TUESDAY, JULY 17, 1973

NYTimes JUL 17 1973

The

A Watergate Would Test

Photographs for the New York Times by NEIL LIBBERT

"We have the extreme legal position in this country. You have the extreme public position in the United States. The best system is somewhere in the middle."
—William Rees-Mogg, editor, The Times

By ALVIN SHUSTER
Special to The New York Times

LONDON, July 11—The news article on a sex offense in The Eastbourne Herald, a small weekly published in the resort town on the south coast, seemed innocuous.

The newspaper reported that at a preliminary hearing the defendant appeared "bespectacled and dressed in a dark suit." It also said that the charge was serious and that the accused had been married on New Year's Day.

Last month, in a ruling British editors are describing as astonishing, the weekly was fined $500 for those comments and others. A magistrate's court ruled that the phrases went beyond the legal limits imposed on press reporting in such cases.

Under the Criminal Justice Act, newspapers are restricted in such hearings to reporting only the bare details of a charge unless the defendant elects to have publicity. He did not; the reporter went beyond the few facts in the charge sheet and the Attorney General authorized the move against the weekly.

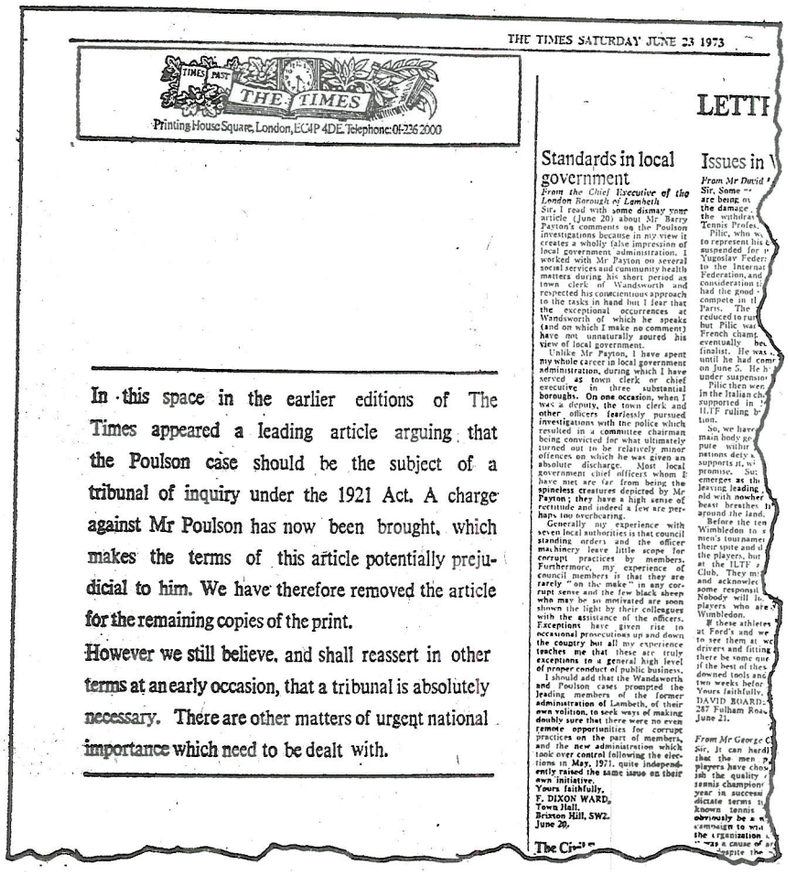
The case dramatically illustrated the differences between press restrictions here and in the United States. The British press, lively as it is, operates under far more stringent legal restraints than American newspapers.

There is no written constitution here, no First Amendment with its provision guaranteeing freedom of the press. And the laws covering libel, the release of governmental information and contempt of court are all much tougher.

"We operate under severe inhibitions," said Harold Evans, editor of The Sunday Times, which has built its recent reputation on investigative reporting.

New York Times

Inhibited British Press



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In this space in the earlier editions of The Times appeared a leading article arguing that the Poulson case should be the subject of a tribunal of inquiry under the 1921 Act. A charge against Mr Poulson has now been brought, which makes the terms of this article potentially prejudicial to him. We have therefore removed the article for the remaining copies of the print.

However we still believe, and shall reassert in other terms at an early occasion, that a tribunal is absolutely necessary. There are other matters of urgent national importance which need to be dealt with.

LETTE

Standards in local government

From the Chief Executive of the London Borough of Lambeth

Sir, I read with some dismay your article (June 20) about Mr Barry Payton's comments on the Poulson investigations because in my view it creates a wholly false impression of local government administration. I worked with Mr Payton on several social services and community health matters during his short period as town clerk of Wandsworth and respected his conscientious approach to the tasks in hand but I fear that the exceptional occurrences at Wandsworth of which he speaks (and on which I make no comment) have not unnaturally soured his view of local government.

Unlike Mr Payton, I have spent my whole career in local government administration, during which I have served as town clerk or chief executive in three substantial boroughs. On one occasion, when I was a deputy, the town clerk and other officers fearlessly pursued investigations with the police which resulted in a committee chairman being convicted for what ultimately turned out to be relatively minor offences on which he was given an absolute discharge. Most local government chief officers whom I have met are far from being the spineless creatures depicted by Mr Payton; they have a high sense of rectitude and indeed a few are perhaps too overcharging.

Generally my experience with seven local authorities is that council standing orders and the officer machinery leave little scope for corrupt practices by members. Furthermore, my experience of council members is that they are rarely "on the make" in any corrupt sense and the few black sheep who may be so motivated are soon shown the light by their colleagues with the assistance of the officers. Exceptions have given rise to occasional prosecutions up and down the country but all my experience teaches me that these are truly exceptions in a general high level of proper conduct of public business.

I should add that the Wandsworth and Poulson cases prompted the leading members of the former administration of Lambeth, of their own volition, to seek ways of making doubly sure that there were no even remote opportunities for corrupt practices on the part of members, and the new administration which took over control following the elections in May, 1971, quite independently raised the same issue on their own initiative.

Yours faithfully,
F. DIXON WARD,
Town Hall,
Brixton Hill, SW2.
June 20.

The Ci...

Issues in W

From Mr David ...

Sir, Some ... are being m... the damage ... the withdra... Tennis Profes...

Pilic, who w... to represent his ... suspended for ... Yugoslav Feder... to the Internat... Federation, and ... consideration ... had the good ... compete in th... Paris. The ... reduced to run... but Pilic was ... French champ... eventually be... finalist. He was ... until he had com... on June 5. He h... under suspensio...

Pilic then wen... in the Italian ch... supported in ... ILTF ruling b... tion.

So, we have ... main body go... pure withir... nations deny ... supports it, w... promise. Sur... emerges as th... leaving leading ... old with nowher... beast breathes ... around the land.

Before the ten... Wimbledon to ... men's tournamen... their spite and d... the players, but ... at the ILTF ... Club. They mi... and acknowled... some responsi... Nobody will lo... players who are ... Wimbledon.

If these athletes ... at Ford's and we ... to see them at wo... drivers and fitting ... there be some que... if the best of thes... downed tools and ... two weeks befor...

Yours faithfully,
DAVID BOARD,
287 Fulham Roa...
June 21.

From Mr George C...

Sir, It can hardl... that the men ... players have chos... job the quality ... tennis champion... year in success... dictate terms t... known tennis ... obviously be a ... campaign to wi... the organization ... "as a cause of ar... despite the ...

A statement in The Times of London explaining why an editorial in an earlier edition of the paper had been withdrawn.

"We could never have followed the American example in reporting a Watergate case. The criminal charges against the original defendants in the bugging would just about have stopped all future stories dealing with the cover-up.

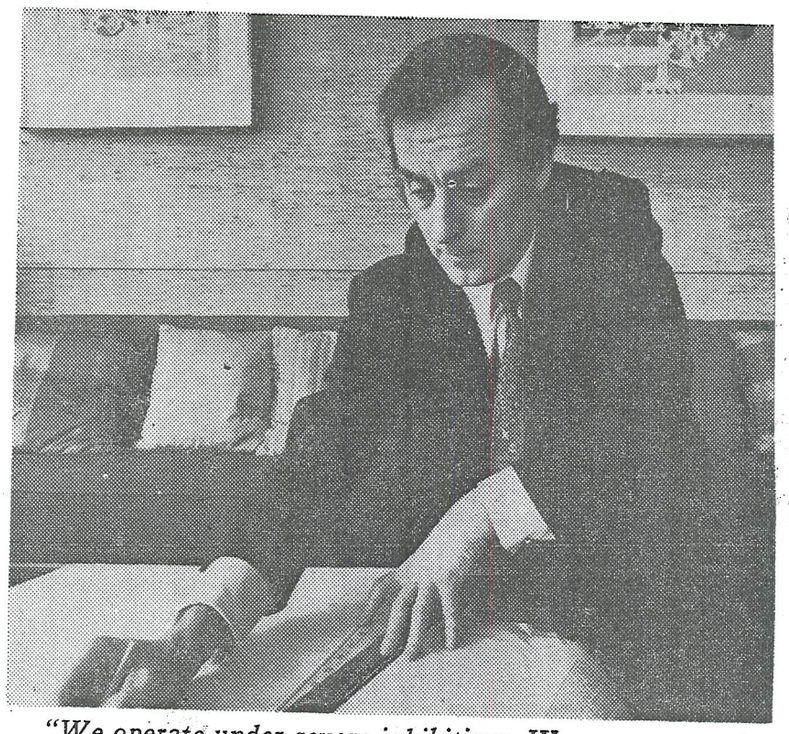
In Order to Insure a Fair Trial

"In legal terms, it takes only one charge against the participant to silence all comment, no matter how wide the impact. To pursue it would be contempt of court."

The purpose of British contempt law, of course, is to insure fair trial by ruling out "trial by newspaper." Editors, though sympathetic to the aim, often find the effect suffocating, and in recent weeks strains between government and press have intensified.

Recently, for example, The Times of London removed an editorial between editions and substituted a statement saying that publication might be deemed prejudicial to a leading architect who had been arrested that night with a Scottish civil servant on conspiracy charges involving graft and corruption. The editorial had called for an official tribunal to look into the wide scope of the activities of the architect, John Poulson, whose bankruptcy hearings have created a stir in the press.

It was the editor of The Times, William Rees-Mogg, who recently



"We operate under severe inhibitions. We could never have followed the American example in reporting a Watergate case."
—Harold Evans, editor, The Sunday Times

touched off a controversy with another editorial in which he charged that The New York Times and The Washington Post were interfering with the course of justice by "publishinng vast quantities of prejudicial matter" on the Watergate affair. Now, under British law, his paper and others have been silenced on what could develop into a scandal of major dimensions.

"The effect of bringing charges in the Poulson case did have the effect of silencing the bankruptcy hearings, the press and even speeches in Parliament on the affair," Mr. Rees-Mogg said in an interview. "We have the extreme legal position in this country. You have the extreme public position in the United States. The best system is somewhere in the middle."

"If our system is properly used, it combines the need for full inquiry with the protection of the individual in ways more satisfactory than in the United States," he continued. "But in the Poulson case the system is not being used properly. It is ludicrous, for example, that the brewing scandals cannot now even be discussed in Parliament.

We may never get a full public explanation of the facts involved in the reports of widespread local corruption. The public tribunal would have been ideal."

With charges now brought against Mr. Poulson and William Pottinger, newspapers have been reminded by the fate of The Eastbourne Herald that it will be an offense even to describe their clothes

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when they appear at pretrial hearings. Only if they go to trial will the press be allowed to report the prosecution and defense arguments — but not much more than that.

Peril of Prosecution

Though often frustrated by the contempt rules, British editors generally support the concept of insuring fair trial. But they argue that the rules on contempt are often too sweeping and vague, leaving newsmen in peril of prosecution.

In the United States the laws permit closed trials—and thus no press coverage—in delinquency proceedings against juveniles. However, criminal trials of adults are public and may be reported fully to the press. To the extent that there are restrictions, they are voluntary.

In New York, for instance, law-enforcement and media groups formed a Fair Trial Free Press Conference, with several nonbinding guidelines about reporting of criminal cases; one guideline specifies that the press will refrain from printing a defendants' arrest record unless it deems that fact vital to the story.

On occasion judges have ordered reporters not to write about certain aspects of a case and, have closed trials to the public when the reporters refused to comply. On appeal these rulings have generally been held unconstitutional, as in the recent case involving the notorious underworld figure Carmine Persico.

Along Fleet Street, London's publishing district, a main focus of attack in recent days has been the Government's decision on the law controlling the release of information. Despite Prime Minister Heath's pledges to eliminate "unnecessary secrecy," editors are convinced that life will not get any easier.

Not Even Tea Consumption

For a time they had hoped for a major relaxation of the tough provisions of the 80-year-old Official Secrets Act, which guards the Government from zealous newsmen. One of the toughest such laws in the West, it makes it a crime to publish anything at all from official documents of any department unless release has been authorized.

Unlike laws in the United States, the act makes no distinction between security information and other Government information. A British Attorney General once said that a newspaper could violate the law if it reported "the number of cups of tea consumed per week in a Government department."

In an unpublicized meeting the other day, Mr. Heath called in the nation's editors to explain Government plans for revising the secrets law. They were so disappointed that one editor complained that Mr. Heath, in effect, made an argument for a more closed society.

The anger among editors stems from statements a week ago in the House of Commons by Robert Carr, Home Secretary, who announced proposals for changing the law. This followed a report last year by an official committee that suggested an easier flow of information.

Ministers and Gardeners

The committee, stopping short of satisfying the demands of editors, rejected pleas that they be allowed to cite the public interest as a defense in publishing information obtained in Government circles.

"Government mandarins have won again," one editor commented. "The old law covers everything. The new law would limit prosecutions only to unauthorized disclosure of certain information. But it still covers too much, and we're probably better off with the old law because it is so patently ridiculous that officials are often loath to bring cases under it."

The secrets law, which applies to all officials from ministers to gardeners in public parks, has served to keep out of the press virtually any information the Government does not want published. While criticism of policy is often sharp and well written, rarely does anything appear that embarrasses the Government or reveals its inner workings.

Accordingly, officials are much more secretive than their counterparts in the United States, particularly in the stage of preparing policy.

Because of the tradition of question time in the House of Commons, where ministers, including Mr. Heath, must appear regularly, the opportunities for long governmental silence on sensitive issues are limited.

A scandal of Watergate magniture would have meant the departure of a Prime Minister long since, particularly if he had remained silent or elusive in replying in the Commons to damaging allegations against him. The ultimate power or Parliament is to withdraw support and force the Prime Minister from office.

Citing the trend toward secrecy, many here say that the parliamentary system may still be insufficient in influencing executive decisions or uncovering the full dimensions of wrongdoing.

'Better Not to Know'

According to David Watt, political editor of The Financial Times, who has worked in Washington, the love of secrecy refletcs the British temperment. In America, he wrote this week, the onus of proof on secrecy lies with the person imposing the restrictions. In Britain, he added, "it is assumed that unless you can establish a clear right to know, it is better that you should not."

"We have a marked penchant for exclusivity, differentiation and noncommunication even within the same strata of society," Mr. Watt said. "We love clubs and mysteries and minor snobberies of all sorts—not so much because these bind us to our club mates but because of an unholy glee in keeping people out.

"It makes all efforts to open up channels of communication between groups — whether it is between ministers and constituents, journalists and civil servants or even the civil servants of one ministry and the civil servants of another—infinitely more complicated than any rational Martian could possibly suppose."

One result of all this is that investigative reporting, as it is developing in the United States, has not achieved dramatic results here. Apart from the laws on contempt and the secrets law, the laws of libel also force British newspapers to be extremely careful in their reporting even when dealing with Government officials.

It is much easier to collect under British law, and public figures are among those who have successfully sued. Under United States Supreme Court rulings, American newspapers can say just about what they wish about public officials; here the mere threat to sue for libel can halt publication.

Many Difficult Areas

Other factors are at work to inhibit the press. As Mr. Evans of The Sunday Times noted, there are whole areas of investigation that are extremely difficult for British newsmen. "What we can do with financial scandals is lamentable," he said. "Company records are out of date. We can't find out who owns property. The access to official records in America is just so much greater."

Although Mr. Rees-Mogg of The Times has expressed his reservations about the American press in the Watergate affair, other editors here are full of admiration for the way newspapers have handled the exposure of the cover-up. The job of the press, said Brian Roberts, editor of The Sunday Telegraph, is to disclose what it can within the law.

"You can do it your way in the United States because it's legal," he added. "We just wouldn't be able to do it the same way. Of course, the political situation is different too. If Watergate had happened here, the Prime Minister would have resigned long ago."

"If British practice has anything to teach," said The Sunday Times, differing from its sister publication, The Times, "it is not in the law of contempt, but in the tradition which insists that the Prime Minister cannot remain silent in the face of damaging allegations."