

PRESS

3 Journalists Disagree Sharply Over Need for Press Immunity

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By E. W. KENWORTHY MAR 8 1973

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WASHINGTON, March 7 — Three journalists divided sharply today in testimony before a House Judiciary subcommittee on whether a Federal law was needed to protect newsmen from revealing confidential sources in answer to subpoenas in judicial proceedings.

Clark R. Mollenhoff, a Pulitzer Prize-winning reporter, chief of the Washington bureau of The Des Moines Register and former special counsel to President Nixon, told the subcommittee that a so-called "shield" law that gave newsmen absolute immunity from disclosing confidential sources would be "ludicrous" because it would create a "chaotic" situation.

Mr. Mollenhoff said the press would be better advised to rely, on a case-by-case basis, on the First Amendment to the Constitution.

While agreeing with reporters, editors and Congressmen who are concerned about the survival of a "free, independent and aggressive press" as vital to a democracy, Mr. Mollenhoff said he opposed "special privileges" for the press "beyond anything enjoyed today by anyone but absolute monarchs."

Pamphleteers Included

He opposed an "absolute shield" law, Mr. Mollenhoff said, because it would cover not only reporters, but also pamphleteers and anyone "who could claim he was gathering information" for a book or an article.

More important, he said, such a law would provide protection from subpoena by all investigative government agencies, including committees of Congress. No other opponent of shield legislation has contended that it would inhibit such investigatory powers of Federal agencies.

Finally, Mr. Mollenhoff said, it would protect reporters from responding to subpoenas on confidential information "on all crimes, from petty larceny to murder."

Mr. Mollenhoff said he regarded the Supreme Court's decision in the Caldwell case last year as "incredibly good." In that decision, the Court ruled, 5 to 4, that the First Amendment provided no automatic shield for newsmen against subpoenas to discover their sources.

Jailed for 46 Days

James Aronson, a veteran journalist, author and former editor of The National Guardian, a left-wing publication, and now editor of Rights magazine, took strong issue with Mr. Mollenhoff's argument.

So did William Farr, a former reporter for The Los Angeles Herald-Examiner and now

a staff writer for The Los Angeles Times. Mr. Farr refused to disclose the sources for an article he wrote the trial of the Manson's co-defendants, had told a cell mate that the family had planned to kill Elizabeth Taylor, Richard Burton, Frank Sinatra, Tom Jones and Steve McQueen. After spending 46 days in jail, Mr. Farr was released while his contempt of court conviction is on appeal.

Mr. Aronson said he had "very mixed feelings" about an absolute shield law, but had come to the conclusion that, with subpoenas against newsmen multiplying in Federal and State courts, it was necessary for Congress to "reaffirm" the First Amendment in the interest of the public's need for information.

Congress 'on Record'

If another Caldwell case went to the Supreme Court, he said, "Congress will then be on record as saying to the executive branch and, unfortunately in light of its increasingly political composition, to the judiciary: 'Leave the Bill of Rights Alone?'"

Mr. Farr said he was opposed to any qualifications in a shield law because they would "leave reporters open to the whim and caprice of government officials, judges and others trying to pry information from them."

Representative Robert F. Drinan, Democrat of Massachusetts, who is a Roman Catholic priest, said, "I have given up beating on the Department of Justice for Lent, but it is a little strange that only the Department of Justice has spoken out against a shield law."

But Representative Charles W. Sandman Jr., Republican of New Jersey, said, "It is hard for me to believe a reporter is hampered in gathering news because he does not have an absolute shield."