears to the court that what is asked for here, in effect, is for the doors to the reporters to be completely opened," Richey said. "The scales, when balanced, however, are heavily weighed in favor of the movants."

Richey raised the cautionary note that "it may be that at some future date the parties in this case will be able to demonstrate to the court that they are unable to obtain the same information from sources other than the movants, and that they have a compelling and overriding interest in the information thus sought.

"Until that time, this court will not require movants to testify at the scheduled depositions or to make any of the requested materials available to the parties."

Richey, who was appointed to the bench by President Nixon in 1971, rejected any notion that journalists have an absolute privilege not to testify under the First Amendment. Such a ruling, he said, "would be clearly improper" under the Supreme Court ruling last summer.

Kenneth Wells Parkinson, lawyer for the re-election committee officials, said no decision could be made on whether Richey's ruling will be appealed until he consults with his clients.

The 10 persons sought to testify were: Washington Post publisher Katharine Graham, managing editor Howard Si-

mons, and reporters Bob Woodward and Carl Bernstein; New York Times reporter John Crewdson; Star-News reporters Patrick Collins, Jeremiah O'Leary, James Polk and former Star-News reporter Joseph Volz; and Time magazine correspondent Dean Fischer.

Joseph A. Califano Jr. represented The Washington Post. Floyd Abrams appeared for The New York Times, Francis L. Casey Jr. for the Star-News and John H. Pickering for Time magazine.

Ruling Text →