



# John Murphy's counterattack

*An Abscam target has sued NBC and the New York Times for double abuse of the First Amendment.*

*New York Congressman John M. Murphy, indicted in the Justice Department's Abscam "sting," has mounted a vigorous counterattack. Charging political character assassination by two Justice Department media outlets—NBC-TV's Nightly News and the New York Times—Congressman Murphy has filed libel suits seeking \$25 million in damages.*

*Murphy, a Democrat, had represented New York's 17th District (Staten Island) for 18 years, and is seeking reelection in 1980. He is currently chairman of the House Merchant Marine and Fisheries Committee, an important post for commercial and industrial legislation and the future of port development. He is supported by the International Longshoremen and maritime industries.*

*In Murphy's suit against NBC, New York State Supreme Court judge Charles Rubin ordered NBC on Oct. 20 to produce its reporters' records, notes, expenses, and so forth in court. On Oct. 28, NBC agreed to run a prominent retraction of their story, admitting that their federal sources were inaccurate, and Murphy has dropped his suit.*

*Congressman Murphy issued the following statement to the press at an Oct. 8 press conference in New York.*

I have called today's press conference to announce that I am in the process of serving legal papers constituting a libel suit on the National Broadcasting Company. Named as defendants in the suit, in addition to NBC, are: Fred Silverman, president of NBC; William Small, president of NBC News; and NBC reporters Jessica Savitch and Brian Ross.

My complaint states that in early February of 1980 the so-called Abscam investigation was revealed to the general public for the first time. It involved the alleged wrongful acceptance of monies by various members of Congress.

NBC's coverage of this event was handled on its Nightly News program of Feb. 3, 1980 by Jessica Savitch and Brian Ross. Savitch commenced her portion of the program by claiming that: "During the investigation, code named Operation Abscam, undercover agents paid out almost \$1,000,000 in cash to public officials including one U.S. senator and seven congressmen."

Thereafter Ross stated, among other things: "Federal investigators say Murphy [referring to me] actually introduced a bill in the House on behalf of a man he believed to be a rich Arab, but it was actually an undercover FBI agent. Authorities say the bill passed." . . .

The statement that "Murphy actually introduced a bill in the House on behalf of a man he believed to be a rich Arab" is absolutely false.

The statement that "the bill passed" is absolutely false. . . .

This action on the part of NBC and its reporters has caused me great injury personally—not to mention the harm caused my family—and set off a chain of media events relative to Abscam that haunts me to this very day. . . .

For example, on Feb. 4, 1980 the *Staten Island Advance*—which is read by perhaps 85 percent of my constituents on Staten Island—carried a headline story on Abscam which included the following: "Meanwhile, NBC News reported last night that Murphy actually introduced a bill in the House on behalf of the undercover agent, apparently to help the supposed sheik gain residence in the United States. The bill passed, NBC said." . . .

It would have been a very easy matter for Ross to determine the truth or falsity of what he said that night. . . . Any reporter familiar with Capitol Hill knows that, to all intents and purposes, private immigration

bills have not been introduced in Congress since 1973.

Any reporter on Capitol Hill knows there is a computer printout available to anyone in the press with a complete list of all the legislation introduced by me (or any other member) in the 96th Congress. *It takes 20 minutes to get the printout after it is requested from House Information Services.*

Any reporter on Capitol Hill knows that immigration matters are handled by the Committee on the Judiciary. The printed legislative calendar of that committee was also available to Ross for the two months he knew about Abscam. Had he taken a few minutes to look at page 316 of the calendar for the 96th Congress, he would have discovered at once that I had introduced no immigration bill whatsoever . . .

Finally, I would point to the other half of this illegal alliance—the Justice Department. The leakers in the Justice Department, in part, perverted justice with their illegal leaks. And the so-called investigation of the leakers headed by Benjamin Civiletti has made this perversion of justice complete.

The Abscam sting operation has been publicly described as the most mishandled investigation conducted by the Justice Department in its history, “a defeat for law and order” as referred to by Milton S. Gould of the *New York Law Journal*. . . .

On March 5, the attorney general expressed his outrage at the perversion of the multimillion-dollar investigation by the very men who were conducting it. He summoned all of his employees to the Justice Department’s Great Hall and lectured them on their responsibilities under the law . . .

Civiletti was so “embarrassed” and so “outraged” by the “leaks” that soon after the scope of the mismanagement became apparent he appointed Richard S. Blumenthal, a “highly regarded” federal prosecutor to conduct an in-house investigation at Justice to ferret out the “leakers.” It was to be a no-holds-barred investigation including the use of lie detectors. Who were the principal suspects? This is what was reported in a New York paper on February 3, 1980: “The major sources of the Abscam leaks to the *New York Times*, *Newsday* and NBC were Neil Welch, head of the FBI’s New York office, and Thomas Puccio, head of the Justice Department’s Organized Crime Strike Force for Brooklyn and Long Island.”

That was just over eight months ago and we heard no more about the “top priority” investigation—until May 7, when a quiet news story from “inside sources” at the Justice Department said that the results of the investigation would not be known until *after* indictments are handed up.

Well, the indictments have been handed up and the Blumenthal report has been kept under wraps. What is Civiletti afraid of? Why has his zeal to get at the federal

criminals in his own department cooled? Is it because he doesn’t want to impeach his top Abscammers?

Welch, who was referred to frequently in the article about Brian Ross, is now the head of law enforcement in the State of Kentucky and is writing a \$100,000 book in which Abscam is supposed to be “the crown jewel.” And Puccio, a prime suspect in the commission of a crime, is feverishly going after the Abscam defendants in *and* out of the courtroom. . . .

Where in this situation is the concept of equal justice under the law? I think it doesn’t exist and that is why I have begun to take corrective steps with this lawsuit.

*From Congressman Murphy’s statement at an Oct. 21 press conference announcing his libel suit against the New York Times. All emphasis is in the original.*

For 200 years of American constitutional history, two fundamental First Amendment propositions have coexisted in harmony: *first*, that there is value in a free, open, and vigorous public debate about public issues and public people reported by an uncensored press; and *second*, that every citizen—even a member of Congress—has the right to relief under the libel laws when subjected to false and malicious attack in the press. Both constitutional notions are sound and well established, and together they balance the public interest, on the one hand, with the right of the individual, on the other, to be free from character assassination.

Yesterday, I filed a suit in the Richmond County supreme court against the *New York Times* and several of its employees, publisher Arthur Ochs Sulzberger, executive editor A.M. Rosenthal and reporter Ann Crittenden. The suit seeks redress for the damage they have done to my reputation by their calculated, malicious libel—for exceeding their rights under our constitution by invading and subjugating mine.

When I recently brought a similar action against a television network, a reporter asked me rhetorically, “You’re a public figure, so we can say anything we want about you, can’t we?” Thereby indicating the all too prevalent—and incorrect—notion that there is virtually no limit on what can be said or broadcast about a public official. Well, the press is accountable—to the public. And they are expected to print the truth—and when they knowingly print or broadcast falsehoods—that is when they lie—they are liable to their intended victims.

Commencing in late 1976, The *New York Times* and its employees embarked upon a deliberate campaign to ruin my reputation, diminish my standing with the electorate, and hound me from public office. Their methodology was relatively simple: concoct a story and repeat it—filling it with damaging innuendo.

At one point, the *Times* indicated that I was the “target” of an official tax investigation—a nice story,

but totally false. At another juncture, the *Times* printed that I had been mentioned in secret tapes of conversations in the Korean Blue House as the recipient of illegal gratuities offered by the Korean government. This untruth came from anonymous congressional employees who had neither seen nor heard a tape, at a time when responsible officials denied their very existence. And note that the House Ethics Committee formally determined that I was never involved in any impropriety whatsoever. Then, the *Times* claimed I had suppressed an official GAO report on pending maritime legislation—when, in fact, I had caused that very report to be entered in the public record the very day it was received.

The publication of these falsehoods was neither haphazard nor accidental; nor were these the only examples of the *Times*'s reckless disregard for the truth. Each new wave of misrepresentation was planned to coincide with an event on the political calendar, just before the primary or general election, at the time for selection of committee chairmen of the House or at some other point of perceived vulnerability. And each effort acknowledged the assistance of unnamed government or congressional sources who themselves violated legal and ethical standards in their haste to abet libel.

Perhaps the most intriguing aspect of the entire campaign is the neat “catch-22” created for someone in my position: A newspaper or television station lies, thereby libeling me, and I file suit. The press then claims that their claims are accurate, citing government sources. Who are those sources? “Well, we can’t tell you because we are protected by an implied First Amendment right . . .

Stripped of exotic legal arguments, it is all rather rudimentary—certain persons in the media think they can lie about you and get away with it. . . .

The lawsuit deals with the Crittenden article of October 22, 1979, entitled “Murphy Reportedly Subject of 3 Inquiries.” In this article Crittenden dressed up certain charges that she has leveled at me since 1976 and concocted a few more. I have had the article blown up on the display boards with the false statements underlined.

I wrote a letter to the editor of the *Times* on October 30, 1979, outlining in detail the baseless nature of her charges. I asked that in fairness to me it be printed. Ten days later I was advised that I must keep my defense to less than 500 words—this after three years of vilification. So I was forced to pay almost \$10,000 to buy space to give a full and detailed reply.

But for a lady who told one former staff member of the Ethics Committee, “Murphy ought to be in jail,” and that she was going to “get Murphy,” this ad apparently only spurred her and the *Times* on. Just last August 28, a little more than a week before my primary, Crittenden and the *Times* were ready to take another shot at Murphy. Fortunately for the truth, Crittenden went on vaca-

tion after she submitted her “story.” A rewrite person called the chief counsel of the Merchant Marine and Fisheries Committee and asked for comment. He was so flabbergasted by the outrageous lies contained in the article he demanded to speak to the *Times* libel lawyer. The upshot was that that portion of the story dealing with me was dropped in the article that appeared on August 28.

This was the first time in a story of this nature the *Times* didn’t print multiple paragraphs of libel and write at the end, “a Murphy aide denied the charges.”

And the ripple effect from Crittenden’s and the *Times*'s lies is lasting and pervasive. Their speculation becomes another newspaper and TV show’s fact. This has happened time and time again in such diverse news vehicles as the *Village Voice*, the *Washington Star*, the *Washington Post* and NBC news. . . .

In my lawsuit I have charged that the *New York Times* on October 22, 1979, printed, published, and circulated false, malicious and defamatory libel with malice and intent to injure me knowing that it was false.

For example, the statement that I was the subject of an inquiry for failure to report income for tax purposes *is false*.

The statement that I “. . . may not have reported income” *is false* and wrongfully and maliciously infers and implies that I violated Title 26, the Internal Revenue Code. . . .

The Crittenden article then states: “. . . The same sources explained that most of this income appeared to be from non-Korean sources, particularly maritime interests. Mr. Murphy is chairman of the House Merchant Marine and Fisheries Committee, as well as a ranking member of the Commerce Committee.”

The statement that “Most of this income appeared to be from . . . maritime interests” *is false* . . .

I do not believe that the Founding Fathers created the First Amendment as a sanctuary from the truth—as a convenient ethical haven where one can flee, abandon responsibility, and trample reputations. On the contrary, I believe that its protection carries with it a grave responsibility—and not merely for public officials. Somewhere, somehow, our people are entitled to the reasonable expectation that what they are reading is the truth, and in this case there is good reason to believe they have been disappointed.

Early on in a political career that now spans two decades, I learned how to take the heat, to paraphrase Harry Truman. Every politician learns to live with a slanted story here or an honest error there. That is not why I am in here today. My actions today originate in my belief that there has to be a formal response to the drumbeat of distortion by a reckless news media which has abused its obligations to our citizens to report news fairly and accurately. . . .