1-26-1970

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press monopoly

Mr. Agnew's oversights

Stephen R. Barnett

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Vice President Agnew is a welcome recruit to the undemanned ranks of press critics. For one thing, he brings to the task a much needed ability to command public attention. The late A. J. Liebling must have smiled as the Vice President, in his speech at Montgomery, Ala., made front-page news across the nation by challenging the news judgments, editorial policies and the alleged monopoly power of certain newspapers. Mr. Agnew also provoked revealing responses from his two specified targets, The Washington Post and The New York Times. It would be unfortunate if the dialogue ended there; the subject of newspaper performance and newspaper monopoly is too important to be returned to its dark closet, or to be subsumed in the related but different issues involving television. While Mr. Agnew and the Nixon Administration appear content to drop the subject, some of the implications and ironies arising from the Vice President's remarks about newspapers should be brought to light.

Newspapers don't need government licenses; they do need all the public criticism they can get. Normally, they don't get much, largely because of their monopolistic position. Mr. Agnew was right on target when he said, "The American people should be made aware of the trend toward monopolization of the great public information vehicles and the concentration of more and more power over public opinion in fewer and fewer hands." The Vice President went further and specified some of the results of the trend. Speaking of the prevalence of newspaper monopoly in American cities, he charged: "Lacking the vigor of competition, some of those [newspapers] that have survived have—let us face it—grown fat..."
and irresponsible." The example he gave of a monopolized city was Washington, D.C., under the Washington Post Co., and the example he gave of a "fat and irresponsible" newspaper was The New York Times. The Vice President challenged the news judgment and editorial policy of the Times in several particulars, and he declared that press monopoly "is not a subject you have seen debated on the editorial pages of The Washington Post or The New York Times."

The subject should indeed be debated, and Mr. Agnew has performed a public service in doing so. One would have thought, however, that New York and Washington would be about the last places to start an examination of newspaper monopoly in this country. Both cities have three independently owned metropolitan dailies—a degree of newspaper competition enjoyed in only one other place, Boston. For a real example of "the growing monopolization of the voices of public opinion on which we all depend for our knowledge and for the basis of our views," Mr. Agnew should have focused on some of the roughly 1,600 cities that have a complete daily-newspaper monopoly. In a good many of them he would have found, as well, that the monopoly newspaper publisher also owns a local television or radio station, or both. Further, if Mr. Agnew finds the news coverage and editorial policies of The Washington Post or The New York Times "irresponsible," he ought to apply his journalistic standards to some of the monopoly papers that residents of these other cities must read every day. But these other papers, while offering better examples of monopoly and perhaps of irresponsibility as well, generally differ from the Post and the Times in being less critical of the Nixon Administration.

Certain cities particularly deserved Mr. Agnew's attention. These are the twenty-two—San Francisco, among them—where two publishers have elected to create a newspaper monopoly out of what would otherwise be competition. Such "joint-operating agreements" were held by the Supreme Court last March to be illegal under the antitrust laws. In a case arising from Tucson, Ariz., the Court said the two papers could legally share the same printing plant and other facilities, but could not fix prices, split profits, or otherwise eliminate the competition between them. In Mr. Agnew's terms, the Court held that the two publishers could not legally agree to insulate themselves from "the vigor of competition" so as to become "fat and irresponsible" monopolists.

It is strange that Mr. Agnew could make a speech about newspaper monopoly in November 1969 without mentioning this issue or the legislation it has produced. The so-called "newspaper preservation" bill, now being pushed through the Congress, would create an antitrust exemption to save the monopolies the Supreme Court has declared illegal. The publishers concerned, who are putting intense pressure behind the bill, include large chains such as Scripps-Howard, Newhouse, Hearst and Cox. They include other companies that own television and radio stations in the same cities where they are fighting to keep their newspaper monopolies.

The bill has been strongly opposed by the Justice Department. Testifying before the Congress, Richard W. McLaren, chief of the antitrust division, has pointed out that joint-operating publishers have no competitive incentive to improve their papers—i.e., they grow "fat and irresponsible." Mr. McLaren also noted that the bill would entrench the combined papers permanently in each city, making the entry of new papers all but impossible and solidifying the monopolistic condition that Vice President Agnew deplores.

The position of the Justice Department, however, is no longer the position of the Administration. In late September Mr. McLaren was compelled to announce that President Nixon had disavowed the views of the Justice Department and sided instead with the Commerce Department. Yes, the Commerce Department. In an ingenious lobbying gambit, the joint-operating publishers and their lobbyists had activated the Commerce Department—which up to that time, naturally enough, had shown no interest in the legislation—and persuaded it to support the bill. President Nixon then obligingly repudiated Justice and agreed with Commerce. (Congressman Celler, before whose House Antitrust Subcommittee the Ad-
administration performed its contortion, commented: “In all my forty-seven years in Congress I have never heard anything like this.”) The Presidential decision to support the bill was preceded by a private call upon Mr. Nixon by Richard Berlin, president of the Hearst Corporation. As in the Mr. Knowles affair, the President reversed himself and humiliated his responsible official to appease a powerful special interest.

One read much in the press about the Knowles affair. One read more recently—on the front page of The New York Times, for example—of a comparable Administration turnaround in favor of large banks which oppose a bill, previously supported and indeed drafted by the Administration, designed to curtail the use of foreign bank accounts to violate American laws. But one read very little in the press concerning the Administration’s sellout on the newspaper bill.

Where was Mr. Agnew at the time? If the Vice President is truly concerned about newspaper monopoly, he might make his voice heard within his own Administration. There is still much he could do. The bill was favorably reported by the Senate Judiciary Committee in November (over the opposition of Senators Hart, Kennedy, Tydings, and Burdick) and should reach the Senate floor early this year. In the House, the Antitrust subcommittee completed hearings in October, considered the bill in executive session December 15, and is also expected to take action early in the new session.

The cause of the current delay in the House Antitrust Subcommittee—unreported by the national press—is interesting. At the hearings on September 23, Chairman Celler stated that it would be “impossible for the subcommittee to legislate” unless it was provided with copies of the joint-operating agreements to be legalized by the bill and of financial statements for the newspapers involved. He said there should be no reluctance on the part of the publishers to let the subcommittee have these materials, since “we will handle them gently and there will be no public disclosure.” (The promise of secrecy was protested by a reporter from all papers, The Washington Post.) On these terms, Morris Levin, the lobbyist representing most of the joint-operating publishers, said he would try to persuade his clients to make the agreements and financial statements available to the subcommittee. Almost four months later, the bill is still held up by the subcommittee because the publishers have been unwilling to supply the information. Some have declined to supply their joint-operating agreements, and most have declined to produce their financial statements. While seeking special legislation on the ground that their newspapers are in precarious financial condition and may otherwise “fail,” and while assured that the information they supply will be kept from the public, the majority of the publishers have refused to produce evidence of the financial distress which they claim.

Chairman Celler and the subcommittee have so far persisted in their demand to see the documents before approving the bill. But the publishers are increasing the pressure, and the subcommittee may well succumb. If it does, it will be conceding that it cannot enforce, against the interests urging passage of the bill, its demand for information that it has deemed essential to the legislative process. The Administration, meanwhile, has given no indication that its eschewal of the “Commerce Department position” has been affected by the way the newspaper monopolists have spurned the Congressional committee: But now that Vice President Agnew has addressed himself to newspaper monopoly, perhaps he will make his influence felt.

In charging newspapers with avoiding the subject of press monopoly, the Vice President was generally correct. The “newspaper preservation” controversy was described by Walter B. Kerr, writing in the Saturday Review last May, as “among the worst reported news stories of our time.” The situation is a special disgrace in the twenty-two cities that stand to be directly affected by the bill. One would suppose that a city’s daily newspapers are important local institutions, and that the issue, raised in Congress, of whether the two papers were to be joined or remain independent for the unlimited future was an issue with numerous newsworthy implications for local businessmen, politicians and the newspaper-reading public. But the papers in the twenty-two cities have acted as if their editors had never heard of a local angle. The Mayor of Tucson told the Senate subcommittee last spring, as reported by A. E. Rowse in The Nation of June 30, that the Tucson papers had run “not one word” about the bill or about his trip to Washington to testify against it. In San Francisco the papers have been more subtle. They have carried the wire dispatches from Washington reporting the progress of the bill, but customarily inserted not a word to indicate that the debate had anything to do with San Francisco. After being publicly challenged on the practice, they now usually insert a word.

In directing his attack at The Washington Post and The New York Times, Mr. Agnew thus ignored the worst offenders. But the Post and the Times are not exactly innocent bystanders when the subject of press monopoly is raised. The Post is vulnerable, despite the presence of two other daily newspapers in Washington, on the issue of having an excessive concentration of media control. In an editorial reply to the Vice President, it took the position that “the present arrangement, with a newspaper, a news magazine, a television station and an all-news radio station all under one corporate roof, produces better products all around than would otherwise be possible, given the economies of our business these days.”

As the editorial itself added, “That’s arguable, of
course." It is especially arguable because each of the four properties is independently profitable. One wonders where such a justification for combining profitable media properties in the same hands would stop, or why the production of "better products" requires that the newspaper, the television station and the radio station all be in the same city. One also wonders about the claim by Mrs. Katharine Graham, president of the Washington Post Co., that "each branch is operated autonomously. They compete vigorously with one another. They disagree on many issues." It is questionable whether editorial self-abnegation by a benevolent monopolist can be counted on to produce the "widest possible dissemination of information from diverse and antagonistic sources" that the Supreme Court has recognized as "essential to the welfare of the public."

On the issue of discussing press monopoly, the Post stands on much firmer ground. It not only seems to have covered the "newspaper preservation" bill better than any other major paper but it is one of the handful of major dailies—The Wall Street Journal is another—to speak out against the measure. The editorial position of The New York Times is another story. It is one of the more interesting skeletons brought out of the closet by Mr. Agnew's speech.

Replying to the Vice President's charge that his paper had not discussed newspaper monopoly on its editorial page, Arthur Ochs Sulzberger, publisher of the Times, stated that "quite the opposite" was true. To prove it, he quoted from an editorial printed in the Times on March 13, 1969, three days after the Supreme Court held the joint-operating agreement illegal in the Tucson case. The editorial stated: "The constitutional guarantee of freedom of the press provides the press with no warrant for seeking exemption from the laws prohibiting monopoly." This, said Mr. Sulzberger, "is a sentiment that The New York Times has expressed repeatedly and still holds."

But the Times has strangely failed to express any sentiment about the "newspaper preservation" bill. The March editorial flaunted by Mr. Sulzberger was directed to the Supreme Court decision of three days before. The bill designed to overrule that decision was then just getting started in the Congress, and the editorial made no mention of it or of any other legislation. True, the cryptic statement about "seeking exemption from the laws prohibiting monopoly" might have been read by those in the know as indicating that the Times opposed the proposed legislation; but it scarcely could have been read that way by the public, which had no reason to be aware of any such legislation.

During the ten months since that editorial appeared, the "newspaper preservation" bill has made its way through Congress with the speed usually reserved for FBI appropriations. Sponsored by no fewer than thirty-four Senators and 100 Representatives, it has gone through complete hearings in both Houses and has been reported to the floor of the Senate. Also during this period, the Administration first strongly opposed the bill and then performed the about-face described above. Meanwhile, The Washington Post, The Wall Street Journal, and a few other major papers have editorialized against the bill, and many more have come out in its favor. Through all this, The New York Times has not taken a position for or against the bill; it has not said a word editorially about the subject. The Times's silence has stimulated considerable interest among persons involved with the legislation. At the House hearings in September, for example, Chairman Celler asked whether the Times had taken a position on the bill. The lobbyist for the publishers, Mr. Levin, replied by mentioning the March 13 editorial and promising to supply a copy. He added, accurately, that the editorial did not address itself to the bill and was cryptic enough to support almost any interpretation.

A number of people find it mysterious that the Times, usually quick to condemn attempts by powerful industries to force special-interest legislation through the Congress, should watch in silence as newspaper publishers mount such a campaign and carry it nearly to completion. One explanation has been offered. It is that the owners of the Times in New York also own the Times in Chattanooga, Tenn., and would like to see the "newspaper preservation" bill enacted so that the Chattanooga paper could re-establish its joint-operating agreement with the other Chattanooga daily, which it abandoned several years ago.

Vice President Agnew touched a raw nerve when he accused the Times of not discussing newspaper monopoly on its editorial page. In the process he drew from Mr. Sulzberger the only expression of opinion on the subject of newspaper monopoly heard from the paper since the "newspaper preservation" campaign began in the Congress. If the Vice President can do that for the Times, perhaps he can perform a similar service for the Administration. The Administration and the Times may disagree on many things, including Mr. Agnew himself, but they have both been notable in recent months for their acquiescence in federal legislation sanctioning newspaper monopoly. It would be a good thing for the public if they both harkened to the Vice President's voice.

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