

# Imprisoned Press

The jailing of a Los Angeles reporter after Supreme Court rejection of a plea to review his contempt sentence for refusing to disclose the source of a news story provides fresh evidence of the speed with which Constitutional protections for freedom of the press are being hacked away.

The case of William T. Farr is of particular importance because his imprisonment injects a disturbing new dimension into the always troublesome problem of balancing the guarantees of free press under the First Amendment with those of fair trial under the Sixth Amendment. The effect of sending him to jail is to twist rules adopted by the bar in order to promote better balance into instruments for coercing the press into the role of governmental agent in violation of the Supreme Court's own precepts.

Three years ago when the American Bar Association, after long study, approved a new code empowering judges to prohibit attorneys from releasing information about criminal cases outside the courtroom, the association rightly stressed that the new rules were intended solely to govern the conduct of witnesses, lawyers and officers of the court. They were not to limit the freedom of newsmen. That assurance has now proved empty in Mr. Farr's case.

As a reporter covering the lurid Charles Manson murder trial, he had obtained and used as the basis of a news story the statement of a prosecution witness before its submission in evidence. The judge in the case had previously ordered all the lawyers on both sides not to make public such information. When the prosecution witness did testify the day after the story appeared, much of what she had said in her statement was ruled inadmissible.

All the specific facts in the case raise serious questions about the responsibility exercised by Mr. Farr and The Los Angeles Herald-Examiner, the newspaper for which he then worked, in rushing into print with its "scoop." Indeed, the sensationalized treatment given to the Manson trial by much of the press reflected little credit on journalism's own record of concern for assuring fair trial.

Without excusing these derelictions by the media, there is still great danger in the kind of remedy the courts are applying against Mr. Farr. The meanest cases often result in the most embracing and destructive trespasses on basic liberties. He has been ordered to jail for refusing to tell the trial judge the name of the lawyers who gave him the statement. He based his refusal not only on the general Constitutional protection of freedom of the press but, more specifically, on a California law which explicitly states that a reporter cannot be held in contempt of court for refusing to reveal his sources.

Since the press has looked to laws of this type at both the state and Federal level as a major means of checking the erosion of First Amendment guarantees by the courts, the decision in Mr. Farr's case that his immunity from contempt citation was cancelled by his "willful violation of a lawful court order" presents a powerful new threat. It was that finding by the California state courts which the Supreme Court let stand, thus clearing the way for the reporter's imprisonment.

In effect, Mr. Farr has been told by the courts that he may have to stay in jail for life unless he betrays the pledge of confidentiality he gave his news source. He has been made the enforcer for the courts of a gag order issued by a judge, however justifiably, and directed at members of the bar. The extension of that principle could make the press a prime instrument in muzzling itself and forfeiting its power of independent inquiry.