

Morse and His Fellow Senators Throw A Two Day Legalistic Fit on Immunity

But They Act as Rubber Stamps for Eastland in Freedom of the Press Cases

The Constitution exempts members of Congress from arrest, except on criminal charges, while their respective Houses are in session. The effect is to make them immune from subpoena as witnesses while Congress is sitting since they cannot be arrested for failure to appear. This was recalled when Federal Judge Luther Youngdahl granted the defense a subpoena for Senator Eastland in the trial of Seymour Peck. Peck, a member of the staff of the *New York Times*, was convicted of contempt for refusing on First Amendment grounds to answer questions in the Senate Internal Security committee investigation of alleged Communist infiltration into the press.

At first Senator Eastland pleaded that he could not appear because he had the gout. Then he appealed to the Senate when Judge Youngdahl declined on motion of the prosecution to quash the subpoena. The refusal to quash placed Eastland in a quandary. The Judge made it clear that, of course, he could not force the Senator to appear. On the other hand, if the Senator failed to appear, the Judge could dismiss the case on the ground that the non-appearance of Eastland had deprived the defense of full opportunity to prove its case. The heart of that case was that the Committee, in embarking on an investigation of the press, was in violation of the First Amendment. The defense wanted to prove this from the testimony of Eastland as Committee chairman.

The Senate thereupon spent most of two days debating whether to vote a resolution permitting Eastland to appear,

and finally decided to drop the resolution altogether and allow him to appear—as Senators usually appear—voluntarily. The main cause of the long and tedious debate lay in the ostentatious and legalistic objections of Senator Morse, who blocked unanimous consent the first day, making a great show of constitutional qualms.

Loquacity Now, But Silence Then

The immunity of Senators from arrest during a session is an important safeguard of government, though one not really at stake here since Judge Youngdahl had no intention of trying to arrest the Senator. But freedom of the press is at least as important as senatorial immunity. Yet the same Senators last year approved with no discussion whatsoever the contempt citations requested by Senator Eastland in the Peck case and others arising out of his press investigation.

Why was Senator Morse silent then? Where was all his legal learning? What happened then to his meticulous concern for every jot and tittle of the Constitution? Is the Senate supposed to be a rubber stamp and vote contempt citations with no concern for its own constitutional obligations? Or does Morse save his erudite histrionics for those occasions when he can be on Eastland's side? We wish some of our readers in Oregon would put these questions up to Senator Morse, and the silent junior Senator from Oregon, Neuberger, who seems to have forgotten completely that he was a newspaperman himself once.

Does Senator Eastland Really Believe in Hobgoblins?

Aside from giving the Senator a chance to explain lamely that he had no intention of investigating the press (see box below), the chief feature of Eastland's cross-examination by Defense Counsel Telford Taylor was the apparent gullibility of the Internal Security Committee chairman.

In explaining why the Committee had subpoenaed Miss Matilda Landsman, a linotypist on the *New York Times*, the Senator said "We had information that she had downgraded herself in employment, taken a job at less salary in New York to be in a position to direct and assist in taking over Local No. 6 of the Typographical Union . . . the biggest local in the country."

The fact is that Miss Landsman far from "downgrading" herself increased her income from 50 to 75 percent in moving from a secretarial job to a linotypist. And who sold the Sen-

ator the idea that an ex-secretary could take over one of the most conservative unions in the country?

Eastland was also cross-examined about the David Fine bookstore, which was brought out of obscurity in order to smear Fine's brother on the *New York Times*. Eastland was asked to explain the many questions by the Committee about the political content of publications that bookstore sold. Was this not an inquiry into ideas?

"Well," the Senator said, "I remember there was such a bookshop in Chapel Hill, North Carolina, I believe it was, that we were able to get information on it by questions exactly like that. We developed the fact that the Communist underground, in case of war with Russia, in the Southern States would be located back of that bookshop. . . ."

Wouldn't a conservative bookstore be a better blind?

Senator Eastland Testifies There Was Nobody There But Us Chickens

Q. Well, I understood that in answer to one of Mr. [William] Hitz' [Assistant U. S. Attorney] questions you said that you did not try to find out whether the content of the press had been affected by infiltration.

A. That is correct. . . .

Q. Well, I would like then to ask you to comment on this colloquy between yourself and Senator Hennings that Mr. Hitz has already referred to. . . . where Senator Hennings says, "And I think, too, it should be clear that the best evidence of any subversion or infiltration into any news-dispensing agency or opinion-forming journal is certainly the product itself." And you say, "That is correct."

A. Well, that is correct.

Q. What?

A. That is correct. But that was not the matter that we were investigating. . . .

Q. I will ask you to look a little further down. . . . right in the middle there, the long statement by Senator Hennings. . . . "that this is not an attack upon any one newspaper, upon any group of newspapers as such, but an effort on the part of this Committee to show such participation

and such attempt as may be disclosed on the part of the Communist Party in the U. S. or elsewhere, indeed, to influence or subvert the American press." . . .

A. At the time he said that, now, I noticed that when I read it. At the time he said that I didn't catch the significance of what he said. . . .

Q. You did say that that was a very fine and very accurate statement, didn't you?

A. Yes, sir, but I said I didn't catch—you can read that out of context. . . . I understood what he was going to say that he was going to make it very plain that we were not investigating any newspaper. . . . That we were not attempting in any way to infringe upon freedom of the press. . . .

Q. Senator, isn't it a fact that in the course of these very hearings, after this colloquy, that a number of the witnesses were asked about the actual slanting and distortion of the press by Communists?

A. I don't recall.

—Senator Eastland, in the Seymour Peck contempt case.

Why the AFL-CIO Ought to Fire Him As A Vice-President

Dave Beck and The Fifth Amendment

As a citizen of the United States, Dave Beck has a right to invoke the Fifth amendment. On trial, his invocation of the Fifth cannot be used against him as inference of guilt. So much is clear. But does he have a right to remain a trade union official when he refuses to explain secret financial transactions with representatives of employers at the expense of union funds? This is the question raised by Beck's disgusting performance before the McClellan committee.

When Franklin D. Roosevelt was Governor of New York he removed Sheriff Thomas M. Farley of New York County after the Seabury investigation disclosed the vast sums deposited by the Sheriff in excess of his salary.

"As a matter of general sound public policy," Roosevelt ruled as Governor, "... there is a requirement that where a public official is under inquiry or investigation . . . and it appears that his scale of living, or the total of his bank deposits far exceeds the public salary which he is known to receive, he . . . owes a positive public duty to the community to give a reasonable or credible explanation of the sources of the deposits, or the source which entitles him to maintain a scale of living beyond the amount of his salary."

The Teamsters Would Never Have Known

We believe the principle applies equally to leaders of labor unions. They exercise vast power today in their own realms; they can deprive men of their livelihood by expelling them from union membership; they can by legal manipulation and physical intimidation prevent internal questioning of their conduct; they easily perpetuate themselves in office; huge pension and welfare funds are at the mercy of their sense of stewardship.

There is no doubt that Congress has full power to legislate in employer-employee relations, and to regulate the affairs of non-profit associations like labor unions. There is no doubt that the McClellan investigation has been lawfully accorded power to investigate. There is also no doubt that if there had been no investigation the average teamster and the average worker and the average citizen would never have known that Beck had been borrowing interest-free and secretly—as he admitted over the air—from his union treasury.

Nor would they have known of the unethical relationship to which Shefferman testified.

When a labor leader in Beck's position, confronted with checks he signed and testimony of a man with whom he dealt, invokes the Fifth, what does the labor movement do? Give him a medal?

This Is Not A Witch Hunt

It is stretching the Fifth amendment beyond all reasonable bounds to hold that Beck not only has a right to invoke it against legal prosecution, but even against the consequences of the disclosure ethically required by his quasi-public position and the trustee relation he occupies in relation to his union. No one is suggesting that he be sent to jail for invoking the Fifth. But the AFL-CIO Council will do the labor movement a service if it fires him as a Vice-President, as I believe it will in the meeting called just before this went to press.

It is nonsense to argue that Congress has no right of exposure. Where it can legislate, it can "expose." Three generations of social reform in this country have been made possible by Congressional investigations exposing "malefactors of great wealth" and laying the basis for legislative check upon their power. From the anti-trust laws to the Wagner Act, this was how reform was brought about. These porcine racketeers who plunder and oppress the worker through the very instrumentalities designed for his protection are as great an evil. We applaud George Meany and Walter Reuther for standing up against them.

The fight against the witch hunt must be fought on more fundamental lines. To reverse the familiar metaphor, there is no need to burn down the barn of Congressional investigation in order to save a few rats. The witch hunt is unconstitutional because there two Congressional committees, in violation of the First amendment, are seeking to investigate ideas and political associations that are no business of government in a free society. The invocation of the Fifth amendment in such an inquiry stands on a different footing from the invocation of the Fifth by Dave Beck in a proper Congressional investigation long overdue.

Next Week: The California Bar Condemns The House Un-American Activities Committee

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