PRESS

xx Post 12/14/72

A Free Press: It Is Up to the Press Itself

This article is excerpted from an editorial appearing in the current issue of The New Republic.

The News Business

WHILE the over-sensationalized Manson murder trial was underway in Los Angeles, that city's afternoon newspaper, the Herald-Examiner, on Oct. 9, 1970 banner-headlined an "exclusive": "Liz, Sinatra on Slay List — Tate Witness . . . Ghastly Tortures Planned for Stars." What followed down the front page and over two columns inside was a copyrighted story by reporter William T. Farr, drawn from a statement given police by Virginia Graham, who months earlier had shared a prison cell with Susan Atkins, one of the accused Manson "family." During their incarceration, Miss Atkins apparently talked at length and Mrs. Graham subsequently went to police with the information. A transcript of her statement was obtained by Farr shortly before Mrs. Graham was to testify at Susan Atkins' trial. Among the "facts" Farr disclosed in his Oct. 9 story — and which would not, he wrote, be included in her "current testimony" — were details of the Manson family's "weird sex rites" and alleged plans to kill movie stars, including Frank Sinatra, who was to be hung upside down on a meat hook, skinned and turned into pocketbooks to be sold at hippie stores.

In the rush to defend a newsman's untrammeled right to print what he wants and be under no constraint to reveal his sources, the journalistic community is making a hero of William Farr. His jailing for refusing to name the lawyers who gave him the Graham transcript is presented as part of a wider, dangerous pattern of intimidation, and a sign that federal legislation is needed to protect newsmen.

There is, we recognize, a threat to press freedom. It surfaced when the Nixon administration moved through subpoena against reporter Earl Caldwell in the Black Panther case, and when it later sought prior restraint against newspapers in the Pentagon papers case. The Supreme Court backed up the argument that reporters have no automatic claim of immunity and could be compelled to testify before grand juries; it almost backed prior restraint. Since then, the administration's skirmishes against newsmen seem to have been halted, temporarily, but the assault has been carried forward by state and local prosecutors, many of whom have their own grudges against the press—some rational, some not. It is against this emotional background that the Farr case and that of Peter Bridge, whose article in the Newark News led to his jailing, should be examined—not just for the legal equities, but for the reporting they represent. Should the push for federal legislation protecting journalists reach the floor of Congress, the stories themselves will be a focal point in the debate. Unfortunately, both Farr and Bridge may influence some legislators to hobble rather than shield the press.

TAKE the Farr case. The Manson trial judge, Superior Court Judge Charles H. Older, in the wake of blaring headlines which accompanied President Nixon's incredible opinion as to Manson's guilt, had invoked a "fair trial" or "gag" rule. Under that rule, defense and prosecution lawyers, defendants, witnesses, police and other attaches of the court were barred—under threat of contempt—from passing information to the press. Nevertheless, persons covered by the rule, including two of six lawyers in the case—gave Farr the transcript of Mrs. Graham's police statement. On Oct. 8, a day before its publication by the Herald-Examiner, Mrs. Graham's lawyer told Judge Older the document was in Farr's hands. The judge called an informal hearing in his chambers and, when Farr confirmed he had the transcripts, Older remarked that it would be helpful for a fair trial if it were not printed; he added it would be a serious matter if the materal got to the jury. The judge also asked Farr to reveal his source, at the same time noting the reporter was covered by the existing California "shield" law. Farr refused, and later that night, after publication was set, called Judge Older to warn him, so that precautions could be taken to prevent the jury from seeing the headlines as they rode to the courthouse.

On the day of publication, defense lawyers moved for a mistrial on the grounds the trial had been prejudiced by Farr's Herald-Examiner "exclusive" —a motion denied by Judge Older.

SEVEN months later, when Farr was no longer employed by a newspaper and theoretically no longer covered by a shield law, Judge Older held a formal hearing on the matter. Farr's lawyer stipulated that two Manson case lawyers plus one other person subject to the judge's "gag" rule had been Farr's sources—but he declined to name them. The judge took the position that Farr had no immunity and was hiding the identity of persons who had acted in contempt of court.

In retrospect it is worth asking: Were Farr and his paper being used? Only Farr and his editors can answer that. What we know is that Farr's story was not "investigative reporting which in many instances has uncovered wrongdoing by public officials and private citizens or provided other information the public was entitled to have"—descriptive language found in a resolution adopted last month by the Associated Press Managing Editors Association, commending Farr. It seems to us that the newspaper erred by rushing into print with a seamy sensational account based on material obtained in contradiction to court order, where selling more newspapers was the only public service.

THE BRIDGE case offers a different sort of problem. Newark's black mayor, Kenneth Gibson, has been fighting the powerful white Italian minority of his city headed by State Assemblyman Anthony Imperiale. This past spring, the focus of their dispute was the Newark Housing Authority, a six-member commission on which Gibson had only one representative, Pearl Beatty. When the executive director of the agency retired, Imperiale, who controlled the votes, pushed to have a successor named immediately. Gibson sought to delay until two more of his appointees, then awaiting city council approval, could be placed on the authority. The vote on a new director was set for May 2. The weekend before the vote, Gibson wrote and released a letter to HUD Secretary George Romney asking his help in postponing the housing vote and alleging "organized criminal elements" were forcing selection of the new director. On the day of decision, the Newark News published a front-page story by Peter Bridge under the headline: "City Housing Aide Repeats Bribe Offer." Bridge quoted Mrs. Beatty as saying that "a man walked into my office and offered me $10,000 if I would vote for 'their' choice for executive director." The story added, "she did not know the man and probably would not recognize him if she saw him again."

> **". . . The journalistic community is making a hero of William Farr."**

The Beatty allegation as printed lacked any hard facts, such as when the offer had taken place or, surprisingly, any description of the person who had allegedly made the offer. Yet Bridge wrote it, and the News splashed it on its front page the day the controversial vote was scheduled to take place. Bridge never wrote a follow-up (it wasn't his regular beat), and says that his responsibility as a reporter consisted solely in reporting accurately what was said, and not whether the statement was accurate. "How are you going to prove or disprove it?" he said recently; his job was to get a public official's statement into print and do it when the story was hottest.

Newark had been plagued—and still is—by conflicting charges and countercharges between Gibson and Imperiale forces, all carried by the press. The county prosecutor, pressured by those allegations, set up a special grand jury last May to sort out what was true and false. Mrs. Beatty, when called, gave an altogether different version under oath of the "bribe affair" than that reported by Bridge. She also refuted two other versions attributed to her by others. To wind up his inquiry, the prosecutor's office decided to subpoena Bridge.

We doubt the propriety of the prosecutor's move, just as we doubt the propriety of the News' printing of Bridge's story. And, had not the Nixon administration set the pattern, we doubt Bridge would ever have been called. But we sympathize with a law enforcement official who reads allegations in his daily newspaper that seem to him unfounded, yet are printed as if they were true.

THE REST of the Bridge story is well known. Though the original aim was to have him confirm the accuracy of the Beatty interview, Bridge's decision to try to quash the subpoena prompted the prosecutor's office to enlarge on the information sought. The state courts ruled Bridge had given up his immunity when he identified Mrs. Beatty as his source. When Bridge ap-

> **"We doubt the . . . propriety of the News' printing of Bridge's story . . ."**

peared before a grand jury, the questions went to other information than that which appeared in his story. Bridge refused to answer outside the facts printed and spent 21 days in jail. He insisted he would lose his sources if he disclosed what else was said. The prosecutors were appalled that Bridge quoted Mrs. Beatty on a matter as important as bribe, but never took a note during the interview.

The irony is that both cases have been used to wave the banner for investigative reporting—which neither represents. We would argue that the main bar to tough, critical reporting is not the "chilling effect" of the Supreme Court's Caldwell decision nor the absence of a sturdy federal law shielding reporters. The principal deterrent to such reporting lies within the profession itself. Hard information is hard to come by. It takes time to dig out, and few publications want to invest the time or money. It takes perseverance, and few reporters and editors these days have much of that.

THUS, though we are not indifferent to the danger to press independence from prosecutors and judges, we are equally concerned by the search for a shield law or a press council—in fact by anything that promises an institutionalized or legalized shortcut to fair and full reporting but could turn out to be just the opposite. There are no shortcuts. The press can only put its trust in the First Amendment pure and clear, and plug away at getting the whole truth and nothing but the truth.