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Leaks, Ethics and Daniel Schorr

THE HOUSE ETHICS committee ought to quit while it's behind—but not yet hopelessly humiliated—and close down its investigation of who leaked the House CIA report to Daniel Schorr. Specifically, having had its staff ask 385 people (in the House and Executive branch alike) in vain whether they did the leaking, the committee should resist pressures to subpoena CBS correspondent Schorr or other journalists to put the same question to them under pain of contempt. Mr. Schorr, in obtaining the CIA report and in using parts of it on his network, was simply honoring his primary journalistic obligation—fully protected by the First Amendment—to tell the public what he knew. The same can be said about the Byzantine maneuvering by which he provided a copy of the report for publication in the *Village Voice*—whatever you may think about that aspect of the affair. To demand that he reveal his source—when no allegation of a crime has been made against him—would be an act of vengeance—a cheap way to distract attention from the ethics committee's failure to find his source on its own and from the Pike committee's inability to conduct an effective and orderly investigation in the first place.

This committee's only interesting finding in four months is that the House CIA committee was inexcusably careless in distributing drafts of its report. Scores of copies were spread around town with only the flimsiest effort made to keep them under control. In retrospect, one need not be outraged by this, though it casts no credit on the Pike committee. Everyone expected that publication would soon be forthcoming. No one seriously claimed, then or since, that substantial national-security considerations argued against publication. One can agree with Rep. Samuel Stratton (D-N.Y.) who conceded at the time that the House voted against publication, after the leaks, "somewhat unexpectedly because we had begun to hear from the people back home that they do not want all of our secrets leaked . . ." That is to say that, from the start, the congressional furor over the

leak was political, a reaction cranked up to take some heat off the politicians' backs. A more thoughtful House might have anticipated the obstacles—the First Amendment for one, the leaker's concern for his own privacy for another—which were to bring the ethics inquiry to its present impasse.

The lesson, we believe, is not that leaks are inevitable or unpluggable but that the classification, internal use and disclosure of secret national-security information should not be left to ad hoc congressional improvisation. The real source of the current trouble is that the House intelligence committee made an unwise ad hoc deal with the Executive: to get certain information, the committee agreed to let the President be the final arbiter of disclosure. By contrast, the Senate intelligence committee fixed a procedure under which differences of opinion over disclosure differences could be (as indeed they were) negotiated out. Once the House had made its deal, collisions of a sort practically inviting leaks were almost inevitable.

The answer does not lie in ponderous probes designed to show that the House is a reliable custodian of secret information. The current probe has shown, of course, precisely the opposite—the House has neither kept a secret nor been able to locate the leak. The answer lies in a considered congressional decision to establish, by legislation or regulation, new information-sharing procedures to replace the existing procedures which were laid down by Executive edict alone. The temporary Senate intelligence committee took an effective step in this direction. In the Senate resolution of May setting up a permanent intelligence oversight committee, further steps were taken—to formalize congressional access to information, to provide for negotiating disagreements over disclosure, and to assure congressional enforcement. The ethics committee fiasco will have been worth the trouble if it builds understanding and support for this kind of useful model of congressional-Executive cooperation in the national security arena.