Editors' Parley Focuses on Concern for

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KANSAS CITY, Mo., Nov. 19—The applause was particularly loud and enthusiastic when The Associated Press Managing Editors association met here and presented its annual "Freedom of Information" awards this week.

The enthusiasm stemmed from a feeling among newsmen that their ability and freedom to cover the news adequately has been eroded in recent years by Government action and court decisions.

There have been incidents such as the following:

¶A Newark reporter has been imprisoned for refusing to tell a grand jury about sources of information he had gotten in writing an article about a housing scandal.

¶A Los Angeles reporter has been imprisoned for refusing to tell a court who "leaked" to him documents in a murder trial.

¶Newsmen in such places as Baltimore, Memphis, Milwaukee and Washington have been subpoenaed in similar cases.

¶Newsmen in Baton Rouge, Reno, Seattle and Texarkana have been ordered by courts not to publish articles about sensitive race, rape and murder trials.

"We're going through one of our most difficult periods," said John R. Finnegan, executive editor of The St. Paul (Minn.) Dispatch-Pioneer who is chairman of the A.P. group's Freedom of Information Committee.

The issues discussed here centered on such questions as those:

¶How can the public be informed if papers cannot publish the news, if reporters cannot protect their sources?

¶How can there be fair trials if newspapers print articles that may affect the accused and reporters refuse to disclose confidential sources of information?

The inherent conflicts involved in such question have been accentuated in recent years by the proliferation of controversial political groups. Newsmen often have had more apparent success investigating these organizations than law officers. Law officers, in turn, have subpoenaed the newsmen, previously a rare occurrence.

Far-reaching court tests have resulted.

The conflicts also have been accentuated by last year's landmark case in which The New York Times and The Washington Post were temporarily restrained from publishing the Penatgon papers while the Government tried—unsuccessfully—to prove that national security was at stake.

Swirling around both the prior restraint and the subpoena issues is the debate stirred up by Vice President Agnew's criticism of media what he considered bias in the press. Some newsmen feel this debate has further eroded the press's public standing and emboldened many Government agencies and officials to shut off reporters' access to public records and meetings.

Jailed on Coast

Even as Mr. Finnegan was presenting the Freedom of Information awards last Thursday, William T. Farr, the Los Angeles reporter who refused to disclose his sources, was being jailed in California. (He was released a few hours later, however, pending another appeal.)

On the dais beside Mr. Finnegan was Peter Bridge, the Newark reporter who spent 20 days in jail last month. Someone had just given him a clipping from that day's Kansas City Times in which the Governor of Connecticut, Thomas Meskill, called him a self-appointed "martyr" to an unworthy cause.

Mr. Bridge told the editors: "Governments tend to kill the bearer of bad news instead of seeking out the information themselves. If we can't protect our sources, we'll have only Government press releases."

Sitting next to Mr. Bridge was Earl Caldwell, a New York Times correspondent whose case went to the United States Supreme Court a few months ago in a fight against a grand jury that wanted to question him about his contacts with the Black Panthers. (He olst, but by then the grand jury had been disbanded.)

Mr. Caldwell told the editors: 'The Government's action had a chilling effect on my ability to function. When I go out on the street today, I feel obligated to tell sources that perhaps I can't protect them."

Dimensions of Issue

The awards handed out by Mr. Finnegan and the warm applause that followed told still more of the dimensions of the issues that concerned the editors' group.

For example:

The Corry, Pa., Evening Journal was cited for editorially thundering back "never!" to a judge who had ordered its reporters to print only what he released. Subsequently he rescinded the order.

The Flint, Mich., Journal was honored for going to court to force open a City Council meetings that had been closed to the press and the public.

The Philadelphia Inquirer won a citation for going to court to force the opening up of various judicial hearings and housing and welfare records.

The Daily Oklahoman of Oklahoma City was praised for convincing the Army to release additional details about the Mylai slayings in South Vietnam.

At the end of the week, the editors concluded their 39th convention by commending Mr. Farr for his "courageous" stand in Los Angeles. They urged

the Reporter's Freedom to Protect Sources

enactment of Federal and state laws to protect reporters, since they felt events had proved adequate protection was not being provided by the First Amendment, which reads:

"Congress shall make no law . . . abridging the freedom of speech or of the press."

At present, at least 18 states have so-called "shield" laws protecting, in varying degrees, a reporter's sources or his right to refuse to testify.

In the Federal area, shield law bills have been in the hopper for more than 40 years. None, including several proposed in the last Congress, has been passed.

Pessimistic View

Representative Charles W. Whalen Jr., an Ohio Republican who keeps abreast of press matters, told the A.P. editors that the chances of such a bill's being passed by the next Congress were "less than 50-50" although "attacks on the freedom of the press in recent years have reached disturbing proportions."

The Federal Government, which started the current widespread use of subpoenas, oppose shield laws. It maintains that subpoenas are no longer issued wholesale because Federal guidelines have been adopted that require Federal investigators to exhaust nonpress ources before requesting a summans—and then only after trying negotiation with newsmen.

These guidelines can be revised at will, however, and they do nat control state and local investigators, those now requesting most of the subpoenas.

In Tennessee it was a State Senate committee that subpoenaed Joseph Weiler of The Memphis Commercial Appeal and asked who had given him information used in an article about child abuse at a hospital for retarded children. He refused to answer and now faces a contempt hearing.

It was a conuty grand jury in Maryland that subpoenaed David Lightman of The Baltimore Evening Sun. He refused to disclose the name of the person who had given him some information used in an article about marijuana sales. He is now appealing a contempt action.

Not Always a Shield

Maryland has a shield law, but the Maryland Supreme Court ruled that it did not protect Mr. Lightman because he had posed as a casual shopper, not a newsman, while working his marijuana article.

Such interpretations of shield laws have led Richard M. Schmidt Jr., legal counsel for the American Society of Newspaper Editors, to caution that press statutes will not solve newsmen's problems unless they are carefully drafted to prevent misinterpretation.

Some statutes provide "absolute" protection, he said, while others are "qualified" and permit the legal authorities to question reporters in cases involving issues such as public security.

New Jersey has a shield law protecting a reporter from disclosing sources. But the law says that if a reporter discloses any confidential material whatever when being questioned, he waives his protection.

Mr. Bridge, the Newark reporter who spent 20 days in jail, seemed to have lost his immunity when he confirmed who one of his sources was, but then refused to answer other questions.

California also has a shield law. But when Mr. Farr sought its protection by refusing to say which lawyer had leaked information to him, the Los Angeles court held him, in contempt on the ground that he had lost his immunity, deeming he had interfered with court proceedings.

Mr. Farr's conviction raised still another issue.

Several years ago, the American Bar Association adopted guidelines approving judicial restraints on what lawyers could tell reporters prior to trial. The A.B.A. stressed at the time, however, that no new restraints were to be placed on newsmen.

In this light, the Farr conviction is regarded as contradictory.

In cases concerning prior restraint of the press, the one being watched most closely now involves Larry Dickinson of The Baton Rouge State Times and Gibbs Adams of the Baton Rouge Morning Advocate.

A judge ordered them not to publish articles about a civil rights case, lest the next day's events be affected. They ignored his ban and are now appealing contempt convictions.

In one hearing of the case before the U.S. Court of Appeals, for the fifth circuit, the court held that illegal censorship oredrs must be obeyed—then appealed, if desired—because the temporary delay of a news article is not irreparable injury to the press. The court cited the publishing delay in the Pentagon papers case.

By contrast, the Arkansas Supreme Court has voided a similar contempt conviction of Harry Wood, executive editor of The Texarkana Gazette. He ignored a judge's publishing ban and ran a article on the verdict of a rape trial, though the judge said news of the verdict might affect a second defendant's case.