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Newsman's Shield

IN SENTENCING THREE STAFF MEMBERS of the Fresno Bee to indefinite jail terms, Superior Judge Denver Peckinpah has challenged the constitutionality of California's newsmen's "shield law" — Section 1070 of the Evidence Code which holds that "a publisher, editor, reporter or other person connected with a newspaper "cannot be adjudged in contempt by a judicial, legislative, administrative body, or any other body having the power to issue subpoenas" for refusing to disclose his sources of information.

It was the judge's contention that Section 1070 interferes with "an inherent and vital power to control its own proceedings and discipline its own officers." Thus he appears to rely on the findings of an appellate court in Los Angeles, which proposed in connection with the involved William Farr case that a further inquiry be conducted to determine whether the reach of Section 1070 stops at a point where it infringes on the court's authority.

IN THE PAST, courts throughout California have in general respected the right of newsmen to protect their source, and by coincidence, a court in Brooklyn held yesterday that such protection stems from both the First Amendment and state laws and that an attempt to force disclosure "invites open challenge to the right of newspapermen to write, edit, and collect the news."

In the Fresno case, the newsmen refused to disclose how they obtained a sealed copy of a grand jury report, and Philip C. Fullerton, counsel for the Fresno Bee, asserts that Judge Peckinpah incorrectly relied upon the court's right to "discipline its officers" because in this case, no officers of the court — which is to say lawyers — were connected with turning over the involved grand jury report.

Furthermore, Fullerton asserts, the court's assertion of unconstitutionality lacks force, and he will appeal to the State Supreme Court for a definitive ruling on the scope of Section 1070.

SUCH A RULING has now become necessary, lest other courts imprison newsmen on grounds that the state's shield law does not shield.