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spring and summer 1974



Lasers, Computers, and the First Amendment

Anthony Oettinger

Confessions of an Ombudsman — Ben Bagdikian

Headlines and Deadlines: China Style

— Richard Dudman

The Activism of the Press — Katharine Graham

Muzzled Sheep: The British Press Today

— Daniel Yergin

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Guest Editorial

Editor's Note: As we were going to press in Cambridge, Davis Taylor was addressing the American Newspaper Publishers Association in New York, marking the end of his two years as chairman. What he said is so timely and concise that we are proud to present his remarks in these pages as a guest editorial.

Mr. Taylor is publisher of The Boston Globe; his speech is reprinted through the courtesy of that newspaper.

The newspaper business may not have done the best possible job for America—but it's done a lot better than many other institutions that have tried from time to time.

Yet we are increasingly a target—a target for those who claim we do too much and for those who claim we do too little.

Some say we are untouched by the forces around us; that our decisions are sterile and unresponsive. But these activist groups don't want us to be fair; rather they want us to espouse their positions.

From another direction it is said that we are too involved; that we make news, not report it. These groups would have us be mere echoes or mirrors—passive recorders of that which decision-makers choose to have us report.

We do puzzle many people. There is no noun to apply to what we do; no easy formula, no pat equation. The making of a newspaper has been defined as a profession, a business, a trade, a craft, and, by some, a racket.

It's a business, all right. And, if we don't know that, we don't stay in it very long.

But, it is much more than that. It is a vocation. Because people pursue it for reasons that transcend money, power, and prestige. It is an art, because it is a daily creation.

More than anything, it's a responsibility to those we try to serve. That responsibility flows directly from the First Amendment and the rights that amendment gives, not to the press, but to the people.

James Madison called freedom of the press "one of the choicest privileges of the people." Freedom of the press is not some privilege our Founding Fathers tacked onto the Constitution in order to curry favor with a special interest group that happened to own printing presses. Rather, it is a guarantee to the people of this country of their right to know what is going on.

It is not the press so much as it is the public that is protected by the First Amendment. But, since we are the instrument by which the public's right to know what is going on is exercised, it is the performance of the press that

(continued on page 30)

Lasers, Computers, and the First Amendment

Editor's Note: Continuing our practice of taping Nieman seminars from time to time, we present the following transcript of a session with Anthony Oettinger, Director of the Program on Information Technologies and Public Policy at Harvard. The proceedings have been lightly edited by Philip Hudgins, city editor of The Times (Gainesville, Georgia) and a Nieman Fellow in the class of 1973-74.

Oettinger: I'm looking at Figure 1. This is a listing of what I choose to call Information Industries. And you'll notice that broadcast television starts the list. Newspapers and wire service are down in the middle, and there are a number of other things. All of which have the common element that their main product—in some cases the only product—is information. You can argue that General Motors makes as its main product cars. It happens also to produce a lot of information. But that's not what it's in business for. Whereas television stations and newspapers, libraries, schools, have no business other than doing something like creating and distributing, storing or otherwise manipulating information for a public or private market. The other thing I want to call to your attention is that except for this table, there are very few places where these things are drawn together. And one of the things that I have to make plausible to you—and hope I will do by the time we're through here—is that it makes sense to regard this kind of list as a sensible thing and not just as a figment of a diseased imagination.

If you turn to Figure 2, you begin to see a little bit of why I might want to do crazy things like juxtaposing banks and periodicals and satellite carriers and the national intelligence community and county agents and all these strange beasts here. If you look at the top chart, you'll see that mail and local calls have increased in the period since 1950-70. But telephone toll calls have increased at a faster rate, and

calls overseas have increased fastest of all. It's still a small percentage of all the calls and the scale distorts that somewhat, because the overseas dash line you read on a different scale. But the important thing is that sort of rapidly rising curve. In the bottom figure of Figure 2, as you see it's a somewhat longer time period, but if you focus on 1950-70, you see that telegraphy is simply disappearing as a form of communication.

My thesis really is that these phenomena are not accidents, and that there are important relationships among events in the telephony and events in the mail and events in telegraphy; and I might add, events in the life of newspapers and the life of radio stations, television stations which have to do with the fact that they are more or less interchangeable vehicles for distributing information—creating it, storing it, distributing it. And while that wasn't evident, perhaps not even true, as little as twenty years ago, it is increasingly true today because—and this is the stuff in the title, "Lasers and Computers" and so on—because there is hardly an information business, or information activity in which tools like lasers and computers aren't playing an increasingly important role in terms of replacing earlier tools, whether it's hot-type setting or whatever. Were it not for unions, I don't think there is a newspaper that would be left setting type in linotype. The Mergenthaler Company would be out of business as far as making hot-type stuff is concerned. And the setting of a newspaper starting with a reporter at a typewriter, going through the wires of AP or UPI and into teletype setter tape that even fifteen years ago would control linotype machines, but now the stuff would go into a computer-controlled machine and ready-set offset material emerges at the other end.

As the telephone (Figure 2) comes into increasing use, for one reason or another, telegraphy declines. Why? Look at

	\$ billions	
Broadcast television	3.2	FCC-regulated
Cable television	0.4	
Broadcast radio	1.4	
Telephone	18.2	
Telegraph	0.4	
Specialized common carriers		
Satellite carriers		
Mobile radio systems	4.5	
Motion pictures		
Organized sports, theatres, churches, etc.		
Computer software suppliers	2.1	>
Computer service suppliers		
Postal service	6.8	
Private information delivery services		
Newspapers; wire services	7.4	
Periodicals (including newsletters)	3.2	
Business information services (including opinion surveys)		
Advertising		
Marketing		
Brokerage industries		
Book publishing and printing	3.7	
Libraries		
Schooling		
Research and development		
Federal information institutions		
Census Bureau		
National intelligence community		
National Technical Information Service		
Social Security Administration		
County agents		
etc.		
Banking		
Insurance		
Securities		
Legal services		
GNP (1971): 974		

Figure 1. Approximate gross revenues (1970-1971)

This is a rough and still incomplete census of the information industries, including comparable revenue figures gathered to date. The industries enclosed by the bracket are regulated by the Federal Communications Commission. Information policy is in particular ferment in this area, which has been the first object of the Program's attention. The figures are drawn from a Program Working Paper prepared by Warren G. Lavey. Double counting has not been eliminated.

Figure 1 again. Telephony accounted in 1970 for 18.2 billion dollars worth of annual revenue; newspapers and wire services, 7.4. Where some of the economic clout lies is fairly clear. I don't have figures for some of the others.

Turn to Figure 3, where I raise some questions about, for example, who shall deliver motion picture entertainment to the public—movie houses, hotels, telephone companies, over-the-air broadcasters or cable casters? Use transportation or telecommunications to disseminate the picture: who will pay for it? Where do those questions come from?

Twenty or thirty years ago, the only way you could see a movie was by a piece of film being shipped bodily to a theatre because the theatre was about the only place that could afford to rent a piece of film long enough to show it, and the theatre had to make up the price of the rental and a profit by showing it to a large number of people. What has happened since thirty years ago? Painfully familiar to all of you; the answer is television, the capability of showing motion pictures in the home through an instrument that an individual household can afford to buy, initially in black and white, now in color. A profound technological change that started in the thirties, was held up by the Second World War and lots of regulatory shenanigans and flowered, as you all know, in the late forties, early fifties. And it takes a new manifestation today by virtue of the phenomenon called cable television. I don't know how many of you looked at the New York Times this morning (March 5th). The Supreme Court decision on the CBS vs. teleprompter case. A curious effect there—here is a technology again with its roots in the thirties that says the following: "Instead of having to transmit pictures in this mysterious electromagnetic spectrum, we can run cables underground or on poles and bring pictures into the home that way."

Now you're going to say, So what! Somebody is going to make some money out of this, or not money, and who cares? Well, let me try to explain who cares and why. Certainly the television stations care because here is an alternative way of taking entertainment and piping it to homes. It uses films or talent or what-have-you. What happens to the sources of material for going over the air? It started very benignly twenty years ago in the hills of Massachusetts and Pennsylvania with poor TV reception. Some smart television repairman gets the idea that he can make an extra buck and help his neighbors by stringing up a big antenna on the top of a mountain, running a coaxial cable to a bunch of homes and everybody is happy to pay him two, three, four dollars a month so they can get the stations that otherwise they couldn't get because of the hills. TV stations are deliriously happy because—well, medium-happy but not unhappy—because they can now say, Gee, we

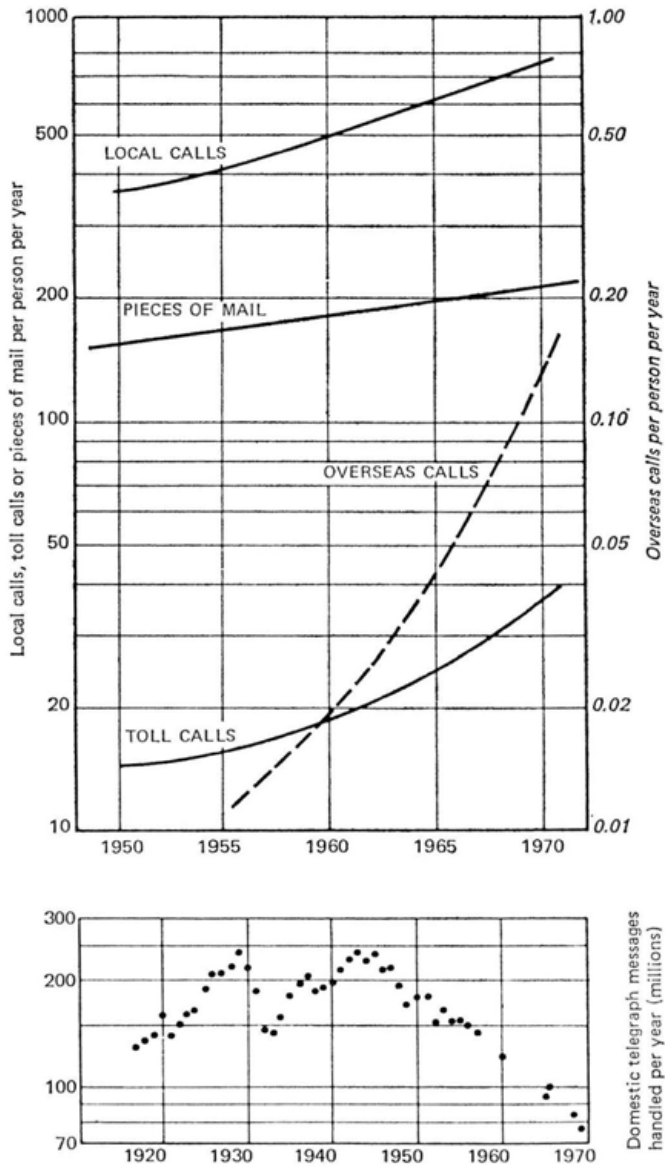


Figure 2. Mail and telephone use increases; telegraphy declines.

Information functions shift from one information industry to another. These charts, adapted from "Communication" by John R. Pierce (*Scientific American*, September 1972, p. 37), indicate a decline in telegraphy in recent years and a rapid growth in mail and telephone communication. Note that the charts are not comparable, and that two scales are superimposed in the chart on mail and phone usage.

reach a whole bunch of markets that we didn't reach before and increase their rate-cards, so all is just well and good.

Then some of the cable entrepreneurs begin to realize that they're not limited out to the hills and, in fact, they are not limited necessarily to just bringing in neighboring or local television signals. For a price that they might pay to the telephone company, or that they might pay to a microwave carrier, or if you're the telephone company beginning to see a new market, you say, Gee, if I start pumping television signals down to this cable, one of the things I can do is bring in by telephone, by satellite, by microwave, TV stations (I'm in Boston) from New York, some independent stations out of New York. Or typically as it happened in California, bring in the L.A. independent stations to San Diego or to some of the outlying or coastal areas.

All of a sudden the television industry gets up in arms: You are taking our programs away from us, the industry complains. The film people get excited and ask, to whom are copyright payments going to be made? This is the import of today's decision because the Supreme Court in its wisdom has said, "Nobody," because a cable station in rebroadcasting signals captured is not a performer. And copyright payments are for performance. Now, the whole question then of who gets his share of the take, what the markets are, gets to be profoundly affected.

Well, so far, what has this got to do with newspapers? This is where the idea of the First Amendment comes into the title of this presentation. What Figure 3 illustrates is that there are a lot of questions having to do with business that the emergence of different technologies—cable, lasers, computer-aided typesetting, computers as storage devices and so on—create the issue whether movie houses, hotels, telephone companies and so on—who gets what share of what old or new market? But these questions are in some sense profoundly uninteresting to anybody except the guy who is making a buck out of it. It is not obvious why the citizen should give a damn about this. Maybe he will pay a bit more, maybe he'll pay a bit less, but after all, whether in the back of all this, movie distributors or actors or television stations or cable stations get a higher or lower percentage of his payment is, in a sense, profoundly uninteresting.

Look at Figure 9, the fourth paragraph, which talks about what has happened to printing technology, something that newspapers are concerned about. Now, is this technology tomorrow—twenty years down the pike—fifty years? Well, I can assure you it's not science fiction; it's possible tomorrow. Why isn't it happening tomorrow? All sorts of reasons, having to do with economics, regulatory schemes, who has the power now, who wants power over

What determines. . . ?

Who shall deliver motion picture entertainment to the public? Movie houses, hotels, telephone companies, over-the-air broadcasters or cablecasters? Whether transportation or telecommunications shall be used to disseminate the pictures? Whether the service shall be paid for by advertisers, by the viewers directly, through private or public subsidies or by other means?

Whether data shall be carried from computer to computer or to and from terminals in businesses or homes by telephone companies, specialized common carriers, cable television systems, the Postal Service, or private information delivery services? Who shall own the terminals and maintain them to the users' satisfaction?

How services to learners will be allocated among the schools as we now know them, libraries, broadcast or cable television, publishers or new institutions, public or private?

Who among the banking, securities, telephone, telegraph industries, the Postal Service and private information delivery services shall perform which information services? (For example, some 40% of the mail deals with financial transactions, so that the fates of the Postal Service and of payment mechanisms are intimately linked.) With how much supervision by whom? The Federal Communications Commission, the Securities and Exchange Commission, the Federal Reserve System, associated Congressional committees or state authorities? Who shall set standards for media and formats of data transfer and storage?

Figure 3. Business questions.

economic revenues, over information. What would be the implications if there were moves in this direction?

Turn to Figure 10 while I'm at it because that makes another important point, without which much of what I'm saying won't make much sense. What that shows is that electronic technology is making it possible to transmit, store, manipulate increasingly vast amounts of information—I mean newspapers-full, books-full, libraries-full—at costs that have decreased by factors like the millions or the tens of millions. If something cost a million dollars to do twenty years ago, it could cost one dollar today, in certain electronic technologies. Where it was extremely expensive to transmit information from the East Coast to the West Coast twenty years ago, it could be practically nil now.

Well, I hope that some of you who are familiar with television will corroborate this. Much of what goes on television news, for example, is not so much conditioned by sinister machinations of network executives or influences or non-influences of an Agnew, or whatever, but by very

cold-turkey decisions of managers and newsmen over what they can afford to transmit from where. Is that a fair statement?

Paul Bichara (*Senior editor with Radio-Diffusion et Television Francaise [ORTF] in Paris*): Yes, plus the new factor that in different places, in what is called the consultant's news, they can decide for instance, my news is not going fine, I'm losing an audience. Those people now can decide because of the market what's going to be on the news.

Oettinger: These are two factors. This kind of packaging of news and formatting and engineering, not necessarily in a pejorative sense, but turning it out as less of an amateur product as a kind of finished package, why? Because the economics of news distribution depends upon large audiences, and that reaching and holding that large audience is one of the primary factors. Why? Because of the economics of distribution via over-the-air television networks, which depend upon advertising revenues. Therefore, in order to break even, especially on something like news which tends to carry less advertising, TV stations require not only a large audience to view the news itself, but more important these days, I guess, in the thinking of network programming, is the carry-over to the next program or at least avoiding a loss in that news period that would lead either to losing a rating or share, either one, moving into the next time slot. So that's one factor.

The other factor is regardless of who makes the decision, the nature of a decision about what is carryable depends, in part, on how much it costs to get it. Certainly a remote done from some area where there isn't a network affiliate, where there isn't some kind of open line, or pre-paid channel, is not as likely as a feed from someplace where there is a network affiliate and where there is already, for some reason, a paid-for line. So if you could visualize the line costs going to close to zero and visualize the cost of a television station as going down below the current cost of the television station, you'd have a very different kind of situation. And, again, this is what cable technology, laser technology and so forth make possible.

In the scarce electromagnetic spectrum where in a given locale, like Boston, you can only pack in four or five stations, but over cable you can pack in now routinely twelve, quite easily twenty, with some effort, thirty or forty channels. There is no limit, other than economic, on the number of coaxial cables you lay. On coaxial cable if the maximum on one is twenty channels, two coaxial cables would get you forty. When the telephone company lays coaxial cables, as it does routinely in urban areas these days, it lays them in bundles of twenty, which would amount to four hundred

television channels. So the notion of a television channel as a scarce resource is going by the board.

Now, I will not pretend to explore for you in detail the implication of a scarce resource becoming dirt cheap. But that's the essence of that Figure 10. Without boring you with details about the computers, or lasers or microwaves or whatever, it's not important, what all of these things share is the fact that the cost of almost everything you want to do with information—from gathering it, to transmitting it, to storing it, to delivering it to homes, etc.—has decreased over the last twenty years and is continuing to decrease at a rate where it's not a gross exaggeration to say that in principle many things that are now considered scarce could be considered plentiful, if not free. Nothing is ever free, but at least costs, on orders of magnitude, factors of tens or a hundred less than present cost.

Another thing that I'd like to do is go back to the First Amendment issue that this raises because much of the pattern of First Amendment decisions both in newspapers and in television since the Communications Act of 1934 has been predicated on scarcity. And my argument is that with the potential of the vanishing of the scarcity argument, the legal basis for the current structuring of newspaper, movie, television industries is in question. And the changes, therefore, are likely to be profound. You're saying, Why haven't they occurred? My answer to that, roughly, is because the institutional structures that have been built up on the basis of the older technology are still there. And there are strong interests for keeping them that way. As is always the case when a system is operating reasonably well and there are vested interests in keeping its operating that way, why bother changing?

Bichara: Still, you mentioned The New York Times this morning and how much it might become a precedent in legal terms.

Oettinger: That's one milestone in a fifteen-year, very slow progression. If you read The New York Times, David Foster, the president of National Cable Television Association, made an amazing statement to me. We are shocked, he said, and find it very curious because, after all, we are an industry that believes in paying its bills, and are perfectly happy to pay a reasonable fee. This is a very different statement from what was made ten years ago when they figured, Hell, we are in fact re-transmitting. It just so happens that they made their peace now with the notion that they would have to pay copyright, and they're surprised as all get-out by the Supreme Court's making its decision. And, having had a crack at and missed the opportunity to enter that case as an *amicus curiae*, I can see why.

Once upon a time, telephone technology seemed to be what the telephone industry used to supply telephone service. But the scientific and technological foundations of telephone systems and of computer systems are now merging as both increasingly rely on the same large-scale integrated digital technology for their information transmission, storage, processing and control functions. The boundary between the telephone system and computing has been the subject of a major inquiry by the FCC, but the issue is still wide open.

Motion pictures once meant only film technology, but motion pictures are now routinely recorded, stored and played back on either film or videotape, often under the control of computers. Digital recording of pictures exists, but is not yet routine. Once upon a time motion pictures had to be physically "bicycled" to theatres. Now they may also be electrically broadcast over the air or sent over telephone company or cable television lines to theatres, hotels or homes.

Cable television relies on coaxial cables to retransmit broadcast television material, including motion pictures, but also relies on microwave wireless technology to capture this material. Coaxial cables are also a major element of the telephone network where they are used, among many other functions, to transmit television pictures and computer data. Most computers also incorporate some coaxial cable. And, coaxial cable is by no means the only technology suitable for non-broadcast distribution of either television signals or computer data.

Printing, once associated exclusively with moveable, reusable slugs of metal type, increasingly relies on computer-aided composition directly onto film. Some visions of future home delivery of "newspapers" foresee an all-electric operation from the moment a news item leaves a reporter's hand at a keyboard, is transmitted over someone's wire or wireless service for display to an editor working at a TV-like screen, is assembled with other materials in a computer storage medium and then is retransmitted over someone's wire, microwave link, light pipe, laser beam or whatever to the home television set of a reader who then has the option of capturing the text permanently through some form of dry-copying or printing technology.

The experimental Mailgram service links electrical transmission by the private sector with on-foot transmission by the public sector into a single system. Customers of the telegraph company with teleprinters on their premises transmit messages to post offices equipped with teleprinters where postal employees remove messages, place them in envelopes and put them in the first class mail stream.

Figure 9. Notes on merging technologies.

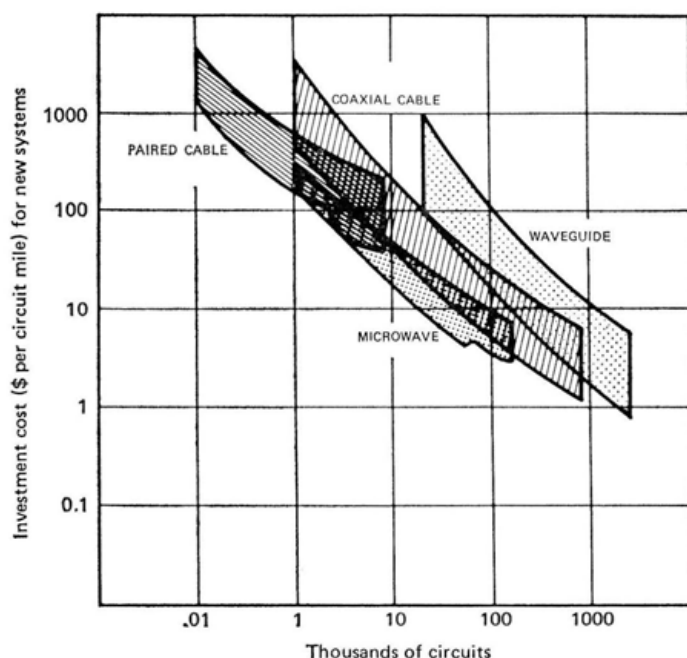


Figure 10. Costs of alternate methods of information transmission.

Cost trends for terrestrial transmission of information are down while carrying capacity is up. Paired cable is the original telephone technology still in use; the others are later developments. The increases in the handling capacity of the four transmission systems represent developments over time as well as technical improvements. The investment costs are expressed as a range. This chart is adapted from staff papers prepared for the President's Task Force on Communications Policy, 1969.

The arguments that the Supreme Court brought have to do with notion of common carriage and the cable industry acting as the agent of the home viewer, rather than being a proprietary business putting out its package of signals. Now, again, let me tie that in with newspapers. There's a case in Florida—*Tornillo vs. The Miami Publishing Company*—which ought to make your blood run cold.

What *Tornillo* is doing is moving into newspaper fairness doctrine arguments that have their roots in television and the argument of scarcity, just at a time when those arguments are disappearing in the television industry. And, it's very ironic because the path of the last twenty years has been one where the competitive newspaper, the multi-newspaper town, has gradually disappeared. When I first moved to Boston, there were four or five papers. Now there's the *Globe* and the *Herald American*.

Ronald Gollobin (*Investigative reporter for the New Brunswick [N.J.] Home News*): Let me go back a moment. You said that technology existed to lay within, say, four hundred channels. If you take the population of the Boston

metropolitan area and divide it by four hundred, you're no longer reaching mass audiences, I don't think. And it seems to me what's going to happen is you're going to have a fragmented thing as what has happened to mass-circulation of magazines. One by one, they have been falling prey to a lot of things—higher postal rates—but also in a more insidious way, to the special interest magazines.

Oettinger: But have they fallen prey to special interests? Perhaps, or perhaps not. It's that the economical mass medium has been television.

Gollobin: In the end, aren't a few channels or whatever going to dominate?

Oettinger: Look, are they or are they not? I don't think that that's inexorable. You're in a sense making my point, that the game is far from over. In fact, in many respects it has only begun. What determines which way this is going to go and if a few large things are going to turn over? I mean, there are all sorts of nightmares or dreams you could construct, depending on your viewpoint that, yes, things will be fragmented and the possibility of reaching large audiences will disappear. That's a negative way of putting what others put as a positive good of the ability in the electronic media—and to some extent the print media—of reaching specialized communities. The FCC for years has had this ideal, perverted as it may be, of localism. So depending on how you look at that, it's good or it's bad that you are losing mass audiences.

The point is that the technology, the technological changes that have taken place, whether it is in printing through increasing use of phototype setting and computer-aided typesetting and so on, or these electronic transmission technologies are pretty neutral with respect to which way you go. The primary elements in determining which of these dreams or nightmares come true are, therefore, the legal, traditional power balances that are very much under our control. If we realize that there is an issue to be addressed and that the issue is not one of technological determinism, but rather one where the technological change has made possible profound reductions in cost and that the question of where the benefit of reduced costs fall and how they fall and who benefits, is very much a matter of public interest.

And my main point I want to make is that to the extent that anybody is consciously making any policy in these areas, it is only a few special-interest players who even when they push their self-interest, have a very narrow and ill-formed self-interest. By and large, it's the citizen in the street who, after all, is having his mind diddled, and the question of what he can buy by way of entertainment, or

news, or education, or so on, that's what's at stake. I mean, you know that this game is going on.

I'm a member of the Massachusetts Cable Television Commission and I can assure you that the degree of popular interest in these matters is about as close to non-existent as anything. I'm sure that there is more interest in the rate-setting practices of the undertaker than there is in the question of who controls cable television.

Gollobin: If the government takes too much of a load in controlling what is said on television, particularly in the news or programming, you may find this mass market evaporating and becoming entertainment, and people turning to newspapers, which are supposed to be protected by the First Amendment.

Oettinger: But that's the whole point about Tornillo.

Listener: Tell us a little about the case.

Oettinger: The Miami Herald made some comments about a Mr. Pat L. Tornillo, who was running for the state legislature, and commented on his radical leanings. Mr. Tornillo said, Hey, I want to reply on the editorial page. (The newspaper refused space for his reply. Ed.) Now, it's a curious issue because under previous decisions he didn't have much of a leg to stand on, on classical defamation or libel things, because as a public figure he didn't have much of a case. Newspapers are pretty well protected unless there is something very grievous about reporting and commenting on public figures. But the pitch that was taken in the original decision was that the print media—whereas this issue had hitherto not arisen—had an obligation similar to what has been since the forties, an obligation on television for fairness, equal time, right to reply.

Greg Pinney (*Education reporter for the Minneapolis Tribune*): Excuse me. My recollection is that this was under a unique Florida statute. Florida has a statute which no other state has, and that this was the basis, a hundred-year old law which had never been used.

Oettinger: A Florida right-to-reply statute, right.

Pinney: Yes, and with this guy involved, and the danger, I suppose it's a danger from a newspaper's point of view, opportunity from a public official's point of view, is that if this is upheld, presumably other states will put similar laws into effect. It's not just under a constitutional right, it's applying a particular state law and finding it constitutional.

Oettinger: The Florida decision said that there was nothing unconstitutional about a state enacting a right-to-reply law.

Well, let me try to drive at what I think is the essence of this kind of issue, that the doctrines that lead to this kind

of issue are predicated on scarcity—on the idea that the right of the individual to make himself heard is abrogated if they have no available outlet, and in a one-newspaper town it begins to sound as reasonable as in a one-television station or a three-network station town.

It never made much sense in print technology when the ability to reach your neighbor through pamphleting, say, or through the mails or so on, was a reasonable recourse. Because you could say, Look, the editors or the newspaper publisher's First Amendment right to control that newspaper and say what he damn well pleases in no way infringed on either the right or the opportunity of Tornillo

You can argue that General Motors makes as its main product cars. It happens also to produce a lot of information.

or whomever if he felt aggrieved by this newspaper, to find himself another newspaper; or for that matter to found a newspaper on his own, or to blanket the area with pamphlets or whatever.

But once you have the notion of scarcity, once you have the notion of a monopoly over the communications media, then the kind of tradition that was firmed up in the television area in the Red Lion case where the Supreme Court essentially said, Look, there is a public right to reply, a public right to speak which is to balance the television stations, which, as the Supreme Court analogized, are not like newspapers. They are public trustees, they have this license to the air waves, but because—and this was the key argument in Red Lion—because it is a scarce medium, there is an inherent right to equal time, a right to reply. This has had the FCC tied up in knots ever since then because of either being damned for not enforcing by people who felt cheated at not having the right to reply or being damned by the broadcasters whenever they tried to enforce it.

But I guess my personal view is that the less government interference, the better, and that whatever the merit of arguments for government intervention, on grounds of scarcity and on grounds of fairness, that these arguments are losing their weight, given these technological changes that are making broad access, cheap access, to information-distribution media possible.

And it disturbs me, then, to see a carry-over into cable television and the possible threat in newspapers of a degree of government intervention predicated on scarcity just about at the time when the basic argument for that kind of intervention already has vanished, in terms of the technological reality.

Listener: You said that everything is getting cheaper and you included gathering as well as transmission. Is the cost of gathering news really getting cheaper? It seems to me

that that is a cost which is continuing to rise, particularly in television. The basis of Epstein's book is the tremendous cost of covering the news as a restraining factor.

Oettinger: NEWS FROM NOWHERE by Edward J. Epstein makes essentially the point that I raised earlier that the limits on news gathering by the television networks are less due to sinister forces than they are due to perfectly intelligible economic factors. My quarrel with Epstein is not with his observations, but with his acceptance of the ground rules, that these costs are immutable and I would argue, for example, in the case of transmission costs. I don't have the data yet, and this is what is very interesting, they are blank. . . . From a Harvard viewpoint, a scholarly viewpoint, one of my aims in this program is to pull together figures of this kind so as to be able to answer questions like the one you raised in a more knowledgeable way. But the scandal in some respects is that those figures don't exist; there is no place where you can turn, and nobody gives a damn. Nobody asks these questions. And Epstein himself, though concerned over this, felt perfectly at ease accepting the status quo.

Now on transmission, I mentioned very much at the beginning of this tirade, the economic dominance of AT&T, and you say, Well, okay so there are telephones and I pay ten bucks a month or whatever to the telephone company and so much for long-distance calls, and there are obscure proceedings before the state regulatory bodies and the FCC over telephone rates, so what the hell has it got to do with anything?

Well, it's got very much to do with anything, because subject to the question of how much of the total cost of a news program is in transmission—let's assume for the moment it is non-negligible—it probably is, though I doubt

If something cost a million dollars to do twenty years ago, it could cost one dollar today.

if it's a dominant factor. The question of telephone rates indeed has an impact on what news is shown. And I would argue that in principle the long-distance telephone rates should be a tenth, if not a hundredth, of what they are now. And you say, What keeps this from happening in practice? Well, that gets to be a very long, involved story over what the telephone company does with its accounting errors, over how much is charged for local calls, and how much is ascribed to long-distance calls.

And there are proceedings before the FCC right now. There's this high-low tariff issue which, to a newspaperman, why the hell, unless you happen to be covering telecommunications news for a specialized sheet. Even The New York Times didn't pay that much attention to television

until last October when Les Brown moved over there. Why in the hell would you give a damn about something like high-low tariff? Well, the high-low tariff is an issue over whether rates shall be lower where there's high-density traffic and higher where there is low-density traffic, whereas right now the way the telephone company charges is on cost by averaging.

They sort of take the whole pot of costs and divide it by the number of calls, that's flat rate. . . I'm over-simplifying, but it's a cost-averaging principle, and the notion that it is, after all, by some views of cost accounting, cheaper to make a call where there is high-density traffic because the

. . . There's a case in Florida . . . which ought to make your blood run cold.

capital investment is shared by a larger number of calls; therefore, the unit cost of the call is smaller and you ought to charge less over high-density routes than over low-density routes where the capital expense may, in fact, be higher because you've got to string wires to the middle of nowhere. Nobody lives in the middle of nowhere and they make fewer calls, and if you were to charge them without cross-subsidization, those rates would be much higher.

Now my cynical view is that this whole high-low bit is tied in with pure political ploy on the basis of the phone company . . . to get people of the main cities up in arms and say, You are screwing us poor rurals at the benefit of the big interests in the cities, etc., etc. But the trouble is, a lot of these things get interconnected and then get off into infinite tangents and you get drawn back into why that has something to do with you.

Well, the high-low issue is of interest primarily to people who are doing data transmission, like between computers. But those rates will also apply to transmissions like on news and wire services, etc. And now if the rates get lowered on the high-density route and increased on the low-density route, it will reinforce the tendency to transmit news only from places where it's already being transmitted from. And even if the greatest event in the world happened out in East Oshkosh, when you start looking at the question of whether you rerun some stale clippings that you got by mail or something, a movie you've already edited and so forth, or whether you do a live remote, what's the decision going to be?

Gollobin: In a sense that's already true. You can get a camera crew to a fire in downtown Boston in five minutes or to a president's plane that goes down in the Green Mountains, but if you have to hire a helicopter and so forth, if the news department wants it, you're going to do it.

(continued on page 48)

Confessions of an Ombudsman

(Ben Bagdikian, author, press critic and former ombudsman of *The Washington Post*, was a Nieman seminar guest speaker during the fall term. The following transcript of his talk was edited by Morton Kondracke, Nieman Fellow '74, and Washington bureau reporter for the *Chicago Sun-Times*.)

Bagdikian: We've all heard about the great despair about the status of the news media because they were being clobbered by the Administration and by everybody else; and then about the euphoria when Watergate showed that the people who'd been accusing the press of distortion had actually been playing some pretty dirty fun and games and seemed to vindicate the media. I think to a large extent—certainly in the eyes of much of the media—it did vindicate them, although as usual it was one per cent of the papers that helped vindicate the other ninety-nine per cent who didn't do anything.

But I for one am in a mood of depression again because I think we really aren't out of trouble in protecting press freedom or the view of the public towards the media, or even how free the media is going to be to operate. Before Vice President Agnew's resignation, Judge Hoffman in Baltimore gave Agnew's lawyers the right to subpoena *anybody*, including journalists, and ask them under oath the sources of their information on grand jury proceedings. I think there are some very basic reasons why we're going to have trouble for a long time, and only partly because of the very special view that Nixon and his people have towards the media.

I have, I think, a proper regard for the Sixth Amendment. I have an even greater regard for the First Amendment. I never heard the White House or anybody else complaining so bitterly about pre-trial publicity when the Val-

acchi Papers were being released to the Saturday Evening Post about the Mafia before anybody was brought to trial; when Mr. Nixon said Manson was guilty before he had come to trial; when J. Edgar Hoover said the Berrigans were guilty before they were indicted; and when, in the indictment of the Berrigans they released personal letters which were only marginally involved in the evidence, but were designed to hold up to contempt the personal life of the people involved. The systematic releasing of damning or tainting information about defendants in notorious trials by government prosecutors has been standard, on the national and local level. Up until very recently it was standard: in most papers I knew of you went to the police department, and they told you who did the crime and how he did it, and you put it in the paper—before there was an arraignment, indictment, or conviction.

The reason I think we're going to have more trouble in practicing independent journalism is that the country is confronted with some very profound problems—and has also been told that there's no solution for them. We tried to solve the race problem, and nothing worked; we tried to solve poverty, and nothing worked; we tried to solve crime, and nothing worked. The fact is we haven't tried very hard at all. We don't really *know* whether the programs of the 1960's have worked because they were never given a big enough chance. But the important thing, from the standpoint of what's going to happen to the public attitude towards the media, is that the public is confronted with the most profound civic problems imaginable, and it has nothing but despair facing it—it has no reason to hope. And for the last three years this Administration has been manufacturing the perfect scapegoat.

The perfect scapegoat is the instrument that is telling people about these terrible problems which they believe

have no solution. It's the media's fault! I think it was done with malice aforethought—this selection of a scapegoat—by escalating the usual and normal antagonisms, and even useful antagonisms, into something really quite malicious and deadly. And so the messenger who is bringing in all these problems is the one that's going to be blamed for them.

I think you're going to find judges who are going to be more and more inclined to express their outrage at their Amendment (the Sixth) being transcended instead of our Amendment (the First). There is a lot, it seems to me, of

As usual, it was one per cent of the papers that helped vindicate the other ninety-nine per cent who didn't do anything.

rather parochial thinking about the Sixth Amendment. Obviously, it's fundamental to our society that a person have a fair trial. The history of the last three years of government political prosecutions and Grand Jury proceedings is a demonstration that the judicial system works, pre-trial publicity or not. You've had the most despised, feared, or disliked elements in our society—the peace activists, the Black Panthers, the bombers, the alleged bombers—up for trial. You had the government condemning them publicly. You had the government leaking out information against them. You had many genuine fears in the population at large.

The government very cheerfully cultivated these cases. They had a specialist who went around to the Grand Juries, perverting the whole Grand Jury system into a prosecution system rather than a buffer between prosecutors and the defendant, and trying them in the most reactionary areas they could—such as Harrisburg, a very conservative district. The location of these trials was not by accident. And what happened? You've had what we elitists tend to think of as the big slob of Middle America listening to the evidence and saying, "I'm not going to stand by and condemn someone when I'm not convinced that the government's right." I think this is an absolutely astounding story. I would never have guessed it. Juries who, by their background, would tend to be antagonistic refused to convict.

So I think that the degree of alarm over the problems of pre-trial publicity is false. There *are* real problems; I think the press used to be pretty sloppy about the whole thing. But I think there are great dangers in courts not only ordering newspaper people not to disclose their source but also not to report trials.

In Sweden it is illegal to publish the name of any person who is arrested, indicted, tried, or imprisoned for two years or less. That means a person can disappear off the streets,

and the public will never know about it. The difference, of course, may be in their judicial and social systems, as in Britain, where until recently there was implicit faith in their criminal justice. They didn't suspect most of their cops of being corrupt and their judges of being political, so they could have all kinds of inhibitions on publicity and assume that justice was being done. That may or may not be true. In this country, it would be disaster. You can imagine what would happen if there were no reporting at all of anyone from the time of arrest to conviction. We already have problems with selective prosecution, with all kinds of unsavory deals, but I think this is a very great thing; and I think the alarm over the Sixth Amendment problem of fair trial is exaggerated.

The issue now is that of a public that is in despair about solving any of the problems they are confronted with—terrible problems—with no national leadership to say how we can solve them. The government is going to continue to support attacks on the press, inhibitions on the press, legal actions against the press. So I don't think the fight is over. I was sort of euphoric about Watergate, but it seems to me that the question really goes deeper than that. The press is going to find itself a kind of shuttlecock in this badminton game.

I think there *is* something that the press can do to minimize or to diminish somewhat this sense of despair, especially in the absence of national leadership. We're pretty good at telling people they've got problems—crime, race, poverty, maldistribution of income, inflation. We take them

. . . There are some very basic reasons why we're going to have trouble for a long time

. . .

by the lapel, and we shake the hell out of them and say, "Brother, you've got problems!" Period. And we leave them. What I think we ought to do in a systematic way is periodically to take a problem in public life and run a whole spectrum of alternative solutions. The paper doesn't have to become an advocate except on its editorial page. It doesn't have to become the advocate of any particular solution in doing this. If we're going to have a problem about inflation, let them run very good, fair, clear descriptions of the solutions offered by Walter Heller, by Galbraith, by conservative economists, middle-of-the-road economists, industrial economists, as to what to do about it.

So, I think one thing that the press can do to serve the public—and, secondarily, to diminish the kind of panic, dislike, or hate of the press we have sensed—is to let the public know that there *are* some very interesting ideas for the solution of our problems, on solving the welfare mess, for instance, that there are some ideas on all of these things.

Just the idea that there may be solutions short of bloody revolution or total repression may come as a new thought these days. But it's been a long time since we've had, throughout our society, a feeling of hope and enthusiasm.

Dolph Simons, Jr. (*Editor of the Lawrence [Kansas] Daily Journal-World*): I agree with a great deal of what you're saying. But—and I'm not trying to stick up for Nixon and all the stuff that has been going on—I seriously think that the harm for us in the newspaper business is to act as if Nixon is making us out to be the bogeymen (which he is). We ought, at the same time, to face up to the

. . . The country is confronted with some very profound problems—and has also been told that there's no solution for them.

fact that to a high percentage of the general public, whether they are taxi drivers in Boston or college presidents from Minneapolis, the press are the bad guys. I think what we've got to do is perform in a manner to generate respect. I come from the boondocks, from the hayseed area, but I don't know if all the people are quite so pessimistic as you on the Eastern Seaboard might think they are.

We don't have a lot of the problems you do—we have other problems—but I think it's up to the press to perform to merit respect and to make the public feel that the press is performing in an admirable manner. I think we've got to do it. If we don't, we're dead. I don't think we can just say we have problems because of what's happened in the last three years. My taxi driver today said, "I'm sorry you're in the newspaper business. I don't like you. You're only out to make money, you disturb people's personal lives, and you have no business putting it into the paper." They've got this general attitude.

Bagdikian: I think there's another reason why the taxi driver doesn't like us. It's been a hell of a long time since the average newspaper has done anything for the taxi driver. With all of the sins on their heads—Hearst and Pulitzer and the sensationalist yellow-journalists of the late 19th century—E. W. Scripps was a Socialist; Hearst, when it served his purpose, was a Socialist; Pulitzer was a free-enterpriser with a social conscience—and they muck-raked like hell. What they did was fight for the working man. They fought for unions, they fought for the ending of sweat shops and factories and dangerous working conditions for the average guy. And it's been a hell of a long time since the average paper has done that.

What has the average paper done for the guy who's buying a house? It's presented him with decades of schlock, saying that every new development is beautiful, go out and buy it. It hasn't told him that his mortgage fees and his closing costs are a rip-off, and that there are kick-backs. If they've done it, it's not done in the real estate papers.

What has it done for the consumer until recently—until Ralph Nader jogged us into it? You know and I know that up until ten years ago it was practically taboo on almost every paper in this country to write anything about a local car dealer or department store because that's where the dough came from. If they had a strike, you tried not to report it.

I don't believe that the answer to that is to take the stereotype of the hardhat approach, which is that blacks are bad, students are bad, long hair is bad and so forth. The answer is to do something for the average person in our news columns, to see what their problems are and fight for them. We aren't fighting for them; we're fighting for the local banker, for the local real estate people, and so forth. And that's why I think they don't like us now because they're disturbed about students and non-whites and so forth, but I think that that's, again, scapegoating. The newspapers and the television tell them very disturbing things; but those things are real. But the reasons we're blamed is partly because, as I say, we're a convenient scapegoat in the absence of something more substantial, but also, we really haven't done a hell of a lot for a long time for the average guy. We haven't gone out and fought.

Charles Bailey (*Editor of the Minneapolis Tribune*): I want to illuminate the problem if I can a little bit. It doesn't pose any solutions, but it breaks things into concrete, in terms of the kinds of things we face. At the moment in Minneapolis we have two sort of quasi-official proceedings in progress. One is before the Fair Trial-Free

. . . The degree of alarm over the problem of pre-trial publicity is false.

Press Council. The Minneapolis Police Department won't give us the names of people they arrest. They claim this is to protect the right of privacy. You can weigh that however seriously you want to. This is a Fair Trial-Free Press Council which has to do with weighing the First and Sixth Amendments. The Council is investigating, the conflict is irreconcilable; and I don't know how it's going to come out.

Second, I have just declined a request from the State Judicial Standards Commission to turn over the entire research project that put together a series of articles we wrote on plea bargaining and the fixing of sentences by a local judge. They wanted us to do their work for them. They asked our reporters to come in; they have the power of subpoena; but they withheld it for the moment. They asked for all our research material, including all our computer print-outs on sentencing surveys, and we told them that we couldn't answer because this would be a violation of confidential sources—we went through each question and, indeed, we feel that it would be.

We have a State Shield Law which was passed in Minnesota, a qualified law which is still to be tested, although the things I've mentioned are likely to test it rather rapidly, I think.

We have our own problems with the question of the confidentiality of Grand Jury testimony. In the course of our investigations on police corruption and judicial hanky-panky on plea bargaining, we started printing stuff out of the Grand Jury, which bothered me. It bothered all the people involved. If there is a confidentiality rule on Grand Jury testimony, who's at fault—the leaker or the guy that prints the leak? What is the responsibility of the press? That's one we're wrestling with, and we haven't really solved it to our own satisfaction.

What you talked about—not speaking for the blue collar, white-skinned, red-necked guy, however you want to

The answer is to do something for the average person in our news column, to see what their problems are and fight for them.

define him—is something we wrestled with for a long time, and we've established a beat. In an attempt to define this thing, we've got a good, experienced professional reporter assigned to something that we call, for the lack of a better name, "American Life." He happens to write about people who otherwise wouldn't be written about in today's context—in other words, the people who are not protestors, who are not a minority, who are not students, but who have stories to tell and problems to deal with. We hope this is an approach.

You say we speak for the auto industry. Well, when we don't speak for them, we sure as hell hear from them. I waste a lot of time fighting these guys off, because they have come to think that they own our news columns. I never believed how much they think that until we started to print the results of mileage tests put out by the federal government, or until we started to write stories about people who have different ways of selling automobiles from the big dealer. All I suggest by this listing of things is that all the theory that you expound is very real on the desk of every editor of any newspaper that tries to be good every day.

I agree very much with Dolph, that we've brought a great deal of this trouble on ourselves—by laziness, by arrogance, by faddism. I think newspapers in general, particularly metropolitan newspapers, ran on in a great big hurry in the late 60's to be not only at the cutting edge of social change—which is where newspapers belong—but to be out ahead of it and to be advancing it.

McCarthy used to say, they always shoot the messenger who brings the bad news. Well, we're getting shot at. I think it's inevitable. I think we always ought to be getting

shot at, because if we're not, we're not out where we belong. I think you could almost say—and it's rough and it's unfair—that newspapers have institutionally favored the privileged establishment, and have editorially favored the poor segment at the bottom, and have forgotten in the last few years about everybody else.

Patricia O'Brien (*Chicago Sun-Times*, 1973-74 *Nieman Fellow*): It seems that in the last couple of years I feel like I'm up to my eyebrows in the problems of welfare. There are solutions; but none of them, as far as I'm concerned, could really work. There were none that you could get behind and say, "This is the final solution." Don't you have a danger there—isn't there a risk in saying that here is a possible solution and that this is something that might solve all the problems of the world, or all the problems of welfare?

Bagdikian: No, I'm proposing the opposite. I'm not proposing that the paper become the advocate of a single solution for all problems. I think it ought to become an advocate for some solutions, editorially and in investigative work. What I'm asking for is a kind of journalistic form which is informative rather than polemical.

Morton Kondrack: (*Chicago Sun-Times*, *Nieman Fellow* 1973-74): Don't you think we have a problem in that our middle class readers feel that reporters and editors have a certain contempt for their way of life? We always seem to be rooting for those who are victims of police brutality, rather than those who are victimized by criminals. We tend to root for blacks in changing neighborhoods rather than the little white kid who gets assaulted by blacks. We tend to be pro-busing as a solution to integration and to ignore the enormous psychological problems that whites face in

... The idea that there may be solutions short of bloody revolution or total repression may come as a new thought these days.

circumstances like that. We worry about Angela Davis's civil rights, but we tend to pooch-pooch Spiro Agnew's civil liberties; we reserve the process and try to rub Spiro Agnew's nose in his own position. We're invariably peacenik; we invariably say that bombing is wrong or that a show of strength in foreign policy is wrong.

If Martin Luther King chooses a Lithuanian neighborhood to march through, we side with Martin Luther King rather than the poor Lithuanians, who are equally victimized by the real estate industry in the neighborhood. And what comes through is a picture, a consistent picture of bias, of well-meaning, well-intentioned, liberal bias, and that's what they're accusing us of, and that's why Richard Nixon gets up on the hardest possible line and says, Look at them—this is what they're for!

Bagdikian: That's true of your paper and it's true of

mine, but I think it's true of a very small minority of all the newspapers in this country.

I've got two very bad habits. When I travel, I pick up every paper I can along the way, in any part of the country, and attempt to cut my throat in a motel room when I read them every night. And I periodically go up to the Library of Congress—and they've got the most randomized selection of newspapers you can imagine. I pick them out and I crank through them, and if you saw the stuff that was going in there, in the *average* paper—now I'm not talking about the metropolitan papers that have the largest circulation, but I'm talking about the average community, the average house district—and see what they're told in their newspapers, they're told exactly the opposite of what you're saying.

Speaker: The perception of the public from what they get from network news and the big metropolitan papers is that we sympathize with the protestors and with the criminal, and not with the victim and the average person. I think the great danger is in putting it in that kind of polarized phrasing. I think people tend to see it that way, and that this attitude has been cultivated and encouraged. But I think the problem is what I said before. It's not so much that the networks and papers have reported protests and racial injustice. The problem is that they have not—in addition to that, historically—done the same thing for injustice to other kinds of people *as well*.

Frank Friedel (Professor of History): I feel as I go around the country reading newspapers—although I'm not really ready to slit my throat, I use the wastebasket—that there are many papers in the country that are suffering from sins you've been talking about this evening. Most of the newspapers still feel that if they write about a car dealer or about car business unfavorably, they're going to lose the advertising.

My impression, though, is that the curious thing is that publishers today are some of the people with conscience,

What I think we ought to do in a systematic way is periodically to take a problem in public life and run a whole spectrum of alternative solutions.

whereas practically no publishers of the 1930s, as recently as that, certainly not in the 1920s, really had much conscience. I would disagree with you, Ben Bagdikian, about the great days of Hearst, Pulitzer, etc., because the stuff they wrote to get the workingman's circulation was, on the whole, rot—sort of working-class production stuff—rather than really getting at what is wrong and trying to do something about it. There was a lot of tremendously good realism that went on back in the progressive era, a lot in magazine journals.

Ronald Gollobin (New Brunswick [N.J.] News, 1973-74 Nieman Fellow): The Washington Post started what was then a very novel equivalent of "ombudsman." I have a three-part question: Why they did it? Why they picked you as an ombudsman? And third—the most embarrassing question of all—why did you leave the Post?

Bagdikian: Number one, they did it because there had been some agitation among the editors of the Post to have something of this sort. One editor, Phil Foisie, had written a brilliant memo—I think in 1968—stating very cogently and earnestly that newspapers criticize all other popular

. . . I had a strong feeling when I became the ombudsman that I should not write confidential memos to the management. . .

forms, but that there's no one to tell the reader what the independent, critical judgment is of his own newspaper. And then Bradlee, the executive editor—among his virtues is that he has a short attention span and makes decisions very quickly—listened to these arguments, asked what each of us thought about it; and we didn't hear anything for a long time. And then one day, there was on the bulletin board a notice that said Richard Harwood will be the ombudsman. And that's how it came about.

I was not the first ombudsman. It was Dick Harwood, who is now the assistant managing editor for national news. He was ombudsman for, I guess, the better part of a year. I became the second ombudsman, and I was ombudsman for less than a year. Now there is a third one—Bob Maynard.

Not all of the editors were for it. Some of them were ferociously against it, for the usual reasons. They felt the critical judgment ought to be in the editor's job when he put something in the paper. And that Monday-morning quarterbacking had all kinds of problems in it. But most of them were for it. And the Post was at that moment in an adventurous mood, and did it. And I think it was a great idea—and I still think it's a great idea.

My leaving was rather complicated; but as far as the ombudsmanship was concerned, when I said that I'd enjoyed being a national editor for a couple of years and I'd like to go back to writing, Bradlee (in a flash of inspiration) said, Good—you and Dick Harwood ought to change jobs. So, Dick went back to being national editor and I became ombudsman. And Bradlee said: Write for the Post what you used to write for the Columbia Journalism Review. I'm not sure he knew what he was saying when he said that. At the Columbia Journalism Review I frequently nagged management. I have the distinct impression that this was not in the thinking of management at the time I was appointed. They thought that the job of ombudsman was to criticize the staff, which ought to be a very important

part of it, and was. But when an issue came up about management policy, as it affected the news staff, I think that this was an unexpected element. It was aggravated by my losing my temper here at Harvard at a meeting.

James C. Thomson, Jr. (Curator): You said some terrible things.

Bagdikian: I know. The Black Caucus—the black members of Congress—had a conference here at Harvard on various problems, the race problems of the country, including race in the media. They prepared a working paper which they sent to a panel which was supposed to sit and comment on this working paper. I thought it was a terrible working paper, the thrust of which was the primary aim of the news media in the United States was to oppress blacks. Now, I don't think that's true.

I said in my response to this paper that if you're trying to change the media to be more responsive to reporting affairs of the black community, then you've got to understand the

If Martin Luther King chooses a Lithuanian neighborhood to march through, we side with Martin Luther King rather than the poor Lithuanians, who are equally victimized. . .

media—and you had better understand that the primary motivation of the media in this country is not to oppress blacks, but to make money. If the proprietor doesn't make any money, he's not going to put out any medium. And that's his primary concern.

The more vocal of the black leaders there were very angry at this and said that wasn't true, that that was a lot of nonsense. It seemed to me that *they* were saying a lot of nonsense, in the heat of argument and in competition to see who could be the most militant. And so I lost my temper—and put something perhaps in a way that I would in retrospect (as they say) fashion differently later.

I said, Are you trying to tell me that if you were in a city like Washington that had 70% blacks, or in any number of other large metropolitan areas with either a majority or a large minority of blacks, and you went in to the publisher and called him a racist, that you'd get a bigger effect than if you went in and said, I'm going to have all the blacks boycott your paper and its advertisers? I said, If you want to test this thesis, you'll see whether they'll respond more to the threat of a boycott or just calling them racist.

Well, the antagonism hit the fan, and when I got back I was asked for my—I wasn't asked for my resignation. I was told that I was disloyal to the management, and I said, Well, as ombudsman I don't regard my loyalty as being to the management, but to the readers.

So that's what happened. And things went from bad to worse. And let me say that one of the problems was that

the name for that job on the Post is a bad one. An ombudsman, classically or originally and essentially, is a person who represents the public against some entity, and has some power to bring some change against that entity. And I don't think there ought to be that kind of power in a newspaper; and in fact, the ombudsman at the Post did not have the function of being able to say to an editor, You've got to change this.

As a matter of fact, one of our other arguments was that, as originally practiced, the ombudsman on the Post, in addition to writing a public column on what he thought were flaws in practices of journalism (including on The Washington Post), wrote confidential memos to the publisher and executive editor about the performance of particular reporters and editors. These were not seen by anybody else, until I saw one of them once, when I was an operating editor, and also went through an incident which impressed me with the danger of this kind of thing.

First of all, there was the danger of condemnation without right of reply on the part of the reporter. I got a call from a lobbyist for the Air Force—something I got about every other day—saying that he wanted to report that at Senator Proxmire's hearing, our reporter, Bernard Nossiter, was seen writing out questions, handing them to the Senator, who then read the questions out to the witness. He wanted to know what kind of journalism, dispassionate journalism, that was. The lobbyist also said that he was writing a complaint to our ombudsman about that. I was not the ombudsman at the time, but I was the editor of this

. . . The curious thing is that publishers today are some of the people with conscience.

particular reporter, and I went to him. He said, No, they've got it all wrong as usual. It wasn't I who did it, it was a correspondent for another prominent paper who does it all the time. He said, I regard that as unethical and stupid. I made another check, and he was right. So I wrote a protective letter to the ombudsman saying, You're going to get a complaint from someone, but I urge you to check it out, not just put it in this guy's file, because it's not true.

So, I had a strong feeling when I became the ombudsman that I should not write confidential memos to the management, because I didn't see how I could be their agent and a dispassionate critic at the same time. I also felt I wanted to be out of the building—and they didn't agree with me then—because I thought there was a great danger of undercutting the authority of operating editors.

I used to have reporters coming to me before they turned in a story, because they wanted to buy insurance with the house critic. And I would say, Don't show it to me. And

I would go to the operating editor and I'd say, Tell your guys don't show their stories to me, because I don't want to see them. There is that danger of creating confusion as to who is making the decisions—just as I think it would be wrong for a producer of a play to go to a critic ahead of time and say, Hey, tell us how you think we ought to fix this up, because that guarantees that we'll get a proper review.

Questioner: Would you comment on British-American differences in coverage of criminal cases?

Bagdikian: I don't think that the English system would work well here because we have a much more politicized criminal justice system. It is not at all certain that if the mayor were arrested for drunken driving, he would be treated the same as a bus driver who was arrested for drunken driving in his own car. Neither is it clear that an impoverished person charged with a crime would get the same treatment in a plea—as far as access to competent counsel, freedom from coercion—that a person who is influential and affluent would get. The statistics on the whole criminal justice system show a very strong bias against the poor, against the non-white. They spend more time awaiting trial, they have higher bail with the same offence, and so forth. They get longer sentences, they get parole less, and so on.

So there are inequities in our criminal justice system, and I think that a major therapy is the constant possibility that it may be reported publicly. I think that when an influential person is arrested for a white collar crime, the fear of exposure probably is the biggest influence on whether or not there is a prosecution of that person. So that's the basic reason I think we need to have pre-trial publicity: in order to keep the system honest.

Ellen Goodman (*Boston Globe* columnist, 1973-74 *Nie-man Fellow*): Newspapers are much more highly influenced by advertising than by news sections—in that sense, much more easily corrupted. Often you'll find policy made in the Motor Vehicle Weekend section—it will come out with a little article in direct opposition to the anti-highway stand of the editorial page. On the other hand, the back of the paper is very often doing the stories that are the "little people" stories. This is not really a question, but a comment about the distinction.

Bagdikian: Well, I think the disciplines and efforts of the active news, as compared to the special sections, are in most papers like night and day. I find it rather typical that The Washington Post ran a first-rate series of articles by Ron Kessler on the racket of mortgages and home closings in the city of Washington, which is a great real estate place. This didn't appear in the real estate section; it appeared in the news section. Well, it ought to be the kind of thing that real estate sections deal with. And food sections,

too, in most papers are mostly buying-mood stories. The recipes are provided by the standard syndicated service, supplied by the manufacturers.

Goodman: Well, why aren't there the same standards?

Bagdikian: There ought to be. But I think it's been traditional that these have been advertiser-oriented sections. And you very seldom will see a special section which is critical of the product which they happen to be talking about.

Questioner: Would you want to comment on The Boston Globe?

Bagdikian: It used to be terrible! Now the Globe I find an interesting and exciting paper because it's doing new things and is improving so rapidly.

Thomson: Then why isn't it The Washington Post? Which is, I'm sorry to say, the unkind question that all of us want to ask Winship (*Globe* editor Tom Winship) every time we meet him.

Bagdikian: Well, partly I think it's money, but I don't think it's that so much. There's less and less competition locally. But I think the situations are different. The Washington Post, for a time, was run without regard for money because Phil Graham (the Post's late publisher) was a dynamic guy who just lived day and night to produce a winner and had some ideas about what ought to happen. He happened to adopt some contemporary ideas, politically and socially, so it made sense to most of the people buying the paper—and the paper just rode the crest in the late 50s and early 60s in Washington. It was a reporter's paper. The opposition was dying. The Star was old Washington's paper, and it never woke up to the fact. The Globe, I think, has the same opportunity.

I found some things in the Globe which were business office musts that I thought regrettable. Some guy that runs a bunch of theaters opened one in some obscure suburb, and the Globe had 57 inches with an artist's rendering of the marquee. Now the Herald American had 63 inches, but they had the decency to run the picture of the Public Relations Director of the Theater chain—and he was the guy that really deserved credit.

So the Globe has its flaws; but I found it to be, as a former resident of Boston and former next door neighbor, journalistically vastly improved, an interesting and exciting paper on national international news and on specific problems.

Edwin Guthman (*National Editor of the Los Angeles Times*): I agree with a lot that's been said in the beginning, but I think there's too much damn breast-beating going on about the press and these problems. I don't see why anybody expects the press to go into a situation and, Eureka! something happens. You can write your head off on a subject, you can go into zoning, as we did, and put some

people into jail; but unless you elect an honest mayor and an honest council, the problem just keeps on going. I think cities get pretty much what they want. Occasionally there's a distinguished publisher and a distinguished editor who come along and raise a paper to a higher level. But basically I think they put out what the people want.

The reason that the press has gotten better generally is because they can't do the things they used to get away with—because there's usually a cameraman there reporting exactly what went on, or a good part of what has gone on. And, also, the people have gotten a lot smarter and they're better educated and have read more. They have more information at their hands and you have to be better or you lose your appeal towards them.

Bagdikian: But, Ed, did Los Angeles deserve the Times it had in 1960 when I last read it? It was a terrible paper. And does it now deserve the remarkably good paper that it apparently has, and was it that the community got what it needed—which is I think what you said earlier—or, is it that some person like Otis Chandler came in to rev up a rather tired old organization the way Tom Winship revved up the Boston Globe? I mean, how much can we really be serious in saying that a community gets the paper it deserves?

Guthman: I don't know if you knew about the Los Angeles Times before. It was a pretty bad paper in many, many ways; but what I'm talking about is that it was easy to make it an honest newspaper.

I don't think we do well in San Francisco. Basically, I don't think we do well in San Francisco because San Francisco has a tiny elite and a very, very great lower economic class, and Los Angeles has a very great middle class. That's our circulation and I don't think we could succeed in San Francisco. There are too many papers which are not really very good.

Ned A. Cline (*Greensboro [N.C.] Daily News, 1973-74 Nieman Fellow*): I remember a quote some years ago, I don't remember where I read it now, where you were quoted as saying that in most communities, the political system and the politicians rise or sink to the level of the press. Now if that's the case, is this what happened at Watergate?

Bagdikian: I don't remember that quote that way. The idea I remember having was that the values of the local papers conditioned what kind of people will run for office, what expectation they will have of success in local office.

In Manchester, New Hampshire, people know that they will have very little chance of political success because Mr. Loeb won't like them, and that conditions the whole political structure and tone of Manchester. Not because he knocks them off after they're elected but because they never bother running. The paper establishes a kind of political tone

which politicians have to take into account. Now obviously there are politicians who can beat a paper, and some of them systematically run against the local papers and do it with great advantage. Did we get Watergate because The Washington Post created a political atmosphere which made it possible? No, the—

Cline: I didn't ask you that in an argumentative way. I just wondered—if conditions were deteriorating today in our nation's capital, could they have been brought to light sooner? Was there something prior to Watergate?

Bagdikian: What Watergate really represented was not eavesdropping on the Democrats or dirty tricks. The real evil of Watergate was the creation of a secret political police system run from the very top of government—secret even from some of the law enforcement agencies—that had been running for about a year before it was exposed. It would have been very difficult to have detected this because they were running it as a clandestine operation. So, I think it was theoretically possible; but I think it would be unreasonable to criticize a paper for negligence in not finding it because it is a very tough thing to uncover a carefully, tightly-controlled secret police apparatus which no one could conceive of the White House creating until it happened.

Kondracke: Could something have been exposed prior to Watergate that perhaps would have completely eliminated or scared off those characters of Watergate?

Bagdikian: See, the public had been prepared to disbelieve the press. The Christian Science Monitor did a very interesting survey of its correspondents during the fall campaign, asking those around the country to do a non-scientific man-on-the-street interview of how much people were really paying attention to the Watergate disclosures before the election. A very significant portion of the people who responded dismissed it all because it was from the Eastern press—and that's the term they used—which meant that they were repeating the code-words of Agnew for the radical-lib, not-to-be-believed press. So I think the public had been conditioned to disbelieve us.

Simons: My point that I made in the very beginning was I think that we've got a job on our own hands whether it's in the eyes of a history professor or a biochemistry professor or a taxi driver, whether it's The Washington Post or in Lawrence down in the boonies. We've got to have the kind of reporters that when we do call the attention of our readership—whether it's 20,000 or a million or a million and a half—the readers say, "By God, I believe that guy!"



Headlines and Deadlines: China Style

SHENYANG, China—Except for suppressing one of the biggest national news stories of a generation for 17 years, the *Liaoning Daily* is not too different from any good American medium-sized daily newspaper.

It comes out every morning, 365 days a year. It covers the local news with its own staff of reporters and relies on news agency dispatches that come in by teleprinter for its national and international news.

Circulation is 300,000, and the paper serves the entire province of Liaoning, one of the three provinces that make up what used to be called Manchuria, now known as Northeast China. It is published here in Shenyang, a city of 4,000,000 that the Japanese called Mukden.

When an Albanian ballet troupe toured Liaoning for five days, the *Liaoning Daily* sent a reporter along and produced three news items and four longer articles. Another reporter spent a week or so in the city of Fu Hsin in the western part of the province, sending back dispatches on successful efforts to increase production and improve quality in the output of a radio transmitter factory through cooperation of Communist party cadres, technicians and workers.

The Chinese language posed a special problem for the reporter. Since Chinese has some 2000 commonly used characters instead of a 26-letter alphabet, a Chinese typewriter is a complicated device that is not at all portable. He wrote his dispatches in long hand and sent them to the paper by messenger.

Late news that comes in on the wire from Hsin Hua, the government news agency, can be handled until 4 a.m. The paper comes off the press at 7 a.m.

Four editors—three men and a woman—and another man described as a “staff member” seemed to have some of the same pride in their newspaper that a group of American editors might have in theirs. Discussing the operation with this reporter, they expressed satisfaction over a recent rise in circulation, attributing it to a good distribution system, making it easy to get the paper, and to putting out a product that served popular needs. They said they tried to make it “beneficial to the majority of the masses,” but in more commonplace terms it turned out that they were careful to include such items as news that good cucumbers and watermelons were on the market and listings of current mo-

tion pictures, ballets and operas appearing in the province.

The provincial press in China is classified secret as far as the rest of the world is concerned. Repeated efforts to buy local papers in Shanghai, Canton, Peking and Shenyang met with a variety of responses, all negative. No news stands were open, they probably were sold out, there isn't time to look for one, and so on. When pressed, officials and interpreters acknowledged reluctantly that foreigners were prohibited from buying anything but the *People's Daily* and the other big national publications. The Chinese government regards the local press as a prime potential source for foreign intelligence operations, as, indeed, do the foreign China watchers sitting in Hong Kong, where occasional smuggled copies of local newspapers are studied and analyzed for bits of information about what is really going on in the closely-controlled country.

So it was unusual that an American newspaper reporter and his wife should be given a lengthy explanation of the operation of the *Liaoning Daily* and a tour of its plant. But it was not entirely unexpected when, near the end of the tour, one of the editors showed the reporter a copy of the paper as it had come off the press at the end of the morning's run and then took it away again without letting him examine it—even though only two of the four pages were printed, and they were in Chinese!

The presses were not unlike those of a smaller U.S. newspaper of a generation ago. They were three rotary units, made in 1960 in Shanghai, each able to print in two colors,

The Chinese government regards the local press as a prime potential source for foreign intelligence operations. . . .

for occasional red headlines. Two spare rolls of newsprint were kept mounted on each unit for rapid changing. The head pressman said it was possible to change rolls without stopping the run, but he said that was not usually done. Each unit could print 100,000 copies an hour of the four-page paper, although the rate usually was held down to 70,000. That meant that the entire paper could be printed in about an hour and a half.

Upstairs in the composing room, major differences were evident from an American print shop. All type, including body type, is handset, from 30 verticle double type cases arranged in two long rows. Each case contains one font of the 2000 commonly used characters. Young men and women set the type, and a makeup man puts it into the familiar chase, slides it onto a turtle and wheels it over to a stereo-type machine. The shop has two of the latter, and a single pressman operates them both.

The editor points out a proofreaders' enclosure and recalls that not too long ago the proofreaders and typesetters

often were illiterates who, nonetheless, could do their jobs satisfactorily.

After the mat is made, the form is broken down and the headline type saved and redistributed in the type cases. The body type is melted up and recast in semi-automatic typesetting machines, made in the province but not unlike American Monotype machines. The new type is distributed by hand to the cases. Ingots of typemetal bear the inscriptions "TYPE" or "MONO," since they have been cast in forms left over from the Japanese occupation, it is explained. Those labels were the only sign of American influence throughout the plant.

Some unusual aspects of the operation appeared in the discussion with the editors, over the usual mugs of green tea.

The circulation, it turned out, had jumped from 200,000 to the present 300,000 within a period of a few weeks last spring. This was the more surprising in that the paper has no circulation manager. Individuals and organizations subscribe by paying the post office in advance, often for three or six months at a time, at 1 yuan (40 cents) a month. All deliveries are by mail, and the post office maintains the subscription list. There are no street sales.

. . . Not too long ago the proofreaders and typesetters often were illiterates who, nonetheless, could do their jobs satisfactorily.

Since the paper serves the entire province of 32,000,000 people, it can be presumed that demand far outstrips supply and that some administrator arbitrarily decided on a 50 per cent increase in circulation.

Perhaps the strangest aspect of the operation to a visiting American newspaper man was the suppression of a major news story for 17 years. This came out after the editors had given some idea of how politically sensitive news is handled. When President Nixon went to Moscow, for example, Hsin Hua put out only the bare facts of his arrival for the summit meeting and his return to Washington, and the information was transmitted only after he had returned. No news of the Moscow communique was sent out for publication, but the text was sent to editors in a special Hsin Hua mail service intended for reference use only.

The editors then were asked when the newspaper first learned of the political heresy of Liu Shao-chi, the former Chinese head of state who was once expected to succeed Chairman Mao Tse-tung, and when they first printed this news.

One of them recalled that the editors were fully aware as early as 1951 that Liu was advocating a partial return to capitalism. They learned that he had addressed a Communist party meeting in the Northeast in 1950 or 1951 and

advocated admitting 20,000 rich peasants into the party. He also urged the observance of what he called "four freedoms"—to practice usury, to hire labor privately, to buy and sell land and to engage in private enterprise, including the extension of private farm plots in rural areas.

But the newspaper did not touch the controversy until the Cultural Revolution in the late 1960s brought the policy

. . . The strangest aspect . . . was the suppression of a major news story for 17 years.

struggle to official public notice. And it omitted Liu's name in connection with the dispute until 1968, when it published the official announcement of his ouster.

As for the former Minister of Defense, Lin Piao, later designated as Mao's successor but who now has followed Liu into oblivion, the editors showed extreme reluctance to discuss the case at all.

They acknowledged that the newspaper published frequent news of Lin when it came through on the Hsin Hua wire and that he had dropped out of the news last summer.

"Actually, we do not know anything about that matter," one of the editors said, terminating that line of discussion.

Their general explanation for what an American would call news suppression boiled down to a journalistic principle in today's China that news must be official or it is not news.

"We have this discipline that what is published in the paper must be correct," one of the editors said. "If it is not true we must not publish it. We are not allowed to."

The same principle came up in a discussion of the confidentiality of news sources. The editors seemed unaware of the Pentagon Papers when they were mentioned as a case where some U.S. newspapers felt a responsibility to conceal the identity of persons who made parts of the secret government history of the Vietnam War available to them.

"News that is published in the paper does not come to us in an informal way, so there is no need to keep a confidence," one of them said.

Another observed, "We do not have such problems."

Returning to the suppression of the Liu story, I told them that an American newspaper normally would print the news that such statements had been made by a major official and then, if they were considered wrong, the paper would attack them on the editorial page.

The senior editor tried to explain why a Chinese paper would handle such a matter differently:

"An American newspaper reflects the capitalist economy, with its competition, but in our country our newspapers carry out the policy and the line of our party. This is under our system of unified leadership, and it reflects the planned

economy, so of course it is different from the newspapers in a capitalist country."

The woman editor, who had been mostly silent, took over: "In our newspaper, the different opinions within the people are published in the paper. Those who have an advanced ideology can use persuasion to help those who are backward to overcome their wrong ideas. And of course this includes the criticism and repudiation of reactionary

"News that is published in the paper does not come to us in an informal way, so there is no need to keep a confidence."

ideas. But toward the class enemy, we do not have space for such persons to speak in the newspaper. Toward the wrong ideology, we keep up our criticism. It is always like that."

I told them from memory the main points of the creed of the *Post-Dispatch*, printed every day on its editorial page as laid down by the original Joseph Pulitzer upon his retirement. He said that he knew the paper would always be drastically independent and always would oppose "predatory plutocracy and predatory poverty." I asked what they considered the main mission of their newspaper.

Here is the way the senior editor put it: "Our mission is to propagate Marxism and Leninism and Mao Tse-tung's thought and the line and policy of our party and the advanced thought and advanced deeds and advanced experiences of the masses and the intellectuals in building socialism. Our purpose is to mobilize the masses, to take part in the building of socialism, to support the people's revolution in the world. Being a local paper, of course, we often publish news of achievements in socialist construction in this province."

That's what they said, but I sensed at the same time a quickened interest when I told them how an American newspaper operates. And I thought I sensed a hankering to begin some time to print more than just the official news.

—Richard Dudman

Among the 132 member-countries of the United Nations . . . barely one-fifth enjoy what can genuinely be called freedom of information.

—Elmer W. Lower
Freedom of the Press and
Our Right to Know

The Activism of the Press

(Earlier this spring Katharine Graham was honored as the 21st Elijah Parish Lovejoy Fellow at Colby College, Waterville, Maine. She gave the following address when accepting the award.)

Though Waterville and Washington may seem to be worlds apart, I really think that we are in the same business: the business of education. The Lovejoy Award, for instance, encourages qualities which are as vital to academic inquiries as to the efforts of the press—the qualities of integrity, craftsmanship, character, intelligence and courage. Those are demanding goals, which we may seldom reach but which we must never stop reaching for.

The challenges facing the press today are great. It is true that presses are not sacked and burned, or thrown in rivers, as they were in Elijah Lovejoy's day. And nowadays reporters, editors and publishers are rarely forced to defend their First Amendment freedoms with their lives.

But while modern-day assaults may be less physical, they are no less real. To an extent, that is a consequence of the kind of work in which we are engaged. For any news organization which really does its job is bound to be a target of complaint from people in the news, people with an obvious interest in the way their words and deeds are transmitted to the public.

There is, however, one category of complaint which is especially troubling to me. That is the criticism which comes from individuals who are disinterested, whose achievements we respect and whose comments therefore carry special weight.

One in this category is the former special prosecutor, Archibald Cox. In a recent speech, according to a wire service report, Mr. Cox said that "the media certainly is turning gradually to a more active role in shaping the course of events . . . The selection of the news items emphasized often reflects the sort of notion that the press is the Fourth Branch of government, it should play a major role in government."

Such complaints are as old as the Republic, but have acquired a new currency because of Watergate.

Consider first the charge that the press has become a Fourth Branch of Government. As far as being a Fourth Branch of Government is concerned, I'm sure the other three wouldn't have us—nor would we want to be counted among them. The label, "The Fourth Estate," which was first used by Edmund Burke, is much more accurate, for it

reflects the true role of the press as a vital institution of democracy—but an institution kept apart from government, endowed with a singular status and entrusted with a singular role.

The Constitution makes the difference plain. The powers of each of the three branches of government are generally, and in some cases quite specifically, defined. Their limits and relationships are carefully arranged. Qualifications for holding office are prescribed. The basic source of all authority—the people and their representatives—is emphasized throughout. All this was done to avoid the accumulation and abuse of power.

. . . Any news organization which really does its job is bound to be a target of complaint from people in the news. . .

The press, in contrast, is mentioned in the Constitution only once—and then as an institution whose freedom may not be abridged. The term, “the press,” is not even defined. No limits are placed on its membership, its methods or its reach. Nothing illustrates better that the Founding Fathers sought to keep the forces of inquiry, the transmitters of information, the instruments of free debate as varied, numerous and independent as possible. Freedom of speech and of the press was the essential counterweight to government, the basic check against abuses of official power. And what the founders feared—and so sought to prevent—was not that government might be inconvenienced by the press, but that the press might be harassed and regulated by the government.

So in a very real sense, it is a gross inversion of the Constitutional scheme to complain that the press is too probing or too independent now. Yet there are many who make that argument, with the best of intentions; many who make the ritual bow in the direction of the Bill of Rights, and then go on to say, “Yes, but the press is overdoing it.” We should be more respectful, they assert. We ought to be less questioning. We ought to serve more as bulletin boards for those in power, and be content simply to pass along the news which officials and agencies volunteer.

This notion of a passive, cooperative press reminds me somewhat of the notion of two-party government which was once propounded by a great legislator from Maine, Thomas Reed, speaker of the House of Representatives in the late 19th century. The proper scheme of things, Speaker Reed once said, was for one party to govern and the other one to watch.

The press, however, is not supposed to watch in any docile or passive sense. It is meant to be a watchdog, informing the public of what is really going on and thus keeping those who govern perhaps more honest, certainly more account-

Elijah Parish Lovejoy 1802-1837

Born in Albion, Maine, a graduate of Colby College in 1826 and an editor who crusaded strongly against slavery, Elijah Parish Lovejoy is America's first martyr to freedom of the press. He published strong anti-slavery views in the *Observer*, a weekly in St. Louis; and continued his crusading journalism at Alton, Illinois, where mobs destroyed three of his presses. He was killed the day before his 35th birthday while guarding another new press. His martyrdom helped advance the cause of abolition in the North.

able—and thus dishonest only at some peril to their tenure and their power.

This is hardly an easy task. For one thing, the sheer bulk and complexity of modern government makes it hard: much of what is really important is obscured in the great streams of chaff blown out each day by agencies, departments, offices and bureaus. One fiercely independent journalist, I. F. Stone, made much of his reputation by digging up and putting together facts which had been buried—in the public records of the government.

For another thing, the government—and especially the President—has come to enjoy awesome powers of communication which can be employed at will. As we have seen recently, a president can command live coverage on all television and radio networks, on virtually any subject, at short notice. He can choose his forum and select the live audience to applaud or ask him questions. His remarks will not only be carried across the airwaves; they will also be reprinted, at least in large part, in the daily newspapers of the land. Presidential pronouncements thus enjoy a weight and circulation which no other view or version of the facts is likely to attain.

This gives the government enormous power to reveal what it wants when it wants, to give the people only the authorized version of events—and, equally important, to conceal that which is unfavorable, untimely or embarrassing. And that power to conceal, to keep information bottled up, is a kind of license to abuse the public trust.

Nothing illustrates this better than Watergate. Toward the beginning of the first Nixon Administration, John Mitchell once warned the press that we would be better advised to watch what the administration did rather than what it said.

So, with the hindsight we have now gained so painfully, let's look back at what was being said—and what we now know was being done—on a few specific days.

Let's take, for instance, June 25, 1970. What was being said? President Nixon addressed the Jaycees in St. Louis, and he said, "Some believe the nation is coming apart at the seams; that we are gripped with fear and repression and even panic . . . It is time to stand up and speak about what is right in America." And he said: "If we ask people to respect the laws, we must have laws and those who enforce the laws who deserve respect."

What was being done on that same day? Tom Charles Huston, a White House aide, was giving Mr. Nixon a top-secret domestic security plan which authorized illegal breaking and entering, mail covers, wiretapping and other covert operations. That plan, as we now know, was approved by the President and was in effect for five days.

Or take another day, March 22, 1971. What was being said? In a live television interview with Howard K. Smith, Mr. Nixon expressed great concern about the cost of political campaigns. The problem, he said, was how to devise curbs on campaign spending "which will . . . be comprehensive and . . . not give an advantage to incumbents over challengers."

What was being done? On that same day the milk producers delivered one of their large gifts to the Republican campaign chests. The next day, Mr. Nixon met with them and then decided to raise milk price supports—a decision which only an incumbent could make.

Or consider a third day, September 3, 1971. What was being said? Mr. Nixon spoke to the nation's dairy farmers and praised them because, as he put it, "You haven't whimpered helplessly about uncontrollable economic forces, nor waited passively for government to bail you out."

What was being done? Shortly thereafter, on September 11, White House aide Gordon Strachan, in a memo to

. . . The government—and especially the President—has come to enjoy awesome powers of communication which can be employed at will.

H. R. Haldeman, noted that the dairy industry had promised campaign contributions of \$90,000 a month but had only paid about half that amount.

Of course, after the Watergate break-in, when the cover-up was under way, the contrast between words and deeds became even sharper. Take for instance, September 19, 1972—four days after the seven original Watergate conspirators had been indicted. What was being said? Vice President Agnew was letting it be known that he suspected—and I quote—"Someone set up these people and encouraged them to undertake this caper to embarrass them and to embarrass the Republican party."

What was being done? According to the recent indictment, on that same day Anthony Ulasewicz delivered

\$53,000 to Dorothy Hunt, while Fred LaRue arranged a payment of about \$20,000 to William Bittman.

Take another day, November 13, 1972. What was being said? Charles Colson was attacking *The Washington Post*. "The charge of subverting a whole political process," he declared, "that is a fantasy, a work of fiction rivaling only

. . . If the media have been paramount in uncovering pieces of the scandal, it is because at the beginning the other agencies of inquiry were not doing their jobs.

GONE WITH THE WIND in circulation and PORTNOY'S COMPLAINT for indecency." Mr. Colson went on to upbraid the *Post's* Executive Editor, saying that "Mr. Bradlee now sees himself as the self-appointed leader of . . . the tiny fringe of arrogant elitists who infect the healthy mainstream of American journalism with their own peculiar view of the world."

And what was being done? Two days later, according to the more recent Watergate indictment, Mr. Colson had a telephone conversation with Howard Hunt about the need for more payments to the defendants.

Take one more day, January 14, 1973. What was being said then? John Mitchell, through his attorney, was reacting to reports that the seven original Watergate defendants were being paid. That, he said, and I quote, was "outrageously false and preposterous."

And what was being done? Fred LaRue was arranging another payment—this time to Gordon Liddy's representative.

What do all these discrepancies show? In some cases, the contrast between words and deeds may have been a matter of expediency; in other cases, part of the cover-up; in others, the product of ignorance about what one's colleagues were up to; in some, part of an effort to shift attention from the news to the media.

But they all point to one conclusion: the inadequacy, and indeed the danger, of relying only or even principally on what those in government say as a measure of what those in government do.

By now, of course, the nation has found out about the Huston plan, the milk money, the payments, the cover-up, and the other illegal and improper acts which go under the heading of "Watergate." The people know in large part because they have found out through the medium of the press and/or because the press generated other forms of inquiry.

Does this make the press "activist"? In a way, it does, but I would argue that it is the proper way. And, to go back to where I began, this whole painful experience points up the flaw in Mr. Cox's argument against so-called press "activism."

The Lovejoy Award

To honor and preserve the memory of Elijah Parish Lovejoy, Colby College annually selects a member of the news profession to receive the Lovejoy Award. The recipient may be an editor, reporter or publisher whose integrity, craftsmanship, intelligence and courage have, in the opinion of the judges, contributed to the country's journalistic achievement.

The Washington Post under Mrs. Graham's direction brought about exposure of the Watergate scandals, in the face of opposition and threatened reprisals.

In previous years four Nieman Fellows have received the Lovejoy Award: in 1953, Irving Dilliard (NF '39) then the editor, editorial page, St. Louis Post-Dispatch; in 1959, Clark R. Mollenhoff (NF '50), then a reporter for the Cowles Publications in Washington, D.C.; in 1963, Louis M. Lyons (NF '39) then curator of the Nieman Foundation for Journalism; and in 1967, Edwin A. Lahey (NF '39 now deceased) then chief of the Washington bureau, Knight Newspapers, Inc.

On this matter of activism, I would note two things. First, if the media have been paramount in uncovering pieces of the scandal, it is because at the beginning the other agencies of inquiry were not doing their jobs. The Congress, the Justice Department and the courts were all thwarted or blocked or delayed, especially at the time when an airing of events might have had the most impact—before that election in November 1972.

House hearings were delayed after the Justice Department turned on the pressure and argued that public probes might prejudice the pending criminal case. A federal judge ruled, for the same reason, that the civil suit brought by the Democratic National Committee had to be delayed. And the criminal case, in turn, was limited and delayed, in part because some officials were playing games with the evidence and trying hard to frustrate the official investigation.

So that left the press. But if Watergate shows how essential it is for the press to be vigorous, persistent and free, the experience also points up the limits of what we can do.

In saying this, I don't mean to take away anything from the superb performance of Bob Woodward and Carl Bernstein, and the team of experienced editors who guided and checked their work during those months of hard, lonely digging. But the fact is that their work was productive only because a number of people, many inside government and mostly Republicans, were willing to talk with them—to tell them pieces of the truth, often at great peril to their jobs.

And it's also worth reflecting on that, even after their stories about secret funds and political sabotage had ap-

peared, a great deal remained hidden. Many of the key revelations came from elsewhere—from James McCord, as a result of Judge Sirica's pressure, from John Dean, from the hearings on L. Patrick Grey's nomination to be head of the F.B.I., from the work of the Senate Committee, from the lawsuits of the Democrats, Common Cause, and Ralph Nader, from the work of the special prosecution team and the grand juries. And what may have been *the* Crucial Event—the discovery that a voice-activated tape system had been installed in the White House—came not from the work of the press, but from a Senate staff question put to a man, Alexander Butterfield, who had been thought of as a peripheral figure.

When you consider everything that has flowed from that one interview—the court suits over executive privilege, the "Saturday Night Massacre," the missing tapes and the 18½-minute gap, the arguments about what Mr. Nixon said on March 21, the impeachment investigation—one thing becomes evident. It is that what has finally given Watergate such scope and momentum has not been the press, but the force of events and the ultimate determination of responsible people to make our system of justice work. What has sustained and enlarged the scandal has not been the press, but the facts which emerged and the way those involved have reacted to each new disclosure.

To paraphrase Mr. Cox, *events* have shaped events. There would, after all, have been no stories if there had been nothing to report.

This leaves the final point: whether by reporting events, the press has somehow exceeded its charter or abused its liberty, and by so doing has damaged the nation.

The question is whether the country would be better off if the Watergate story had stayed in the Post's local section, where it spent its early days; if Woodward and Bernstein

What has sustained and enlarged the scandal has not been the press, but the facts which emerged and the way those involved have reacted. . . .

had gone back to other stories after the White House called the matter an isolated, third-rate burglary; if the press had given up after the first month of denials or the second or the tenth; and if, now, the press should stop telling the country about each new twist and turn in the arguments and investigations.

Would the country be better off if we had never learned about the secret funds, the burglary of Dr. Fielding's office, the enemies' lists, the tapes, and all the other dispiriting facts of Watergate?

This is not just a question the President's supporters ask. I hear it often, from troubled citizens who look at all of the

national urgencies that face us, and look at the cost of Watergate in terms of national unity and governmental strength, and wonder whether it is worth the price for these particular offenses to be exposed.

This is a serious question, and one which we at the Post have thought about a great deal. But finally, I think one can only accept the implied answer if one is willing to concede too much about the strength and resiliency of this country—things that I, for one, am not willing to concede.

I am not willing to concede, for instance, that we can and should tolerate serious breaches of the Constitution and the laws, because disclosure would be disruptive. I am not willing to concede that the American people can only stand a limited number of shocks and a measured amount of disillusionment. Or that we can best serve ourselves and our heritage by running away from our troubles. Or that national stability rests on national ignorance.

This is hardly the faith of a free people. For to say that the press ought to suppress some news, if we deem it too bad or too unsettling, is to make the press into the censor, or

I am not willing to concede . . . that we can and should tolerate serious breaches of the Constitution and the laws, because disclosure would be disruptive.

the nursemaid, of a weak and immature society. And to argue that the press ought to be censored or suppressed, or limited in its inquiries, is to shred the First Amendment and dam up the flow of ideas and information.

Writing of federalism and the separation of powers in the Federalist Papers, James Madison said, "In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place, oblige it to control itself."

For all the safeguards built into our system of government, each branch cannot properly exercise its controls without knowing what the others are doing; and the people cannot properly exert their will without the knowledge on which to base their decisions.

Precisely because it is *not* a Fourth Branch of Government, the press plays an essential role in "obliging the government to control itself." And if we do not serve in this way, the rest of the rights guaranteed by our Constitution cannot be sustained.

Coming: Ben Bagdikian
reviews Chris Argyris
on
Behind the Front Page

Muzzled Sheep:

The British Press Today

London

What a scoop Newsweek scored! It printed last summer the name of the head British secret intelligence service—you will remember him as "M" in the James Bond fables. This news was so hot that no British newspaper dared touch it, and Newsweek on the advice of its lawyer did not include this astounding piece of information in the international edition printed in England. Once the startling revelation had found its way into American editions, however, then British newspapers could report with no jealousy that "Newsweek, an American magazine, has reported etc. . . ."

This charade points to the constraints that regulate English journalists. Editors and politicians like to say that no Watergate could have happened in this country. With less pride, they will also admit that a Watergate-style press investigation would also have been impossible here. In the words of Harold Evans, editor of The Sunday Times, the British press is only "half free." The working journalist is so entangled in a web of legal restrictions and habits that he faces great difficulties merely in going about his day-to-day business of trying to report who is really doing what to whom. This web is not just the work of others; the press itself has helped in the weaving. The consequence of the entire situation is that much of the press often ends up as a house organ for The Way Things Are.

Americans should not merely shake their heads, thank God and the Founding Fathers for the First Amendment, and pass on, for the British experience foreshadows what will result if the present Administration has its way with its Criminal Code Reform Act (Senate Bill 1400; House Bill 6046); which would establish a repressive "Official Secrets Act" and a virtual 'Crown Copyright' in our own country.

* * * * *

The laws of libel are so strict in Britain that they make it most difficult to say anything uncomplimentary about anybody. "English libel laws are the most rigorous in the world," said Harold Evans of The Sunday Times. Not long ago his paper put quotation marks around the word *expert*, when making a passing reference to an ethnologist who professes a racist theory of intelligence. This 'expert,'

never mentioned by name, nevertheless sued, and The Sunday Times had to spend one hundred thousand dollars in legal fees before it managed to win its case.

These libel laws have a chilling effect down the line. A typical case involves a major story in one of the British newspapers about the mysterious and highly lucrative financial deals that have accompanied the exploitation of North Sea oil. One of the reporters met for the requisite session with the paper's lawyer. No, said the lawyer, you can not describe people who buy and sell land as "speculators"—you have to call them "developers." No, said the lawyer, you cannot write "he admitted it was a mistake"—you can only write "he said it was a mistake." You cannot use a quotation from a Labour Member of Parliament who described the Scottish money men who had moved in on oil as the "Edinburgh Mafia" because the business men have not shot anybody. Finally the lawyer relented on that last point because the MP had made the statement in the sanctity of the House of Commons.

* * * * *

Once an indictment has been handed down in a case—and sometimes even before—the matter becomes subjudice, and press comment must cease. Offenders face contempt charges. The purpose, of course, is to assure the accused a fair trial. The result, for instance, is that readers learned little more from their newspapers about the would-be kidnapper of Princess Anne than his name, his age, and that he was of no fixed address. British editors declare with some vehemence that they oppose 'trial by newspaper' and criticize yellow-journalistic excesses of the American press. But in Britain, the principle of subjudice has turned into a kind of 'conspiracy' between the law and possible targets of press investigation to circumscribe public knowledge of wrongdoing. Private Eye, a combination satire and investigative magazine, almost single-handedly unraveled and publicized the so-called Poulson Affair, involving a large architectural firm that was the center of the biggest political scandal in recent British history. Yet when Poulson himself was indicted, not only did all comment cease, but Private Eye even had to withdraw its handy guide to the matter. It was as though all press coverage of Watergate had ended in the summer of 1972 with the original indictment of McCord, Hunt, Liddy and the others. The giant Distillers Ltd. has used this principle to prevent The Sunday Times from publishing an exhaustive account of the sloppy testing and haphazard marketing that made *almost a decade and a half ago* for the great thalidomide tragedy.*

*(Editors Note: See [Not So] At Home Abroad: Its Drawbacks for the Press by Anthony Lewis; Nieman Reports, issue of December 1972/March 1973.)

Clever operators know how to take advantage of the principle even on the slimmest grounds. "I was doing a story on a man who had been involved in very, very wicked dealings," says Julian Mounter, a former investigative reporter at The London Times and now a television producer.

. . . The British experience foreshadows what will result if the present administration has its way with its Criminal Code Reform Act. . .

"My proof was cast-iron, but I had to drive 25 miles to get to a telephone. During that time, the man started a process of libel, on totally spurious grounds, and by the following morning, we would have been in contempt if the story had appeared."

The government itself has quick access to handy tools for the suppression of information. One is the Official Secrets Act. Part I covers old-fashioned spying. Part II, the controversial section, makes the passing or receiving of the most trivial bits of 'official' information an offense, punishable by up to two years in prison. If a civil servant added up all the cups of tea drunk in Whitehall in a single day and passed that information on, perhaps to some anti-caffeine crusader, then both the official and the crusader would have broken the law. Part II is exactly what the bureaucrats ordered—a perfect shield for mistakes and boondoggles of all kinds. A Parliamentary Committee, discovering that the cost of a new missile system had increased by astronomical amounts, was not even able to release the specific information to Parliament, let alone to the press and the public. The cost of the supersonic Concorde aircraft may have increased ten-fold over early estimates, yet the information released to the press has uninformative asterisks in place of the crucial numbers. Even the process by which the government calculates the cost-of-living remains a secret.

Yet practitioners of Part II have found it so broad as to be unwieldy, and a special commission has suggested revisions, accepted in the main by the government, that would narrow the confidential area to defense and internal security, monetary policy, including interest rates and budget proposals, and most of foreign relations. (In a nice little mesh of form and content, civil servants tried to prevent the publication of their own evidence before this special commission—on grounds that such revelations would constitute a breach of the Official Secrets Act.) The proposed "Official Information Act" would simply end up making the government more effective at keeping its secrets. "The present Official Secrets Act is so wide-ranging and sweeping as to be discredited," says Harold Evans. "What this new system would do is replace a blunderbuss with a very efficient rifle."

The government has another anti-information tool in the

form of a D-Notice Committee, composed of government officials and journalists and operating under the Ministry of Defense, which "advises" journalists what not to publish. The newspapers have agreed to abide by the D-Notice system, which means that they have agreed to censor themselves. "Only the British could call the D-Notice system voluntary," declares Chapman Pincher, defense correspondent of the Daily Express. The name of the head of the secret service—until Newsweek's exposé blew his cover—had come under D-Notice.

The pettiness of some D-Notices, as with some of the other examples already cited, highlights the perniciousness of the system. A short time ago, the news department of the Granada Network was preparing a documentary about the Official Secrets Act. One segment involved exterior photographs of a government communications center that intercepts foreign radio messages. The phone number of this installation is available both in government phone books and in the local directory; it has been described in a recently-published book, and is mentioned in the press whenever labor dispute halts work. Nevertheless, the D-Notice Committee decided that the television segment threatened the national security and "recommended" against using that footage. Granada wanted to go ahead; but the D-Notice Committee strongly urged its recommendation on the over-seeing Independent Broadcasting Authority, which in turn ordered the segment cut. Presumably behind such absurd 'advice' lies the rationale used by a Ministry of Defense official to a journalist in a similar situation a few years ago: "You know what the place does, and so do I. But the Russians may not, and we'd rather have their agents working on it than getting into real trouble."

* * * * *

As if not enough laws already block the path of the journalist, a new difficulty has appeared—copyright. Spurred on by the exposure of the Poulson case by Private Eye, reporters on the Sunday Observer had begun to look into business deals involving Reginald Maudling, then the Tory Home Secretary. Nora Beloff, the paper's well-known political correspondent, protested that other reporters were swimming into her pool. The Observer's editor sided with Beloff, and the investigative team was told to "leave everything to Nora." Beloff then wrote a long puff about Maudling, celebrating his sterling Prime Ministerial character, and attacking Private Eye as a "political comic." Unfortunately, the internal dispute at the Observer had been conducted by memo, and Beloff's memo found its way to the Eye, where it was used for a devastating attack on the lady's journalistic ability and accuracy. Since what the Eye had printed was true, Beloff sought revenge through the ingenious device of charging that the Eye had infringed her copyright by publishing the internal memo. The judge rejected the Eye's

contention that the entire matter was of "public interest." Beloff lost, however, but only on a mere technicality—that the Observer owned the copyright to the memo and could not assign it to her in anticipation of the trial.

Notwithstanding the technicality, this copyright decision has proved a great boon to all suppressors of the news. For instance, in the thalidomide case, Distillers Ltd. has also sought to prevent publication of The Sunday Times history of what happened because The Sunday Times has possession of internal company documents that demonstrate gross negligence. Publication, says Distillers, constitutes breach of copyright. The company seeks to prevent indirect reporting on the contents on grounds of breach of confidence. The entire copyright question continues to be somewhat cloudy. "The law will have to be changed," says one reporter on The Sunday Times with less than certain confidence. "If it is allowed to stand with the Beloff interpretation, much newspaper work simply becomes impossible."

* * * * *

Mores and methods also hamper aggressive journalism. Much more than in the United States, the powerful Brahmins of the Civil Service control the direction of government. "There's a bargain between politicians and civil servants," says Anthony Howard, editor of the New Statesman. "The civil servant offers the politician, when he becomes a minister, all the headlines, the entire kingdom on earth, while the civil servant keeps the power to take the decisions." These civil servants go about their tasks, shielded by the politicians, remote from interview or even observation. Since the civil servants, unlike politicians, do not need the press to advance their own careers, they can afford to treat its members with one hundred per cent abhorrence. In 1966, The Sunday Times assigned Anthony Howard to cover Whitehall in the way an American journalist might cover Washington—writing about the internal bureaucratic battles that really shape decisions. The experiment went off like a bombshell, igniting urgent discussions in the Cabinet, questions in Parliament, plans by a top civil servant to sue, and finally an order to lay-off that the Prime Minister delivered personally to Howard: "Mr. Wilson made it very plain that all the conventional sources of information would remain shut off until such time as I was willing to return to the personally cozy but essentially sham game played out at Westminster between Government Ministers and the men who have no choice but to act as their mouthpieces, the political correspondents or, as they are known in Britain, the Parliamentary lobby."

The lobby system is a form of self-censorship, and it exists not only in reporting of Parliament but in such fields as industry, crime and aviation. In exchange for privileges, perks, drippings of whatever confidential information an

official finds useful to leak, the lobby members agree to abide by the rules as to what they will write about. "The bloody lobbies rule the roosts," says Chapman Pincher. "They totally let themselves be used. Journalists have got to blame themselves for this system."

Finally, there exists no real tradition of investigation, the press as people's advocate and watchdog of government, or the people's right to know. In the United States, even the most troglydyte editor pays lip service to such an ideology. Not his British cousin. 'Intrusion' is practically a venal sin. People's affairs are their private business, and that includes fictitious people like giant corporations and governmental

British editors declare . . . that they oppose 'trial by newspaper' and criticize yellow-journalistic excesses of the American press.

agencies. "Whistle-blowing is a phrase that does not exist in the vocabulary of British English," says Charles Medawar of the Public Interest Research Centre. "There's just no tradition of that. There is, for both press and public, a great tradition of deference to authority." Some editors see themselves as part of the "official" team, and thus their job is as much to keep information from the public as to give it to them.

Many journalists consciously avoid controversial material. "British journalists mind very much less than they should the constraints on them," says Anthony Howard. "Although the whips and flails are there, the average editor lies down first, before he's asked to."

Despite the rich if difficult mine of business fraud, the Financial Times will not do investigations. One of its editors once explained that the effort does not warrant the risk of defeat in the libel courts, with the consequent damage to the paper's reputation for accuracy. The London Times did have an investigative unit that produced an excellent series on police corruption, which led to actions against at least 140 officers; but the paper has since allowed its unit to disintegrate.

The press, of course, has an interest in not probing too deeply into some subjects. "The national press is owned by rich families and interests," says a writer on the Daily Telegraph. "They're very close to interests that should be investigated—but then, why attack yourself?" Many journalists are curious to see how thoroughly the papers owned by Lord Thomson—including the Times and The Sunday Times—will go into the seamy side of North Sea oil, considering Lord Thomson's own extensive stake in that development. A more immediate economic argument weighs on the minds of editors. "In an economic situation where so many papers are weakened because there are so many papers, there is pressure on editors not to get into financial diffi-

culties with libel actions and to avoid getting a bad reputation," says Julian Mounter. "And so there's a backlash whenever a paper does get into this area; people say this is not what a so-called 'quality newspaper' should be doing."

The only newspaper to approach such stories with consistency, year in and year out is The Sunday Times, and its Insight Team in particular. Insight's work is known to American readers in book form—AN AMERICAN MELODRAMA about the 1968 elections; DO YOU SINCERELY WANT TO BE RICH? about Bernard Cornfeld and the Investors Overseas Services crash; HOAX, about Clifford Irving; and, most recently, the first volume into the field about Wategate. Insight has devoted months and a great deal of money to subjects as diverse as insurance frauds, the interrogation techniques used by the British Army in Northern Ireland, the true story of spy Kim Philby, and the complex business deals of millionaire publisher Robert Maxwell.

The Sunday Times began to move away from the serialization of generals' memoirs and into this area in the middle 1960's, but the development really owes its inspiration to Harold Evans, who became editor in 1967. A short energetic man, formerly editor of the Northern Echo, Evans claims he became convinced that the newspaper's function was to investigate while visiting American newspapers on a Harkness Fellowship two decades ago. "News is what someone else wants to suppress," he declares. "Everything else is advertising." Although Evans may be

As if not enough laws already block the path of the journalist, a new difficulty has appeared—copyright.

overstating his case, his attitude is an uncommon one among other British editors. Perhaps the highest compliment came from radical journalist Paul Foot: "Given that The Sunday Times belongs to the huge Lord Thomson combine, and given the fact that there are some areas it just will not go into, The Sunday Times does a very good job in investigative reporting."

In recent months, however, journalists both on The Sunday Times and on other papers have begun to speculate that the paper is retreating from its investigations. They worry that the paper has been greatly shaken by the difficulties it has encountered and continues to encounter in telling the story of how thalidomide, perhaps the biggest drug tragedy of recent times, really happened. "The whole episode has had a damaging effect on morale and on courage," says one journalist. "It's possible that the paper is really losing its nerve."

If The Sunday Times forsakes the field, that would leave only one investigator—Private Eye—a biweekly magazine

composed of satire, gossip and digging journalism. While *Private Eye* enjoys a circulation of 125,000—about double that of the *New Statesman*—it can hardly have the same influence as the daily and Sunday press. Month after month, it relentlessly pursued the Poulson Affair, while the rest of the press relentlessly ignored it. Yet only the bankruptcy of one of Poulson's companies finally made the *Eye*'s work credible.

More recently, the *Eye* has been strongly criticized for publishing a biting, gossipy profile of Marcia Williams, private secretary of Prime Minister Harold Wilson. Mrs. Williams has figured prominently in the news because of her participation in the "Slag Heap Affair," a land reclamation scheme, which if not illegal, is of some embarrassment

"News is what someone else wants to suppress. Everything else is advertising."

to a Prime Minister who campaigned against land speculation. The episode has certainly besmirched the infant Wilson Government with scandal. The *Eye* went into some detail about Mrs. Williams' private finances, alleged tantrums, one love affair, and two illegitimate children. The rest of the national press (at this writing) has ignored the story and sought to deny that the *Eye* is even affiliated with the national press.

The *Eye* defends the story on grounds that Mrs. Williams occupies a key position, has great influence over Wilson, and is at the center of a major controversy. Declaring that the story was characterized by "calculated callousness and deliberate curiosity," the *New Statesman* declared: "Masquerading under the label of public interest, it in fact ministered to nothing more than prurient cruelty. . . . A personal disclosure, such as that the Prime Minister's private secretary is an unmarried mother, has nothing whatever to do with her job—and therefore in no way affects the public interest." While that is true, the way she operates and her relationship to Wilson does affect the public interest. Certainly this exchange points to an ever-present difficulty of separating public issues from private.

But the constraints are not, by any means, solely the result of external pressures. The "Slag Heap Affair" only has made that kind of privacy restriction more certain. *New Statesman* editor Anthony Howard sees some point in such a move: "I would not be scared of a privacy statute provided it applied different standards to public officials in comparison with private individuals, and that corporations—such as Distillers—were exempted from its protection entirely." Many other journalists, however, fear that a new law would add only more difficult constraints, and that public officials could easily hide behind it.

As expected, the Government has recently moved

against the press and set up a Royal Commission, partly to look into the difficult economics of the industry, and partly to deal with the issues of privacy and the limits to investigation. The "Slag Heap Affair" only has made that kind of privacy restriction more certain. Perhaps the current state of the British press and its efforts to inform the public is best represented by this year's prestigious IPC press awards. This year's newspaper of the year award—"Special Citation for Year of Progress"—went to the editor of the *Daily Mail*—for his campaign to remove Value Added Tax from children's clothing. As the postwar Labour politician Nye Bevan once remarked, "You can't muzzle a sheep."

—Daniel Yergin



Notes on Contributors

Davis Taylor, outgoing chairman of the American Newspaper Publishers Association, is publisher of *The Boston Globe*. **Anthony Oettinger**, director of the Program on Information Technologies and Public Policy, is Professor of Linguistics and Gordon McKay Professor of Applied Mathematics at Harvard University. **Katharine Graham** is chairman of the board and publisher of the *Washington Post Company*.

Daniel Yergin, a Research Fellow at the Center for International Affairs at Harvard University, recently completed a Ph.D. in international relations at Cambridge University, England. **Ben Bagdikian** is author, critic and former ombudsman of *The Washington Post*.

CAMPAIGN '72—*The Managers Speak* was edited by **Ernest R. May**, director of the Institute of Politics at Harvard, and **Janet Fraser**, Assistant Director. **Richard Dudman**, chief Washington correspondent for the *St. Louis Post-Dispatch*, was a Nieman Fellow in 1953-54.

Elmer W. Lower is president of ABC News. **Robert C. Smith**, a Nieman Fellow in the class of 1960-61, is Director of Planning, North Carolina Manpower Development Corporation.



Guest Editorial

(continued from page 2)

will determine the endurance of the First Amendment protection.

If we fail to carry out our responsibility with courage and integrity, the attacks on First Amendment rights may succeed, and we will have failed the American people by placing in jeopardy their right to a free press.

There is one among us today who has met this very special test. I'm referring to Katharine Graham of the Washington Post. She has great integrity and great courage too—and I for one would like to tip my hat to her. . .

One thing is certain. We should never allow ourselves to be seduced by flattery, nor intimidated by criticism.

Newspapers have been praised and assaulted over the years by Presidents Jefferson, Lincoln, Roosevelt, Truman, Kennedy, and now President Nixon.

President Truman even suggested once, in his salty way, that he could run a newspaper. But when *The Boston*

We do puzzle many people. There is no noun to apply to what we do. . . .

Globe's editor, Laurence Winship, offered to let him edit the paper for a day, he turned the job down in a hurry. "The difference between your profession and mine," he wrote Winship, "is that editors know all about how another man's business ought to be run, while I do not pretend to know the mechanics of yours."

What we should be concerned with—more than our critics—is the integrity of the institutions that serve our democracy.

Without touching on the guilt or innocence of any of those accused in the so-called Watergate affair, it is clear that certain of our institutions were compromised to some degree in the course of this tragic episode.

The reputation of the CIA, the FBI, the Internal Revenue Service, even the Justice Department itself was sullied, as the stain of this political scandal spread.

These were institutions held in high regard by the public. People believed that these institutions operated with justice and integrity.

And yet it is a tribute to the greatness of our political system that our institutions have responded with such integrity and effectiveness at a time of ultimate crisis.

The Sirica court opened the door and let in the light, and our constitutional system withstood the strain.

Helping in no small measure to open that door and let in that light was the growth of investigative newspaper reporting. That phenomenon, welcome as it is, has not been without controversy.

Recently former Special Prosecutor Archibald Cox said that "the media certainly is turning gradually to a more active role in shaping the course of events. . . . The selection of news items emphasized often reflects the sort of notion that the press is the Fourth Branch of government, and it should play a major role in government."

Well, I reject the idea of the press as a Fourth Branch of government—real or imagined. But I reject even more strenuously the notion that newspapers should merely report what public officials say.

As much as some of us might like to think about Edmund Burke's phrase, the "fourth estate," we are not a fourth branch of government. We cannot declare war, we cannot set taxes or tariffs, and we cannot sentence a guilty defendant.

We can only ask questions of people who do make these decisions for people who cannot ask for themselves.

If the "fourth estate" is the honest broker in this dealing between the public and government, I'll buy that.

But we do not become the "honest broker" without working at it. And that is why I applaud the fact that investigative units are springing up in both large and small papers, operating on a full-time basis, and probing into all the dark corners that need to be probed.

It's a trend that has hopeful and healthy implications for both the newspaper profession and the nation.

And it's a trend—so far as newspapers are concerned—that is way overdue.

It is, also, the kind of journalism that is important to the health of our business, if we are going to compete in this

I'd like to suggest that we keep three important words on our agenda—accountability, credibility and respectability.

electronic age. It is something that newspapers can do better than any other medium.

Despite inevitable charges that this constitutes initiating the news rather than reacting to it, I must cast my vote for more aggressive investigative reporting.

At the same time, we must never lose sight of the need to be scrupulously fair in this kind of effort. Investigative journalism isn't a carte blanche for slipshod, inaccurate, or malicious reporting.

On the contrary, it requires more rigorous standards of accuracy, integrity, and fair play than ever. When newspapers become involved in aggressive, investigative journalism, they're dealing with the highest possible stakes. And all the ethics of the profession must be scrupulously observed.

In this connection, I'd like to suggest that we keep three important words on our agenda—accountability, credibility and respectability.

Now more than ever we owe it to ourselves—and to our readers—to be accountable for what we do.

The power of the printed word has always been recognized . . . today, perhaps more than ever before.

But as this power increases, so does our obligation to be accountable and accessible to the people we serve. We must say what we mean and mean what we say—and welcome all opposing points of view.

Letters to the editor, prominently-displayed correction boxes, and a willingness to publish differing viewpoints are all part of accountability.

In sum, when we are wrong we must insist on and persist in setting the matter right . . . which leads us to the second goal of the newspaper business—credibility.

Credibility can't be imposed by edict, or cajoled by contest prizes.

But one thing is certain: if your readers don't think you have it, you're not going to succeed as a newspaper. We speak daily to a mass audience of generally fair-minded and increasingly sophisticated people.

Credibility can't be imposed by edict, or cajoled by contest prizes.

They will decide whether what we have to say is to be believed. And they're not going to be hoodwinked.

Our best hope is to believe in what we say ourselves—and to bend over backwards to be fair.

. . . That may also mean being a little humble. The time for preachy self-righteousness is past.

In the face of an increasingly complex society, newspapers must be compassionate.

And if they are, respectability will follow.

Accountability, credibility, and respectability—all three are required for newspapers to be active, leading participants in the life and growth of this nation. In the years immediately ahead, this responsibility will be pressing in on us ever more strongly.

Ahead is a long and difficult domestic agenda. For many of us it is an unpleasant agenda, one that we wish could be left to the natural healing forces of our society.

We must be investigators ferreting out official corruption. We must be the honest broker between the governed and the governors. But we must also be the beacon lamp shedding

steady light on an infinitely complex society that too often devours the powerless.

We can do this without arrogance. We can do it without blotting out the other fellow's viewpoint. We can do it without being abrasive or looking like limousine liberals or so many effete intellectual snobs.

I must cast my vote for more aggressive investigative reporting.

We have to face the fact that we can't do it without losing some friends anchored to the way things are.

We have to get ourselves out there on the firing line, asking questions about how, if most new jobs are in the suburbs, are people who live in the inner city going to get to them?

What are we going to do about the inner city? Are we going to let it wither on the vine and put all our muscle into the suburbs, or are we going to do an educational job to help create an emotional and intellectual climate for metropolitan solutions?

Asking these questions and helping foster a climate that will lead to rational responses or to the creation of a set of intelligent options are essential to protect our democratic institutions.

This, it seems to me, is a major part of the task that's ahead.

It's another task that can be performed best by the print medium. I'm confident it will be performed.

Newspapers are playing a key role in restoring integrity to several of our democratic institutions. Now they have a further role to try to restore some integrity to our society as a whole, particularly its tattered social fabric.

This would be the ultimate achievement of any newspaperman.

I am optimistic today because I know the country and the Constitution are going to emerge stronger than ever from this period. I also know that this renewed sense of vigor will be used to accelerate the rate of social progress.

There's a big job ahead but it's a job we are uniquely qualified to perform. After Watergate, there's a new beginning.

I, for one, am looking forward to it.

. . . In my ordering of priorities, I feel that the First Amendment issues are more serious in a way than the economic issues.

—Anthony Oettinger
Lasers, Computers, and the
First Amendment

Freedom of the Press and Our Right to Know

—Elmer W. Lower

Senator Ervin recently said, "Divine right went out with the American Revolution and doesn't belong to White House aides. I am not willing to elevate them to a position above the great mass of the American people. I don't think we have any such thing as royalty or nobility that exempts them. I'm not going to let anybody come down at night like Nicodemus and whisper something in my ear that no one else can hear." There were stronger words, but these are enough to make the point.

And the point is this:

The White House and the Congress are locked in a struggle that goes to the very foundation of the Constitution. We, in news, have a particular concern in this struggle—because we can exist only under the guarantees of the Constitution. Our license to be free is, of course, The First Amendment. And it is that same amendment that protects your right to receive a free flow of information.

You might ask: Why would the Watergate case cause any concern among journalists about freedom of the press?

The matter of Watergate led to the most dramatic government shakeup in modern American history. When any story even implies such a threat—history—especially recent history—shows that the media takes a pummeling. But the media decided Watergate needed exposure—and they didn't let up. The investigative reporting on Watergate caused many—both in and out of the Administration—to castigate the press.

Example: Presidential Press Secretary, Ron Ziegler was asked about a Washington Post story concerning an alleged connection of Presidential Aide H. R. Haldeman and a secret fund of money involving the Committee to Reelect the President. This was several months ago. Mr. Ziegler said the story was a political effort . . . character assassination and the shoddiest type of journalism.

Far different language from what the President used later when he spoke of a vigorous press that was part of a system that made America great.

After that speech, the President walked into the news briefing room of the White House and said to the reporters: "We have had our differences in the past, and I hope you will give me hell every time you think I'm wrong. I hope I am worthy of your trust."

They seemed like words of vindication for a press that had

been tenacious. But if indeed the media is tenacious, the words cannot vindicate all that went before.

When Senator Ervin began his dramatic drive to clarify all the murky mysteries surrounding Watergate—he had the media to echo his words and send them into every home in the land in many ways, by radio, television, newspapers and magazines. Mr. Ervin is a key member of a special Senate subcommittee set up to investigate the President's use of Executive Privilege. He has also proposed a press shield law that would protect newsmen who are subpoenaed at federal and state levels from having to reveal their sources—or unpublished information, unless they had witnessed a crime or had personally received a confession. That we have a champion in the Senate pleases us. That there conceivably ever could be a peril to total freedom of the press concerns us gravely. The very suggestion that the First Amendment could be in jeopardy means that we of the mass media must be all the more vigilant. The First Amendment itself is a masterpiece of simplicity.

"Congress shall make no law . . . abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances."

During a recent visit to Europe, I spent a month participating in four international broadcast meetings and touring the ABC News bureaus in London, Paris, Bonn and Moscow. Any American abroad feels a sudden change in news

"Divine right went out with the American Revolution and doesn't belong to White House aides. . . "

supply. In countries where the press has no freedom, there almost seems to be an urgency for an American to find out the truth. I really felt lost in Moscow. It was even worse when we flew 300 miles south to the Southern Soviet Republics of Armenia and Georgia.

After that, when I was visiting with Russell Jones, our Moscow Bureau Chief, I mentioned that about a year ago I took my annual spot check on freedom of the press in foreign countries.

When I had asked Irv Chapman—then our bureau chief—about freedom of news in the Soviet Union, he had said, "There isn't any."

"How is it today?" I asked Russ Jones.

"There still isn't any," he said. In one week in the Soviet Union I could feel that, myself.

I recently cabled our bureau chiefs all over the world and asked them to tell me in so many words what they are experiencing in the area of censorship in the countries to which they've been assigned.

They report that censorship comes in many ways—and

for many reasons. In Rhodesia a freelance journalist, Peter Niesewand, made the mistake of asking Premier Ian Smith in a television interview about \$220,000 being spent to add a bedroom to Smith's official residence. There was no official complaint about that embarrassing question. But shortly thereafter the police searched Niesewand's home and office—and then he disappeared. Eventually he was charged with violating the official secrets act for a story he had written long before. And after a trial in camera he was sentenced to two years in prison at hard labor.

Often a government will use economic muscle to enforce censorship. Allen Bradford, our man in New Delhi, points out how easily Prime Minister Gandhi controls opposition

In countries where the press has no freedom, there almost seems to be an urgency for an American to find out the truth.

newspapers: the government owns the only newsprint factory in the country. In Greece—where censorship was decreed by the government as soon as it seized power in 1967—the newspaper Vradayi ignored an order to print only government information about student protests. It was soon visited by 200 tax inspectors. Vradayi took the hint and now heeds the government's orders. ABC Correspondent Harry Debelius points out from Spain that the fiercely independent newspaper Madrid was not only shut down forever on order of the government, but the plant was blown up to make certain Madrid would never again publish.

Greece . . . Rhodesia . . . Spain . . . the Soviet Union. You expect censorship there. But England and France? George Watson reports from London that Scotland Yard raided the offices of the Railway Gazette and also questioned for three hours the editor of the Sunday Times. The great security violation? The papers revealed that the government planned a 40 per cent cutback in railroad service. And France had just recently re-established a powerful Ministry of Information which, correspondent Jim Giggans tells me, is almost certain to dry up all but official information about the government.

Those who tighten the noose on press freedom do not tolerate excuses—any excuses. David Hume of ABC in Buenos Aires tells of the publisher Hector Garcia—certainly no radical—who was kidnapped by the People's Revolutionary Army. As a condition of his release, the guerillas demanded he publish their communique on the front page of his newspaper, Cronica. He had this done, naturally enough. And when he was released by his captors, he was charged by the government with publishing an illegal statement.

So in the last year newsmen around the world have faced growing censorship problems.

Among the 132 member-countries of the United Nations few—in fact barely one-fifth—enjoy what can genuinely be called freedom of information. This very general survey of the world press reveals that the trend to restrictions of freedom of the press is stronger than when I made a survey last year.

I feel I must sound a warning against the political erosion of the guarantee of the First Amendment in this country in five specific areas. They are: Access to information . . . Secrecy in government . . . Harrassment of reporters . . . Unwarranted subpoenas by prosecutors and the practice of police and other undercover agents posing as reporters.

Consider access: More than a year ago I expressed some concern over the case of newsmen being denied entry to the trial of a particularly notorious and vicious criminal in New York City. But, at the time, I said that denying newsmen the right to cover an event is not common in this country—although broadcast journalists with audio tape recorders and film cameras are relegated to second-class status by the Congress and by many state and city legislative bodies which do not allow us to cover their full sessions. Congress does permit film and tape coverage of some committee meetings, but this is at the discretion of the chairman of each individual committee.

The 1972 political campaign had a new access—or lack of access—phenomenon: the inaccessible candidate. The Presidential campaign publicly only 16 out of 64 days.

As President, Mr. Nixon has been the least accessible chief executive in recent history. I cannot understand why, since

Those who tighten the noose on press freedom do not tolerate excuses—any excuses.

both his political supporters and his opponents concede that he handles himself extremely well at live news conferences.

Vice President Agnew has said the President holds few news conferences because he is unable to use them to convey vital information. Mr. Agnew conceives of a news conference as a vehicle for the President to get across a message, not as a vehicle for the public—represented by the mass media—to elicit Presidential opinions. Well, I think it should work both ways.

In his Omaha remarks—made, ironically enough, at a news conference last June—the Vice President said, "I believe you should be able to have a press conference without having reporters key in on certain divisive issues."

That, I submit, is a radical rewriting of the ground rules of the function of the press and of news conferences.

Going hand-in-hand with ACCESS is the problem of SECRECY in government.

During recent months, we witnessed two extremes on the secrecy question: the cloak of semi-silence which Adminis-

tration officials lowered around the Watergate affair and the open and refreshingly candid briefings held on October 26 and January 24 by Henry Kissinger on the Vietnam cease-fire proposals.

Regarding Watergate: ironically enough, it may be because of the same kind of secrecy-by-threat that is used so successfully in other parts of the world, that Watergate became the story it did. News organizations, as you know, energetically pursued this case . . . and it may well be that what we read, heard and saw about Watergate was more incriminating because of the official pattern of "no comment."

I would like to quote something Justice Brandeis said a long time ago. "It seems to me," the Justice said, "that the duty of the press which seeks reform should be not merely to bring to the attention of the public what is new, but to keep before the public that which is old—but should not be forgotten."

There are other ramifications of the secrecy problem. That the facts are not available to a reporter—or anyone—may cause a distraught citizen to groan . . . "There oughta be a law." Well, there is one.

Let's examine for a moment the Freedom of Information Act of 1966. It was designed to be strong medicine for a Government ailment known as Bureaucratic Secrecy. Almost seven years later we find the medicine was more like a placebo. The passage of the act was hailed as a major victory by the media and by other groups who had fought for many

Mr. Agnew conceives of a news conference as a vehicle for the President to get across a message, not as a vehicle for the public . . . to elicit Presidential opinions.

years to expand access to unclassified Government files. Representative John E. Moss—the California Democrat—who led the drive for passage of the bill said that getting it on the books was a great step forward, but he said we'd all have to acknowledge that it hasn't produced the great freeing of information that we had hoped. I quote Mr. Moss:

"Fighting government secrecy is like stepping on a balloon. You push on it here and there, and you think you've made an impression. But the minute you back off . . . it fills out again and you're right back where you were."

Several factors, critics of the law say, have worked to thwart the bill's purposes. The hoped-for change in bureaucratic attitude has not filtered to the lower levels in many cases. The law's exemptions are so numerous and, critics charge, so vague in some cases that nearly anything the bureaucracy wants to conceal can find shelter under that umbrella.

Boiled down, the exemptions allow the withholding of

information in nine categories: national security, internal personnel rules of an agency, things exempt by specific statute, trade secrets, inter-agency or intra-agency memos or letters, medical and personnel files, investigatory files, information related to the regulation of financial institutions, and the location of wells.

Some information—atomic secrets, for example, or an individual's medical history—should be withheld of course. The long list of other categories has worked, we think, in practice to block information-seekers. The classification stamp can be held by anyone in a bureaucracy and abused.

How will we really ever know what's in the "trade secret" files or the "investigatory files?" The law must be stronger. The classifiers must be accountable.

During a chat with Jim Hagerty, who was Press Secretary to President Eisenhower for eight years—and is now a Corporate Vice President of ABC—Jim knows his way around Washington—he remarked, as we talked about this thing called secrecy, that of 170 million pages of information concerning World War Two on file in government offices only 20 million pages have been declassified. So 150 million pages of material about a war we ought to know all about—is still stamped classified. As for the Korean conflict . . . there are over 75 million pages of material still classified.

In the instance of the Vietnam cease-fire proposal, I think that the two remarkable briefings by Dr. Kissinger—filmed and recorded—although not broadcast live—were impressive demonstrations of the benefits of candor.

I cannot recall a more outstanding example of open diplomacy. One of the few stories that can compare is President's Eisenhower's candid admission that the U-2 plane flown by Francis Gary Powers and downed by the Soviets was, indeed, on an American spying mission.

In both those instances, I think, the openness of the American position won major points both domestically and abroad.

I would like to touch on the subject of harassment. In the field of broadcasting a great deal of attention has been attracted recently to the White House Office of Telecommunications Policy. This is the new office set up by the Nixon Administration and is headed by a director named Clay T. Whitehead. There are many people inside broadcasting and outside who see a threat of intimidation in some of Mr. Whitehead's remarks. Mr. Whitehead reminded television stations of something they already knew—that the local stations were responsible for what they carried on the air—that their license renewals depended on it. He aimed right at the nerve center and asserted that the stations must be held accountable for what is carried on a network program. Now, Mr. Whitehead did not specify any network news programming that stations shouldn't have carried. He didn't cite any

examples of stations showing irresponsibility by carrying certain network news. So we presume the admonition was "just in case . . ." or indictment before the fact. Or perhaps a warning. There's an impracticality to Mr. Whitehead's idea. Stations do not have an opportunity to preview a network newscast before it is transmitted to them. They place their confidence in their network, counting on the producers to achieve fairness and balance. But be assured if there was anything about the network's news presentation that appeared to be of a license-revoking nature, the station would act very quickly.

Patrick J. Buchanan, special assistant to the President, suggested more than a year ago that antitrust action be

. . . Of 170 million pages of information concerning World War II on file in government offices only 20 million pages have been declassified.

taken against the three network news divisions if "the networks don't soon make a conscientious effort to show conservatives and people with a viewpoint of Middle America." The White House later said Buchanan was speaking for himself and no such antitrust action was in the works. But the statement, by the man who prepares Mr. Nixon's daily press summary, was considered ominous. Mr. Buchanan is still very vocal.

For example, on the Dick Cavett Show of March 22, Mr. Buchanan appeared with Ed Newman of NBC, Benjamin Bradlee, executive editor of the Washington Post, and Britt Hume who is with the journalism review called "MORE." The subject of CBS News Correspondent Daniel Schorr came up.

Dick Cavett ad-libbed a recap of the Daniel Schorr story by saying, "As I understand this, Schorr was called into the White House and told he was doing a bad job . . . by Mr. Ehrlichman and others, and at the same time he found he was being investigated by the FBI because they were going to give him a job in the Administration."

Then Mr. Buchanan replied, "They were going to offer Mr. Schorr a job—in the area of environment." Continuing Mr. Buchanan's remarks: "I would disagree with offering Mr. Schorr the job and—secondly—you don't need the FBI to investigate Daniel Schorr to know he's bigoted against the administration."

Cavett then asked: "Would the Administration offer a job to a man who detests it? What kind of thinking is that?"

Mr. Buchanan's answer was this: "If you've got a guy that's hatcheting you night after night, maybe you say to yourself, 'Why don't we offer that clown a job and give him a big fat paycheck and get him off—until we can get someone else on.'"

Take another item: of a larger nature, the Administration went to court and obtained prior restraint on publication of the Pentagon Papers—probably the most serious move against a free press made by a federal government since the expiration of the Sedition Act in 1801.

And over at the Pentagon, about a year ago, the desks of reporters in the press room of the Pentagon were searched after business hours. The reporters knew that because cards were left behind in their desks reading: "This desk has been checked for classified materials. Congratulations on following proper procedure."

One of the most serious questions facing journalism today is the threat of the subpoena. Although sometimes used just as harassment, the subpoena threat usually goes even deeper. It threatens to undermine the very purpose of the press in this country and to render reporters incapable of practicing their trade.

For instance:

James Mitchell, a reporter for KFWB radio, Los Angeles, was subpoenaed by a county grand jury seeking all unused tapes and notes for a series describing how judges pre-signed blank prison release forms . . . and allegedly gave them to favored bail bondsmen, who then filled in their own bail figures and made thousands of dollars. The subpoena was eventually abandoned when the grand jury's term expired.

Earl Caldwell, a reporter for the New York Times, was ordered to provide a Federal grand jury with notes, tapes and testimony regarding confidential interviews with members of the Black Panthers Organization.

Paul Branzburg, a reporter for the Louisville Courier-Journal, was served with two subpoenas by a county grand jury seeking the identity of confidential sources for stories about drug abuse.

And John Lawrence, Washington Bureau Chief of the Los Angeles Times, was ordered to produce full tapes of an interview conducted by reporters Jack Nelson and Ronald Ostrow with Alfred C. Baldwin, Third, who told of monitoring bugs in the Democratic National Headquarters. Mr. Lawrence was jailed.

What's wrong with this? Well, to quote one lower court ruling on the matter: "To convert news gatherers into Department of Justice investigators is to invade the autonomy of the press by imposing a governmental function on them."

As a practical consideration, too, it interferes in news-gathering because sources become more reluctant to speak to reporters if the newsman can't guarantee confidentiality.

More than a year ago I said that several cases involving the confidentiality of news sources and the legality of subpoenas were soon to be argued before the Supreme Court. I said then that I hoped the First Amendment spirit would guide the court's decisions.

It didn't. On June 29 the court, by five-to-four ruling,

found that reporters could not refuse to appear before a grand jury and answer questions about the sources of their information.

The opening lines of the dissenting opinions of Justice William O. Douglas certainly should give a freedom-minded American something to think about. I quote:

"Today's decision will impede the wide open and robust dissemination of ideas and counterthought which is essential to the success of intelligent self-government. Forcing a reporter before a grand jury will have two retarding effects upon the ear and the pen of the press. Fear of exposure will cause dissidents to communicate less openly to trusted reporters. And, fear of accountability will cause editors and critics to write with more restrained pens." So said Justice Douglas.

And, your own Senator Sam Ervin attacked the court decision, stating it would "undermine the ability of reporters to search out the truth for the American people."

Whatever short term benefits may flow from government's reliance upon newsmen as a substitute for its own investigations, the long term threat to the public's right to be informed about the controversial as well as the routine is too great a risk to take in a free society.

In addition to several national bills now sponsored by Congressmen, 18 states have newsmen's privilege—or shield—bills of varying degrees of forcefulness.

The pressure, as I've said, can come in many ways—sometimes quite direct. There have been phone calls and letters to media executives from White House officials and the chairman of the Federal Communications Commission—on one occasion—to inquire into planned or already disseminated comment.

The final problem I want to touch on is the insidious practice of police and other investigative agents posing as newsmen in order to gather evidence. Not only does this undermine the credibility of real newsmen and make their job more difficult, but it could even endanger bona fide newsmen. A violence-prone militant group which has been betrayed by a bogus newsman might well take revenge on the next real newsman who attempted to do a legitimate story about its activities.

The practice should stop.

Now—you might ask—if you are so concerned, if your cause is a righteous one—can you tell us what you're doing to make television news responsible? While I can speak only for ABC News, let me assure you that positive, realistic measures have been, are being and will continue to be taken to help insure responsibility, fairness, and balance. We try to achieve as high a degree of objectivity as is humanely possible.

To determine overall balance as it related to administration policies and fairness in all stories I felt we needed something

more scientific than our own, personal impressions. So in 1969 we decided to make a minute inspection of our news content. The concept and methodology of this content analysis survey were devised by Dr. Irving E. Fang, an associate professor of journalism at the University of Minnesota.

Dr. Fang worked—and still works—with two other journalism educators—Dr. William Baxter, associate dean of the Henry Grady School of Journalism at the University of Georgia and Professor Leslie Moeller, former director of the School of Journalism at the University of Iowa.

Their study is now in its fourth year and is now calculated on a computer.

The three journalism educators don't just sample our newscasts, they take a complete census. Every story of every newscast is examined. They watch as many of the newscasts as they can, as they are aired, and they have kinescopes available if needed. They use audio tapes in their coding and timing procedures. Their basic work, however, is with the written transcripts of the ABC Evening News and ABC Weekend News.

Interestingly enough—the four year average runs like this: In news stories 27% could be considered pleasing to the administration, 42% neutral and 30% displeasing. In commentary by Howard K. Smith and Harry Reasoner—29% might be considered pleasing—50% neutral and 21% displeasing. In the area of displeasure we note that the figure has been reduced about a point and a half—from 31.8 down to 30.3 per cent. But the material pleasing to the administration has gone from 42% in 1969 to 27.5 in 1972. And maybe there was the rub.

I'd like to summarize with this: During the sixties—and so far into the seventies—we find in our country a society under stress. It's a strange, almost sophisticated kind of stress mirrored in major part by a medium that has only recently emerged as a great disseminator of news. The television network evening news program has become, in less than a generation, a social institution—a strong extension of the fourth estate. It is not beyond criticism and it never should be. But today it has been under a kind of criticism that differs significantly in degree and kind from that of any earlier period.

Our medium is watched by most of the people most of the time when they look for news. It is as big as the press, as popular as the press, as meaningful as the press—and more versatile.

Television and radio should be protected as the press is protected. If they are not truly then our First Amendment is in jeopardy.

Elton Rule, President of ABC, Incorporated, put it very succinctly in a talk to Sacramento businessmen two weeks ago when he said, "Concerning broadcasting, the pressures

to back off, to forfeit responsibility, to forego courage could be great—if broadcasters were not true to their trust. Not because of any presidential administration's petulant attempt at bullying. All of those present fellows will be gone some day, and another set will take their place, armed with new or disguised versions either of intimidation or of putting forward what they want the public to think is their best face.

"Obviously, the criticisms of a governmental arm can be worrisome and threatening to an industry dependent on governmental consent for its licensed existence.

"What is important to remember, however, is that broadcasting will always be with us. And it would be easier and more profitable to travel the route of least resistance. That would be the path of programming devoid of both provocation and stimulation."

Now, despite the grim recitation I've made, I want to stress before I close that right now our press—our news media are freer than any in the world. In 40 years as a newsman—covering stories in scores of countries—I have found no other press freer than ours. But we all know the price of liberty—eternal vigilance. Those who have a vital interest in supporting a free press—and every American who values democracy must count himself among that number—must be on guard. We must resist efforts to erode our press freedom, because once one basic right is diminished, it will only be a matter of time before the others also begin to shrink.

We journalists are not the real target of the censor, the politician, the bureaucrat, the would-be news manager. Their primary aim is not to make our lives more difficult or to see us fired from our jobs. They really draw their bead on you—the readers, viewers and listeners. The target is the news audience, not the newsgathers. And it is that audience—in this country, the free American people—that has the greatest stake in the Free American Press. For without a free press, we cannot have a free people.

Thomas Jefferson, you must agree, was a man with words—and while even the author of the Declaration had an occasional brush with the press, he included a very cogent comment in a letter to a Colonel Edward Harrington—dated 16 January, 1787. Jefferson wrote: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."

Jefferson couldn't know that television, in less than two hundred years, would be the main source of news for over 60 per cent of the American population—daily—but I'm sure if he could have visualized it—it would have been included in his wry observation. For truly, without freedom of the press—where is the freedom?

(Mr. Lower, president of ABC News, gave the above speech at a meeting of the Greensboro (North Carolina) Chamber of Commerce.)

Nieman Fellowships for European Television Journalists

Two new Fellowships for European television journalists to study at Harvard University in the academic year 1974-75 will be awarded to successful applicants from France, West Germany, Italy, and Eastern Europe as the result of a grant of \$30,000 by the German Marshall Fund to the Nieman Foundation for Journalism.

According to James C. Thomson Jr., Curator of the Nieman Foundation, the German Marshall Fund grant will be used to provide tuition fees, living expenses, and travel support for two Associate Nieman Fellows to be chosen jointly by the Nieman and Marshall Fund executives. Although preference will be given to candidates in the field of television journalism, applications from candidates in the print media who have television background will also be accepted. At least one of the Fellowships will be reserved for a candidate from Western Europe. Applicants should ordinarily be between the ages of 25 and 40.

The German Marshall Fund of the United States, a new private American fund financed by a gift from the German people in appreciation of Marshall Plan assistance, is dedicated to finding new solutions to the "common problems of industrial societies."

In a statement issued at the German Marshall Fund's Washington, D.C., headquarters, Benjamin H. Read, President, said, "We anticipate that this grant will make it possible for the Nieman Foundation to include two outstanding younger European television journalists in its program for the coming year. It is our hope that they will be able to contribute counsel and advice to the international coordinator in the Public Broadcasting Service that the Fund will be supporting on an experimental basis during the coming two years, and that this relationship will increase exchange and co-production of television materials about common problems."

In Cambridge, at Nieman House, Mr. Thomson said, "I welcome this opportunity to strengthen the Nieman program's ties with European journalism. We have gladly received Associate Nieman Fellows from abroad for twenty years now, but we have lacked much control over their selection or geographical distribution since our Nieman funds are restricted to citizens of the United States, and all non-United States Fellows must be externally supported. The German Marshall Fund's generosity makes it possible for us to participate fully in the selection process. And as for geography, we have too seldom had Niemans from the Continent, and never from Eastern Europe."

The Nieman Fellowships for Journalists were established at Harvard University in 1938. Nieman Fellows are permitted to pursue a course of study of their own design in Harvard's various faculties for nine months, beginning in early September. They do not take courses for credit, nor do they receive degrees.

VIEWPOINT

Newspapers: Who Needs Them?

(Editor's Note: This preface was recently received from the author.)

Mr. Smith observes with something like relish how quickly events have overtaken at least one segment of his article—the one dealing with the energy crisis. At the time of writing (almost a year ago), stories dealing with the energy crisis in most papers indeed did treat that matter as though it amounted to a minor inconvenience related to a gasoline shortage.

Had the press expended the least effort, it might have discovered that matters were far more serious than they seemed. Now our newspapers are obediently filling columns with stories about an energy crisis that they have come to regard as serious, although utterly bewildering; and the reader is only marginally wiser than he was before. . .

* * * * *

I don't know why most people read newspapers. I read them for the sense of comfort they supply, a predictable, monotonous voice in my ear. Like my old maid aunt, newspapers assure me that the world is out there, going on; if it were coming to an end, she would be as likely to know it as they.

There has been a wreck on the highway, the governor has made another appointment, a foreign power threatens another foreign power, a convicted rapist appeals (although not to you and me, thank goodness), a legislative commission has been appointed to study the practice of appointing legislative commissions to study. It is all news and if it tends to meet itself coming back, well, that is the way it has always been.

When newspapers really wish to preen, they unleash their "investigative" reporter and produce a series on the plight of our mentally ill or unearth a conflict of interest in the public trust. Laudable efforts, yet the feeling persists that we have seen this landscape before somewhere, possibly last year in the very same columns. Only the names have been changed to conceal the identity of the story.

Executive government, the legislative halls, the courts, the police—take away these four sources and newspapers would be helpless to fill their columns. If we were really being told what goes on in these bleak, institutional corridors, there would be a mild excuse for this obsessiveness. With some exceptions, we do not know; we are not told, for instance, how the police system works but only that it worked last night to the disadvantage of this or that alleged malefactor and, presumably, to the advantage of the rest of us. We learned more about the FBI and the CIA from a few hours of viewing the Watergate hearings than we have learned in a lifetime of reading newspapers.

Meanwhile, the big stories are out there, growing. We know this without the help of newspapers; we perceive, discuss, debate. From the daily press we are given clues—an occasional light shining in the cobwebbed cellar corner they call news. We are not enlightened by these so much as left vaguely dissatisfied. We have been given some information but what does it mean? The newspaper reporters and editors do not seem to know, or are not willing to tell us.

I would like to present a half dozen of what I consider to be the "big" stories of today in terms of their potential for changing our lives and the lives of our children. It's my contention that the daily press has given them insignificant coverage at best and confusing or misleading coverage at worst.

1. *The Discovery of Finite Planet Earth*

In our time, we have discovered that Planet Earth is finite, that in a certain sense popular opinion in Columbus's time was right, it is possible to run out of Earth, or at least to run out of the essentials for human habitation. Our water is befouled, our air is polluted, our land is poisoned with chemicals. As world population increases, our food supply fails to keep pace. This is a "big" story—WE ARE RUNNING OUT OF TIME, might be a suitable headline, however alarming.

The truth is that this forest is not being seen for its trees. One sidebar, for example, could be subtitled The Energy Crisis. Now there really *is* an energy crisis. In the next 15 years we must mobilize as many raw materials for energy as have been extracted during all of man's life on the globe. We are down to 6.1 years supply of oil and natural gas reserves. Nuclear power plants, besides raising fears of cataclysm—the Atomic Energy Commission and its critics, now *there's* a sub-story worth any newspaper's full-time surveillance—may not be the answer. I have a geologist friend who thinks the answer may be rocks washed in hot water below the surface of the earth.

An answer must be found. The issue spills over beyond the concerns of the environmentalists. George F. Kenan writes: "An American society which would be in harmony with its own natural habitat would look a great deal different from the one we have before us today." The answer then may lie not only in some new source of power but in a re-thinking of our energy-wasteful lifestyle—a re-thinking with enormous potential for changing the way we live. Yet when President Nixon recently announced his recommendations for coping with the energy crisis, newspapers generally swallowed them whole, straight-faced, without so much

as an ad lib. Readers were left to observe for themselves, if they could, that every recommendation made by the President would produce—at great expense—more energy, and that nowhere did the President come to grips with the central issue of whether and to what extent problem-solving should involve significantly less consumption. The “big” story of the energy crisis either has been missed in this way or trivialized, as in the case of the gasoline shortage which may or may not have been generated by the manufacturers. No wonder the average reader thinks the energy crisis has to do with whether he can get enough fuel to get to Disneyland and back.

2. *The Search for the Family of Peoplekind*

A famous women's lib leader heaves into town, bristling at an adversary who has ignored her. She lets a yellow curl of smoke escape from her nostrils and the press rushes to its readers with the story: *Femme Factions Feud*. Aside from its entertainment value, if any, the story is worthless, pure flotsam. Yet it is directly related to a major story, the emergence of Woman from the kitchen with freedom in her eye, and indirectly related to an even bigger story having to do with whether the so-called nuclear family, beset by doubts, divorce, and societal mobility, will survive intact or give way to new family forms—extended, and not necessarily blood-related. A substory here is a revolution in sexual mores which, for all I know, may lead us to the Age of Splendid Physical Love, but which is treated in the press as though it had to do with the rights of smut sellers to sell smut.

3. *The Conquest of Inner Space*

God is not dead at all, but looking for him in the traditional church seems to many young people and an increasing number of not-so-young to be roughly the equivalent of looking for news in newspapers. The search for spiritual

fulfillment is taking literally hundreds of new forms, witness the rise of charismatic religious communities, the youthful Jesus freaks, the fascination with psychic exploration. The expansion of consciousness of self and higher-than-self is the goal. Are drugs *ever* legitimate means to such ends? How about self-hypnosis? And what does God look like today to a generation relatively unchurched? The daily press reports: *Two Bitten In Snake Handling Rites*.

4. *How Science May Come To Decide For You*

The Supreme Court performed a miracle when it defined at what stage an unborn child is a person, thus putting to rest most of what was left of the abortion issue. But doctors are making non-medical decisions every day by default—should the only available kidney machine be used for a 65-year-old man or an infant? Science already is able to manage life, to dispel “rebellious” behavior by electrode implantation, by lobotomy—and Dr. B. F. Skinner can handle the job, thank you, without surgery. Should such techniques be used to alter rebellious behavior, say, among prison inmates? If so, how much farther up the societal scale? Difficult ethical, moral, political questions are upon us and more difficult ones loom ahead. Some prominent biologists predict that a human clone—a “copy” asexually produced from a single cell—may be produced in 20 years, perhaps less if government assigns a high priority to the work involved. Whether we use this new power to produce copies of Henry Kissinger or Joe Namath, or whether we produce serried ranks of sub-humans to do the dirty work, or whether we do neither one—the issue is supremely important. Yet the daily press has largely ignored it.

5. *What Became of the Protestant Work Ethic?*

Mark Twain said he had no objection to work, he could watch it by the hour.

The joke was taken with wry good humor by generations of Americans who knew that hard work was essential, probably inevitable, and certainly good for the soul. Now, suddenly it seems, hard, unremitting labor no longer is its own reward. Workers rebel, commit sabotage, shun unpleasant jobs even at high pay. Oldsters tell us that the young are just lazy, pampered products of the affluent society. Anyone interested enough to poke his head inside any of a dozen management journals knows that a revolution of workstyle and supervisory style is taking place in reaction to the “alienated worker.” Less work time (the three-day week), more worker involvement in the final product—these are just a couple among dozens of techniques being pioneered. Where is it leading? How can we learn to handle more leisure constructively?

6. *The Derepresentation of Representative Government*

Watergate dominates the news and the question is, did the President know? A good story but part of a bigger story developing for a long time. If there is one view liberals and conservatives seem to share, it is that Americans in recent years feel estranged from their government, “out of touch.” The feeling is supported by a monitoring survey done by the University of Michigan's Institute for Social Research since 1958 which indicates that Americans increasingly have come to feel that government is run for the benefit of big interests rather than the people. Theodore H. White has noted the large number of non-voters in the 1972 election. We the people are here and those we elect are far off and those *they* choose to run government are total strangers to us. Who are Halde-man and Ehrlichman anyway, and how did their distorted ethics come to be represented as ours? There is the real story behind Watergate and it is one that the daily press, for all of its millions of words, has never quite pinned down.

Facts pertinent to each of these “big”

stories appear in newspapers virtually daily. Yet each time it is as though the fact, the accomplishment, existed in a vacuum, unrelated to a large story. A story the other day illustrates the point. It had to do with the use of the female hormone, progesterone, to reduce anti-social sexual urges on the part of convicted rapists. Interesting, but written as though neither the writer nor the editors had the slightest notion of the place or significance of this work in the ongoing effort to use chemical and biomedical therapy to curb anti-social behavior. I see very little sign of intelligent life in the editorial rooms of most newspapers. What good is information if it isn't presented in such a way as to help the reader understand what it means?

Why is it, for instance, that no newspaper seems interested in devoting the kind of energy the Washington Post put into Watergate on the big story of the Derepresentation of Representative Government? How did the presidency become such an isolated position? How did the power of the president become diffused to men farther and farther from the seat of elected power? What ever became of the Congress of the United States? Is there a way to reinvigorate the system of checks and balances to provide the people a stronger voice? Are any of the ideas being advanced for participative government worth considering? Questions like these could keep a good newspaper team of diggers and thinkers and synthesizers and writers busy and the readers entertained and likely enlightened for a long time.

It doesn't happen and the chief villain probably is inertia, the institutional laziness symbolized by those banks of wire-copy machines daily producing the official "news." Most newspapers do not find news, they "take" it the way you and I "take" newspapers. A good example of what happens as a result is the Space Race, one of the stories of our time that has been covered ad nauseam. Because our government elected to spend billions of dollars on the Space Race,

every newspaper in the country has contributed to the illusion that this is *the* big story of our times. In a country where the press is so willing a conspirator, does government really need censorship?

Newspapers tend to resist change, often basing this resistance on the stated belief that their readership is "used to" something and could not orient to a new approach. For instance, newspapers remain largely committed to waiting for the official statement or the overt act before reporting what's going on. If someone didn't announce it, it didn't happen. But news doesn't happen by press conference; real news tends to be going on, unmarked, day by day. The events that newspapers report are landmarks that can only be understood if you have been following the lay of the land.

It's not that hard to do, really. The revolutions in human behavior mentioned in this paper are going on in every community in America today. Any reporter with sufficient energy to read the specialty magazines, spend some time in libraries, develop a network of specialist "sensors" to help him understand, can write intelligently on these subjects. Any newspaper that wants to can decide to look into its own community to see how the newly liberated mother is faring as she juggles career and family while balancing on the shaky high wire of her freedom. With a little effort even the most modest newspaper operation can put what is happening in its community into the context of what is happening in the nation and the world. That, I submit, is what a news story should look like.

Some will argue that my charges are misplaced, that I am mistaking the function of newspapers, that they are not meant to enlighten, to illuminate, to tell it like it is on the Planet Earth; that, in short, reporting trivia is the press's thing—"the highly placed source said" and the "commission reported" and the "war is declared" (now *there's* an anachron-

ism). I think this is accepting newspapers at their face value, which may or may not be ten cents daily and twenty-five cents on Sunday. I am willing personally to pay this price for a newspaper to fill my own needs for trivia, secure in the blessed knowledge that I needn't read very much of it. But I am not likely to become exercised over the press's right to report the news when I don't think it is getting much in any event.

Why should newspapers take on the broader role I am suggesting? It isn't easy to find compelling reasons. Newspapers are profitable now and while what I am suggesting would not necessarily cost more money, it would involve a painful mental readjustment on the part of those news and editorial employees who are not so hopelessly encrusted in the tradition of intellectual laissez-faire that they would have to be put out to graze. Nor are publishers likely to be threatened by television. It is difficult to imagine anything more irrelevant than a television news broadcast where a variety of announcers, each striving to look beyond his capacity, read the "news" aloud. The friends I have who steel themselves twice a night to this ordeal of mindlessness are the very ones who are most patient and forgiving with newspapers anyway. Television's strength, its life, is its immediacy, its visual impact; the optic nerve, not the brain.

No, I see no reason why newspapers ought to strive to be better, unless it is that all of us somehow are going to have to get less total information and more relevant information or we are going to drown in trivia and in ignorance of what is going on. In the past week I have asked four intelligent, well-educated people if they knew what cloning meant and none had the slightest idea. Yet it *can* mean in our lifetime rewriting the entire book for the future—ethics, politics, everything. It occurred to me that these bright, well-educated people were getting this big news story

by word of mouth, as in tribal days.

There is a great need for generalist publications to help translate the pyramiding number of specialties to the lay public, and to each other. We are living in a time when knowledge is multiplying more rapidly than it can be assimilated, raising difficult philosophical and political problems whose outlines can already be seen as they move in on us. If he does not know what the problems are, how can the average man play a significant role in their solution? Somewhere in the future is an image that scares me—of government explaining patiently to its citizens what drastic measures have had to be taken that day to overcome a problem they didn't even know they had. Which will be more frightening, the problem or the drastic measures taken to solve it?

Surely the public's right to know implies that what is to be known is worth knowing. I do not see how a free press

can escape its responsibility here. Television can illuminate a single problem brilliantly but it is not designed to sift through abstract information, synthesize it, and make it ponderable. National magazines have this ability but not the newspapers' close day-by-day involvement in communities. They are not, and cannot be, "in touch" with people the way newspapers sometimes are.

Newspapers are still dealing in outmoded ways with yesterday's subject matters—a satisfactory fare for the reader of 100 years ago, but a severe anachronism today. I am convinced that if they would take more pains to manage the trivia load neatly, find out what's really news, relate it to what has gone before and to the lives of their readers, they would develop a whole new readership. This readership would be drawn largely from people who now give newspapers the fleeting inattention they deserve. It would come in addition from

the younger people whom I observe these days reading newspapers less and taking them far less seriously than their fathers did.

With this new type of readership, it is possible that the daily newspaper will receive that "community involvement" that seems always to escape its grasp, and for which the column space I appropriated today presumably was set aside. By "community involvement," I don't mean the tour-de-force letter to the editor or long, opinionated pieces by outsiders like me. I mean the day-by-day give and take that can be experienced by a daily newspaper and its community of readers—more and more of whom have much to contribute these days. Why shouldn't the daily press provide a forum in which the pressing ethical, moral, and political problems of today and tomorrow are debated?

And if not the daily press, then who?

—Robert C. Smith

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Campaign '72

(Editor's Note: The Fall issue of Nieman Reports included Chapter Five in its entirety—The Press in the Campaign—from the book CAMPAIGN '72. The following excerpts highlight some of the other press-related exchanges that took place during the two-day conference on campaign decision-making at Harvard University.)

The Primaries

RICK G. STEARNS (deputy campaign manager for McGovern). I'll just add two observations that figured into our calculations when we were looking at the primaries that we were going to enter. One of them is a bias, unintentionally incorporated in the whole primary system, toward candidates in the liberal wing of the party.

Another is that most reporters had had their first real experience at reporting a Presidential nomination race in 1968; that was the first year that a nomination race attracted almost daily attention from the press. It was our assumption that, regardless of the changes that had taken place in a number of states and the fact that a number of new primaries had been adopted, the primaries that had been significant in 1968 would be the primaries that would be important to the press in 1972. That assumption proved to be true. Otherwise, there was no reason that Wisconsin should have been the watershed for the McGovern campaign that it was; the Wisconsin primary fundamentally was not that important. McGovern won the primary with 30 per cent of the vote, and I'm convinced that one-third of that was composed of Republican crossovers that came in to vote for McGovern. Yet the Wisconsin primary, much more than New Hampshire, established McGovern as the front-runner for the Democratic nomination.

I have a theory, which I'm sure is wrong, that another advantage that worked in our favor is the expense of moving television equipment across the country. The press prefers to start in the East and move slowly across the country to the West, and then fly it all back to New York from Los Angeles. So the natural progression of primaries would run from New Hampshire out to Wisconsin to Nebraska to Oregon and finally down to California and back to New York. And, basically, in terms of television coverage, that's essentially how it goes.

To summarize, there were two advantages working for McGovern. One was the bias that he inherited, which is not intentional or by design but merely has to do with the way the nomination system has grown up in this country.

The second was the way the press covered the 1972 campaign. I don't think the press will tend to dismiss primaries in Tennessee, North Carolina, New Jersey, and so on to the extent that they did in this election.

BEN J. WATTENBERG (adviser to Jackson). We felt that Florida was a "must" primary and that Jackson's major problem was anonymity. We didn't expect that Governor Wallace and Senator Humphrey were going to be in that state. We had a steadily ascending poll there and were spending a lot of time and money in an effort to get the thing off the ground with a bang early on. Despite the fact that we suddenly got hit from the right and from the left by two people with great public identification—Governor Wallace and Senator Humphrey—we beat everyone else in that field. We beat Senator Muskie; we beat Senator McGovern; and we beat Mayor Lindsay. But the way the media reported it was enough to make a grown man cry. On its half-hour election special, CBS had on Governor Wallace, Muskie, Humphrey, Lindsay, and McGovern, but not Jackson; and NBC had all of those five, plus Mary Lindsay. The *Milwaukee Journal* carried a big headline that said, "Wallace wins, Humphrey second, Muskie fourth." And Wisconsin was a state where we had begun to spend some media money and were beginning to come up again before Governor Wallace's entry. We felt that, as Senator Jackson's first national primary, Florida wasn't devastating in itself. And we had some reason to think that things might look good in Wisconsin. At that time our Quayle polls were showing Governor Wallace running at 2 per cent in Wisconsin, and we were running at about 7 per cent and climbing because we were spending some media money.

KEEFE (consultant to the AFL-CIO). Do you agree that the press still hasn't studied the operation of the primary machine?

STEARNS. Really very few people have. There's no real incentive to learn very much about it because it's a boring subject.

KEEFE. I kept seeing a lot of articles about it written by renowned reporters. Also, for example, had a column in *Newsweek* late in December [of '71] suggesting a late primary strategy for Humphrey and others that, clearly, under the rules you couldn't do. If you wanted to go to California, which was the late primary [June 6] that he was suggesting people enter, you had to make overt moves to declare yourself as a Presidential candidate on January 24; and if you did that, you got hooked with Wisconsin [April 4] because you couldn't say you were a candidate in California without the Wisconsin people putting you on the

ballot. There were a lot of things like that, and the press, to my knowledge, never got a handle on what the ground rules were and confused the general population quite badly.

STEWART (press secretary for Muskie). Could I make one observation as a guy who is now a member of the press who was during the campaign observing it as a non-member of the press? I'm going to talk about the press because you can't have these discussions without talking about the press. The bulk of the press was so busy with the personalities of Frank Mankiewicz and Gary Hart and the nuances of the politics of the campaigns that it was not until California that the press actually concentrated on the issues—and only then because Hubert Humphrey made the issues important. The public should not have had to wait until California to develop a perception of McGovern's positions because McGovern had been a candidate for two years at that stage. It struck me that the press was so busy with the feature stories on the campaign that it was not doing its job in terms of reporting what the candidates were saying.

STEARNS. Part of the reason was the press's difficulty in coming to terms with the candidate [McGovern] who by every traditional measure of political success was going to fail. They never could quite square the guy at 3 per cent in the Gallup poll with the guy who was winning in Wisconsin and Massachusetts. So a myth began that around McGovern there was a Machiavellian group that managed to translate the most unpromising Presidential material in the nation's history into the successful candidate that he really wasn't. What I detected was an immense curiosity in the press.

The Conventions

STEWART. Was it Richard Nixon himself who decided to go to San Diego?

MAGRUDER (Committee for the Re-election of the President). I think you could say that it was decided at the highest levels.

OTTEN (Wall Street Journal). How about the Agnew choice?

MAGRUDER. That was built up in the media as a major decision point, but I don't think it was. I was not privy to the decision personally, but I do not know of any point when it was not considered that the Vice President would be the candidate for the Vice Presidency. The other person that was always talked about was John Connally, but I don't think that he felt or anyone else felt that it was the

appropriate situation for him, or that it was an appropriate time for a change. I think that the President felt very comfortable with the Vice President. I guess if things had been different—let's say we were still in the trough of '70-'71 and it looked as if other problems might arise—maybe it would have become a major decision. But I don't think it was a critical decision. There was no time since January of '71, when I started working on the campaign as the primary staff person, that there was any question about the Vice President being the candidate on our ticket.

DAILEY (The November Group [Nixon]). It was also very important that the Republican convention was run with a degree of precision and organization that added to the impression that the President was a man who was able to control his own destiny and therefore to control the destiny of the country.

OTTEN. The one unprogrammed thing that seemed to come along was the fight over apportionment. Did you not see that coming, or did you decide that one fight added a little excitement, or did you try to head it off?

MAGRUDER. We did see it coming, but we really weren't interested in it. It was a fight that had historical significance, possibly, for the next convention, but it did not involve the Nixon campaign and we stayed out of it. As it turned out, though the liberals lost in the convention, they gained from the outcome of the election in that the major states will have broader representation in the next convention because President Nixon won states like New York and California. The apportionment fight in the convention was a legitimate fight essentially between big states and small states. Our convention is somewhat loaded to the small-state side.

DAILEY. One other point. If you go down the viewing quintiles of television viewers, you find that the heavy viewers are basically the voters that the Nixon campaign was trying to appeal to. We were not trying to get to readers of *Harper's*, for example. Such an effort would have been of no value to us.

BRODER (The Washington Post). It seemed to me as a reporter that, while it was called the Republican national convention, it was actually the Nixon national convention. Was there any consideration given to using the convention as a device for building the Republican Party or Republican candidates?

MAGRUDER. Our thesis has been all along that, as a minority party with 25 per cent of the registration, we

could best build the party by building a Nixon majority first. Voting habits were broken in '68, even further broken in '70, and then even more in '72. In '74 and '76, if we do the right job as a party—put up the right candidates, fund them correctly, and do the necessary planning—we will benefit from the fact that people broke habits to vote for Nixon. They will not feel so reluctant to vote for another Republican. We have felt that, by building a Nixon majority, we would eventually build a Republican majority. Of course, that did not work out in this election. In no way can we claim a Republican majority from the '72 election, but I think the changes in voting habits will have a residual effect and will assist the party in future elections.

O'HARA (chairman of the rules committee, Democratic convention). What's good for Nixon is good for the party?

MAGRUDER. That's right.

The General Election

NAUGHTON (New York Times). Could you go into your general strategy for use of the media and how you made the decision on what it was you were attempting to convey, in terms of both the President and McGovern, and how you went about that?

DAILEY. Very early on, we tried to set up a positioning statement for the President. The President likes football analogies, and the relationships of field position and ball control really were the essential elements of what the campaign organization tried to do. I think we all felt very early that the most important thing we could do was to find a position for the President that we could move from....

But the more that we looked at the research, the more we found that the President really had the beginnings of a unique position, and that was that while people were dissatisfied with the direction of the country, their feeling seemed directed more at intangibles of government, and bureaucracy, than at the President. So, very early, we felt that the most important single thing we could do was to have the President take a position on the side of change. He had to be somebody who was identified as being for change, who was operating for change; and even though his performance in certain areas was not what people were satisfied with, he would be identified as a person who was moving for change.

Looking at the research, we found that the President had, in terms of his personal characteristics, a number of strengths and a number of very obvious weaknesses. He

was perceived as being rather cold and as having a lack of frankness. We felt that we could not try to change the negatives—that if we began to position our media against those negatives, we would really be working against impressions that had been built up over his entire life as a professional in politics. So we believed that we had to move from the positions of strength—the professionalism, the toughness, the competence in office. As for the areas of weakness, we would either ignore them or try to create a better understanding of them.

In the area of frankness, we felt that deep down the voters were willing to accept a President who was less than frank with them. There's a difference—and a very fine line—between being honest and being frank, and we felt that the American electorate was willing to accept the fact that a man as President sometimes had to do things, in relation to his international stance and other things, about which he couldn't always be candid with the electorate or with the country. Honest, yes. So we just simply didn't move against that at all.

As for the area of lack of warmth, we thought this was a problem only if we were going to face a candidate who could turn the campaign from issues to personality, and we didn't see any such candidate on the other side.

NAUGHTON [to Charles Guggenheim]. Would you go into some detail about what the McGovern media strategy was, particularly in light of the events of the summer that you had to overcome? And how did you manage to win Massachusetts?

CHARLES GUGGENHEIM (media adviser to McGovern). I think the way that Jeb Magruder and Pete Dailey have described what they did is extremely accurate, and I have nothing but praise for how they took the material they had and implemented it. I think it was absolutely impeccable, and, obviously, the results showed that. Our problem was more difficult, not only in the money sense, but insofar as we were faced with a series of what I call real events, as opposed to unreal events. I think what Pete Dailey and I do is unreal in a sense. We try to do a thing and put it on paid television and hope people will accept it as being the truth. I think that oftentimes they do, and oftentimes it gives information. But people see hours of television each day, they hear the radio news broadcasts, they look at the newspapers, they hear things by word-of-mouth, and this is also information. Paid television is a supporter to real events. If people are inclined negatively, television can help them go negatively. If they're inclined positively, it can help them go positively. I've seen that in all the elections that I've been in. But media really has a

dramatic effect when people do not know either of the candidates very well and do not feel one way or the other; or if they have a small dislike for one, a man whom they know nothing about can often do very dramatic things on television.

In a strategy for the mass media, you must decide whether to exploit the negative or to exploit the positive, and I think that's the only choice you really have. That's where I think people have serious disagreement with the strategy that we implemented. The polls showed that Richard Nixon, as has already been discussed by the Republican side, was negative in many, many areas. There was a feeling that he wasn't quite frank and that they didn't particularly like him as a human being; but also there was the feeling that he was extremely competent. George McGovern was not considered as a viable alternative in the minds of many people. Richard Nixon wasn't particularly liked, but he was considered a viable President. You can choose to use the media to accentuate the negative—to go after Richard Nixon and make people know in more vivid terms why they dislike the man; or you can take George McGovern and make him a viable alternative. We chose to make George McGovern a viable alternative. I think you could have a long discussion of whether that was the right choice. I was under great pressure to go negative against Richard Nixon. But I thought that the only chance for George McGovern was to make people go to the polls at the end and say, "You know, I think this man has been so consistently decent and forthright that I'm going to vote for him." I thought it was a very small chance, but I thought it was our only chance. I thought to go negative against Richard Nixon would have been destructive.

In the last ten days of the campaign it prevailed that we went negative. I did not produce the material because I did not want to produce the material. . . .

There was a phenomenon that took place that I hope doesn't take place again, though I don't know how it can be avoided. Let's say that television news has more influence on the electorate than anything we do. We recorded all of the network broadcasts every night, as I'm sure the Republicans did. And I looked at them the other day—it's a dreadful experience. If McGovern would say something, the obligation of the networks was for equal time. Do they go to the White House and knock on the door and demand that the President respond? They couldn't do that—so there was McGovern against the surrogates. This was the strategy of the Committee to Re-elect the President, but who allowed it to happen? I tried to persuade Larry O'Brien to write the networks and say that we would not accept the surrogates as constituting equal time. I think that would have been a very strong issue. The process was against us.

MAGRUDER. We looked at the same news broadcasts you did, and we kept saying to ourselves that the only place the Nixon campaign could get coverage was in local markets. We found that we did well with the local newspaper and the local TV show, but we were very disappointed, to be honest with you, with network coverage of our surrogates. We didn't feel we were getting proper equal time. It was clearly our strategy from the beginning to use the surrogates. And I do not think it was improper, personally. We had the thirty-five surrogates selected and briefed a year and a half before the campaign.

OTTEN. I realize that you can't discuss whether you were wiretapping, or if you got the memos and all that, but can you discuss how much of a danger you perceived the Watergate issue to be and whether you had a contingency plan for how you would cope with the issue? Why didn't the issue catch on? Am I right that it didn't catch on? How were you prepared to handle it if it did seem to be catching on?

MAGRUDER. To my knowledge, there was no harassment of any kind. But with individuals operating basically independently in a campaign with hundreds of thousands of people involved, I think some probably does happen. I think John Ehrlichman [Assistant to the President] once remarked that it's endemic to a volunteer-type activity. I don't say that there wasn't some, but I think there was much less than was reported, and that much of that came from other than our side. As for the Watergate issue, we saw it as a bothersome problem. We felt very comfortable with our position on it, but it continually harassed us. We felt that it was not an important matter in a Presidential election, and I don't think the public felt it was an important matter in the election.

OTTEN [to Patrick Caddell]. What did your polls find on the Watergate affair?

CADDELL (Cambridge Survey Research [McGovern]). In the beginning it was having very little overall effect. When we were interviewing people in September that we had interviewed in July, we found some who had moved from the President to undecided, and these tended to be upper-income Republicans who were concerned about Watergate. The sabotage stuff in October began to have a much greater impact than did the Watergate thing in terms of shaking people's commitment to the President, but it was not moving votes. People got to the point where they were not pleased and were very concerned; but when they were faced with voting for McGovern, they found themselves unable to do it. Some of them didn't vote.

BRODER. How was the Watergate incident viewed by the Democrats? What was the thinking in the McGovern campaign about the potential of the incident and how it could best be exploited?

HART (campaign director for McGovern). We thought that the potential was vast. We were convinced at the time, and are convinced to this day, that there was an intricate and vast Republican, Nixon-sponsored effort to sabotage the Democratic campaign, and that the financing for it involved money transferred through foreign banks, and so forth. We believed it was a very high-level operation, and we sought to get the implications of that across to the American people, in terms of the integrity of the political system. . . .

Where we erred [on voter perception] was not on the basic positions themselves, but in the way that they were presented. I'm not saying that we [in the McGovern campaign] should be relieved of responsibility—we made some very serious mistakes in the way we presented some of these controversial issues. But I don't think the American people ever got to the substantive issues themselves. They judged by what seemed to be confusion around McGovern and decided not to take a chance on putting him in the White House. Does the average voter sit down and say, "Now, let's see, do I agree with Nixon or McGovern on welfare? Do I agree with Nixon or McGovern on defense spending?" It's very visceral. I don't think the voters got down to anything that concrete in this election.

MAGRUDER. I must say that it doesn't seem that you picked up anything from what came out of the election. You may be absolutely correct that George McGovern really wanted to do what the President wanted to do about welfare, but rightly or wrongly the \$1,000 welfare program was perceived as a giveaway program. You never were able to articulate it correctly, and the public perceived that program as a giveaway and they did not want continued government giveaways.

HART. You keep using the word "perceived"—and that's my point.

MAGRUDER. It's your responsibility as a candidate to articulate. If you really believed in the program, as you say you did, you had the responsibility to articulate it, and you failed.

HART. We failed, but that was not a mandate on the issue.

MAGRUDER. It surely was, because people perceived of you as being over on the left side of that issue to the point where they were against you.

HART. That may be a poor campaign. It doesn't mean the issue was wrong.

MAGRUDER. No, it means that you weren't able to articulate that issue. The conception that the public had of your welfare program and of your defense program was that they were very left-fringe.

WATTENBERG. I am very interested in this dialogue about what is perception and what is reality. As a writer, I have found that if you can't say it and you can't write it and you can't articulate it, then maybe it isn't so. [To Gary Hart] I'm suggesting that maybe your perception of McGovern—or McGovernism, or "new politics"—is beclouded in a forest-trees kind of way. You believed that George McGovern stood for A, B, C, and D, but what the American people thought he stood for might indeed have been closer to what he really stood for. I would say that what happened substantively in this election was that there was the equivalent of a referendum in this country. It was a referendum on the so-called cultural revolution that has been going on allegedly for four or five years in this country. It involved many, many facets—busing and defense and welfare and all sorts of things—and a perception of whether this country was doing pretty well or teetering on the brink of failure. If there was going to be an election on something in this country, this was a pretty good thing to have an election on. And the American people voted no on what the whole "new politics" movement was about.

HART. I didn't say we couldn't articulate those issues, I said we didn't.

WATTENBERG. Why didn't you? Maybe you couldn't. Maybe you just think you didn't, but you couldn't.

WEXLER (Democratic voter-registration director). My own observation about this campaign is that there was little importance given issues, at least in the minds of the voters.... My perception of the entire campaign was that it had very little to do with substantive issues. I think the three important questions in this campaign were competence, trust, and who was Presidential. If anything created an impression and a feeling in this country, it was the very brilliant commercials done by Peter Dailey and his group on the President's trips to China and Russia. These created the aura of a President and a good internationalist, qualities that were important in this campaign, and people did remember them. But other issues were never perceived.

DAILEY. I wonder if another way to look at it is the role of the press in this whole area. It's almost as if the press is

the spokesman for the public, particularly in an election with an incumbent. The press looks at the rest of the field and asks each one three things: first, whether he is tough enough to be the President, because it's a very demanding job; second, whether he is capable of managing this country, which is the most difficult managerial job in the world; and third, whether his plans for the direction of this country are better than those of the incumbent President. I think by the time the primaries were over, the press had pretty much said, "Well, okay, Senator McGovern is tough enough for the job, because he's been through this trial by fire." Then the questioning began, "Are you capable of running the country?" They never got past that question because of the Eagleton issue. The question was one of the capacity to govern.

HART. Precisely.

DAILEY. McGovern never got a chance to get past the second trial. He never got to discuss how his way of handling this country would be better than the incumbent President's.

HART. I couldn't have said it better myself.

MAGRUDER. I agree that the competence question was important, but the substance was still there. The contest was perceived as being between a centrist, moderate candidate who had shown ability to lead this country and a candidate of the new cultural revolution.

WATTENBERG. The nature of competence and trust is keyed to substance. *What* is he competent to do? It doesn't work in the abstract.

MAGRUDER. McGovern was associated with the gay libs, the welfare rights, the black militants, the women's libs, the pot-smokers, the long-haired college kids. Maybe that was incorrect, but that's how he was perceived, and that's substance because there is substance in those issues.

HART. What intrigued me about the fall campaign, as opposed to the nomination race, was the degree to which logistics conditioned the way McGovern campaigned. The size of the press corps traveling with us conditioned the kind of campaign we waged; we had to plan around what airports we could land at and how long it takes to bus between places. We tried those factory appearances and going into hospitals. But you gentlemen from the press know what it's like to go into a hospital with a string of 150 reporters behind you—with all the pads and overcoats and everything—knocking people out of bed. It becomes a huge

zoo, and you can't take it everywhere. We wanted to do more campaigning in factories, but the plant managers would say, "Stay the hell out of here, we don't want you in here."

* * * * *

The idea of holding this symposium originated with three long-time associates of the Institute of Politics: Evan S. Dobelle and James B. King, assistants respectively to Massachusetts's two Senators, Edward W. Brooke and Edward M. Kennedy, and Helen Keyes of the John F. Kennedy Library Corporation.

James C. Thomson, Jr., the Curator of the Nieman Foundation for Journalism at Harvard, agreed to be a joint sponsor. Janet Fraser, the Institute's omniscient Assistant Director, undertook to serve as manager and to edit the transcript. Some former Fellows of the Institute pitched in, among them Robert E. Bradford, an assistant to Senator William E. Brock of Tennessee, and David S. Broder of the *Washington Post*. Roland J. Cole, the rapporteur for an Institute faculty study group concerned with the dynamics of political campaigns, lent aid, as did several Nieman Fellows and a number of undergraduates and graduate students from the Institute's invaluable Student Advisory Committee.

Not everyone invited agreed to come, but most did so. Not everyone who wanted to come could make the date on which we finally fixed—the weekend of January 5-6, 1973. There are therefore some lacunae. For example, no one was present who had been involved in Ashbrook's campaign. Perhaps most conspicuously, no one present had special knowledge of either Republican or Democratic efforts to attract black voters. Nevertheless, the participants represented a wide spectrum of campaign organizations and specialties.

The symposium took place around a square table in the library of the Harvard Faculty Club. Along the walls sat an audience of about a hundred or so faculty, students, Institute Fellows, Nieman Fellows, and invited guests. In addition to the four moderators, a number of newspaper and television reporters were present. All agreed to treat the proceedings as off-the-record until a transcript was ready for publication. We are grateful to them for holding to this agreement, and to their editors and station managers for permitting them to do so.

Above all, we are grateful to the moderators and the participants in the symposium for their willingness to take part, their candor, and their interest in teaching us outsiders just what goes on in Presidential campaigns. We believe that our sense of gratitude will be shared by readers both now and in years to come.

—Ernest R. May

Lasers, Computers, and the First Amendment

(continued from page 10)

Almost everyone here is concerned with news gathering, and I'm a little interested in what your prediction was that the new technology is going to have on news gathering.

Oettinger: Well, I'll get to that, but let me first say that you ought not to be so unconcerned about the other aspects. Because after all, the unit cost of the end product is compounded of gathering, editing, printing, distributing, etc., and if all of these other costs drop, then for a given profit margin you can allocate more bucks for gathering, or you can take it out in more profits, but at least you have the option.

So it is, I think, of some concern, even if you are primarily concerned with gathering, that the possibility that there are cost reductions in other areas of the news delivery business is of some importance. Well, to get the gathering on television, the entertainment technology is now very significantly cheaper than the studio technology. A typical studio quality camera, etc., runs you twenty thousand to a hundred thousand or more dollars. For less than five thousand dollars, you can now buy—and this is fairly recent, in the last four or five years—a Sony Portapak and walk around everywhere you damn well please and shoot half-inch video.

Bichara: Let me just for the purpose of being the devil's advocate—it's true, but the quality is an important factor.

Oettinger: I agree with you. You're not being a very bad devil. Why is the quality poor? Because Sony designs for the only market it sees, which is a school market, a specialized industrial training market, and so forth. So long as the only point of entry into the news or entertainment business is the present broadcasting industry, there is no market for Sony cameras. The market for Sony cameras of higher quality at the same price, that is, if technology permits it, would be there if all these four hundred or twenty or forty cable channels were available. Then the investment in developing out of that somewhat cheesier half-inch format into something of higher quality but comparable cost would be there. . .

But now you get back again into what is a characteristic chicken-and-egg phenomenon, the argument over not making those four hundred channels is because there's nobody around that has anything to say over those four hundred channels, and one of the reasons among the many why they have nothing to say is that they can't fool around with any, because they haven't got access to a hundred thousand dollars' worth of camera.

Now I maintain that there is nothing in the current

market structure that helps one get out of these chicken-and-egg questions. And it is only some form of public intervention, public dissension, public action, translated whether it is through private investment or lobbying of legislatures or in terms of newspaper people understanding and clarifying for the general public, issues that will be very important to their rights. You speak of news gathering, but think of the guy you are gathering news for, and his interest in diversity of cheaper materials.

Gollobin: I don't think the problem is only access to twenty thousand to a hundred thousand dollars' worth of camera, because you can look at those who do have access to this, and look at the pure horseshit that's being beamed out to those who do have access to it. I don't think that making a video camera available for five dollars is going to improve the quality.

Oettinger: Well, see I don't know, I can't prove or disprove what you're saying. But let me tell why I don't believe it. Because how many people are good writers? What would I look like if I tried to write a news story? At least I can write and there are schools of journalism; there are many opportunities in newspapers and advertising agencies and schools. Just think, every college has a college newspaper: there are house organs, etc.

First of all, in principle, but not altogether in practice, the state puts in one hell of a large investment in literacy training. The fact that there is a large pool from which professional writers can be nurtured and grown is, in fact, a rather recent public-policy decision having to do with universal literacy. It didn't happen necessarily to supply writers to newspapers: it happened because things got too complex after the Industrial Revolution. People who couldn't read and so forth were a kind of menace because you couldn't train them really to be good peons and so you need to have literacy, and you took all the terrible risks.

You look at the literature of the mid-nineteenth century in terms of the fantastic risks and horrors of what might happen if everybody got too damn literate, and it's very illuminating in terms of current discussions of video media and nobody out there who can express themselves. So why shouldn't they produce horseshit? They are totally untrained, untutored and inept. And the experiment has not been made, let alone universal training, but a broader kind of training. I don't know, what the hell, maybe it'll continue, but are you saying there is no bad writing now?

Gollobin: I'm saying there's plenty of it, but what you've got is the good writing is concentrated, and if you have four hundred channels of cable TV, you're probably not going to have any more than maybe three major networks who are producing anything of substance.

Oettinger: That assumes again that the producing industries remain as they are, and the producing industries are as they are because of what was initially, until the Paramount decision, a vertically-integrated entertainment market where only the studio distributed its pictures through its own theatres. While there isn't any overt vertical integration now between the producers of film material and the networks, it's pretty damn much an oligopolistic kind of situation. And I don't think it's easy to foresee and I'm aware of no one having a good look at what the production would be like under a different type of situation where there are more outlets.

Morton Kondracke (*Washington bureau reporter for the Chicago Sun-Times*): Is it your position that the opportunity that cable television offers is being throttled by either monopolistic interests or the government?

Oettinger: Well, monopolistic interest in consort with the government.

Kondracke: And Congress has done nothing?

Oettinger: Congress has rigorously sat on its haunches since 1934. It hasn't done a goddam thing in this area since 1934. Well, it wrote the Fairness Doctrine into Section 3-15 of the Communications Act in 1959—after there had been years of FCC problems.

Kondracke: Now that the cable opportunity is at hand, have there been no hearings on cable television?

Oettinger: The last hearings were back like in 1969 or 1970 and lo and behold, you're obligated to—Oh, the National Association of Broadcasters, Tom Whitehead and a bunch of guys of the National Cable Television Association come together in some back room and dear Tom writes a letter to dear Dean and the next thing you know the FCC promulgates a bunch of regulations which are the most immoral, nit-picking, the greediest, anti-public interest. . .

Kondracke: In other words, you can't get a license? You can't run a cable television?

Oettinger: Yes, you can under circumstances where if you make money—it's a miracle. And it's sort of a fantastic situation because all of the do-gooders, you see, are in there playing the game of the monopolies. The New York cable franchises cheerfully milk 35 per cent of the non-subscription gross of the New York systems and why you get horseshit on the public access in New York. Mayor Lindsay at one time called cable the urban equivalent of an oil well for city revenues.

So you start looking at some of the public-interest—quote, unquote—arguments and they sound mighty

suspiciously like telephone arguments back in the early 1900s when they were trying to get their competitors out of business by charging five per cent taxes to their competitors in the name of some kind of public something or other. The important thing was putting that load of five per cent or twenty per cent or whatever of gross on a competitor. And you can't do this and say I want to do this because I want to kill my competition. You say, Oh, the higher public interest will be better served if we tax this new and emerging thing with a high tax and give the proceeds of course, to some good cause. But the good cause doesn't get off the ground, and the competitor doesn't get off the ground, and everybody looks virtuous. . .

If you think about it, in the printing business, presses are common carriers, and they do take on every comer; they're not regulated as common carriers; they're not even treated necessarily as public utilities regulated or not. So, by and large, one of the things that has made life in the print media tolerable from a libertarian viewpoint, is that the price of entry has been relatively low. You can set your-

. . . There are all sorts of nightmares or dreams you could construct, depending on your viewpoint. . .

self up in business fairly easily without a major capital investment in many respects because printers were available, and without buying a printing press you could buy into a piece of an on-going press and run off an edition of a thousand, two thousand, pieces and not go broke. Distribution? Common carriage through the post office.

And, you know, the business of the upping of the postal rates is another part of this equation where there is a postal service madly going off into policy ideas of its own without any inkling of what's doing in the rest of the world. It's having a serious impact, not only on newspapers and magazines, but also on the cable television and the television industry because in part what happens to postal rates also affects relative costs of shipping the video tapes and stuff around in the mails, as opposed to transmitting them electrically.

And at some point, when the post office keeps raising its rates much higher, it may end up putting newspapers and magazines out of business, to the great benefit of the telephone company and cable television company because it will turn out to be a lot cheaper to move the stuff around on wire than to move it through the mail. At some price that will be true—I don't know whether the postal service will get there or not, but they're making moves in that direction. And so these things are linked together.

Gollobin: The profits which are inherent in the cable

television system are pretty enormous. I used to work for a company that was really into cable TV, they called it "Cat TV," and management occasionally slipped and referred to it as "a license to print money," because once you get that tower up there and you get the cables running to the homes, you don't do a damn thing—nothing to wear out, that's it.

Oettinger: But from where I sit, all I hear is the crying that it takes, you know, five years, ten years to break even and so forth. Which again depends upon the accounting scheme that you use. That's fascinating. I'm trying to get some regulations through here . . . we've got a big study going on of accounting practices and, man, they really stir your imagination.

Gollobin: The Supreme Court has just ruled that you don't have to pay copyright. That's going to make the profits even more.

Oettinger: Yes, assuming that the cable television industry is smart enough to take advantage of it, which I sometimes doubt, although that is changing. One of the curious characteristics of the cable industry is by and large its management is so dumb that it often cannot even tell its own self-interest when it is face to face with it. But also that is changing because the fiascos over the last few months with Teleprompter and the generally tightening of money has meant that there have been profound management changes, and some of these guys who are coming in now are a great deal smarter and much more interested in profit than some of the others, therefore somewhat less doctrinaire and much more eager to look around for a variety of opportunity.

Listener: But doesn't the technology that you've been discussing and outlining suggest that it may not be such a gold mine? In other words, part of what makes it a gold mine is that there are, at this point, still a limited number of licenses per city, or per market, whereas if you get to the point where there are twenty outfits competing in Boston, the gold won't be so—

Oettinger: Well, whose gold, you see? If I'm a cable operator and I visualize myself as being in the business—the telephone company is a huge gold mine. That figure of 18.2 billion dollars is obsolete. Two weeks ago the figures from last year came in. What does the telephone company make its money on? It doesn't produce a thing: it just shifts your voice from hither to yon and each time it does, a cash register rings.

Listener: Well, part of that is there is nobody competing with them.

Oettinger: Well, nobody is competing with the cable outfit

in a local area. Massachusetts has a law on the books saying licenses will be non-exclusive, but nobody's crazy enough to go into any city or town in this Commonwealth and build two cable systems. So that for all practical purposes, it will be a natural monopoly for what? For distribution.

Like, the guy thinks of himself as being in the distribution business and says, Never mind pirating stuff off the air, although I might want to do that as a way of starting my business, but now let me take advantage of the bonanza that the Supreme Court has handed me yesterday, and I will say the hell with the FCC and its regulations, which are based on cable being ancillary to over-the-air broadcasting. The Supreme Court has given me a license; I will bring in this and I won't say a damn thing and until they

I'm sure that there is more interest in the rate setting practices of the undertaker than there is in the question of who controls cable television.

catch up with me because sooner or later the Congress may get stirred and catch up with me. What I will do is build up my carriage business so that I will find myself additional customers who have services that they want to peddle over my wire, so that four, five, ten years down the pike, when the last shot has been fired, maybe even twenty years, on the copyright wars and I am finally asked to pay for what I bring, I can say, Gee thank you, I'm not going to pay for it, I'll just stop it. By now I have used that income as a transitional way of getting myself into primarily a carriage and distribution business.

And one of the interesting kinds of national-policy consequences of this might be the following: that in the whole process you also get the television stations the hell off the air because they're cluttering up that precious spectrum which one could use, for example, for mobile services. Telephones to cars, better services to police, fire, ambulance etc., etc.,—taxi-cabs which are having a devil of a time in urban areas. You couldn't do this in rural areas because of the cost of laying cables and so on. But in urban areas, if instead of having over-the-air stations, you had a common carrier like cable distribution . . . One of the things that he does is sell a channel to one of the current television stations so the network, instead of distributing over the air in Boston, distributes over the cable, along with a bunch of other things.

Kondracke: How does one get to own the cable?

Oettinger: Traditionally you bribe city officials.

Listener: I don't understand why you keep saying there aren't going to be two competing—

Oettinger: Oh, because there is a high capital cost of lay-

ing cable. If you have twenty channels that you at the moment can't fill, the next guy, where is he going to get the capital to lay another cable with twenty channels that he can't fill?

Kondracke: How many channels can a cable carry?

Oettinger: Most of the current systems carry twelve. They can carry easily twenty and that's what the FCC has mandated . . . thirty-six is not out of the question.

Kondracke: So you can have a total, including regular television, UHF and VHF, or what, about forty stations per town?

Oettinger: And then if you want to lay a second cable at the time when you could, you could then make it eighty. . . . It is hideously optimistic, and the fact is it is not happening. My argument to you is, ask yourself the question, why? I cannot argue with the fact that it has not happened. The evidence in front of your eyes and mine is the same. It's not happening and where something is happening, as you said, it is crap. The interesting question is why is that so?

Bichara: You know what they tell you in television—they tell you that they haven't defined correctly the product that is going to be channeled on those cables. . .

Oettinger: If you wanted to go out today and invest a small amount of capital into experimenting with a new product, here's what would happen. You walk up to Mister Cable Television Owner and say, I've got an interest in a production company, we've got an interesting new product; and he'll say, Gee, that's very nice; I haven't got anything to rent you. And in those few cases where he will talk to you, he'll write you a very short-term lease so that just in case you should end up making money he'll throw you out. Now, under those circumstances, why would you be crazy enough to put up your own money, or why would a bank be crazy enough to lend you money or a venture capital outfit be crazy enough to give you venture capital to go into business, when you know the other guy has the deck stacked against you?

What I'm suggesting is that the observations you make are all correct, but that the roots of those observations are not natural law, or technological inexorability, or something beyond any human control. They are arrangements that are convenient for those who have organized this medium basically along dictates that were perfectly rational twenty or thirty years ago. And I would even go so far as to say that they are not necessarily corrupt, or evil or greedy or something. In many instances they are just unable to visualize anything out of our ordinary conventional way of doing business. Yes, I'm talking about the broadcasters, but the broadcasters aren't the villains.

Again, let me turn to do-gooders. A tenet of do-goodism is that it is bad to have excessive control of media. Therefore, one of the things that the FCC, one of the things it has written into the Massachusetts cable statute, is that no television stations—that's FCC and Massachusetts— and no newspapers, (the newspaper thing is peculiar to Massachusetts), shall own cable systems in their own areas; in the case of newspapers, their primary circulation area. That makes perfectly good sense, again, under a conception of scarcity. It doesn't make any sense whatsoever under a conception of where you have a carrier that can accommodate services that are television station-like, that are newspaper-like, that are bank-like, or other information service-like, etc.

In other words, the notion of prohibiting cross ownership, which is so dear to the liberal heart and makes perfectly good sense on the assumption of necessary concentration, just becomes very counter-productive under an assumption that you can have a great deal of transmission facility, and why not run that almost like the phone company. . . . If it is run as a utility, who cares if the local television station owns it or if the newspaper owns it? They happen to have the current capital and cash flow to go into that business, provided that it is part of their mandate to let the facility be used by any comers.

Kondracke: Why wouldn't it make sense for law to be established in the beginning making it a public utility?

Oettinger: Because the industry lobby has made it exceedingly clear to the Congress that, no way!

Kondracke: But if the legislation prohibits them from owning the cables—

Oettinger: In their own areas. Forty percent of the cable systems in this country are owned in fact by television interests, but outside their primary broadcasting areas. It's kind of silly because what it does is put the television stations and the newspapers only in the same position as any other entrepreneur, and a lot of these investments were made at a time when it wasn't clear which way it might go.

I think now the incentive to invest that way for a newspaper or television station is probably much less; whereas I think it would be considerably greater if you could see it as a way of hedging against the future and playing your one large newspaper or maybe four newspapers or diversity or uniformity over this medium as well as over the printing. I think that the historical precedents in this area—I've tried to look at some of them—suggest that sooner or later, if there emerges an issue that arouses enough people, things will change.

I think something that we take completely for granted now, which is the uniform postal rate—that's ten cents as of

last week—but still it's cheap. That was very hotly fought for about thirty years, between 1845 and 1875. Around 1836, a guy named Rowland Hill made a study in England which showed fairly conclusively that the bulk of postal costs was incurred at the points of collection and delivery, and all the sorting and the carrying and so forth, once the stuff was in bags, even by stagecoach and certainly by an emerging railroad, wasn't much of a factor at all, certainly not on the scale of England. And the post office stoutly fought this. It took a decade or so in England and it was a major political issue for thirty years in this country until finally on grounds of public interest and the advantages to trade and the coherence of the country, etc., this got adopted here.

In the 1880's and 1890's, the parcel post and rural free delivery issues were fought on the same basis. There was great opposition to rural free delivery and, amusingly enough, on the part of warehouse interests because it turned out—and there are some interesting little sidelights there—that one of the mainstays of the local store, or the local bordello, etc., were the people who came into town to collect the mail. They stayed around and did their shopping and went to the bordello, etc. And here was the United States government lousing up private enterprise by bringing mail to the farmer out there in the sticks and keeping him from coming into town. It was a very hotly-fought political issue. The interests have changed, but at that point the farmers mustered enough clout to get the RFD and parcel-post legislation passed.

Kondracke: Your position is that since the cables are owned by people who are already in the television business, that they don't develop the cables?

Oettinger: No, they don't, by and large.

Kondracke: Outside their area, in other words, that means that the interests that control ABC network might own cables in cities where they do not have an ABC station.

Oettinger: And they don't, therefore, have a strong interest in developing it, and that's one of the factors that might account for what otherwise is rather inexplicably lethargic behavior on the part of the NCTA. Because one of the curious aspects of the National Cable Television Association is the lobby. In terms of thinking of it as an advocate of what one would naively assume to be the interest of their flock, they've been remarkably docile in compromising with the broadcasters, even to the point of yesterday having a favorable Supreme Court decision thrust upon them. Really ridiculous! It's a really important decision in their own best interest which they didn't even lobby for. Those things boggle the mind.

Kondracke: Which side of that case won?

Oettinger: It was CBS versus Teleprompter, and Teleprompter won.

Kondracke: Is there a cable in every major city now?

Oettinger: No. There are cables in very few major cities. It isn't easy to put in major cities because that's the most expensive part and that's why the importance of this case is in making it. Major cities are the last to be wired. New York is an anomaly, partly because of the high-rise buildings in Manhattan which create some problems with ordinary reception so that New York is a little like the boonies with the high mountains. So there was that argument. But by and large, New York, San Diego, it's hard to think of other major cities. . . The reason, in part, is the cable people felt that since the major city has lots of television stations anyway, without importing distant signals, they couldn't sell it.

Kondracke: When you say importing distant signals, what does that mean?

Oettinger: It means in Boston, for example, bringing in some independent New York stations. And advertising them for the six or seven bucks a month. Ladies and gentlemen, you aren't only getting better reception of the Boston channels, but look here we're giving you all those New York channels. Not only that, we're giving you non-network channels so you see something different. Otherwise, the selling has been a bit of flim-flam—they'll give you fifteen stations, but you turn the dial and there'll be NBC, NBC, NBC, ABC, ABC, ABC and CBS, CBS, CBS. After a while, even the most stupid customer realizes that.

Kondracke: In the pro football season, that'll pay off.

Oettinger: Which gets you right back to another link in this chain, which is where are the sports interests in all of this and what do they see as there? Because who makes money out of games? If I owned a ball club, I think I would be much in favor—just like the picture producers—of a cable television situation, so long as I felt that in the meanwhile, the networks didn't take reprisals on me. But this is the chicken-and-egg question—it's a very hard one. Because even people whose self-interests would be better served by a different order of things may not find it politic so long as the enemy forces are occupying . . . Don't raise your country's flag in the middle of the street unless you are willing to get shot.

Bichara: In Germany . . . television is owned in terms of 50 per cent: in France, as you know, it is entirely owned. . . I just wonder if this tendency has the slightest chance in big business.

Oettinger: Government ownership? No, I think that if I were to try to predict the future, the odds are greater that cable television will disappear as an independent entity and that all the wires will be owned by the phone company. If you want to regard that as a form of the government, that's all right with me. I, as an innocent university professor, find some of the calculations of businessmen hard to understand. Because the main reason why a broadcaster has to knuckle under to things like Agnewisms and White-headisms and so forth is because of that three- and five-year license renewal thing. Now with cable there is no longer any necessity for it.

And keep in mind that broadcasters got themselves into this themselves. The United States government did not go out and say we are going to regulate and license stations . . . we are going to impose the FCC. The Radio Act and later the FCC were the products of the industry's saying we are killing each other through jamming, cut-throat competition, etc., etc. Governments, come in and be our policemen, they said. Okay, and now they are living with it. The need for that no longer exists.

I stood at a meeting with the president of the National Association of Maximum Service Telecasters, and he's a man whom I simply do not understand. I can respect his wanting to make money; I can respect his wanting somebody not to take over his business; but I cannot understand that it is quite unthinkable for him to think of alternative ways of taking his money machine and changing its shape slightly. I think much of that is true of other broadcasters.

Kondracke: Do the presently operating broadcasting industries conceive it more in their interest to operate as they do at present, and have the cable experiment not succeed, and give up the possibility of a real First Amendment for television, or would they rather own the cable somehow, and have a First Amendment?

Oettinger: The overt signs are that they seem to be sincere, and this is what one gets from the press, including the trade press and occasionally from conversation, that their best interest is served in remaining as they are. My argument is that if I were in their shoes, I would see it the other way, but I'm not in their shoes. And my problem is that it is hard for me to see why they're so obstinate because they could serve their economic interest. They could serve their First Amendment interest and make money in new areas, diversify into new areas, by saying, Let us pick up our marbles and in some nicely laid-out transitional period, move off the air and into cables in the urban areas and suburbs, etc., etc., and never mind for the moment the wide open expanses of Montana. And, be reborn better than they were.

Kondracke: I'm a little confused. You said originally that the television interests do have lots of money in cables outside the areas where they operate. Now, are they doing that for the purpose of not developing the cables?

Oettinger: I don't know. There is precedent both ways. The history of the transportation industry shows a period in which railroads were buying into shipping lines for the simple purpose of putting them out of business as competitors. So that it is not purely a fantasy to imagine ownership, especially in a period where there is franchise speculations and you have capital appreciation just by sitting. . . . It's not a bad deal; you keep your options open but your heart may not be in developing. This is a pure fabrication on my part. I have no evidence; again, I would love a good investigative reporter to have a look at this. It's a very complicated story, but I think that what is at stake here is who is controlling? And will control? And what the shape will be of mass magazines or small magazines and specialized magazines and so on. It seems to me that I don't have much of a say in this at all.

Gollobin: I hate to keep kicking a dead horse, but if you look at the New York television market. . . I live in New Brunswick, New Jersey, and get seven New York television stations and by turning my antenna the other way, I can pick up another four or five from Philadelphia. And there were many days, entire afternoons and nights when there was nothing, I mean even light entertainment, that was of substance worth watching and New York is supposedly the best in the country.

Oettinger: You're giving the conventional elitist argument about the wasteland of television. I personally agree with you and I can only reiterate my argument that what you are seeing is the product of current and past conditions which aren't necessarily so forever. I'm asking you to visualize an alternative future which is technologically and financially feasible, but for which the institutional forces are not there. Does anybody care? And I'm arguing that even if one doesn't care on other grounds, that there are potent First Amendment grounds on which that should be a very important issue for every citizen. The hell with the quality of what is currently available. The encroachment of the Fairness Doctrine on both newspapers and television is something that need not be, regardless of how people might exercise their options if they had them.

Kondracke: I'd always understood that matters were as you say they are, that as soon as the cable experiment started blossoming that television could say, Okay, now we don't need the Fairness Doctrine anymore: we've now got such a proliferation of outlets that there is no longer any need for

the Fairness Doctrine. But what you're saying is that that isn't so.

Oettinger: The dynamics for the reasons which I don't pretend to comprehend. . . I agree with you—that's a rational viewpoint. . .

Kondracke: As FCC regulations presently stand, will cable channels have to observe the Fairness Doctrine?

Oettinger: Well, that's section 76.251 and under leased-access channels it sort of implies maybe no. But on the other hand, the question of liability of the cable operator for what is said over his channel is sufficiently obscure that most cable operators and their lawyers are taking the safe route and saying, You ain't getting nothing by me without my vetting it because I'm going to be sued.

And, one of the things that we are exploring in the Mass Cable Commission, is to take a stand that in Massachusetts, liability on any access channel will be that of whoever presents something, and never mind the cable owner. That is a legitimate excuse. Those FCC regulations are such a terrible mish-mash that it is hard to tell incompetence from deliberate obfuscation. Yet in many ways, they're so carefully smooth that I would think they regard ambiguity as a studied verbiage with the aura of motherhood.

Gollobin: Doesn't the FCC apply only to that which is broadcast on the air waves?

Oettinger: That question, I think, is good for at least ten to fifteen years of litigation. And, in this very room last week, we had some of my colleagues here from the Law School and a couple of guys from Arnold and Porter to help advise us on that issue, because there you see you get into another one of these absolutely Byzantine pieces of regulation.

The telephone and broadcasting are regulated under different sections of the Communications Act. And it's clear that under the telephone section, the FCC has no authority over cable TV. Under broadcast, it's ambiguous, meaning the FCC never tried to assert it; so they invented this gimmick of "we regulate because of the over-the-air signals capture which is ancillary to broadcasting." The Supreme Court upheld that in the Southwest and Midwest decisions. And, the question of whether that would hold for signals that are originated locally, whether produced live or canned, which never go out over the air, is a beautiful one which falls right between the stools. On telephone cases, by and large, jurisdiction is both interstate and intrastate, and if the signal doesn't travel interstate it's intrastate even though the physical wire crosses state boundaries.

You get into some very nice distinctions between what the difference is between a wire, which is a physical thing

that crosses state lines, and a channel, which is an abstract notion of a piece of a wire over which by technological legerdemain you transmit signals, and channels are different legally and technically from wires. So you can maintain both and then it's almost a trinitarian kind of concept in its complexity. It's exquisite. The lawyers will benefit enormously over the next ten or fifteen years. It's the very complexity which I think makes life so difficult for the entrepreneur. Because given this kind of a situation, the natural tendency of the lawyer would be to play it safe. That is, in part, what I was saying about giving you a better answer to the questions that were raised by these two gentlemen, that even if the entrepreneur wants to do it, to be more adventuresome with cable, the odds are the lawyers would advise him not to.

And this is again where I think there is a public responsibility which the Congress has resolutely ignored. You have a better chance as a policy maker or entrepreneur or whatever of overruling your lawyer, if you have public opinion or congressional intent or something on your side. And, there isn't much public groundswell. . .

And that gets back to another insidious chicken-and-egg question which is, if I am a congressman, why would I be anything but for the broadcaster, who gives me my free time and so forth when I am running for my next election? These guys with the cables can't do much for me. At best, in some areas they reach 30 per cent of the households, whereas my friendly neighborhood television guy reaches 90 to 95 per cent of the households. So who am I going to take to lunch?

Bichara: This depends on what you are going to put on those cables. You can put only movies and shows and whatever, but it's feasible to imagine a program where you can in five minutes between movies give some time to your congressman. But it's in five or ten years.

Voice: Are you going to place the telephone companies in perspective?

Oettinger: I'm glad you asked. As I said a few minutes ago, if I had to make any single prediction about the outcome, it would be that ten, twenty, thirty years from now, there would be nothing there but the phone company.

Gollobin: By default or . . . ?

Oettinger: By both design and partly default because the phone company hasn't been the smartest entrepreneur in the world, either. But they have awakened. If you've read, for example, the chairman's speeches—not Mao—last September and October, where he essentially declared war on the United States and the FCC and all this talk about regulated competition in telephony, I want to go back to the good old days of regulated monopoly.

And, put that in the context of the high-low rate case and what is being shown is that if the competition comes in, and this is in the form of independent data carriers like MCI and Datran . . . or in the form of cable television operators talking about two-way operations. I mean, what is two-way, the phone company does two-way all the time? Why is that such a hot issue? It's cream-skimming and who gets screwed if the cream get skimmed is the little guy, and there are a lot more little guys than big guys and that's the pitch the phone company is making. The company says that if cable television is permitted to flourish, particularly in a two-way kind of thing, if specialized carriers are permitted to flourish, what they will do is take the traffic off the high-density competitive routes and undercut the phone company rates on those, leaving the phone company with all the dogs; the dogs being everyone here who rents maybe a princess phone and calls his wife from the office or his grandmother across the country or something like that.

The threat is that if all the business goes to these competitors, that through internal cross subsidization have been paying for a substantial portion of the little old phone, the rates are going to go up—they might even double. They might even triple. There is no telling where the end might be and then much is made of the fact that something like eighteen per cent of the long-distance revenue goes to subsidizing local phone service. And that has been made as part of the argument that if long-distance business gets taken away someplace else or substantially dropped, then more of that eighteen per cent is going to get loaded onto

. . . The telephone company . . . doesn't produce a thing—it just shifts your voice from hither to yon and each time it does, a cash register rings.

the local phone. . . If you feel cynical you can begin to discern the laying of a groundwork for appealing to the public interest in the same sort of way, akin to the California referendum on pay television in which the argument was that pay television will knock off free television. The voters of California bought that by an overwhelming majority.

The point is that the public interest, mine and yours and the little guys in California, in the long run, I think is better served economically; and the First Amendment, if we're willing to make this kind of transition, to either genuine competition, or I guess in my ordering of priorities, I feel that the First Amendment issues are more serious in a way than the economic issues. Because the phone company, after all, is gouging me only in the pocketbook: it isn't

telling me what I should hear or should say in a phone conversation.

So, given present conditions, I would feel more comfortable with the phone company taking it all over because then they, with their natural inertia, would carry forward their common-carriage notions and sell coaxial cable space to all comers with no questions asked. You pay your money and you get special rates for the aged in urban areas. They also cross subsidize a little bit here, there, play games all over the place, but will not by their tribal mores, interfere with what I say. So I personally would rather pay the phone company a little bit more if it comes to that, than risk encroachment of a fairness doctrine etc., on cable or the perpetuation of the restricted televisions.

Gollobin: The idea of the phone company moving into this area, and if it does catch on—which I doubt it would—then there's a telephone strike, we'd be virtually without any communications at all with the outside world.

Oettinger: Yes and no. First of all, the phone company is in this already, partly through ownership of some cable systems, partly through its own form of cream-skimming. One of the peculiarities of the myopia of bureaucratic categorization is to talk about something like *the* cable system. The phone company is in the business of renting broad-band lines to people who want to show movies in hotels. And, that's broad-band communication. If that's where the bulk of the cash flow is, and if Teleprompter and Sterling go out of business—as they well might given the state of affairs and of Columbia Pictures and some of the others who are leasing the wires from the phone company and bringing pictures to the hotels continue to make money, who is going to have the cash, then, to extend out of high-volume, solid revenue, densely-populated hotels into the business establishments, then into the houses. . . ?

Gollobin: Can't you make the same argument about the postal system? They went into it, and made a mess of it, and along came the United Parcel Service. I wouldn't have given UPS a chance to succeed. But they have, and they're making money, they're doing it cheaper and eventually this problem you talk about if the postal company continues to raise rates, then UPS is going to get into letter delivery.

Oettinger: Well, not only UPS. There are lots of private-letter carriers in operation now, undercutting the post office and nobody's quite yet taken to court on infringing on the postal monopoly.

Gollobin: What I'm saying is the market place will eventually take care of some of the excesses or some of the problems. And if you think that the phone company simply because it has the assets and so forth. . .

Oettinger: If you're saying that the phone company in a fit of unusually bad management could paint itself into the postal corner, I agree. That's certainly in the realm of possibility, that the management of the phone company can be so inept as to create that situation, yes.

But I would argue from a public-policy viewpoint—and I'll get back in a moment to your reliability argument—that may not be in the best national interest, for the same reasons that UPS may not be in the best national interest. And that goes back to points that George Washington made when he asked Congress to create post offices and post roads back in the early days, on this whole business of what obligation is there to bring certain crucial services like mail and telecommunications to *everybody*. That's hard to do in the post office without cross subsidization, and the postal service seems to have embarked on a deliberate policy to move in the other direction and cut down cross subsidization, and so UPS may prosper. But in part that doesn't bother you today because the post office is now only part of a network. The post roads were the only thing at one time.

The interstate highway system is quite independent of the post office; the policy and political issues and the funding that led to that had nothing to do with the post office. The trucking industry is here now, the automobile is here now, the airlines are here now. So the problems of moving mail and parcels around by alternatives to the United States Postal Service look very different in 1974 from what they did in 1774. . . . I think that's a very tenable argument. It would be very interesting to pursue it to its logical conclusion. . .

On the phone side, though, much as my liberal gut dislikes monopoly, my technocrat's gut says that it is damn hard to justify multiple phone systems. And even the

competitors of the phone company exist only by virtue of their ability to interconnect with the telephone system, so that from a technical viewpoint, the system already is unitary because in order for stuff to travel from me to you someplace, it's got to go through some common system. If they're competing phone companies and you have this crazy business of I'm on one phone system and you are on another, and I can't reach you. . . . It's not like the airlines or the post office in there being easily alternative paths. So the arguments for one system are much stronger today than the argument for one rail system, or the argument for one trucking or airline or postal system.

The fear of a strike—well, we've had a lot of strikes here in Massachusetts, and it hasn't made a whole lot of difference because so much of the telephone system is now automated and the reliability of electronics—that's the other factor, along with the decrease in costs. The increase of reliability of electronic stuff has been so stupendous that the telephone system could run itself for several months without a human being around. So it's not clear there that the risks are that great but the advantages seem quite great, leaving only the economic argument.

My contention is that on balance, we have a better track record and better ability to deal with economic concentration and rate setting than we have with First Amendment issues and things like that. I mean, everybody understands when they're being gouged fifty cents a month for a long cord, and the market responds in the form of Radio Shack and Lafayette providing you with long cords that any kid can wire in.

Listener: We have an old human tradition to knock off at six o'clock.

Oettinger: Oh, fine, by all means.

. . . What the founders feared . . . was not that government might be inconvenienced by the press, but that the press might be harassed and regulated by the government.

—Katharine Graham
The Activism of the Press