

THE RECORD

New Criminal Code Threatens Reporters, Sources

A LENGTHY and complex legislative bill, S.1400, has been introduced by U.S. senators Roman Hruska (R-Neb.) and John L. McClellan (D-Ark.). It is described by an aide to Hruska as a Nixon administration proposal and it has certain provisions which some members of the press and others see as perhaps the most severe threat to a reporter's right to investigate.

The bill is contained in President Nixon's 680-page revision of the U.S. Criminal Code. According to one newsman who has studied its contents, Robert C. Maynard of the *Washington Post*, the proposed revision includes "legal language that proposes unprecedented criminal sanctions against those who do investigative journalism and their potential sources in government."

Maynard explained in a recent column that, under the proposed legislation, any government employe who hands over a document to "an unauthorized person" would be guilty of a felony. The reporter who published classified information would also be guilty of a felony. Also guilty of a felony would be the government employe who was aware that a colleague had communicated classified information to an unauthorized person, such as a reporter, unless he turned in the colleague, Maynard added.

"The reporter who received the confidential information and did not make use of it would still be guilty of a felony unless he turned in his source," Maynard said.

U.S. Sen. Edmund S. Muskie reminded that there is existing law which punishes persons who disclose secret information with intent to damage America and its security.

"But this new law would go further," Muskie said. "It would prohibit and penalize disclosure of any classified information, regardless of whether or not it damaged security." The law's penalties—from three to seven years in jail, from \$25,000 to \$50,000 in fines—would be imposed, Muskie said, "on actions which are not now considered crimes, which are, instead, the applauded work of investigative journalists."

President Nixon was being criticized on a different front by the president of

the Newspaper Guild, Charles Perlik, who demanded an apology from Nixon regarding the news media's coverage of the Watergate case.

"You owe the nation's working press a public apology on behalf of yourself and all those in your administration who have so willingly and freely heaped calumny on those who have performed the demanding job the First Amendment requires of them," Perlik said in a telegram to the President.

In Washington, the House Appropriations Committee ignored a new House rule designed to open meetings to the public by deciding to vote in secret to draft a bill providing money for Congress.

A protesting committee member, Rep. David R. Obey (D-Wis.), observed that the action places Congress in an embarrassing position at a time when it is attacking the Nixon administration's use of executive privilege to keep information from Congress.

A NEWLY formed non-profit group called Citizens Right to News Committee is believed to be the first organized national protest by private citizens of adverse court decisions and subpoenas curtailing news source protection. The organization has asked Congress to enact legislation granting unqualified protection to newsmen, sources and confidential information.

The board of directors of the Radio Television News Directors Association has authorized its president, Charles Harrison of WGN in Chicago, to establish an emergency fund to assist broadcast journalists in freedom of information cases.

Contributions to the Sigma Delta Chi Legal Fund now total almost \$7,000.

Meanwhile, in the states:

Gov. Tom McCall of Oregon signed into law one of the toughest shield laws in the country. The law, which takes effect 90 days after the current legislative session adjourns, shields newsmen from court orders or other state governmental actions that would compel them to disclose confidential information. Gov. McCall is a former newsman.

In Connecticut, however, the judiciary committee of the state's House of Representatives killed a bill that would

have provided similar protection.

The Hawaii Senate unanimously adopted a bill which gives total immunity to journalists from forced disclosure of their news sources.

A deal was made between two politicians in Nebraska in regard to shield legislation in that state. Two days after Gov. J. J. Exon appeared to be endorsing total protection for the press in Nebraska by signing into law LB 380, an unqualified shield bill, state Sen. John Savage introduced a substitute bill which contains *actual* provisions desired by Gov. Exon.

Strangely enough, Savage also introduced LB 380. So, within a short period of time, he had introduced two bills, one limiting the other. The matter was calculated in order to seek adoption of the governor's version of shield protection, which includes: (1) a provision requiring newsmen to give testimony on serious crimes they might witness and (2) a more narrow definition of newsmen so as to exclude reporters for underground newspapers or school publications and authors of books and pamphlets. Regarding the latter, the governor is known in his state for his concern over "the free distribution of pornography."

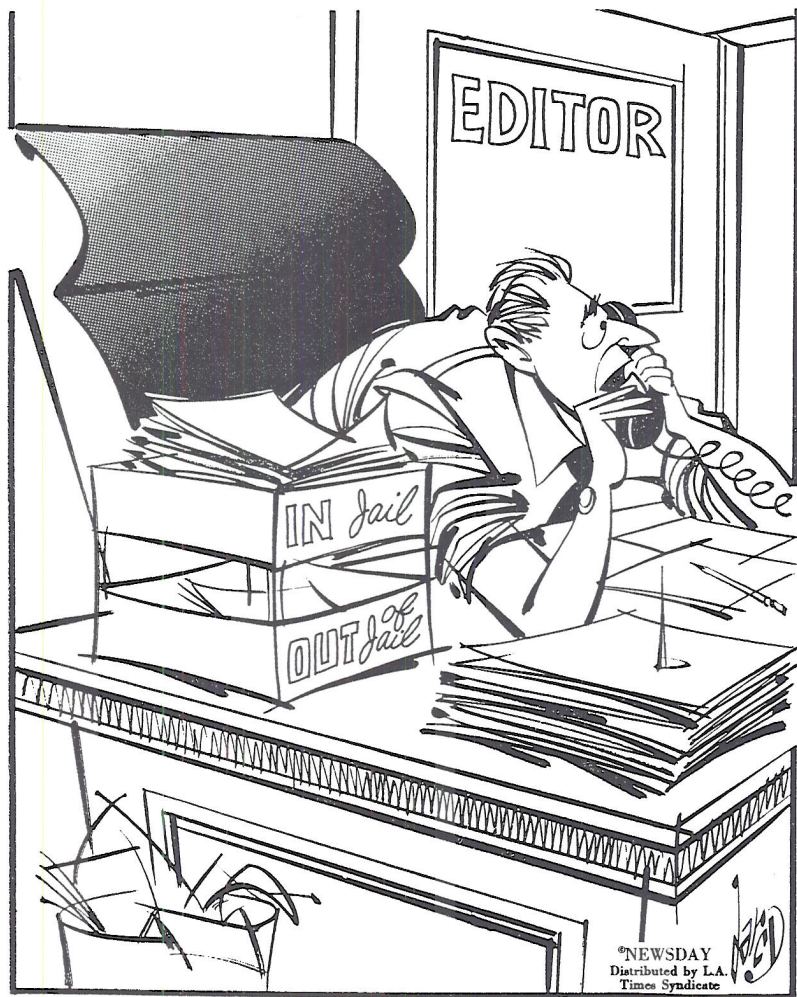
The governor's proposals are unacceptable to SDX chapters in Nebraska, and they will push for the retention of LB 380.

The Illinois House has passed three shield bills, the third and strongest being one that provides absolute protection for reporters' sources. The vote was 117 to 15, and the bill now awaits Senate approval.

A limited shield bill was rejected by the New Hampshire state legislature, and the opposition was led by Rep. Rudolph Nelson, a one-time radio newsman.

In Wyoming, a shield bill was defeated in committee, but Gov. Stanley Hathaway did sign an open meetings bill — the first in Wyoming history.

A new, stronger shield law than had previously been on the books will become effective about mid-June in New Mexico. It passed in March. But in Utah and Colorado, shield bills have met tough opposition and may be sidetracked, if not killed.



'IT'S GETTING WORSE . . . THEY JUST ARRESTED OUR HOROSCOPE WRITER FOR NOT REVEALING HER SOURCES'
(Editorial cartoon by Darcy of Newsday. Copyright, Los Angeles Times Syndicate.)

Gov. Winfield Dunn of Tennessee signed into law a qualified shield bill — protecting newsmen except in cases where information is relevant to a crime, cannot be obtained from any other source, and involves a matter of compelling public interest to the people of the state.

The Texas Senate passed, 25 to 6, a bill which would prevent reporters from being forced to provide information or sources except in cases where the Texas Supreme Court determined that withholding of such information would cause substantial injustice or endanger public welfare.

IN NEW YORK, the Office of Communication of the United Church of Christ, the New York Civil Liberties Union and 66 editors, reporters and writers filed an amicus curiae brief in the appellate division of the state Supreme Court defending the right of radio station WBAI-FM, New York City, to keep its news sources confidential.

The contempt conviction of two Baton Rouge, La., newsmen who disobeyed an illegal court order forbidding them to publish testimony made in open court was re-affirmed in New Orleans last month by the 5th U.S. Circuit

Court of Appeals (March *QUILL*, page 32).

The case involves Larry Dickinson, reporter for the Baton Rouge *State-Times*, and Gibbs Adams, reporter for the Baton Rouge *Morning Advocate*, who were found guilty of contempt and fined \$300 each by a U.S. district judge after they reported testimony given at an open court hearing in violation of a court order.

The appeals court said the newsmen should not have disobeyed District Judge E. Gordon West, regardless of whether his order was "constitutionally infirm" (the basis for the appeal). The newsmen could have sought an injunction blocking West's order and still had time to publish their stories, the appeals court said.

The publisher of the two newspapers has asked the U.S. Supreme Court to review the appeals ruling.

The Supreme Court has refused to hear the case of David Lightman, a Baltimore reporter faced with jail for refusing to answer a grand jury's questions about a news source.

If Lightman continues to withhold the information, he faces jail for an indefinite period. The court rejected his appeal in a brief order without comment.

Push for Labels On All Editorials The Rhode Island House has approved a bill that would require all editorials in newspapers and periodicals published in the state to carry the name of the writer. The bill, requiring passage by the state Senate, provides for a fine of \$100 to \$300 for a first offense and \$300 to \$500 for each subsequent offense.

'Blacklist' In Saigon Donald Kirk, the Chicago *Tribune's* Far East correspondent, reported last month that the South Vietnamese government has adopted a stringent new policy toward the foreign press. "While correspondents based here can write whatever they wish," Kirk said, "the government for the first time in the war has drafted a de facto 'blacklist' of those who can no longer enter the country." A Saigon official explained that too many articles have been written considered harmful to national security. Of blacklisted correspondents, the official said: "They have fabricated, they have written groundless, untrue propaganda for the other side."

Meanwhile, two American journalists, one a woman, who were captured by the Viet Cong April 2 about 320 miles north of Saigon, were released two days later. Daniel Southerland, Indochina correspondent for the *Christian Science Monitor*, and Frances Fitzgerald, author of the prize-winning book about the Vietnam war, "Fire in the Lake," were the first journalists to be captured in South Vietnam since the Jan. 28 peace agreement.

FCC in Clash With Whitehead? The Federal Communications Commission appears to be at odds with one objective of Clay T. Whitehead, director of the White House Office of Telecommunications Policy, whose speech before the Indiana Professional chapter of SDX last December touched off a controversy regarding network news balance ("That Reverberating Whitehead Speech," April *QUILL*).

The FCC has twice refused to act as a judge of broadcast news objectivity in declining to require an Idaho radio station to add to its network news coverage. A petition had been sent to the FCC by an Idaho listener who complained that although the CBS news broadcast by station KID in Idaho Falls detailed United States involvement in Vietnam, it failed to give information on Soviet and Chinese military support of the North Vietnamese. The petition requested that the FCC compel KID to provide this information.