

MEDIA

Two reporters fight libel case

Bergman and Ramirez feared that the Hearst corporation, with its own interests to protect, would leave them high and dry, with their careers in ruins...

By Ken McEldowney
SAN FRANCISCO—The journalist community here is banding together to protect two reporters facing \$30 million in libel suits for a series of articles published last May in the *San Francisco Examiner*. At stake are the future of two investigative reporters, the obligation of a newspaper to adequately protect its reporters and the fate of a 23-year-old Chinese-American.

The articles in question detailed the sworn allegations of witnesses in a 1972 San Francisco Chinatown murder case who claimed they had been coerced or misled by authorities into testifying against an innocent man, Richard W. Lee, leading to his conviction for first degree murder and a life prison sentence.

The articles, written by *Examiner* reporter Paul Ramirez in collaboration with freelance writer Lowell Bergman, quoted one witness—a young Chinese woman who glimpsed the killer through a window—as saying she felt pressured

by police into identifying someone and, later, into testifying against Lee.

The other witness, Thomas H. Porter Jr., had testified that Lee made a dramatic “jail house” confession to him while the two were cellmates awaiting trial on unrelated charges. The *Examiner* articles reported that Porter, in a sworn statement, retracted his testimony, saying it was fabricated by Lee’s prosecutor.

Two homicide inspectors and a former assistant district attorney who had been implicated in the series asked for retractions in June 1976. The *Examiner* refused and stood behind the stories. In November the three filed libel suits against the two reporters and the Hearst Corporation which owns the *Examiner*.

The *Examiner* then informed Bergman, who was not employed by the paper and who had received no direct compensation for his part in investigating the articles, that it would not provide him legal defense. Ramirez’s request for independent legal assistance, likewise, was denied by the corporation, which did say that it intended to defend itself against the charges.

Bergman and Ramirez feared that the corporation, with its own interests to protect, would negotiate a settlement that would get the paper off the hook but would leave the reporters out in the cold, quite possibly with their reputations and careers ruined. When the paper refused to provide independent counsel for the reporters and, indeed, refused to even acknowledge any responsibility for Bergman’s defense, the two reporters had no choice but to obtain their own legal



Lowell Bergman and Raoul Ramirez question the price that investigative reporters should have to pay for their work. Shouldn't the newspaper have an obligation to provide them adequate support?

counsel.

Members of the Bay Area Newspaper Guild and area freelancers immediately formed the Bergman-Ramirez Defense Committee to help raise legal defense funds. Early fears that the Newspaper Guild might be reluctant to help Bergman, who was not an *Examiner* reporter and not in the Guild, proved incorrect. Although the Guild has been critical of newspapers under Guild contract using freelancers to perform work that should be done by union members, they also recognized the danger that this case presented.

The Media Alliance, a bay area organization of nearly 350 freelance and staff media workers, has also been active in defense of Bergman and Ramirez, as have journalists from around the country.

Area journalists are concerned about the intimidating effect the libel suit and the Hearst Corporation’s refusal to provide independent counsel will have on the future of investigative reporting in the

area. They argue that reporters are likely to hesitate printing information that might lead to costly court cases unless they are assured of an adequate legal defense.

Meanwhile, Richard Lee, whose case brought on the entire controversy remains in jail. The original *Examiner* articles brought on a flurry of interest in his case, but that died down after Thomas Porter once again changed his testimony and said that Lee had indeed confessed to him in jail, and after the judge who had heard the original case refused to order a new trial. Any further progress on his case will probably have to wait for resolution of the libel suit against Bergman and Ramirez, who stand by their original articles questioning the conviction.

The Bergman/Ramirez Defense Committee can be contacted c/o Media Alliance, 13 Columbus Ave., San Francisco, CA 94111.

Ken McEldowney is a bay area freelance writer and coordinator of the Media Alliance.

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Mineworkers

Sam Church, vice president on Miller’s slate, supported Boyle in 1972 and at that time considered Miller a “stooge.” He is one of the most disliked, hot-tempered officers in the UMW, says one critic. He is considered a “thug” by others, who fear he will end up running the union if Miller wins.

According to Patrick, James Blair, Miller’s vice president for pension affairs, has never apologized for sending a letter to locals seeking support because he is “a white man.” (Booker Thomas, Patterson’s choice for the office, is black.)

Patterson like USW’s McBride.

Compared to Lee Roy Patterson’s, however, Arnold Miller’s running mates look like white-robed choir boys. A 42-year-old strip miner from Madisonville, Ky., Patterson emphasizes his “deep roots in the UMWA” because his father was a union member for 55 years.

Boyle appointed him president of District 23 in 1969. (He later opposed the election of district officers and board members.) He won his board position by a narrow margin against a relatively unknown candidate.

The thrust of Patterson’s campaign is strikingly similar to Lloyd McBride’s successful bid for president of the United Steel Workers. Patterson accuses outsiders of dominating the Miners for Democracy, running Miller’s 1972 campaign and raising money from liberal intellectuals. In one piece of campaign literature he breaks down the contributors to Edward Sadlowski’s USW campaign and claims that the same people financed Miller/Patterson.

Patterson’s connections with the USW and its president I.W. Abel go deeper than campaign fliers, however. His campaign manager is Chuck Baker, a long-time associate of Abel who directed his



Lee Roy Patterson

UMW Journal

Patterson’s connection with I.W. Abel and the Steelworkers goes deeper than campaign flyers. He has even hinted at a possible merger of the two unions...

1965 race for USW president. Baker reportedly started work without arranging a fee.

Patterson told reporters on May 4 that he would “definitely” consider merging the UMW into the USW if elected. Since miners are already nervous about USW attempts to organize coal mines in Kentucky and out West, Patterson’s remark is thought to hurt his election prospects.

Patrick has charged that Patterson “spent part of his work years in scab surface mines.” Patterson has never denied it.

But Patterson does have notable support from many union officers and from the “business community.” Sixteen out

of 21 board members back him, along with 18 presidents of the union’s 21 districts. He received 362 local nominations, more than Miller and Patrick combined. The *Wall Street Journal* has dubbed him “the frontrunner.” (Patterson is not running with a full slate, so he and his running mates will be listed individually at the bottom of the ballot. Miners will have the option of endorsing the Miller or Patrick slates with only a single vote, on the other hand.)

Patrick most reform-oriented.

If the UMW is to continue on a politically progressive, reform course, observers say that the best person for the job of international president is Harry Patrick, the 46-year-old secretary-treasurer.

Patrick, an underground miner for 18 years and a campaign manager for Jock Yablonski, reluctantly decided to run when it appeared that Patterson could defeat Miller. “If I did not run for the presidency,” he says, “the members of this union would be faced with having to choose between a man who will not lead, and a man who would lead the UMWA back to the dark days when we had no democracy...”

Patrick declared late and is clearly the underdog. But he is reported to have a greater appeal to the young miners who now comprise a majority of union members. In 1971 he led a rank-and-file revolt against a weak contract that the membership could not ratify. As secretary-treasurer he undertook a thorough overhaul of UMW finances by cutting unnecessary expenses, reviewing union investments and establishing a credit union.

As a presidential contender Patrick has presented a more detailed, comprehensive program than either of his opponents. Declaring that the “old days of absolute management rights are over,” Patrick places the local right to strike at the head of his bargaining program. Promising “full time leadership for a full time job,” Patrick pledges to fight for more safety protections, a continuing training-education program for local un-

ionists, coalfield medical clinics (shut down by Miller) and a reallocation of union funds to high priority programs.

More emphasis on West.

If elected, he is expected to emphasize organizing the Western coal fields. (Over the last few years the proportion of mined coal under UMW contract has slid from 70 to 54 percent, primarily because of high-yield strip mines of the West.) Mike Tamtom, Patrick’s candidate for secretary-treasurer, is a western district president who would be stationed there full time to coordinate organizing efforts.

Too close to call.

As of this writing the election battle is very close. Over the last five years rank-and-file miners have gained an independent spirit that will be difficult for any new president to harness. Many are Vietnam veterans who balk at blindly risking their lives for coal company profits.

In 1975-76 rank-and-file miners gained extensive experience leading wildcat strikes, which have increased tenfold in the last 15 years (from 120 in 1960 to 1,139 in 1975). The wildcats came from miners’ anger at the refusal of coal operators to settle grievances at the mine site. Company violations of negotiated absentee rules and unsafe conditions have sparked many strikes.

Any new UMW president will face immense problems. He will have to unify a faction-ridden union, confront a haughty coal industry and ward off government pressures to refrain from a long strike and “inflationary” wage gains. The election’s outcome will also undoubtedly influence the fight for union democracy in other unions.

Rank-and-file miners might remember the words of Jock Yablonski in judging the actions of their new president: “My duty to coal miners, as I see it, is not to withdraw, but to strive for leadership for this union, to reinvigorate its activity with idealism, and to make it truly a union of miners, rather than a union of inaccessible bureaucrats.”

POLITICAL ANALYSIS

Watering down Humphrey/Hawkins

By Elliot Carrie

During his phone-in in early March, Jimmy Carter told a caller that the Humphrey/Hawkins bill was "pretty much a philosophical kind of expression of our government's commitment to full employment." But the bill—reintroduced in the House this session in its fourth major version—is really a compromise between the demand for jobs by labor and minorities and business's need for sufficiently high unemployment to ensure its control of the labor force.

The terms of the compromise reveal much about the dynamics of the corporate economy, the economic priorities of the Carter administration and the dimming prospects for genuine full employment in the U.S.

Making work a public matter.

In its original form—as it was sponsored in the House by Augustus Hawkins (D-Cal.) and Henry Reuss (D-Wis.)—the Humphrey/Hawkins bill was a logical and radical response to the disintegration of conventional Keynesian economic policies. It rejected the "trickle-down" approach to jobs and income that has dominated economic thinking since the Employment Act of 1946.

In its place the Humphrey/Hawkins bill called for comprehensive federal planning of production and investment to meet social needs and guarantee employment to everyone "able and willing" to work. In effect, it proposed to make the extent and nature of work a matter of public, rather than private, determination.

The bill was notable for its emphasis on developing jobs for people traditionally excluded from the labor force—youth, women, minorities, the old and disabled. Instead of opting for a particular definition of the percentage of "acceptable" unemployment, it insisted that even people who had never worked before had the right to a job and enforced that right with a provision enabling jobseekers to sue the government in the federal courts.

The bill called for developing "reservoirs of public service and private employment projects" to supplement shrinking job opportunities in the private sector. Beyond that, it directly confronted the need to shift priorities in federal investment and spending. It talked about military conversion, serious price controls and controls over capital export. It proposed that the federal government begin to tackle the problems of "the concentration of economic power" and the "level and distribution of income and wealth."

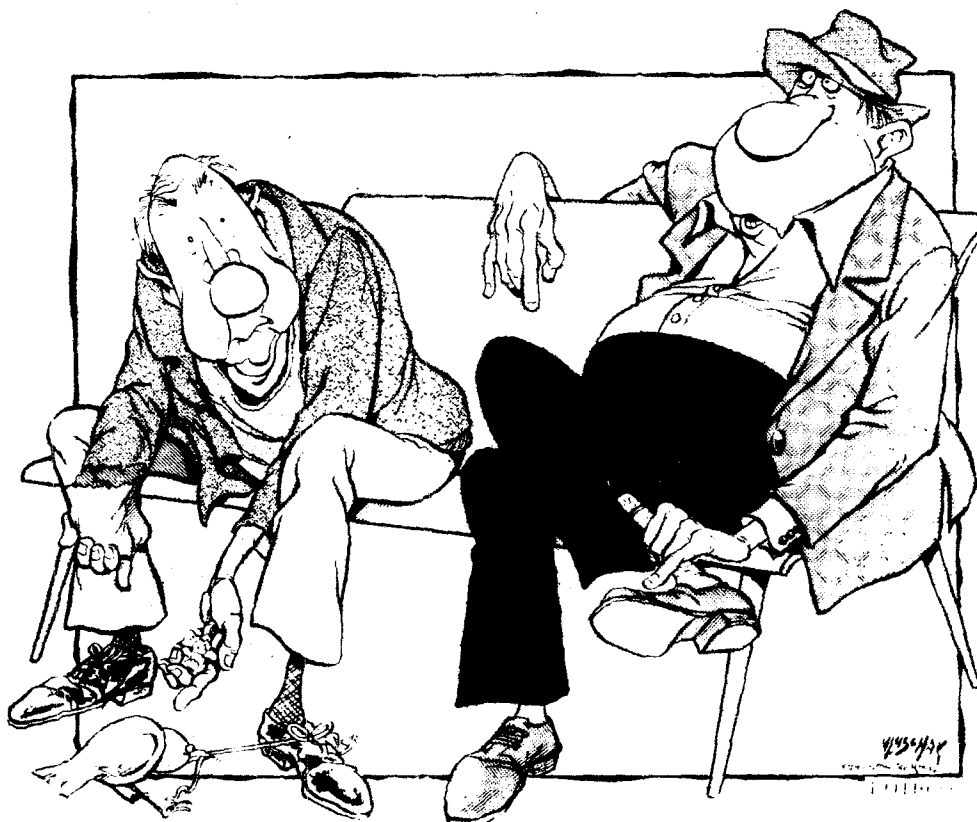
Much of corporate challenge gone.

After three major revisions, much of this challenge to corporate control of investment and employment has been stripped from the bill. In the face of stiff opposition, the bill has become more and more a measure aimed at reducing the extremes of unemployment while keeping corporate control intact.

The intensity of opposition to the original bill, as well as some of its sources, was unexpected. Though the bill drew the early support of a few unions, including the UAW and UE, the AFL-CIO initially opposed it. They rejected the job guarantee provision as unworkable, but promised support for a more "realistic" version.

Under their and Hubert Humphrey's influence HR-50 underwent a series of revisions designed to placate corporate and congressional opposition. By the third version, introduced in spring 1975, Humphrey, its Senate sponsor, was able to describe the bill with only a moderate exaggeration as a bill of "realistic" enterprise.

This version dropped the job guarantee, outlawing the "right to work" provision, and abandoning the "level and distribution of income and wealth" provision. The bill was now a compromise between the demand for jobs by labor and minorities and business's need for sufficiently high unemployment to ensure its control of the labor force.



"Ah, spring — makes one feel like taking the day off... if I only had a job."

After three major revisions, much of the challenge to corporate control of investment and employment has been stripped from the Humphrey/Hawkins full employment bill.

unemployment to be achieved within four years, measured on the basis of the labor force as currently defined—all those "able, willing, and seeking to work."

It relegated federal job-creation to a "last resort," after traditional fiscal and monetary means of stimulating the economy. And it changed the bill's title to "Full Employment and Balanced Growth Act" to indicate its more moderate aims.

Schultze's inflationary criticisms.

Even with these concessions the third version ran aground in Congress on the shoals of continued corporate opposition and unexpected liberal criticism; most notably from Charles Schultze, formerly Lyndon Johnson's budget director, then a member of the Brookings Institution and soon to become head of Carter's Council of Economic Advisors.

Schultze's influential criticism, echoed by a variety of business and congressional opponents of the bill, centered on two related ideas. Both reflected the traditional corporate antipathy to direct federal job creation and affirmed the virtues of a slack labor market.

The first was the idea that massive public job creation would, as Schultze told the Senate Subcommittee on Employment, Poverty and Migratory Labor in 1976, cause a "steady drain of labor away from private industry into 'last resort' jobs." Fleeing from sub-standard wages and working conditions in the private sector, labor would become scarce "over a wide range of private jobs." Wage rates would go up, and prices would follow. Significant job creation, they would have a serious inflationary effect.

Schultze's second argument, also focused on the bill's inflationary effect, but from a different angle. He argued that the economy sufficiently to bring the unemployment rate down below 4 percent.

Schultze argued, creates inflation because it tends to tighten the labor market excessively for those workers—mainly adult white males—whose unemployment level is already relatively low.

This "high employment region" has moved upward from about 4 percent in the '60s, according to an elaboration of the argument by Schultze's Brookings colleague, George L. Perry, in the Institution's recent volume, *Setting National Priorities: The Next Ten Years*. This is because demographic changes in the labor force have expanded the proportion of people—especially youth and women—who typically suffer higher unemployment rates.

This makes it that much harder to reduce the overall level of joblessness without lowering the rate for white male adults to the point where they can successfully demand higher wages. Minorities, youth and women, therefore, have to settle for high unemployment in order to keep others from getting too much money.

Given this dilemma, Brookings recommends boosting training programs to upgrade the "employability" of the high-unemployment groups. The question of where these people will go after they are "upgraded" is carefully avoided.

Fourth version even weaker.

The opposition of these liberal to full employment has been crucially important in shaping the administration's attitude toward Humphrey/Hawkins. It came as something of a shock to the bill's partisans.

The economist liberals—the Brookings Institution and the Council of Economic Advisors—were the most disappointing. An economist on the left, for example, attacked by people on the right, is really a bitter pill to swallow.

Their opposition halted the bill's progress last August.

Since then it has been reworked once again. The current, fourth version goes a long way toward meeting those objections, further tempering the bill with additional "anti-inflationary" modifications.

Carter's role in this has been especially important: "We changed it to suit him, you know," says Bill Higgs of Hawkins' Washington staff.

The current bill includes an even more explicit commitment to maintaining private sector domination of the labor market. A fundamental objective is to "maintain trends in the ratio of private employment to civilian public employment" similar to those from 1946 to the present.

The full-employment goal has been redefined as 3 percent adult (over 20) employment, with youth joblessness to be reduced "as rapidly as feasible" but with no timetable or numerical goal suggested. The "reservoirs" of public service employment cannot be put into operation until at least two years after the passage of the bill.

As if that weren't sufficient, the current bill specifically "establishes the policy that such projects shall be so designed as not to draw any workers from private employment." Toward this end, public jobs must be "mainly in the lower ranges of skills and pay."

A little-known provision in the new bill further restricts the range of public jobs that may be created. Earlier versions mandated union-scale wages for any building trades work required for all federal projects under the provisions of the Bacon/Davis Act. The new bill removes this troublesome point by simply excluding from the "reservoirs" all work "to which the Bacon/Davis Act applies."

Still better than Carter's program.

These changes, according to several congressional staffers, probably mean that the administration won't oppose the bill if it gets through the House, though some further attempts to modify the bill are expected.

Given past performance, Carter's team is likely to call for still more "anti-inflationary" changes. One target may be the 3 percent adult employment goal, still too low and too specific to allay the Brookings crowd's fears of a tightening labor market for adult white men.

The administration's chilly attitude, and the diversionary impact of its own economic proposals, have taken some of the steam out of Humphrey/Hawkins. So far, the bill has attracted 70 co-sponsors in the House—a respectable number but less than the 100 it drew last year.

On the other hand, the Congressional Black Caucus has made it their first priority and has begun an effort to stimulate grassroots action on the bill. Under their initiative a loose coalition is pulling together behind the bill, including among others much of organized labor, the National Council of Churches, the Conference of Mayors, the National Student Association, the ADA and the DSOC. The aim, as Ehrlich puts it, is to "put pressure on Congress from the bottom."

These forces behind Humphrey/Hawkins believe it still offers a better deal than the administration's own economic program. Three percent adult unemployment in four years would leave the U.S. with rates of joblessness that would have topped many European governments in the 1960s—but it beats the 5-7 percent figure offered by Carter's crew. More generally, the bill would establish the beginnings of a more effective planning structure—a structure that could become the terrain for the future of the labor force.

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