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Press is not so free, intimidated by courts

NEW YORK — In its last term, the United States Supreme Court held in the Earl Caldwell Case that a newspaper reporter may not refuse to appear before a grand jury to answer questions about the sources of his information.

Concurrently, in the case of Paul Branzburg, the Supreme Court held that a reporter may not refuse to answer questions about illegal activity to which he was a witness.

The other day in Newark, N.J., Peter J. Bridge, 36, the father of two, and once a reporter for the defunct Newark Evening News, began serving an indeterminate sentence in the Essex County jail—not because he had refused to appear before a grand jury, not because he had refused to talk about illicit activities he might have witnessed, not even because he had refused to disclose the source of published information, but because he had refused to answer questions a grand jury had put to him about facts he had not published and to which he may not even know the answers.

About what might be

In effect, Bridge was questioned by the grand jury as to what might—the word is important—or might not be in his notebook. His refusal to answer has been adjudged by the New Jersey courts and implicitly by the United States Supreme Court—which refused to delay his jail sentence—as contempt of court. He could serve until Oct. 30, when the grand jury's term is continued; or, if it is not and he has to be released Oct. 30, he could be jailed again if a subsequent grand jury asks him the same questions and he again refuses to answer.

Sequence of events

Here is the sequence of events, which appears to render the First Amendment ("Congress shall make no law . . . abridging the freedom of speech or of the press . . .") toothless by court order:

Bridge wrote an article in the Evening News last May 5 quoting Mrs. Pearl Beatty, a member of the Newark Housing Authority, as saying that she had been offered a bribe. A grand jury investigating the possibility of corruption within the authority subpoenaed him. After losing a fight to quash the subpoena, on grounds that a New Jersey statute gave him immunity, Bridge testified and confirmed to the grand jury that Mrs. Beatty had made the statement.

Bridge refused, however, to answer other questions—as to who had offered the bribe, what that person may have looked like, as to whether Mrs. Beatty had told him of other harassments about which he had not written in the news. His contention was that the grand jury was not asking him for the source of confidential information, nor about his personal observation of illegal activities, but was in effect undertaking a fishing expedition to find out what he might or might not know or have been told about corruption in Newark.

Conflicting stories

Later, moreover, he contended in court that the state of New Jersey had shown no compelling need for whatever he might or might not know, since he said Mrs. Beatty

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had told others conflicting stories, and since he had already confirmed to the grand jury what he had written.

But the New Jersey courts ruled that that state's statute protecting the confidentiality of a reporter's sources covered only **the identity** of a source; this appears to leave open the possibility that Bridge should have written something like: "Informed sources said today that Mrs. Beatty said someone had tried to bribe her." Then he could have claimed immunity against naming the "informed sources" but he would also have been deceiving the public and lessening the importance of his story.

Supreme Court's attitude?

The United States Supreme Court has not as yet heard the substantive case, but its attitude may have been telegraphed when it refused to delay Bridge's jail sentence. Yet, in a concurring opinion in the Caldwell-Branzburg cases last spring, Justice Powell had attempted to reassure the press in these words:

"If the newsman is called upon to give information bearing only a remote and tenuous relationship to the subject of the investigation, or if he has some other reason to believe that his testimony implicates confidential source relationships without a legitimate need of law enforcement, he will have access to the court on a motion to quash and an appropriate protective order may be entered."

It sounds fine

That sounds fine, as it did when Justice Powell also declared that a newsman's privilege "should be judged on its facts by the striking of a proper balance between freedom of the press and the obligation of all citizens to give relevant testimony with respect to criminal conduct."

Even the Department of Justice, in its guidelines for issuing subpoenas to reporters, says that all other sources of information should be exhausted first. This precaution like Justice Powell's fine words, has been reduced to nothing by the New Jersey courts; and it is a safe bet that in the future any reporter who wants to probe corruption in New Jersey, and any editor who wants to print his stories, will think twice before they do so—which is exactly what the First Amendment is supposed to prevent.

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