

**SENATOR  
SAM ERVIN  
SAYS**



The Senate Subcommittee on Constitutional Rights, of which I am Chairman, opened hearings last week to consider the question of whether government should be permitted to compel the press to reveal the identity of confidential news sources or the content of unpublished information.

The subcommittee held hearings in late 1971 and early 1972 on "freedom of the press," and at that time heard a considerable amount of testimony on the subject. The first

reported case of a newsman refusing to reveal the source of a news story to a grand jury was in 1874. There have been sporadic instances ever since. Until now, however, the situation has been one of an informal accommodation between newsmen and prosecutors. The newsman has been willing to recognize the harm to confidential sources in those cases where the reporter balked.

Despite the frequency of these clashes, no case involving this matter had ever come to the Supreme Court until last June, when in a controversial 5-4 decision the Court ruled that the First Amendment's guarantee of a free press forbade a newsman to refuse to reveal his confidential source to a grand jury. In a concurring opinion, Justice Powell indicated that the Court may not in the future turn deaf ears upon newsmen if the government can be shown to have harassed the newsmen, or has otherwise not acted in good faith in the conduct of its investigation or inquiry. For now, however, the Court has left it to the Congress to determine the desirability and the necessity for statutory protection for newsmen. This is precisely the point of the subcommittee's present deliberations.

What has happened since the Supreme Court's decision has not allayed newsmen's concern. There is the spectacle of several reporters being sent to jail for their refusal to identify confidential sources or to make available unpublished materials. The legislative problem is to decide whether or not to adopt some form of statutory protection and, if so, what form that protection should take. In deciding this, a number of delicate issues must be resolved.

Frankly, it would have been far better if the Supreme Court had properly faced up to the controversy last June. To write legislation balancing the two great public interests of a free press and the seeking of justice is no easy task. This is a problem better approached through case-by-case litigation rather than through inflexible statutory words.

At the outset, it should be recognized that there competing interests involved. On the one hand is society's interest in being informed—in learning of crime, corruption or mismanagement. On the other and, we must pursue truth in the courtroom. Citizens have the duty to give testimony, and the Sixth Amendment specifically gives a criminal defendant the right to confront witnesses against him. Society, too, has a marked interest in identifying and punishing law violators. The public worries that "testimonial privilege" will become a shield behind which

**MIRROR MIRTH**

It's impossible for a woman to be married to the same man for 50 years. After the first 25, he is not the same man...The trouble with being a good sport is you have to lose in order to prove it.

The priest who passes the potato chips in a monastery is known as the chipmunk....Don't envy your neighbor whose grass is greener, his water bill is higher too.

The worst thing about time wasters is that so much of the time they waste doesn't belong

to them....The penalty for getting the woman you want is that you must keep her.

Confessions may be good for the soul, but they are bad for the reputation....Charm is the ability to make someone else think that both of you are quite wonderful.

The last word of an argument is what a wife has. Anything a husband says after that is the beginning of another argument....If athletes get athlete's feet, do astronauts get mistelotoe?

One of the biggest troubles with success is that its recipe is often the same as that for a nervous breakdown...Don't worry about avoiding temptation, as you grow older it will avoid you.

Socrates was a Greek philosopher who went around giving good advice. They poisoned him....The reason worry kills more people than work is that more people worry

than work.

What's so remarkable about love at first sight? It's when people have been looking at each other for years that it becomes remarkable....It's all right to drink like a fish, if you drink what a fish does.

You cannot meet trouble halfway. It travels faster than you can....To read some magazines makes one wonder what the editor has rejected....A race track is the only place to find windows that clean people.

If you want a place in the sun, you must expect some blisters....If ignorance is bliss, why aren't there more happy people?...An alarm clock is a mechanism used to scare the daylight into you.

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