

Freedom in Contempt

A number of persons, some with close connections to the White House, were arrested and charged with a variety of criminal acts in the Watergate case of political espionage. But a newspaper editor who participated not in the crime, but in its exposure, is the first actually sent to jail in the aftermath of the incident.

This is the grim irony in the contempt citation and brief jailing this week of John F. Lawrence, Washington bureau chief of the Los Angeles Times. Mr. Lawrence had refused to turn over to the court taped interviews with Alfred C. Baldwin 3d, a key Government witness in the Watergate affair.

When Chief Judge John J. Sirica ordered Mr. Lawrence jailed—the United States Court of Appeals released him two hours later pending the appeal—he added the latest serious infringement on the First Amendment guarantee of a free press.

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What is clearly at issue in the case is a newspaper's right to conduct interviews and discussions on a confidential basis. As the courts wield the subpoena power like a club over reporters' heads, the investigative capacity of the press shrinks. Informants will no longer be willing to provide vital facts in off-the-record interviews if they cannot expect their confidence to be protected. Yet, such confidential information is often the essential link in a newspaper's attempt to fit together the pieces of a controversial story.

The Supreme Court ruled in a five-to-four decision last June that the First Amendment did not give reporters the right to withhold the names of confidential sources or to refuse to testify about criminal acts they had been apprised of under a pledge of secrecy. At that time, Justice Powell tried to minimize the decision's potential effect by promising that "no harassment of newspapers will be tolerated." Yet, just such harassment has since escalated. Mr. Lawrence was the fourth newsman since that ruling actually to have gone to jail for refusal to disclose information, and William Farr, another Los Angeles Times reporter, is currently in his 25th day of incarceration in solitary confinement. Eleven other newsmen are currently under court pressure to disclose confidential information.

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When a lawyer for the newspaper warned that the subpoena power would ultimately stop the flow of news, Judge Sirica replied: "I think you're getting alarmed about something that probably won't happen. Every judge doesn't have to agree with my opinion."

For the sake of this country's freedoms, one must hope that Judge Sirica is right about the majority of his peers—particularly about those hearing the appeal. But it would be dangerous indeed to entrust the freedom of the press to one judge's opinion that serious inroads on that freedom "probably won't happen."

If Judge Sirica has proved anything, it is that the Supreme Court's refusal to uphold the shield implicit in the First Amendment to protect freedom of the press has already eroded that freedom. When governmental vindictiveness is coupled with a mood of public frustration, the risk is particularly great that erosion may turn into collapse. To avert such a disaster—now that the courts have left the issue in limbo—calls for swift enactment of specific legislation to uphold the rights which seem so urgently implied by the First Amendment.