

A Report From Our Ombudsman

By Robert C. Maynard

WHEN I AGREED to become the Ombudsman of this newspaper and attempt to monitor its performance in behalf of the public's right to a fair crack at the facts, I had no idea how many concerns its readers would want to see addressed in this column. It was easy to anticipate that they would want to see some thoughtful analysis of how fair we were to the various candidates running in the late election; that they would wonder if the press had been misled in its reporting on the "at hand" peace in Vietnam in October; that they would want to know what curious turn of fate causes the newspaper to be missing from the front porch on some mornings and agonizingly tardy on others.

It was easy, then, to put those items on the agenda for early attention. What was somewhat astonishing was the number of other concerns that came flowing in before I had the chance to get a permanent telephone line, or before the maintenance people even found the time to put my name on

The writer is the Ombudsman of The Washington Post. In this capacity he monitors news and editorial operations and furnishes reporters and editors with a continuing and independent critique. He will also offer in this space from time to time his own views on the performance of the news media in general and of this newspaper in particular.

the door. A thoughtful army colonel from Virginia sent over a list of 12 considered grievances that ranged from the way the letters to the editor are selected to the way the real estate ads are grouped. A turned off reader from Potomac, Md., said I ought to consider another line of work because this institution is already beyond hope, in his huffy but humble opinion.

Thus, a man who came to work a week ago uncertain if there was enough here to keep him busy every day, suddenly found himself flirting with elections, Vietnam and Watergate as timely themes to occupy his thoughts and this space. Any one of those would have been suitable enough starting points until Monday afternoon. It was then I decided the colonel would have to wait, and the elections would be pondered on some other day.

What brought me back so abruptly from my languid musing was the decision of the U.S. Supreme Court Monday afternoon in the case of William Farr of Los Angeles, a journalist and a man I've never met. Farr, once a reporter for the Los Angeles Herald-Examiner and now on the staff of the Los Angeles Times, was taken into custody yes-

terday as a result of the ruling, and was ordered held at the Los Angeles County Jail under an indeterminate sentence until he purges himself of contempt of court. He is in this fix because of an incident that occurred as Charles Manson was going on trial for murder in the fall of 1970.

LOS ANGELES Superior Court Judge Charles H. Older had ordered all counsel in the case and all potential witnesses to refrain from speaking to the press about what they knew of the evidence that was in store for the jury, which had already been sequestered. Someone—and Farr won't tell Judge Older who it was—gave the reporter a document which outlined crucial state testimony that would be heard in subsequent days.

Judge Older, seven months after the incident, called Farr into an informal hearing and demanded to know his source. Farr stepped behind the California shield law and declined the judge's request. As Farr read Section 1070 of the California Code on evidence, a reporter could not be held in contempt for refusing to divulge his sources. Judge Older was subsequently to rule that Farr's "willful violation of a lawful court order" lifted that shield between Farr and the jailhouse gate. The California appellate courts sided with Judge Older and Mr. Farr lost his last round on Monday.

Some say William Farr lost on a technicality, that he was not employed by a newspaper on the day Judge Older demanded to know his source, and so was not protected by the shield law. But if William Farr goes to jail on a technicality, he won't be the first reporter to whom that has happened re-

cently. On Oct. 24, Peter Bridge emerged from the Essex County Jail after doing 21 days for refusing to answer five questions put to him by a grand jury concerning a story he wrote on an attempted bribe of a member of the Essex County Housing Authority.

Those who keep track of the nuances in such matters say that Peter Bridge, too, went down on a TKO. He is said to have lost the protection of New Jersey's shield law by replying to some questions but not others. Technicality or not, two reporters in less than a month have lost their fight for freedom of the press. And they are not alone. Whenever the government chooses to do so, it can call in its dues from Earl Caldwell of The New York Times—and yet another reporter will face jail for doing his job.

NONE OF THESE cases, taken alone or together, represents some huge dynamite blast through the Bill of Rights. Each is instead a hairline crack in the foundation of democracy. Each in its own way is a technicality. Caldwell refused even to go inside the grand jury room because he said the very sight of him disappearing behind the doors of a secret proceeding would irreparably taint his relationship with his sources. The Supreme Court, in a close 5-4 call last June, said that was too sweeping an assertion for a reporter to stand on. And Justice Powell, sounding the most sympathetic of the majority, said he, for one, would like to see a set of facts that were less sweeping in their demands on the grand jury system.

So a man comes to work on the problem of trying to watch the curves for the reader, only to find himself wondering what is becoming of the basis of the mandate under which the free press has been operating for a little less than 200 years. And while he is pondering that state of affairs, along comes another letter, this one from Lois Smallwood, a citizen from Bethesda who, as it happens, is not concerned with Watergate exactly or whether her paper lands in a puddle on the stoop.

"There is little doubt now that freedom of the press will become more and more of an issue," she writes, "(and) that the press will turn to public opinion for support against any onslaughts, perhaps only to find that no real public support exists." The reason, she

said she thinks, is that the press has lost some of its fervor for standing beside the individual and so has risked the loss of "the affection, the respect, the fierce loyalty it must have."

She said she thinks "our press has long been seen as just another series of power groups, playing the same games, with the same rules as any of our other power groups—and always identifying with one or another." She said the editors of this newspaper are, to her, "as remote from the lives of ordinary mortals as the directors of Chase Manhattan." Why, she wants to know, should the "nobodies" of this world defend our freedom from "the next group of political operatives"? Is it not, she asks, merely a case of one group of "bullies" against another? And Smallwood ends up on what she herself acknowledges is a sad note:

"I have just realized how political and press freedoms are lost. Thousands of yesterday's decisions by all power groups finally create a climate where the millions of individual 'nobodies' can shrug and say, 'Freedom? What difference does it make?'"

IT MAKES A difference to Justice William O. Douglas, the most persistent dissenter in all the cases that have resulted in the possible imprisonment of reporters. He said something once that is worth repeating in light of the week's events:

"Free speech and free press—not space-ships or automobiles—are the important symbols of Western civilization. In material things, the Communist world will in time catch up. But no totalitarian regime can afford free speech and a free press. Ideas are dangerous—the most dangerous in the world because they are haunting and enduring. Those committed to democracy live dangerously for they stand committed never to still a voice in protest or a pen in rebellion."

An Ombudsman's role is a curious one. He tries to see the newspaper through the reader's eyes, and yet see his reader's concerns from an inside vantage point. I know I can send off a few fierce memos that may take care of the concerns of the thoughtful colonel, but I begin this adventure wondering where I can find the answers that will reassure troubled Lois Smallwood.