

Free Press Behind Bars

The wedge driven by the United States Supreme Court into the constitutional protection essential to a free press has been dramatically demonstrated this week by the jailing of a New Jersey newspaperman for refusing to answer a grand jury's questions about activities he had neither witnessed nor written about.

By its refusal to stay imprisonment on contempt-of-court charges of Peter J. Bridge, a reporter for the now defunct Newark Evening News, the Court has only stressed the urgent need of passage by Congress of pending legislation to provide reasonable security for newsmen against forced disclosure of confidential information or sources.

When the Court ruled in a five-to-four decision last June that the First Amendment did not give reporters the right to withhold from grand juries the names of confidential sources or to refuse to testify about criminal acts they had been apprised of under a pledge of secrecy, Justice Powell went out of his way in a separate concurring opinion to minimize the chilling effect of the ruling. Giving assurance that "no harassment of newsmen will be tolerated," he stressed the readiness of the Court to grant protective orders against fishing expeditions or other grand jury moves designed to compel reporters to breach confidential relationships "without a legitimate need of law enforcement."

The emptiness of that assurance is indicated by the circumstances in the Bridge case. The Newark reporter had been called before an Essex County grand jury investigating official corruption after he had written an article quoting a member of the Newark Housing Authority as saying that she had been offered a bribe. Mr. Bridge confirmed under oath the accuracy of his story, but refused to answer questions on matters he had not written about, partly on grounds of confidentiality and partly because the state had shown no compelling need for whatever information he might have— one of the criteria set by the Supreme Court.

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Even though the Court did not pass on the merits of the Bridge case in refusing to block his imprisonment, its failure to intervene lends force to the warning of the minority justices that the original decision on press subpoenas represented an invitation to state and Federal authorities to "undermine the historic independence of the press by attempting to annex the journalistic profession as an investigative arm of government."

The other and even more destructive aspect of the Court's circumscription of the First Amendment is that, by stripping potential informants of faith that they will or can be protected, it dries up the confidential sources on which newsmen often must rely to fulfill their duty to the public.

Unfortunately, the tide of judicial thinking generally seems to be slipping away from defense of the public's right to know, as set forth in the Constitution. The all-embracing order just issued by the Federal judge in the Watergate case in Washington prohibiting anyone connected with the case from making any public statements about it seems to go to the ultimate in downgrading the First Amendment's guarantee of free press in the always delicate balance with the Sixth Amendment's guarantee of fair trial.

While the fixing of a boundary between these two fundamental constitutional rights is admittedly difficult in many cases, Judge John J. Sirica has apparently opted for the practically total submergence of one in favor of the other. Indeed, his gag on public comment is so sweeping that he himself is unable to say whether it would prohibit Senator McGovern or other Democrats from discussing the raid on Democratic headquarters, which has properly become a major issue in the Presidential campaign.

The need has never been clearer for shoring up through legislative reinforcement the freedom the First Amendment is designed to provide for a resolute and independent press operating in the interest of an informed public.