

Ervin to Seek Law Curbing FBI Inquiries

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Sen. Sam J. Ervin Jr. (D-N.C.) said yesterday he will propose legislation to prohibit the FBI from investigating any person without his consent, "unless the government has reason to believe that person has committed a crime or is about to commit a crime."

He declared his intention after hearing testimony from CBS news correspondent Daniel Schorr, the subject of an FBI probe last summer, when he was allegedly under consideration for a job with the Nixon administration.

Schorr, the leadoff witness in continued hearings on freedom of the press before Ervin's Senate Subcommittee on Constitutional Rights, complained that the investigation had been an "arbitrary intrusion" into his personal and professional life.

Ervin said he found it "difficult to believe" that the FBI would ask questions about someone "without first asking the person if he would accept the job" for which he was being considered.

But Schorr, who has often been criticized by the administration for his news coverage, said that right up through the start of yesterday's hearing he had never been approached about the government job.

A White House official told The Washington Post Monday that the newsman had been considered for a position as assistant to the director of the Council on Environmental Quality.

Ervin charged, however, that there was a discrepancy between the details provided to The Post and to him in a letter from John W. Dean III, counsel to the President.

Dean's letter, hand-delivered to Ervin last week, said that "Schorr was being considered for a position (that is) presently filled."

But according to the White House official who spoke with The Post, other television newsmen have been interviewed for the job and the search is still on for someone to fill it.

White House press secretary Ronald L. Ziegler yesterday confirmed The Post account.

Ervin said the apparent discrepancy might have been cleared up if any of three administration officials invited to testify before the subcommittee — White House recruiter Frederic V. Malek, special counsel Charles Colson and communications director Herbert G. Klein — had agreed to appear.

"We got a letter in response to our request for witnesses," Ervin complained. "You can't cross-examine a letter."

The allegations about the administration went unanswered yesterday, when none of the four Republican members of the subcommittee attended the hearing.

Among the subcommittee's six Democratic members, only Ervin and Sen. Edward M. Kennedy of Massachusetts appeared to hear Schorr and other witnesses discuss freedom of the press.

Kennedy, criticizing administration attacks on the media, suggested that "the press and speech are threatened as much in this country now as at any time since the passage of the Alien and Sedition Act" in 1798.

He concurred with Schorr's concern over "the climate of suspicion and hostility and nervousness that the administration has helped to create" among the press.

The legislation restricting the FBI's investigative power mentioned by Ervin yesterday would presumably be aimed primarily at routine personnel probes.

Depending on how it is drafted by subcommittee staff members, however, it could also lead to litigation by those who feel they are under investigation by the FBI for other purposes and seek to force the government to prove in court that it has "reason to believe" that a criminal act has been or is about to be committed.