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Ervin Modifies Press Shield Bill; Sees Opposition to Full Immunity

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WASHINGTON, Feb. 20 — Senator Sam J. Ervin Jr., chairman of the Senate Judiciary Committee's Subcommittee on Constitutional Rights, said today that a bill giving newsmen absolute immunity from forced testimony had no chance of getting through Congress.

At the opening day of his subcommittee's hearings on the subject, Senator Ervin, a Democrat from North Carolina, offered his own bill providing severely limited immunity for reporters who sought to protect the identities of their confidential sources.

Reporters Dismayed

His measure would leave newsmen subject to subpoenas where they have "acquired actual personal knowledge" of a crime, either by witnessing it themselves or by receiving an "admission or confession of guilt" from the alleged perpetrator.

Several reporters expressed despair at Senator Ervin's approach.

Jack C. Landau of the Newhouse newspapers and Fred P. Graham of C.B.S. News, both lawyers and both speaking for the Reporters Committee for Freedom of the Press, argued that judges "have proved ingenious" at making such limitations apply to any case that comes before them, and that therefore, anything short of absolute protection would fail to reassure sources.

Mr. Graham added that, of the 18 states that have statutes governing newsmen's testimony, 13 provided absolute immunity. "I don't know of a single instance in which justice has been frustrated" under such laws, he said.

Supreme Court Ruling

But Senator Ervin replied, "I don't believe you can get an absolute privilege bill passed." He also said that he had "serious constitutional questions" about the ability of Congress to pass a measure that would apply to state and local courts as well as to Federal courts.

The issue of newsmen's testimony came to a climax last June, when the Supreme

Court ruled against three reporters who contended that their ability to gather and publish information about political dissidents and criminals would be destroyed if they were forced to give information to grand juries and other law enforcement authorities.

One of the three reporters, Earl Caldwell of The New York Times, told the subcommittee today that his extensive coverage of the Black Panthers came to an end the day the subpoena was issued, because of the Panthers' fear that he would become an unwilling agent of the Government.

"My reporting was not ended by the editors of The New York Times," he said. "It was ended by the Justice Department."

Mr. Caldwell contended that the Court's decision had rendered newsmen helpless to report on such dissident groups as the Black Liberation Army, which some police officials have said is responsible for the murders of policemen in recent months.

"Is there a Black Liberation Army?" Mr. Caldwell asked. "And is their mission to kill policemen? Who are they and where are they? We may never know." He added:

"If reporters had the kind of freedom that we thought we had before last June, some reporter might be able to find out. He might be able to do a powerful public service."

Reporter Praised

Senator Ervin praised Mr. Caldwell for resisting the subpoena and risking a contempt-of-court citation, adding that he thought the Supreme Court's 5-to-4 decision was wrong. "I maintain that judges ought to have wisdom as well as well as knowledge," the Senator said.

Mr. Ervin's clear discomfort with the task of putting into legislation what he felt the Court should have put into its opinion was echoed by James J. Kilpatrick, the columnist, who said that he would rather rely on the Court to reverse or soften "the chilling impact of the Caldwell decision" than see Congress step into the field.