

NYTimes SEP 14 1976
**Schorr Says Earlier Publication
 Of Pike Report Obviates Inquiry**

By RICHARD D. LYONS

Special to The New York Times

WASHINGTON, Sept. 13—In refusing to disclose how he obtained the Pike committee's intelligence report, Daniel Schorr will charge before the House ethics committee Wednesday that the investigation is irrelevant, since most of the document was published by The New York Times before it appeared in The Village Voice.

The legal position of Mr. Schorr, a CBS news correspondent here who has been under suspension by the network since he disclosed that he had given a draft copy of the report to The Voice, was outlined in a memorandum sent to the committee today by his lawyer, Joseph A. Califano.

Mr. Schorr is to testify in public before the ethics panel Wednesday. At a committee hearing tomorrow, four Congressional aides are scheduled to be questioned under oath for the second time.

Mr. Schorr will also contend that when he received a draft copy of the report, the special intelligence panel had already agreed to make the document public, that no conditions had been imposed on its publication and therefore he had violated no rule by the House.

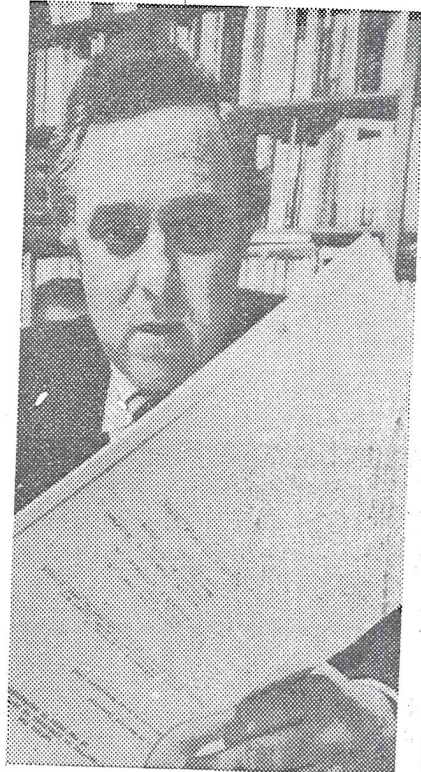
House Voted Secrecy

The report of the special intelligence committee, headed by Representative Otis G. Pike, Democrat of Suffolk County, contained details and criticism of the operations of the Central Intelligence Agency and other Federal intelligence agencies. The House voted in January to keep the report secret, and in February, The Village Voice printed extensive excerpts from the document.

Accompanying the memorandum prepared by Mr. Califano were copies of each page of the newspaper's published account annotated to show that most of the material had first been disclosed elsewhere, primarily in The Times.

"This previously published or broadcast material constitutes an enormous portion of The Village Voice version of the Select Committee's final report," the memorandum said. The rest, according to the memo, "was a matter of public record or would have been common knowledge either to the public generally or to those

"A basic factual predicate for this committee's broader investigation is that The Village Voice contained classified information which was both secret and harmful to national security," the memo con-



Associated Press

Joseph A. Califano, lawyer for Daniel Schorr, displays copy of a referendum given House committee in support of his client's Constitutional position.

tinued. "But the information was neither."

The accounts referred to were published in The Times, starting Jan. 20, and made extensive references to the report's contents. Mr. Schorr first broadcast his accounts of material in the report on Jan. 25. The first account in The Village Voice appeared on Feb. 16.

Today's memorandum to the ethics committee reiterated Mr. Schorr's position that he "has a constitutional right under the free press clause of the First Amendment not to disclose the identity of his confidential news source."

As a further defense, the memo stated that "Mr. Schorr violated no resolution, rule or regulation of the House of Representatives in making the select committee's final report available to The Village Voice."