

# Ervin Press Shield Proposal Now Includes State Courts

By George Lardner Jr.

Washington Post Staff Writer

Sen. Sam J. Ervin Jr. (D-N.C.) said yesterday that he now is convinced of the need for new gathering safeguards that would be binding on the states.

Ervin said he had been reassured by testimony before his Senate subcommittee on constitutional rights over the past week about the utility of legislation solely to federal courts and agencies.

Despite earlier reservations, he said he feels a broader bill would be constitutionally justified both by the First Amendment's general guarantee of free press and by Congress's power to regulate interstate commerce.

With few exceptions, a steady train of witnesses have argued that a newsman's privilege against compulsory testimony on the federal level would be too easily diluted if state courts and grand juries were free to ignore it in pursuing their own investigations.

Ervin said he had been especially impressed by New York Gov. Nelson Rockefeller's recommendation for nationwide legislation that would apply in the states but still leave them free to enact more comprehensive safeguards.

Such a minimum-standards approach, Ervin wrote into the draft of a new bill that Ervin said he plans to introduce shortly. He noted that it will be his third, and he hopes it will be his last, proposal.

"Finally, I've written one that satisfies me," he said.

The tentative measure would protect newsmen from forced disclosure of unpublished information, including tapes, notes and photographs. It would also entitle them to refuse to name sources who have been expressly or implicitly promised anonymity.

Ervin said reports he did not mean to exempt newsmen from subpoenas involving eyewitness accounts of a crime, such as the one compiled by former Louisville Courier-Journal reporter Paul Bramburg in writing about two young hashish makers.

"Anybody who invites a reporter to come in and watch him commit a crime ought to be acquitted by reason of insanity," the senator declared. "If you invite a reporter to come in and watch him commit a crime, you appear to protect newsmen even in situations such as

Bramburg's. He was allowed to watch the hashish-makers at work after promising not to reveal their identity. The Supreme Court ruled last June that the First Amendment did not protect that confidence in the face of grand jury inquiries, but the court added that Congress was free to provide such safeguards by statute.

Testifying at a recent hearing before Ervin's subcommittee, Los Angeles Times editor William F. Thomas said his newspaper had to spend more than \$300,000 in recent years in resisting some 30 subpoenas and the threat of more than 50 others. By now, he said, newspapers and their sources are both becoming "gun-shy."

"At least four times in the past few weeks," Thomas said, "I have contacted sources in Los Angeles who specifically cited the danger of subpoena in refusing to provide information we both knew they possessed."