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A Reporter in Jail With the Key "In His Own Pocket"

By John P. MacKenzie

PETER BRIDGE, late of the defunct Newark News, went to prison last week rather than tell a grand jury whether he knew more than he had printed about a Newark Housing Authority commissioner's charge that an attempt had been made to bribe her to pay her $10,000 in return for a vote on a matter before the Authority. As Bridge was led away in handcuffs—standard procedure for those jailed for contempt whatever their profession—the judge told him he had the prison keys in his own pocket. He would be released just as soon as he changed his mind and answered the grand jury's questions.

Bridge refused. His imprisonment, the first since last June's decision that newsmen may be forced to divulge even unpublished facts learned in confidence, suddenly transformed an abstraction into something very real for reporters.

Bridge's unsuccessful plea to the Supreme Court to delay his imprisonment raised the same arguments—some of them in weaker form—that had been made by the news media during the previous term: That squeezing this information out of him would impair his future effectiveness and thus violate the First Amendment by choking off the flow of news.

IN REPLY the prosecutor of Essex County, Joseph P. Lordi, argued that it was Bridge, by his silence before a grand jury, who was impeding "the public's right to know" in cases involving charges of crime and corruption. "To deter grand jury investigation would prevent that body from properly performing its public duty and would subvert the very values which defendant purports to protect," he told the court.

The Supreme Court agreed with Lordi and refused to delay Bridge's imprisonment while he prepared a full-dress petition for review of his contempt sentence. But as the exchange and the subsequent jailing of Bridge have dramatized, the issue and the paradox remain:

Is the free flow of information advanced or retarded when prosecutors and grand juries demand evidence from newsmen at the possible expense of the press' future ability to gather information? Is there a point at which each side's quest for information becomes self-defeating? How should the burdens and the benefits of rights to information be apportioned?

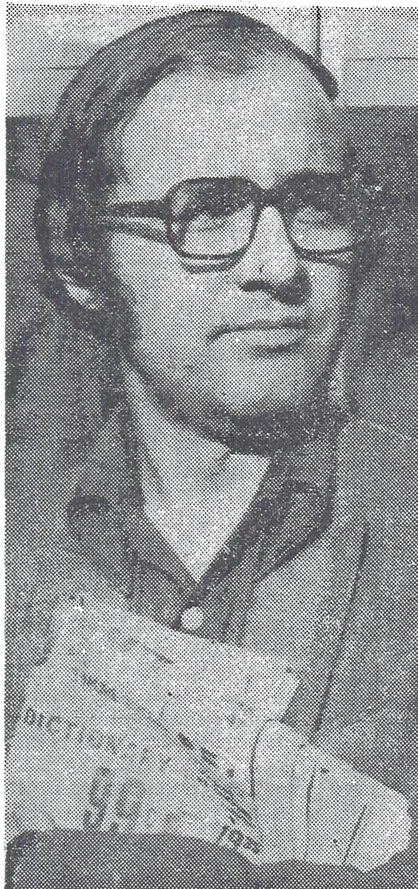
NOW that the high court has spoken, in several voices but with a 5-to-4 result against three newsmen, it is apparent that the problem is in the lap of the lawmakers. Although reporter Bridge has lost his case he triggered a broad new state press "shield" law that has swept through the New Jersey state senate and comes up in the state assembly next month.

The high court said the legislatures were free to enact shield laws, but as it viewed the constitutional issue, the chilling of First Amendment freedoms seemed highly speculative and the gains for law enforcement much more tangible in the contest between the two groups of information-gatherers.

UNLESS the legislatures do spell out more carefully the ground rules for forcing newsmen's testimony—or better still, Congress could lay down a comprehensive code for the entire nation—the outlook is for more encounters like the one in New Jersey, resulting in more pointless jailings for contempt and a more repressive atmosphere.

Until Bridge was led away, the Supreme Court's decision seemed only ominous. The three losers in the June decision were not likely to go to prison because the grand juries had lost interest in Earl Caldwell of the New York Times and Paul Pappas of WTEV-TV in New Bedford, Mass.; Paul Branzburg, formerly of the Louisville Courier Journal, may be beyond the reach of Kentucky since he is now an investigative reporter for the Detroit Free Press.

EACH of the three cases was unfortunate from the press' vantage point. Caldwell had been granted immunity by a lower court not only from testifying about confidences imparted by Black Panthers, but from going into the grand jury room as well. His reason was that his diverse sources could never be sure he hadn't ratted on them, but the court majority was unimpressed. Pappas' case



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didn't quite disclose what the grand jury wanted to know about his contact with another Panther group. And Branzburg was a witness to a crime and thus had evidence that even many of the proposed shield laws would not protect.

If the three test cases were poor ones, Bridge's was worse. Unlike the other three, Bridge did not claim in court that he had a confidential source or even that the information he was withholding had been given to him in confidence.

THIS omission could not have been lost on the Supreme Court, where Bridge had the heavy burden of demonstrating some likelihood that the case was deserving of review. At that late stage of the game, Bridge would have had to make a stronger case than last term's losers had made. His lawyer, Edward J. Gilhooly, suggested bad faith and only a slight need for his client's information, but only Justice William O. Douglas, who argued for total press immunity in his dissent, voted to delay execution of the prison sentence.

NOW IT APPEARS that Bridge may be released and his case rendered moot. His sentence was to last until he talked or until the grand jury disbanded and its questioned need for his testimony disappeared entirely. The jury's disbanding is imminent.

What was this critical testimony supposed to produce? Bridge had stirred the prosecutor's interest with a front-page story headlined, "City Housing Aide Repeats Bribe Offer." It began:

"Mrs. Pearl Beatty, a commissioner of the Newark Housing Authority, said yesterday an unknown man offered to pay her $10,000 to influence her vote for the appointment of an executive director of the authority."

Two weeks later Bridge was subpoenaed before the grand jury. He moved to quash the subpoena, citing the United States Constitution and New Jersey's own shield law. He had some support in the Constitution —the Supreme Court not having yet spoken —but the state law spoke only in terms of protecting "sources," and Bridge had divulged his source in the article.

MRS. BEATTY was available as a witness and did appear before the grand jury, but the prosecutor wanted Bridge to confirm his article and go beyond it. Bridge answered about 80 questions but refused to answer five others. He was asked:

Did Mrs. Beatty describe the unknown man? Did she provide specific acts of harassment and threats other than those already in print? Did she indicate whom the briber wanted for the housing post? Did she say whether the briber was tall or short, white or black, heavy-set? Did she say when the bribe was offered?

Bridge's lawyer complained that the prosecutor had stepped up his demands for information just because the reporter stood on his supposed constitutional rights. He said the prosecutor had heard at least two inconsistent stories from Mrs. Beatty when she appeared before the grand jury and thus could show only a minimal need for any new version of her story that a newsman might supply. (This point had little legal significance, since the grand jury might have a legitimate interest in appraising Mrs. Beatty's credibility, and it did nothing for Bridge professionally, since it undermined the credibility of his source.)

THESE pleadings failed to demonstrate the kind of official "harassment" which the Supreme Court majority said would not be tolerated. And that is the point of the proposed shield laws. They would avoid probing the prosecution's motives and require a showing that a serious crime was under investigation and that other methods of getting the facts had been explored before newsmen were enlisted in the search for crime.

Another useful though unprecedented safeguard would be the furnishing of a grand jury transcript to the witness so that at some point he could prove to the outside world that he had not betrayed a confidence.

The Essex County grand jury will be watched closely for what it does as it disbands. Will it issue indictments? Will it issue a report condemning public officials who wildly charge corruption? Will it disclose any basis for concluding that Bridge or any other witness actually impeded the jury?

Part of the problem could lie in the often contested power of the grand jury to issue presentments or reports rather than confining itself to indicting suspects or exonerating them. If the grand jury has authority to issue reports deploring certain kinds of non-criminal conduct, its range of inquiry is widened, everything is relevant and newsmen would always make interesting witnesses. Like the federal grand juries which conducted in-depth studies of the lifestyles of political dissidents, their curiosity may be endless. But the jurors might learn a lot more by reading the investigative reporting of a news media uninhibited by the prospect of being conscripted as an agent of the grand jury.

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