

Shield law no answer

The role of the mass media in American society will fall under increasing scrutiny in coming months.

With increasing regularity federal officials are launching new attacks on freedom of the press. But in responding to the attacks, many journalists are over-reacting. In the long run such over-reaction could be more dangerous than the present problem.

In recent weeks journalists across the country have been imprisoned for refusing to release names of news sources. Most have been jailed on contempt charges for refusing to release names to secret grand juries. Contempt charges are not restricted by law in these cases and some are sitting in jail facing indefinite sentences.

The courts, now firmly packed with Nixonian constructionists, have offered no remedies.

The sanctity of the confidential news source is an American press tradition. Many of the most significant news stories in the history of journalism have resulted from confidential news leaks. These leaks inevitably dry up when there is a chance confidentiality will be violated. As leaks vanish, the public's right to know is diminished.

As the number of journalists jailed increases so too do the efforts intensify to pass a journalist's shield law at both state and federal levels.

Such a law, its proponents claim, would protect the journalist's sources. In

brief, such a law would allow a journalist to refuse to divulge the source of his information on a particular matter if he or she thought it would put the source in jeopardy or would hurt the journalist's ability to gather more information. While few demand that this privilege be absolute, it would be similar to present laws that apply to doctors, lawyers and members of the clergy.

The Emerald believes that such laws are dangerous and could cause more problems than they would solve.

The passage of a shield law for journalists would enable Congress or the legislature to define what "the press" is. Any statute dealing with privilege would have to define who is to be allowed to claim it.

It would be far too easy for legislators to omit student newspapers, alternative publications such as the *Augur*, newsletters and pamphlets. None of these could be left out if the law was to adhere to the spirit of the First Amendment. But devising a law which would adhere to the spirit will be incredibly difficult.

And then there are the necessary exception clauses. It is inconceivable journalists would ask for absolute privilege, much less get it. Even doctors and lawyers don't have this sort of protection. If there are to be exceptions, then what are they?

Phrases such as "in the compelling public interest" or "in the matter of a capital crime" are too vague and too easy

to insert in a shield law. But once the ambiguities are statutory, the hassle in the courts just starts again and journalists will be caught in the middle. One step forward and two steps back is not progressive legislation.

And even in states where a shield law exists, journalists may still be unfairly prosecuted. California journalist William Farr was immune from prosecution when he refused to reveal the names of his sources for a story dealing with the Manson family. He was protected by the California shield law—that is until he quit the newspaper business. As soon as Farr resigned from his newspaper, he was thrown in jail for refusing to reveal his sources.

That can hardly be construed as protection.

If the shield law is not an answer then what is the remedy? It may sound like an easy out to say "something must be done but we don't know what". But in this case it is even worse to say "something is better than nothing".

Until an adequate solution can be devised which protects newsmen and at the same time preserves press autonomy from government, journalists will simply have to tough it out. There is precedent for that in this country—precedent going back three hundred years.

Compromise may be the basis of legislative politics. But to accept compromise in this situation could cause a dangerous erosion of First Amendment rights.

Letters . . .

Learning things

Gosh, Rita J. Richenstein (Letters, December 5) you say that your education stops when the library closes nightly at 10 p.m. I'd say just the opposite.

I would think you would have:

1. Learned to work on papers earlier.
2. Learned to avoid this unagreeable situation by rearranging your schedule.
3. Learned what channels might be used to appeal the early closing time.

4. Learned that the insufficient funds argument is not as hollow as it sounds.

5. Learned that many of us agree that the 10 o'clock closing time seems to be the worst possible action that can be taken even if funds are short.

Starting right around library closing time, it seems to me you should have been learning all kinds of things.

Joseph Vidali
Marketing

One who delivers

My worst fears from election eve two months ago have come true. Nixon's landslide election mandate is not the big show of support he thinks it is.

Mr. Four-more-years thinks that all the silent majority have come out of their shells and spoken, how could he be so wrong? The average citizen, as well as student, goes by only what he hears. When

the freedom of the press disappears, so goes the freedom of the individual. Mr. McGovern lost because of political mistakes, not mistakes in ideals. Bombing has become the result of the election. I pray the next four years teaches us the difference between promiser and one who delivers.

John S. Andrews
Junior, Political Science

IN THE BEGINNING

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IN THE END

