

For the Record

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Government and the Press: 'A Necessary Tension'

From the House Ethics Committee's hearings on the leak of the report of the House Select Committee on Intelligence:

Rep. Cochran: . . . The Constitution doesn't just exist to contain the First Amendment, which we are glad it does, but it also contains an article, in Article I, Section 5, a provision that empowers the House of Representatives to keep certain of its proceedings secret. That provision . . . says simply that each House shall keep a journal of its proceedings and from time to time publish the same except such parts as may, in their judgment, require secrecy.

Now, I suppose my question then to you is how can that provision, which empowers the House to keep certain of its proceedings secret, have any utility whatsoever if it only seeks to bind members of the House or a com-

mittee of the House? It seems to me that to have any utility whatsoever, and I ask you if you do not agree, that it has to bind all of those who might have access to such proceedings? Daniel Schorr: Mr. Cochran, I most emphatically do not agree.

Leaving aside the question as to whether the provision concerning the journal is even applicable to a report of a committee, which I understand is itself a contentious matter, and coming directly to the heart of your argument, I emphatically do not agree that the House has the right to reach out and try to enforce its rules by reaching out to the free press and establishing, in fact, a gag order.

It is my deep conviction, based on a certain study of how the Constitution came to be written, that the function of this House and the function of the press are quite different as viewed by the Constitution.

This House was created to be responsive to the political will of its constituency, which may change from time to time, and the House as it did on Jan. 29 regarded itself as responding to what its constituents wanted when it decided that a report which the taxpayers' money had paid for and had been commissioned by the House should not in that form be released, and I appreciate that as a proper function of the House, responsive to the will of the people, which may in different climates change.

The press was given a different function. The press, as I see it in the Constitution, was given the function of monitoring what the government does, of giving people information, given information which may at that moment not be popular.

Perhaps information which people didn't want at that time. Because how could they ever change their minds

or be informed if they didn't get all of the information possible?

The line that goes there is yes, the House has a full right and the necessary powers to be able to clean its house, to close it down, to plug its leaks, I understand that.

There is a necessary tension between what you do and what I do. But once it's out, if you go and try to chase it down, and call it back and punish the one who has published it, then I think you have gone too far.

Because, if I may just conclude in one line, because the function of the press, as stated by some of the writers of the Constitution, was to expose the secrets of government, and to let the people know everything that it was doing, and how in God's name can we expose the secrets of government and let the people know what this government is doing if we can only expose what you say we can expose?