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Post 9/10/76

# Protecting Sources—A Continuing Battle

Next Wednesday, in what is bound to be a media event, Daniel Schorr will enter a den of congressional lions. He will go before the House Ethics Committee and, he says, refuse to reveal how he got a secret House report that he made public.

Schorr says he has no desire for martyrdom. The committee shows no disposition to use its teeth. Nonetheless, we can expect some theatrics on both sides, and there is always the danger that the committee will do something foolish like try to put Schorr in jail.

While the newsmen and the congressmen grid for their moment in the spotlight, a grimmer contest over the right of journalists to protect their sources is going on in California.

When Schorr marches to the witness stand in Washington, four newspapermen will be hearing the end of their second week in jail for refusing to tell how their newspaper, the Fresno Bee, got secret grand jury material it published. They are under open-end sentences, which means that, barring further action by the courts, they must remain in jail until they reveal their source. This they have said they will never do.

The Schorr case has been highly publicized from the start. Suspended from his CBS News job—with pay—because of the secret report caper, Schorr has become an authentic celebrity, a frequent of talk shows and the lecture circuit. The Fresno Four have gone virtually unnoticed except for a flurry of

attention when they went to jail on Sept. 2.

But both are part of the continuing battle between officialdom—the legislative branch in Schorr's case, the judiciary in the case of the Fresno Four—and the press over the protection of confidential sources. The unpublished plight of the California newsmen is at least as important to the freedom of the press as the confrontation to take place in Washington next Wednesday.

Schorr's career as a public defender of the First Amendment was born in February when he obtained a copy of a House Intelligence Committee report on the CIA a few days before it was to be released. He used the contents in a series of CBS radio and television reports. Newspaper reporters who had obtained the report or parts of it also published stories.

Then the House, caught in a conflict between the Intelligence committee and the White House, voted to suppress the report indefinitely. Schorr thereupon decided that verbatim sections of the report should be published.

He made it available, privately, to the publisher of the Village Voice, a liberal New York weekly, with the stipulation that payment should be made to the Reporters Committee for Freedom of the Press.

Excerpts appeared in the Voice and suddenly the shopworn report was a storm center. President Ford was angry. Members of Congress hinted the CIA might have fomented the whole

mess. And, courtesy of The Washington Post, Schorr's role in the publication by the Voice became public, as did the deal involving the Reporters Committee.

The ethics committee, notorious for his insensitivity to congressional misbehavior, aroused itself enough to spend \$150,000 looking for Schorr's source, apparently without success.

There are some humorous overtones to the Schorr case—the involvement of the high-minded Reporters Committee in the peddling of the report, for example, and the ethics committee's costly

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search for the leak. Also, although Schorr has been taking bows for revealing vital information, one would be hard put to find someone who has read the Village Voice excerpts of the report.

There was no comic relief in the Fresno case. Local corruption was the issue there. A grand jury indicted a city councilman, a developer and a former planning official in connection with the alleged bribery of the councilman by the developer.

A judge sealed grand jury transcripts so prospective trial jurors would not be influenced. After the councilman had been granted a change of venue the eventually was acquitted, the Fresno Bee published a story containing material from the grand jury testimony.

When halled into court, the newsmen refused to tell the judge how they got the material, citing California's "shield law" protecting journalists. They did tell the judge that the information did not come from any of the persons subject to his gag order.

The judge ruled that the court's need to protect its own processes superseded the shield law. After several appeals and futile attempts to win a stay from the U.S. Supreme Court, the men went to jail. Efforts to free the men are continuing, of course. And to its credit, the Reporters Committee is taking part in those efforts.

Schorr's case is tainted, in my opinion, by the effort he made to peddle the Intelligence report, even though he had no intention of profiting personally and no money ever changed hands. I am less familiar with details of the Fresno case, but I find it disturbing that one of the newsmen had a courthouse master key that, according to the judge, could have provided access to court files.

Nevertheless, what is really at stake in both these cases is the confidentiality of news sources. That confidentiality is essential to an effective free press, and a free press is vital to our system.

So when officials, no matter in what branch of government or at what level, crack down on journalists for protecting sources it is a matter of concern for everybody, not just for those of us in the news business.