

Judge Grants Agnew Right to Investigate News Leaks



Judge Walter E. Hoffman in car at Baltimore after authorizing inquiry by Vice President Agnew's lawyers.

By BEN A. FRANKLIN
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BALTIMORE, Oct. 3—Vice President Agnew's attorneys won from a Federal district judge today authority to conduct their own investigation, with full power of subpoena, into the alleged Justice Department leaks of information that Mr. Agnew has charged constitute a "malicious, immoral and illegal" attack on him by Government prosecutors.

The order by Judge Walter E. Hoffman of Norfolk, Va., as-

Text of Judge Hoffman's order is printed on Page 31.

signed to handle procedural matters in the Agnew case, seemed certain to open a new area of controversy and litigation. It raised the possibility that newsmen, if they were subpoenaed and asked to disclose their sources, and refused to do so, could be placed in jail for contempt of court.

The court order was requested this morning by Mr. Agnew's lawyers at an unan-

nounced, closed hearing here before Judge Hoffman. It gave the Vice President's three-man defense team the court's authority to interrogate under oath any persons they deemed "appropriate and necessary."

The order could cover the questioning of Attorney General Elliot L. Richardson and his top prosecutorial aides.

The expectation is that reports, as well as Federal prosecutors and their aides, would be among these questioned in the Vice President's hunt for the identity of the source of information in news articles. Some of these articles have said, for example, that Mr. Agnew considered resigning from the Vice-Presidency and that his attorneys had "plea-bargained" for a reduction of charges against him. Mr. Agnew has bitterly denied these articles.

The list of newsgathering organizations whose reporters

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Mr. Agnew's lawyers leaving court yesterday. From the left: Jay H. Topkis, Judah Best and Martin London.

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were said to be under consideration for subpoena by Mr. Agnew's lawyers included The York Times, The Washington Post, Time and Newsweek magazines and C.B.S. News.

A number of experienced criminal lawyers here and in Washington said that they believed Judge Hoffman's order was unprecedented. The lawyers, who asked not to be identified because, as one of them said, "I may have a case before him sometime," said that they were impressed by the broad scope of the interrogation order.

Transcripts to Be Sealed

But all of them also agreed that they had never before heard of a person under criminal investigation, but not under indictment, receiving a grant of court authority to question prosecutors and others involved in the case.

Judge Hoffman's order authorized Mr. Agnew's lawyers Julah Best of Washington and Martin London and Jay H. Topkis of New York—to summon suspected "leakers" before them and to question them un-

der oath about their contacts with newsmen. The transcripts of such depositions are to be sealed under Judge Hoffman's order and kept from public court records. The judge also admonished the lawyers to discuss the depositions with no one.

In pleadings filed with Judge Hoffman last Friday and in a speech in Los Angeles on Saturday, Mr. Agnew attacked Justice Department officials, particularly Assistant Attorney General Henry E. Petersen head of the Criminal Division, who is in charge of the Agnew investigation. Mr. Agnew said that the officials had directed "a steady campaign of statements to the press which have no purpose and effect other than to prejudice any grand or petit jury" against him.

The "leaks issue" thus became one prong of the former Maryland Governor's two-part effort to block the grand jury investigation of his alleged participation in illegal kickbacks from Maryland contractors, even before the panel considered whether to indict him. Judge Hoffman's action today made it, for the moment, Mr. Agnew's major line of defense.

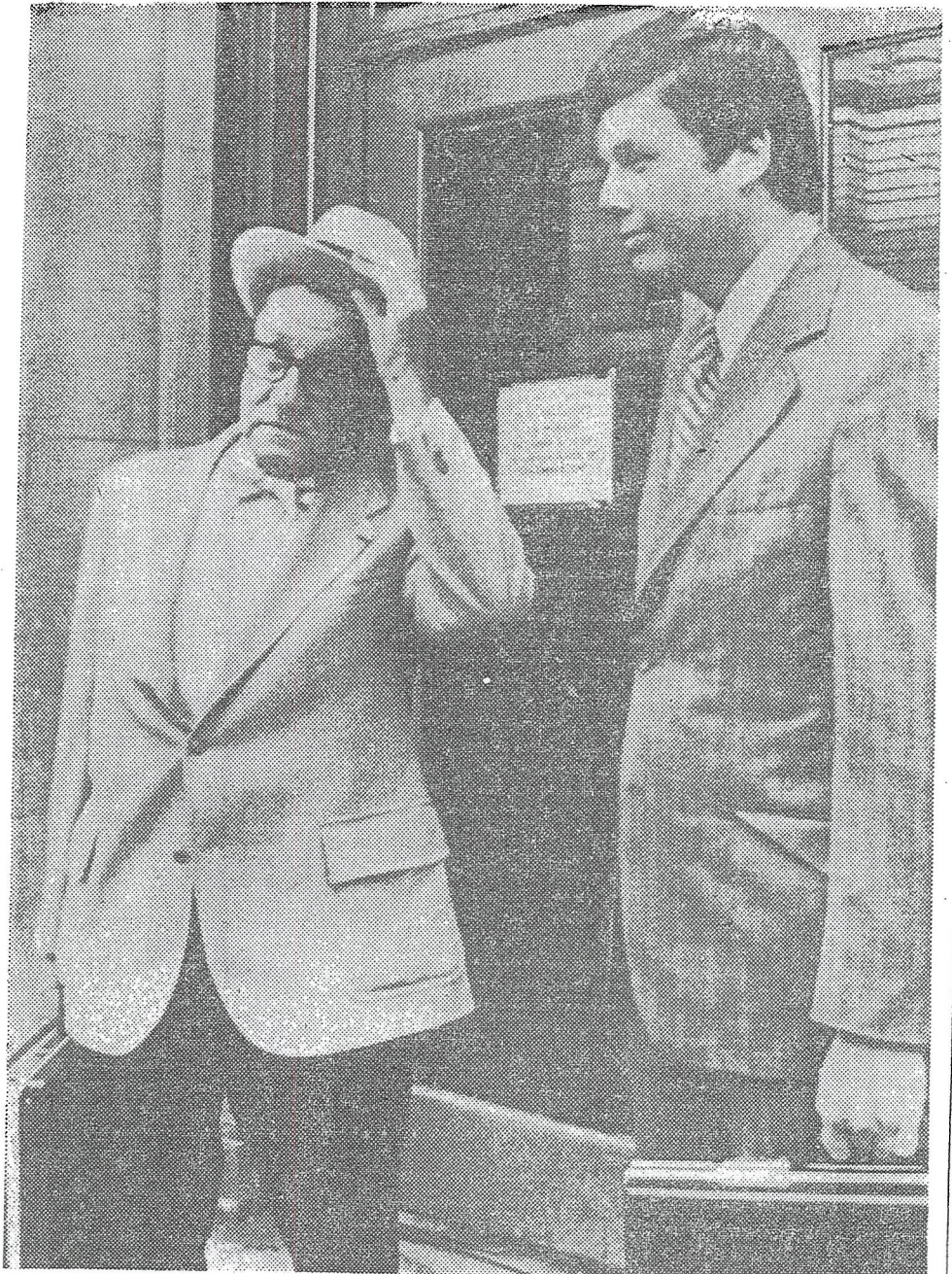
The other defense is the assertion that under the Constitution a sitting Vice President cannot be criminally indicted but must be impeached by Congress.

Special Charge to Jury

The grand jurors heard today an unusual special charge from Judge Hoffman in open court here this morning, a statement the judge accused the press of "grabbing" at news in a way that "overlooks the rights of others" the jurors then continued receiving secret testimony in support of United States Attorney George Beall's case against Mr. Agnew.

The day in the United States Courthouse here was plainly dominated by the gruff, 66-year-old Judge Hoffman, who is known for brooking no nonsense in his courtroom.

Judge Hoffman met first at 9 A.M. with Mr. Agnew's attorneys and Mr. Beall and his three top assistants in the sixth-floor chambers of the United States Court of Appeals for the Fourth Circuit. The



William J. Muth, left, arriving at courthouse yesterday in Baltimore with Philip Sutley, his lawyer. He said later he had been given some immunity by a Federal judge, and spent an hour before a grand jury in the investigation of Vice President Agnew.

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closed hearing lasted an hour and a half and ended with "no comment" from all participants.

The belief that the judge might have sternly lectured the lawyers about news leaks was strengthened at 10:30 o'clock, when he assembled the 18 members of the 22-member grand jury who were present for a 15-minute admonition, delivered from the bench in open court.

Press Assailed

He had noted "with great reluctance," Judge Hoffman said, "that the news media have caused many articles, statements and newscasts to be issued" about allegations against the Vice President. He told the jurors not only that their responsibility was to weigh the evidence against Mr. Agnew in strict secrecy and solely on the basis of "credible testimony" before them, without reference to published news accounts, but that in any case the press in his experience "frequently is wholly or partially inaccurate."

He warned the jurors "to disregard totally any comments you might have seen or heard

from any source, save and except what you have heard or seen in your grand jury room while in official session."

Calling the news media "integral and necessary parts of our lives," Judge Hoffman then said "unfortunately, in the present-day grab for priority in getting news items, the news media frequently overlook the rights of others, especially where criminal matters are involved."

Perpetual Conflict

"We are rapidly approaching the day when the perpetual conflict between the news media, operating as they do under freedom of speech and freedom of the press, and the judicial system, charged with protecting the rights of persons under investigation for criminal acts, must be resolved," he declared.

The business before the earlier, closed hearing in chambers did not become apparent until noon, when the Agnew lawyers emerged from a private meeting with the prosecutors, went to Judge Hoffman to obtain his signature on the investigative order, and then filed it with the clerk of the court.

The document itself was the evidence of the Agnew lawyers' struggle to use the power of the court to get at the "unnamed accusers" they have charged with leaking prejudicial stories about the Vice President.

All the lawyers and prosecutors replied to questions with "no comment."

Six Witnesses Heard

As expected, the first of the six witnesses who appeared before the grand jury today was William J. Muth, a political supporter and fund raiser for Mr. Agnew since 1966 who has been active in the consulting engineering field for the last 12 years.

Mr. Muth said in an interview afterward that he had been given use immunity before Judge Frank A. Kaufman and that he had spent about an hour answering questions before the grand jury.

Under use immunity, a witness cannot be indicted on the basis of what he tells the grand jury, but he may still face indictment on the basis of

evidence developed independently of his testimony.

Mr. Muth said that he had been asked by Barnet D. Skolnik, the head of the team of Assistant United States Attorney conducting the investigation, whether he had made political contributions to influence Mr. Agnew in the awarding of consulting contracts.

Asked About Hammerman

Mr. Muth said that he had answered, "I never did." He also said that one of the first questions asked was whether he knew I. H. Hammerman 2d, a mortgage broker who has long been a close associate of Mr. Agnew and has been one of his prime fund raisers.

Mr. Muth said previously that he and Mr. Hammerman have been close friends since World War II, when they both served in the Army Chemical Corps.

He said that he had been asked whether he had given contributions to Mr. Hammerman to "buy his influence" and to get favorable treatment in the awarding of contracts for the concerns he worked for. Mr. Muth, dressed in a light

tan suit and wide-brimmed hat, said that he had helped raise and had given contributions to Mr. Hammerman in behalf of Mr. Agnew, but that these had had nothing to do with getting any special treatment.

Under Investigation

"Bud Hammerman's influence," he said, "is not for sale."

Mr. Hammerman has been notified that he is under investigation by the United States Attorney's office on allegations of bribery, extortion and Federal tax fraud. Sources close to the investigation have also said that Mr. Hammerman was a "collector of money" for Mr. Agnew from consulting engineering firms, primarily when Mr. Agnew was Governor of Maryland.

Mr. Muth said that another area of his questioning today covered whether he had given money to William E. Fornoff, an administrative officer to N. Dale Anderson, the county executive of Baltimore County. Mr. Anderson, who succeeded Mr. Agnew in that post, was indicted Aug. 22 on 39 counts of bribery and extortion.

Made Political Gifts

Mr. Muth told a reporter that he had made political contributions on behalf of consulting firms that he had worked for, but he said that so far as he knew these had not been made to obtain consulting contracts.

"That's not the way it works," he said. "If you give so much, you'll get a contract in return." He has said in past interviews that consulting engineering firms were expected to contribute but that it was more like joining a club to get its privileges. Such gifts did not necessarily mean that a firm would get big contracts in return, he said.

Mr. Muth has repeatedly said that a heart attack last year stopped the blood from reaching his brain for several minutes and affected his ability to recall details accurately.