

Jail for 'Silent

By Morton Kondracke

WASHINGTON — Thin bespectacled John F. Lawrence, Washington bureau chief of the Los Angeles Times, last week became the latest in a steadily increasing group of journalists to discover how qualified the First Amendment has suddenly become.

Lawrence joined David Goodman of New York radio Station WBAI, Peter Bridge of the now-defunct Newark Evening News, William T. Farr of the Los Angeles Times and Harry Thornton, a Chattanooga (Tenn.) television talk-show host, all of whom have served time in jail for refusing to disclose names or information given them by confidential sources.

Lawrence was released after 2½ hours and contempt charges against him were dropped when his newspaper's confidential source gave permission to have tape recordings of his interview handed over to a federal judge. But his case served to focus intensified attention on newsmen's problems.

400 Sign Petition

More than 400 reporters, including Walter Cronkite of CBS, John Chancellor of NBC and Howard K. Smith of ABC, signed a petition declaring their conviction that the First Amendment is being seriously abridged.

That constitutional safeguard — "Congress shall make no law . . . abridging the freedom of speech or of the press . . ." — is now accepted, but it has never been absolute. It does not give license to shout "fire" in a crowded theater, nor to commit malicious libel.

However, until last June, no law required newsmen to disclose their sources.

Since June, numerous re-

News Analysis

porters have been called before grand juries, state investigating commissions and courts.

Five have actually gone to jail—Farr is still there—and several others have cases on appeal. In addition, judges and prosecutors have moved speedily to develop new circumstances in which to apply the power to subpoena reporters.

5-4 Decision

Basis for the new developments is the 5 to 4 decision of the U.S. Supreme Court last June 29 in three companion cases involving reporters Earl Caldwell of the New York Times and Paul Pappas of WTEV-TV in New Bedford, Mass., both of whom had been called before grand juries investigating the Black Panthers, and Paul Branzburg, formerly of the Louisville Courier-Journal, who had written a series on drug traffic.

In the majority opinion in what is now known as the Caldwell Case, Justice Byron R. White wrote:

"We are asked to grant newsmen a testimonial privilege that other citizens do not enjoy. This we decline to do . . . we cannot accept the argument that the public interest in possible future news about crime from undisclosed, unverified sources must take precedence over the public interest in prosecuting those crimes reported to the press by informants . . ."

Other Side

In a dissenting opinion, Justice Potter Stewart stated the other side of the case.

The court's decision, he

said, "invites state and federal authorities to undermine the historic independence of the press by attempting to annex the journalistic profession as an investigative arm of the government."

"When government officials possess an unchecked power to compel newsmen to disclose information received in confidence, sources will clearly be deterred from giving information and reporters will clearly be deterred from publishing it because the uncertainty about the exercise of the power will lead to self-censorship."

The Caldwell, Branzburg and Pappas cases dealt squarely with reporters called to testify before grand juries. Since June, some of the other cases have raised issues wider than the grand jury question.

Farr, for example, remains in jail despite a state law in California designed to protect newsmen against the compulsion to reveal their sources.

Appeals Ruling

An appeals court found — and the U.S. Supreme Court declined to reverse the decision — that the right of a judge to manage his courtroom transcended the state law.

During the Charles Manson trial, at which the presiding judge had imposed a no-comment order on lawyers, Farr was slipped a statement by an attorney in which a member of the Manson Family was said to have confessed to murder and to planning more sensational killings of movie stars.

Farr wrote a story for the Los Angeles Herald-Examiner, for which he worked then, and was later ordered by a judge to disclose the name of his source. He has refused.

Newsman'



JOHN LAWRENCE

Jailed a few hours

Lawrence's jailing occurred as part of pretrial maneuvering in the Watergate burglary-and-bugging case.

Two Los Angeles Times reporters had interviewed the star prosecution witness in the case for five hours. The tape-recorded interview provided the basis for first-person stories in which the witness, Alfred C. Baldwin III, admitted taking part in political espionage directed at the Democratic Party by the Committee for the Re Election of the President. Lawyers defending seven persons charged in the case obtained a subpoena for tape recordings of the Baldwin interview for the purpose of challenging his credibility as a witness.

Yet another case—a far reaching one—has arisen in Baton Rouge, La., where a federal judge ordered newspapers not to print stories on a public civil rights hearing going on before him.

Two reporters violated the ruling and were cited for contempt. A U.S. Court of Appeals ruled that the news-blackout order violated freedom of the press, but it also ruled that illegal court censorship orders must be

obeyed until they are appealed to a higher court.

According to Jack Landau, a Newhouse News service reporter and a director of the Reporters Committee for Freedom of the Press, the court of appeals in the Baton Rouge case said that temporary censorship of the press pending an appeal is not an "irreparable injury to the rights of the press."

As precedent for prior restraint of the press, the Fifth Circuit Appeals Court cited the Pentagon Papers case, in which the courts for the first time in history enjoined newspapers from publishing.

"Most Pernicious"

According to Landau, a lawyer who covers the Supreme Court, "this is the most pernicious of all the pending censorship cases because it authorized a blank check to the judiciary for prior restraint on the press.

"Because the Court of Appeals decision elevates the 'integrity' of the courts over the rights of the press, it permits judges to impose at least temporary censorship by the expedient of issuing orders requiring the press to obey illegal laws."

The Reporters Committee for Freedom of the Press, which gathered up 400 petitions in the Lawrence case last week, has been entering appeals in freedom-of-the-press cases.

Some members of Congress, in addition, have proposed legislation to shield newsmen, some on an unqualified basis, from having to reveal their sources or information given them in confidence.

All such legislation, including bills containing qualified protections, has been opposed by the Nixon Administration.