

n i e m a n

december 1972/
march 1973



Anthony Lewis

Morton Mintz

Dolph C. Simons, Jr.

Daniel Ellsberg

Melvin Mencher

1973-74 Nieman Selection Committee Appointed

Book Reviews of Halberstam, Nelson & Ostrow, Aronson

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nieman reports

december 1972/march 1973
vol. XXVI no. 4/vol. XXVII no.1

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Nieman Reports is published quarterly by the Nieman Foundation at Harvard University, 48 Trowbridge Street, Cambridge, Massachusetts 02138. Subscription \$5 a year; add 40¢ for foreign mailing. Single copies \$1.25. Third class postage paid at Boston, Massachusetts.

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A Note to Our Readers

With this issue, *Nieman Reports* initiates some changes in both format and content.

Observing that our readership is not—and should not be—restricted to alumni of Harvard's Nieman Fellowship program, we have shifted the section called "Nieman Notes" from this quarterly to an occasional informal newsletter that will be mailed to alumni and special friends of the program. Subscribers to *NR* who wish to join that mailing list should drop us a note.

Observing, further, that our previous Editorial Board of twenty Nieman alumni has been both unwieldy and underemployed, we thought it best to put together a much smaller and more active editorial committee. We are grateful to the outgoing Board members for their past assistance as individuals and will undoubtedly be calling on some of them for renewed and more onerous service as we constitute a committee rooted closer to our presses.

On the matter of content, we cautiously move in a somewhat new direction. The printing in full text of unusually significant speeches that are otherwise unavailable is a venerable *NR* tradition. It is not one that we intend to abandon. At the same time, most speeches are for the ear, not the eye. So we will try henceforth to persuade potential contributors to re-draft significant thoughts in article form. But we will give priority to the soliciting of original copy, not previously exposed to ear or eye. And we will take, for us, a revolutionary step and offer token honoraria for the original pieces we print.

Nieman Reports came to birth in February 1947 under the editorship of Louis M. Lyons. Like the Nieman Fellowship program begun in 1938, it was an effort to meet the broad challenge of the Nieman Foundation's benefactress, Mrs. Agnes Wahl Nieman of Milwaukee: "to promote and elevate the standards of journalism. . ."

In the late forties and the fifties, *NR* was a sometimes lonely critic of an irresponsible press, a sometimes lonelier defender against threats to a free press, and a reporter of exemplary acts of courage and honor among journalists. Today we are by no means alone in any of these roles.

It remains our modest aspiration, nonetheless, to provide lively discussion of the printed and the electronic press, the underground press, journalism reviews, journalism schools, and relevant books as well as cogent comment on those inside and outside the media who pose—or who resist—any threat to the public's right to know.

We therefore welcome ideas, controversy, affirmation, and dissent—including thoughts from our readers as to how better to achieve our modest aspiration and to meet Mrs. Nieman's challenge.

—J. C. T. Jr.

(Not So) At Home Abroad: Its Drawbacks for the Press

London

Harold Evans of the Sunday Times, London, is one of the most resourceful, determined and successful editors in Britain. He and his staff can make sense of the complicated and the hidden, the doings of a Bernie Cornfeld or the management of an election. The Sunday Times has rightly won just about all the journalism prizes going over here.

In 1972 Harry Evans decided to dig into what he considered a legal scandal: the delay of more than 10 years in providing some compensation for the families of Britain's thalidomide children. About 450 mothers who had taken the tranquilizer thalidomide gave birth in 1961 to children lacking legs or arms or having other horrifying deformities. A decade later 370 of the families were still trying to settle lawsuits against the company that made the drug, and had not collected a penny.

What happened to Harry Evans in his coverage of the thalidomide case should be noted by any American editor, reporter or citizen who takes freedom of the press lightly. He ran into the British legal doctrine of contempt of court.

In its best-known form, the contempt doctrine prohibits press comment on pending criminal cases. An editor whose paper printed a colorful piece about a murder suspect, describing his past record or alleged confession, would certainly pay a stiff fine for contempt and might well go to jail himself.

The theory behind that rigorous rule is that it will keep outside influences from prejudicing a jury and assure the defendant a fair trial. The theory does not always hold

up; in at least one case recently a newspaper was fined for printing a rude description of a defendant before trial, but the defendant lost when he tried to have his trial delayed to let the prejudicial atmosphere disappear. In any event, the object of preventing prejudice to criminal defendants is one that Americans can easily understand.

What is more startling is what happened to the Sunday Times: the application of the contempt rule to a civil case tried by a judge alone. In other words, there was no criminal defendant whose fate was at risk, and there was no jury that might be improperly influenced, but still the English court banned a newspaper article related to a pending case.

The article that the Sunday Times proposed to print was a thorough investigation of the way thalidomide has been developed, tested and marketed in Britain a decade ago. It reached critical conclusions about the manufacturer, the Distillers Company, finding that it had not adequately tested the drug before selling it, nor noted danger signals from other countries quickly enough.

Distillers is one of Britain's largest companies, with sales of over \$1 billion a year, mostly in the liquor business. Among other brands it makes Vat 69, Johnny Walker, Haig and Black & White Scotch, and Booth's and Gordon's Gin. It had offered to settle the lawsuits brought against it by the 370 thalidomide families, but only on condition that all 370 accept its terms. Some would not.

The Sunday Times showed its piece to Distillers before publication for comment. Distillers went right to the Attorney General, Sir Peter Rawlinson, and demanded that he move to stop publication—as a contempt. He did, and

a three-judge court agreed that it would be contempt. The court enjoined the paper from using the piece.

At its ripest, the contempt idea in British law used to condemn even criticism of judges' decisions after they were rendered. It is nice to muse on how many editors and politicians from the American South might have gone to jail under that doctrine, for what they wrote about Earl Warren.

Nowadays, English judges say they are self-confident enough to stand up to adverse comment on their judgments. As the Lord Chief Justice, Lord Widgery, said in the thalidomide case, a court's concern in contempt matters is "not with the preservation of the dignity of itself or its judges."

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But the doctrine is still extremely broad, by American notions. Lord Widgery defined three kinds of outside comment that would be contempt:

1. Comment on a pending case that might "affect and prejudice the mind of the tribunal," even if that is a judge without a jury. As an example he suggested any publication that would make a judge fear being "severely criticized" if he did not rule a particular way in a pending case.

2. Comment that could affect witnesses, as by persuading them even unwittingly to alter their recollection of events. That might well be any newspaper or television reconstruction of the facts involved in a pending lawsuit.

3. Comment that may "prejudice the free choice and conduct of a party" to a lawsuit.

It was this last kind of contempt that Lord Widgery and his judicial colleagues found in the thalidomide case. They assumed that the Sunday Times article was entirely accurate. But by showing that Distillers had been at fault in making and selling thalidomide, the judges said, the article sought improperly—contemptuously—"to enlist public opinion to exert pressure on Distillers and cause the company to make a more generous settlement."

Was that wrong? I mean wrong not in some abstract legal sense but in terms of the realities of this human problem.

On one side of the pending lawsuits was the Distillers Company, with assets so immense that it was effectively under no financial pressure. Its last reported annual profit

was \$90 million, compared with a recent increased settlement offer to the thalidomide families totaling \$12 million. Nor was it under any pressure of time: like most big corporate defendants in damage suits its interest was served by delay.

On the other side were the 370 families, many of them poor and none with the resources to meet the medical and rehabilitation and special living needs of their children without help. The families were under appalling financial pressure, the worse as time passed and the children needed new care or devices to help them lead lives at home and in school as near normal as possible.

The only effective way to make the two sides less grossly unbalanced in their strength would be by exerting on Distillers the pressures of conscience and public opinion. That was part of what the Sunday Times sought to do. The other part was to suggest that, whatever Distillers did, there was a public responsibility toward these families.

Most editors, British or American, would regard those as legitimate press functions—indeed public obligations. The Americans, if they thought about it, ought to be grateful that their right to perform the role is protected by a written constitution and judges who expound what it means by "freedom of the press."

It is not only in the contempt area that Americans can look at British restraints on the press and value their own freedom the more. Another danger area is libel; a mistaken criticism, even a joke that does not come off, may cost a British paper thousands of pounds. There is nothing like the constitutional rule of The New York Times libel case, protecting criticism of public figures unless it is not only untrue but malicious.

Again there is the draconian protection given to "official secrets." Present law literally makes it a crime to publish information from government sources unless it is officially released, though this ridiculous statute is seldom invoked. A committee has proposed changes to limit the law's reach to information concerning defense, internal security, the currency and foreign relations, and information that might "impede" police work. By American standards the proposed reform would still leave the law shockingly—unconstitutionally—overbroad.

No wonder British editors often have a barrister at their elbow. Thinking about their difficulties may focus our minds on the value of what Justice Brennan of the American Supreme Court rightly called our "profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open."

—Anthony Lewis

Professionalism in the Newsroom

It went to my head. Formally, it was an invitation to deliver the Second Annual Consumers Union Lecture. Actually, it was a chance to have (read: harangue) a captive audience at the Graduate School of Journalism of Columbia University. Led into temptation, I of course succumbed, delivering a talk of evil length. Something may be said in mitigation. Even as I spoke I knew I should cut, and did so. The captives seemed friendly, casting their eyes with no more than ordinary frequency at their watches and the ceiling. It could be (could it?) that they were interested as well as gracious. A final mitigator is that I don't do this kind of thing often. Almost never. Not once since last May 18.

Now, Curator Thomson wants to expose you to the complete text. The truth is, though, that others have conveyed with brevity and wit what I documented at length.

John Osborne in The New Republic: "The President, who is known to be capable of spontaneous laughter, must have got a good laugh out of his success in compelling the media to serve his purposes by reporting as big news the non-news that he had decided, after grave deliberation, to keep several of his Cabinet members and department heads where they already were."

Headline in The New York Times, Page One, column eight, December 3, 1972:

KISSINGER TO STAY AS NIXON'S ADVISER ON FOREIGN POLICY

Ehrlichman and Haldeman
Will Retain Key Positions
on White House Staff

BASIC SYSTEM UPHELD

President and Security Aide
Meet 4 Hours in Florida
on Peace Talk Strategy

Russell Baker might have had that headline in mind when, in a lovely parody in the Times on December 12, he had wise old Senator Merle Survine explain to dullard

Senator Gloss that "the reason Presidents make these Cabinet changes is not to excite us but to excite the press." On hearing the theory elaborated, Gloss said, "Uncanny! The Cabinet exists because it is utterly without importance." Perhaps a "bit of overstatement," said Survine, "but I should be very surprised if after Christmas we hear of the Cabinet again before late November, 1976."

If I may turn serious and maybe even solemn, Richard Reeves said it for me, beautifully, in [More]:

"The President goes to a customs station in Laredo, Texas, to 'dramatize' his commitment to ending the flow of narcotics into the country—and a hundred of the best reporters are there with him, even if they're 100 feet away behind Secret Service barricades. Is there one reporter in Washington or one in Newark with the smarts, the time and the money to figure out whether the Nixon Administration is really doing anything effective about drugs? . . . Once we covered what candidates said, now we report what they do—at least we report what they and every last one of their coatholders think, say and do during a campaign. The time has come to start putting the same kind of energy into reporting what they do in the jobs they have. I suspect that President Nixon would have been glad to expose himself to the people and the White House press corps if that would have diverted public attention from a couple of hundred reporters crawling through the agencies and corners of the Federal Government."

Reeves is a hard act to follow, but here's the speech text, slightly revised:

I.

News, like beauty, is in the eyes of the beholder. News, to strip the point of euphemism, is what we say it is. This is not to suggest that the death of a President, say, conceivably could be defined to be non-news, just as Charles Evans Hughes, when he told us the Constitution is what the Supreme Court says it is, did not mean to suggest that the State of New York, under the Constitution, conceivably could be entitled to three United States Senators and each of the other states to only two. Mr. Hughes was looking to the vast expanse between absurd extremes, and so am I. The Supreme Court has a charter to interpret, and so do we—reporters, editors, publishers. We decide what news is. We decide what to cover and what to ignore, what to play up and what to play down, what to stay with and what to abandon. The implication of "All the News That's Fit to Print" is that the news is a package that we have but to wrap and deliver much as does the United Parcel Service. The implication is misleading, if not false, and would be subject to prosecution were the Fair Packaging and Labeling Act to apply to newspapers.

If what I am saying is true, if indeed we do decide what news is, we are exercising substantial power. This is not criticism but fact, although a fact that the conventional journalistic wisdom—witness “All the News That’s Fit to Print”—is reluctant to acknowledge, let alone to proclaim. The explanation of this reluctance is in part, I think, that we cannot candidly say that we exercise power without raising, more widely and pervasively than heretofore, some unsettling questions.

If news is in the eye of the beholder, who beholds the beholder? To put it another way, are the checks and balances on our professional performance adequate when they exist at all? To whom are we accountable? The First Amendment, of course, imposes no requirement on us to have auditing mechanisms of any kind—nor should it. But I am addressing myself to what Les Whitten calls “a spoiled priesthood”—to people who are adult and honest, who care deeply about our calling.

I am talking about what Walter Lippmann, in a lecture seven years ago “On the Profession of Journalism,” termed the “problems of maturity”—the problems that come after we have gotten “rid of the censor and the domination of the advertiser and of financial groups.” He said that journalism, while “still an underdeveloped profession,” is experiencing a “growing professionalism.” And this, he said, is “the most radical innovation since the press became free of government control and censorship.”

The birth and growth of the *Columbia Journalism Review*, along with other such publications, are evidence of that “growing professionalism.” So was the recent A. J. Liebling Counter-Convention, even after allowing fully for the chaos, ego trips, disorganization and silliness that beset it.

II.

I want now to state my thesis.

*First, a great deal of what is often called “consumer” news should be, along with much that is not called that, but could be, regarded simply as *news*—N*E*W*S—and should not be categorized and possibly demeaned with the qualifying adjective.

*Second, journalism has not done, and is not today doing an adequate job of reporting the truly important news that, again, is sometimes labeled “consumer” news but is in truth a large part of what we are supposed to report: the environment of man.

*Third, the reasons for the failure to report this important news differ little from those one would find in most any human institution. Here, at least, let’s take for granted such omnipresent factors as avarice, cowardice, power struggles, stupidity, and vanity. My concern is with something else: a generalized, persistent absence of self-

examination and a lack of accountability mechanisms to compel us to examine ourselves reliably and systematically.

What is news? Times change: do our definitions of news sensibly reflect the changes? How do we define our mission? How well are we executing our mission? Can we improve our performance?

To be sure, some will be tempted to say that such questions—which ask, really, if the Emperor has any clothes—are naive. Maybe they are. But they should be asked, over and over. In government, we know now, to our sorrow, no one asked comparable questions: What *is* the national interest? What good, after all, would a Bay of Pigs accomplish even were it to succeed? *Why* should we entangle ourselves in Vietnam? Will the people of the United States be worse off, on balance, if the Russians get a supersonic transport first, or even exclusively?

Possibly I am bemused by my own rhetoric, but I am inclined to think that the lack of processes which would force us on some regular basis to examine our premises may well be “the gravest defect of the American press,” rather than what Tom Wicker has said that defect is: that the media—print and electronic—merely “react to the statements of important officials rather than trying to make an independent judgment on the facts.”

The episode that occasioned this judgment was certainly a classic: President Nixon, in August, 1971, had made a bitter anti-busing statement. Newspapers, radio and television circulated it to millions. “But it went almost unnoticed,” Wicker said, “that the very next day the school superintendent of Harrisburg, Pa., refuted the Nixon position point by point, in an account of the actual experience of that city.”

Isn’t the “gravest defect” just possibly that we didn’t have the mechanisms, long before Tom Wicker’s column provided a valuable but perishable one, to call into question the process in which the distortions of the President are, as Wicker put it, “trumpeted in headlines, because he is President,” while “the facts put forward by” the school superintendent were ignored, “because he was not ‘news-worthy’ enough?”

III.

This is as good a point as any to acknowledge and to emphasize that the press cannot possibly do all it “should” do, including investigating every outrageous claim made by outrageous leaders. The country, not to mention the rest of the world, is too big, complex, interesting, corrupt, newswy. Were The Washington Post to undertake to do all it “should” do, it would need a staff so large as to bankrupt the ownership. The paper publishing all it “should” while it enjoyed a brief life, could be gotten onto the front porch only with a derrick; and who would read it?

This only makes it the more essential that we try to use intelligently the necessarily limited resources we do have. I am not sure we do. I will give some cases in point to show why my doubt seems to me to be well-founded. Each example impressed me as an extremely important news story—"consumer" story, if you insist. Each was reported by major news media trivially or not at all. For the sake of a consistent and emphatic focus, each relates to an activity of Congress or its investigating arm, the General Accounting Office. And, finally, all of the examples together are a gross understatement because each is part of a relatively narrow and circumscribed personal experience—my own.

Taken together, the examples serve, I think, to underscore a fundamental question, along with a few corollary inquiries. Why is Congress as investigator and reporter so poorly covered by major news media (often excluding, I must blushing claim, *The Washington Post*)? If criticism is to be apportioned, how much of it is owed to reporters? To editors? To a possible misallocation of resources? To a system that eludes internal audit by either reporters or editors? And finally, of course, what if anything should be done about it?

IV.

My first example concerns a set of hearings that then Congressman Kenneth A. Roberts of Alabama opened on July 16, 1956, and continued intermittently through 1963. Since September, 1899, when the first recorded death by automobile occurred, there had been, in a period of 57 years, more than 1,125,000 fatalities—and many, many million injuries. The Roberts hearings got to the role of automobile design in this slaughter. This was the first public forum of its kind. Physicians, engineers and other specialists in crash-injury research emphasized that the industry had the capability to design cars to make it possible for the occupants to survive or to suffer injuries of lesser severity. To take an obvious case, the industry and its front groups, while talking incessantly, with faithful echoes in the media, about the nut behind the wheel, never talked about the nut who refused to recess protruding dashboard knobs that, as they well knew, penetrated skulls of infants and kneecaps of men and women.

The general news media gave these hearings absolutely negligible attention. Not until 1965, when Sen. Abraham A. Ribicoff (D-Conn.) began the hearings that developed the General Motors-Ralph Nader "snooping" episode, did the enormous life-and-death importance of vehicle design begin to be reported adequately enough to make it sink into the public awareness. Without this reporting, and without this awareness, we never would have gotten the automobile motor vehicle safety act of 1966.

Had we had the necessary reporting of the Roberts hearings a decade earlier, rather than merely endless and mindless episodic recitals of who was killed and injured yesterday and today in collisions in which the victims were identified, but the make of the automobiles was not, probably tens of thousands of people would not have been killed, and probably hundreds of thousands would have been injured less severely, or injured trivially or not at all. If this strikes you as hyperbole, consider the significance of just one safety device, the energy-absorbing steering assemblies. They were first patented in the 1920s. Yet they were not offered until the 1960s—initially on certain 1967 models, and then on all new cars manufactured after December 31, 1967. Suppose that, at that point in time, all, rather than a negligible proportion, of motor vehicles had been equipped with the assemblies. The result, National Highway Traffic and Safety Administration has said,

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would have been that "instead of 53,000 annual traffic deaths, there could be 40,000, a saving of 13,000 lives a year." The prevention of injury would have been on a vastly greater scale, the steering assembly accounting for more than 40 per cent of all injuries to drivers. Advanced designs for impact-absorbing assemblies could have been perfected, Ralph Nader has said, at least by the 1950s. The apathy nurtured by non-reporting, incurious news media provided few, if any, prods to the industry to try to make safety sell.

My other examples will be briefer.

Early in 1962, Dr. Helen Taussig, the famed co-discoverer of the "Blue Baby" operation and a pediatric cardiologist at Johns Hopkins, went to Germany to make a firsthand investigation of the birth of armless and legless babies, later found to number in the thousands. This ghastly epidemic was major news in Europe—yet American news media, which of course were represented in Europe, did not make it news here. On her return, Dr. Taussig testified before the House Antitrust Subcommittee that a sedative called thalidomide was to blame. Not until much later was her testimony reported and the news divulged that Richardson-Merrell, Inc., had distributed 2.5 million thalidomide tablets to American physicians on a purported "experimental" basis.

Let's skip three years. In 1965, a House Government Operations Subcommittee headed by Representative Porter

Hardy (D-Va.) held hearings on the claims of super-efficiencies and super-economies made by Secretary of Defense Robert S. McNamara. Many of the claims were shown to be sheer puffery—but one of the few ways with which to find out would be to read Clark Mollenhoff in the Des Moines Register.

We carried, later, an Associated Press story on the subcommittee's report that referred to "little-noticed hearings." Little-noticed, it is fair to ask, by whom? Why, by most every major news medium, that's who.

Let's move to 1967, when Congress, in a notable action that drew trivial attention, adopted without audible dissent a Joint Resolution which declared that "the American consumer has a right to be protected against unreasonable risk of bodily harm from products purchased on the open market for the use of himself and his family." So saying, Congress provided for the establishment of a National Commission on Product Safety.

The Commission then made a study which found that each year 30,000 Americans are killed, 110,000 are permanently disabled and 20 million are injured in the home as a result of incidents connected with consumer products. The commission held hearings over a period of 2½ years, some in Washington. One such hearing, held in the New Senate Office Building, on January 14, 1969, concerned the hazards of sliding doors fitted with cheap glass that breaks easily, and, when it does, splits into shards.

The Commission had government estimates that 100,000 children a year have been injured, some fatally, by crashing into such doors which, in many cases, they did not know were there. The testimony was poignant. Mr. and Mrs. Pierce Hardy of Gainesville, Georgia, told of the death of their daughter, Karen, nine, who, at a neighbor's home, was running and hit a sliding glass door. "She was severely cut," Mrs. Hardy testified. "Her jugular vein was cut. The glass went in her and penetrated her spinal column. She also had severe cuts on her leg and bled to death."

Dennis A. Dooley, a Capitol Hill policeman, told of terrible injury to his five-year-old son who, helping the family move into a new apartment, walked into a sliding glass door and was horribly cut. "I took my hand," the father said at one point, "and I put his nose back where it belonged."

A month after this hearing the Commission held another, also in the New Senate Office Building. It came out that as many as 60,000 little children per year were estimated to have crawled, toddled or walked onto the searing hot grilles of gas-fired floor furnaces and suffered serious burns. Since the late 1950s, Public Health Services physicians testified, they had tried to persuade the American Gas Association to deny its seal of approval to the furnaces, of which there were millions, if they could not be made

safe. The Association said nothing could be done.

But a small engineering consultant firm in Baltimore with an \$800, non-profit contract from the Commission staff devised several ways to eliminate grille burns; the simplest and cheapest was to fit a loosely woven fiberglass mat over the grille. Commission Chairman Arnold B. Elkind asked the association's director of laboratories, Frank E. Hodgdon, the obvious question: why had the industry

The Commissioner of the Food and Drug Administration testified that, given present funds and staff, FDA inspectors were able to get to each food manufacturing and processing plant on an average of once in each five to seven years.

failed to find an answer for a decade in each year of which some 60,000 children were suffering preventable burns? The industry, Hodgdon replied, in a piece of banality that readers of Hannah Arendt's *EICHMANN IN JERUSALEM* may find memorable, "simply did not know of any technology and didn't perhaps have enough incentive."

Neither hearing drew significant attention from most major news media.

Also in 1969, on May 7 and June 24, in hearings covered only by James V. Risser of the Des Moines Register and myself, the House Intergovernmental Relations Subcommittee established that the federal agency then charged with regulation of pesticides had "failed almost completely" for more than 20 years to enforce a law enacted to protect the public from these dangerous chemicals. The then administrator, to cite but one item, assured the subcommittee that the arrangements of the Pesticide Regulation Division of the Department of Agriculture for obtaining information on pesticide poisonings was working well. In 1968, he said, his unit had reports on 52 incidents involving 163 persons. The subcommittee found rather more—about 5,000 such reports to various federal agencies involving possibly 40,000 to 50,000 pesticide poisonings a year.

A final item from 1969. The Senate Antitrust and Monopoly Subcommittee staff calculated, at a hearing on July 24, that the oil import quota system was costing consumers five cents on every gallon of gasoline and four cents on every gallon of household heating oil. This was an impact roughly comparable to that of the surtax, the fate of which was then uncertain.

But while the surtax got immense coverage day after day, the import quota disclosure got 13 inches on page

A-18 of The Washington Post and no attention from other media, none having been represented at the hearing. The surtax took money out of one pocket and the quotas out of another. What's the difference?

Last August 3, with the poisonous vichyssoise case still fresh in mind, the Commissioner of the Food and Drug Administration testified that, given present funds and staff, FDA inspectors were able to get to each food manufacturing and processing plant on an average of once in each five to seven years. The Commissioner gave this testimony at a hearing held by Representative Paul G. Roberts (D-Fla.), chairman of a House Commerce subcommittee. The Washington Post carried the story on page A-15. Several months later The New York Times discovered the infrequency of food plant inspections. The story, better late than never was, notably, on page 1. (I hope my editors noticed.)

The existing liability system for auto insurance wastes about \$5 billion of our money every year. About \$1 billion of the \$5 billion goes to trial lawyers, 25,000 of whom comprise the membership of the American Trial Lawyers Association. On May 6, 1971, in surprise testimony before the Senate Commerce Committee, an official of the Association named Robert H. Joost performed an "act of conscience": he exposed ATLA's strategy for defeating no-fault legislation. For most news media this was, somehow, another non-story.

The Supreme Court has ruled four times that the giant El Paso Natural Gas Co. violated the antitrust laws when, in 1957, it acquired the Pacific Northwest Pipeline Co. Three times the Court has issued and renewed orders to El Paso to divest. Last October the Senate Commerce Committee opened hearings on a bill to exempt El Paso from the antitrust laws, or, if I may put it this way, to repeal the Supreme Court. Law and order.

The hearings were newsy. For one thing, the chairman of the Utah State Democratic Committee swore that a lawyer for El Paso offered to deposit—interest-free—\$100,000 in the bank of which the politician is a vice president. The lawyer denied the charge, at the same hearing. Most major news media nonreported the hearing.

In January 1972, a Joint Economic subcommittee developed these facts:

1. In the mid-1960s, the Internal Revenue Service had levied deficiency assessments of about \$1 billion—the largest in IRS history—against giant American oil companies for posting artificially high prices for crude oil from the Persian Gulf so as to illegally inflate the substantial benefits they already were deriving from the oil depletion allowance. Secretly, as always, the IRA settled the deficiency assessment—for about 50 cents on the dollar.

2. Attorney General John N. Mitchell had, last summer,

shelved a recommendation by the Antitrust Division for a formal investigation of possible antitrust violations by the proposed Trans-Alaska Pipeline System.

3. The oil import quota system cost the public a rock-bottom minimum of \$7.4 billion more in the six-year period ended in 1970 than in the previous half-dozen years.

4. Between 1957 and 1969 the American petroleum industry increased its exploration expenses almost six times as much in foreign countries as in the United States, although a principal justification for the quotas always has been that they stimulate *domestic* exploration and development. Again, most major news media, to my knowledge, gave the hearings no coverage.

General Motors, in a sworn deposition filed in 1966 in court in Philadelphia, said it knew of only one or two complaints of fumes or odors in the passenger compartments of Chevrolet Corvairs. Actually, the Department of Transportation told the Senate Commerce Committee last February 16, GM at the time had not just a couple of such complaints, but almost 700. In plain words, the world's largest industrial corporation was being accused of having lied under oath in order, presumably, not to impair the market for its four-wheeled gas chambers. This was a page-one story nowhere, so far as I know, and it was no story at all, I suppose, in some places; I suggest it appro-

In plain words, the world's largest industrial corporation was being accused of having lied under oath in order, presumably, not to impair the market for its four-wheeled gas chambers.

priately could have been a page-one story most anywhere. We carried it on page A-2 after almost putting it on the financial page—which is not read by most owners of gassy old Corvairs. The Times put the story on page 66, back with the ship arrivals and departures.

Starting last fall, several deeply troubling stories calling into question the safety and efficacy of vaccines, were developed by Senator Ribicoff and his Senate Subcommittee on Executive Reorganization. Then, on March 30, the General Accounting Office said that the agency responsible for vaccines, the Division of Biologics Standards of the National Institutes of Health, in the years 1966 through 1968, knowingly allowed 65 million Americans to receive influenza vaccine, some of which was only 1 per cent as potent as the agency's own standards required. The GAO also charged that the agency allowed 32 vaccines regarded by the medical profession as ineffective, to be sold for at least a decade.

Comment

The problem with the media basically is that first of all, they're timid where they should be aggressive and they're aggressive where they should be timid. Toward the White House it's almost a total surrender of the media. They let the President manipulate the press, decide what questions to ask, how many press conferences to have, what Presidential aides are going to escape any kind of scrutiny, and the coverage of the White House is atrocious.

Then you talk to some White House press and they say they're prisoners of the system and they can't do anything about it.

On the other hand, you've got a very vibrant social page in many newspapers and a very vibrant recipe page. So I think the press has got to recognize its resources and have much more investigative arms, much more open response both on TV and the written press in terms of people's opinions and com-

ments. And there's got to be a much more vigorous blasting away at the secrecy in government, with the use of the Freedom of Information Act and other ways that the press can get the facts.

—Ralph Nader interviewed by Elizabeth Drew, "Thirty Minutes With . . ."

(December 1972)

[NPACT, National Public Affairs Center for Television]

The Times carried an AP item of a few paragraphs, as I recall, on the book page; I noticed no stories at all on the disclosures of late 1971. Not to be a chauvinist about it, Newsweek immunized its readers from the GAO report altogether.

Over the last several months, the House Intergovernmental Relations Subcommittee has held several days of hearings in which experts on the causation of cancer have warned in the gravest terms against the use of a growth stimulant called DES in livestock feed, because DES is a highly potent carcinogen. The subcommittee has brought out, among other things, that the safeguards against DES getting into meat are unreliable. Have you heard of these hearings?

The first Senate hearings since 1893 on the safety and purity of drinking water were held on March 20 by the Senate Commerce Committee. In a disclosure that fairly can be labeled sensational, the Environmental Protection Agency said, under questioning, that its scientists had made an unprecedented and fearsome discovery: disease viruses had been detected in the tap water of two Massachusetts cities, Lawrence and Billerica, even though they had treated river water with high-quality, modern purification methods.

To be sure the point is not confused, I emphasize that this was not well water, or water into which there had been an undetected inflow of sewage, or water that was contaminated by some kind of malfunction in treatment equipment; this was surface water that was treated in accord with high standards. And it carried disease viruses. Did you read about this? Hear about it?

On April 18, the GAO issued a report indicating that 40 per cent of the Nation's food manufacturing and processing plants are, in one degree or another, filthy. The report—the importance of which, one would think, a newsman would feel in his gut—was distributed like confetti

and, moreover, was mentioned in at least two Congressional hearings. I confess I was unable to write the story until late Friday night, April 21. We carried it, with good space, on Sunday on page A-2. (I was pleased, but, to be frank, a mite puzzled as to why a substantial story from Fun City on an ad campaign, the lead of which was, "Try it, you'll like it," took precedence and was started on page one.) The Times did carry the story on the GAO report—on page 35 on May 10, or three weeks after it was issued. Notably, the reporter was not a member of the Washington Bureau, but Grace Lichtenstein of the Metropolitan Staff.

The list of under-reported and under-played Congressional stories of great importance is almost endless: Senator Proxmire's hearings on Pentagon waste; Congressman L. H. Fountain's hearings, over a period of more than a decade, on unsafe and ineffective medicines and the regulatory failures of the FDA; Senator Gaylord Nelson's hearings on medicines that pharmaceutical houses label one way for American doctors and other ways for foreign doctors, and on drugs these companies make here, but sell for less abroad than in the United States; several years of hearings by the Senate Antitrust and Monopoly Subcommittee on economic concentration that were overwhelmingly ignored but that, I'm happy to say, provided a foundation for AMERICA, INC.

V.

Now, let's make some findings and draw some conclusions from the examples. Each of them—the auto safety hearings, the thalidomide and other drug hearings, and the rest—were "consumer" stories. But were they not also Congressional stories, medical stories, regulatory agency stories, and so forth?

Moreover, they were "national" stories that also were "local" stories. What is more "local" than the food you eat or the water you drink?

Let me test my approach by carrying it to some kind of an extreme.

Could we say that stories on campaign financing, on inequities in the tax structure, on military waste such as the C-5A, on non-regulation of American Telephone & Telegraph by the Federal Communications Commission, on, finally, the war in Vietnam, are not "consumer" news? Why not, indeed?

When Frank Wright reported that the milk producers contributed heavily last year to Mr. Nixon, with the immediate consequence that the Agriculture Department increased the price of milk, wasn't that a "consumer" story?

If United States Steel pays no income taxes while consumers pay them through the nose, do they not consume less because they have less money?

The C-5A? We were taxed \$2 billion to pay just for the cost overruns on that lunacy. The Bell System? We're being taken for billions because the FCC has never gotten around to taking a good look at the relationship between AT&T and its manufacturing subsidiary, Western Electric. The war in Vietnam—well, let the unspeakable speak for itself.

The over-riding point, though, is that all of these stories, from atrocities inflicted by the auto industry to atrocities inflicted by the United States in Southeast Asia—were first and foremost *news*—not "consumer" stories. In sum, a lot of news that was fit to print never got printed.

VI.

There are some partial explanations to account for the general under-coverage of some of the stories I cited, such as, frequently, a too-heavy load on wire service reporters on Capitol Hill. But there are other explanations that are less acceptable.

One is that the media have contributed to the ascendancy of the Presidency over the supposedly co-ordinate and equal Legislative Branch by over-covering the one and under-covering the other, partly because it's easier. Former Senator Ernest Gruening of Alaska has said he was astonished to find not a word in *The Washington Post* and *The New York Times* of March 11, 1964, on the speech he made the day before, in which he urged the United States to get out of Vietnam. The conventional newsroom wisdom was that no one paid attention to Gruening or to Wayne Morse, as if that relieved us of an obligation to give the public the opportunity to pay attention, should it care to. Weren't we paying rather too much attention—uncritical attention—to Lyndon Johnson? Does it strike you as sensible or as odd that news media lay out fortunes to fly reporters around the world with Spiro T. Agnew or with Secretary of State William P. Rogers, in each case, it happened for a bunch of "nothing" stories that, possibly to justify the investment in them, often appeared on page

one, while these same media frequently seem to lack reporters with 75 cents cab fare to cover a Congressional hearing on, say, disease viruses in the water supply?

Another explanation of under-coverage of the Hill is, to be blunt about it, that a certain number of reporters are lazy, or prefer more "glamorous" assignments. The vaccine story in *The Post* today? "That's old stuff," such reporters may tell trusting editors and bureau chiefs who, thus comforted, seem reluctant to change the *status quo*—to ask some of the goof-offs just what they do with their time.

The ego problem, I suggest, is becoming an ever larger obstacle to the proper performance of our function, which is to tell the public, as best we can, what it needs to know.

A third explanation is the ego problem—one that ensnarls me, I fear, as it does others. You undertake an investigation; you invest time, money, reputation, emotion. And, somehow, its value—in your mind and maybe your paper's—then begins to transcend the hearing on the Hill that could be a lot more important.

The ego problem, I suggest, is becoming an ever larger obstacle to the proper performance of our function, which is to tell the public, as best we can, what it needs to know. We simply can't do it ourselves, relying on our own investigations—not in an increasingly technological era, not when government is so big and diffuse, and not when we often cannot get internal agency papers and never can compel testimony, as can Congress.

Yet another explanation is a persistent hangover from happier days when the going assumption was that new is better, that change is progress, that science, or the schlock that sometimes passes for science, is always beneficent, that we should look ahead, but not back. Much of this is embodied in the medical writers who stand ready to tell their readers about the wonderful new drug for, say arthritis, but who do not bother to recall the havoc wrought by the last "wonder" drug they touted.

For more than a decade, the House Intergovernmental Relations Subcommittee, headed by Representative L. H. Fountain, has audited the performance of the FDA in assuring the safety and efficacy of all sorts of medicines—antibiotics, antidepressants, oral contraceptives, intravenous solutions, diuretics, the cholesterol-lowering agent MER/29, muscle relaxants—prescribed for tens of millions of us. My memory could be betraying me, but I do not remember seeing at a single one of these hearings a reporter for the news weeklies, the networks or the Washington bureau of any major newspaper chain or principal newspaper other than the [then] *Washington Evening Star*.

VII.

I don't think the chief of any of the major news operations would have an enviable task if he were to have to try to defend *in public*—say, on “Face the Nation” or “Meet the Press”—omissions in coverage such as those in the examples. I may be lacking in imagination, but if the Times assigned a dozen reporters to the recent Florida primary and 15 to the Wisconsin primary, as I've been told it did, I just don't know how its editors would undertake to persuade an audience of ordinary, reasonably sensible citizens that one of the dozen reporters might not have been put to better use covering, say, the one-morning water-purity hearings in the Senate. I don't know how editors around the country would deal with the assessment, made by the Columbia Journalism Review, that “newspapers still underestimate stories that cut close to readers' essential concerns of life and health . . .”

I suspect that calling existing priorities publicly into question might well yield therapeutic results. But I also suspect that some variant of Newtonian physics quickly would come into play, with the consequence that editors would not continue to expose themselves to questioning about their news judgments. Lest I be accused of bias against the Times, I might say that were I an editor of my newspaper, I would not find it easy to say anything but “we goofed,” were I to be asked, for example, how we could have played on page A-26, deep inside a section labeled “Foreign News,” the story about the unbelievable testimony Richard G. Kleindienst gave in court last November. He swore, you may recall, that it did not occur to him that a crime was being committed in his presence by Robert T. Carson, the former aide to Senator Hiram L. Fong who, trying to fix a federal indictment, offered Kleindienst \$50,000 to \$100,000 for Mr. Nixon's re-election campaign.

That, by the way, could be claimed to be a “consumer” story—one that ought to show what a bizarre modifier that word is. Kleindienst's revelation—which was drastically underplayed by the Times, too—raised the gravest question about his fitness to be Attorney General. If he is confirmed for that office, he will be in charge of the Anti-trust Division, the actions—and inactions—of which bear more importantly than most of us grasp on consumer protection.

VIII.

If public accountability isn't viable, the burden is back on internal processes, leaving aside the journalism reviews and the unique editorial page “News Business” pieces that The Post introduced with Richard Harwood.

At the A. J. Liebling Counter-Convention, which I at-

I simply think we're not going to be helped if we swallow whole such Orwellian formulations as publishers bad, reporters good.

tended, there was a good deal of talk—wasted, I suspect—about a purported need for reporters to seek “control.” This is not what I have in mind and is inimical to it. I am not confident that many or most of the media would be durably improved, were control to pass to those who seek it from those who have it. I simply think we're not going to be helped if we swallow whole such Orwellian formulations as publishers bad, reporters good. Some reporters are bad—ever hear of Harry Karafin? And, by the way, it was no one in the newsroom of The Washington Post who in 1959, after reading a long piece of mine about air pollution by buses and autos, initiated a commitment to sustained, thorough reporting on motor vehicle pollution; it was the late president of the company, Philip L. Graham.

Leaving aside the fact of life that to put some reporters in “control” would Peter-principle them—myself certainly among them—I believe that to involve reporters in the decision-making process is to invite conflict-of-interest problems. I'm aware of the faults of the process as it is, Lord knows—witness my text tonight—but I simply am wary of the notion that reporters ought to be regular participants in that process. I suppose that it's participatory democracy in the newsroom that I am rejecting, and I do plead guilty to that. A Sunday panel at the Counter-Convention had the title, “Democracy in the Newsroom.” It doesn't exist, and it shouldn't—especially because no one, despite an early plea, seemed able to define it. What we ought to strive toward in the newsroom is *professionalism*; and I contend the time has come to strive toward it with new mechanisms for self-examination and accountability.

IX.

My operating theory is that a reliable and systematic process of questioning and auditing of performance—done by professionals in a spirit of truth-seeking—would be invaluable. The *process*, I would emphasize, is of primary importance. It would be absurd for me to undertake to be arbitrary about what form the process might take—there are an awful lot of good minds that, if they set themselves to it, could come up with good techniques that doubtless have not occurred to me, I'm sure; besides, what's good for one shop may not be good for another. For what it's worth, here is an idea for the pot:

An elected committee of reporters—with the member-

ship changing on a staggered basis, perhaps—might meet with news management on, say a monthly basis. The committee's function would be to ask questions of its own and questions submitted by the staff—including desk men—and to elicit answers, not to argue.

One question might be, why is so little attention paid to Congressional hearings of obvious importance? Another might be, why pay a large sum for and give up space to Lyndon Johnson's memoirs? Why isn't there some reporting on Herb Klein's old newspaper to see how fair it is? Why run Joe Alsop? What standard of news judgment puts John B. Connally, saying he defers action on the issue of retroactive pay, on page one, and the preposterous Kleindienst story deep inside? Why aren't reporters sent to other countries to write about those things, such as delivery of health care services, that they do better than the United States does, rather than use up the money to open another foreign bureau? Why is there a reporter in Central Europe, but not in the Southeast United States? Why is so much attention paid to crime in the streets and so little to "crime in the suites"? Most news media, for example, ignored the no-contest plea filed by Richardson-Merrell in response to an indictment charging it with falsifying and withholding data on a drug, MER/29, that had caused cataracts in thousands of users—one of the atrocity stories of our time. Why was none of the stories on the crash tests that showed the fantastic increases in auto-accident repair costs never able to make it to page one? What award competitions should we participate in, if any? What criteria are used, and by whom, in deciding what work is to be entered? Foreign correspondents have clerical help: why is it in such short supply for reporters who are deluged by mail, phone calls, and the rest?

A stockholder who pays a few dollars to buy just one share of stock is free to confront the management with most any question he may care to put at the annual meeting, which is open. Is there, really, anything wild in the idea that staff people who invest something more in the enterprise than dollars should be assured of regular meetings on professional matters with their editors? At a time when even the FBI is changing? When we know that, for decades, we paid so little attention, so much of the time, to so many things that *really* matter to people: everything from the lack of occupational health and safety responsible for at least 14,500 deaths and 2.5 million disabling injuries a year, to pension plans that cheat millions of people and chain them to a single employer because they could not transfer their pension rights, to dirty restaurants.

A stenographic transcript of reporter-editor question-and-answer sessions should be available to any on the staff who want to see it.

I would venture that a lot of questions that get no at-

tention when asked on a one-to-one basis would get serious attention from editors who knew their words were being taken down, and that a lot of reforms would be set in motion. I would venture that a lot of useful ideas would be drawn from a huge staff reservoir of brains, imagination and good will which now goes largely untapped, even if a lot of problems would not be solved.

Each week, a reporter might be freed from other duties to write a critique of the paper, or part of it, for the staff as well as the editors.

Walter Lippmann, in his 1965 speech, said that "the paramount point is, whether like a scientist or a scholar, the journalist puts truth in the first place or in the second. If he puts it in the second place, he is a worshipper of the bitch goddess success. Or he is a conceited man trying to win an argument.

"Insofar as he puts truth in the first place, he rises towards—I will not say into, but towards—the company of those who taste and enjoy the best things in life."

That's an uplifting theme with which to end.

—Morton Mintz

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What Is the Role of the Daily Newspaper?

The following excerpts are from an address delivered by Dolph C. Simons, Jr. at a convocation honoring him as recipient of the 1972 Elijah Parish Lovejoy Award at Colby College, November 16, 1972. Mr. Simons is president and publisher of the Lawrence (Kansas) Daily Journal-World.

"What is the role of the daily newspaper in the United States?"

Is it to sell girdles, heads of lettuce, automobiles, vacation plans, air travel packages, grass seed, snowmobiles and air conditioners, or, is it to report what is going on in the community, state, nation and the world, to the best ability of each individual newspaper?

I am convinced the primary role and responsibility of the American press is to report what is going on as honestly and as accurately as possible; to inform the public of the good, the bad, the interesting as well as the not too interesting, and, by doing so, to play a definite and constructive role in bringing about a better informed and more alert, interested citizenry.

I am a firm believer that if an editor or publisher strives to put out as complete a news product as he can, advertising and circulation support probably will follow—but if an individual gets into this business for the primary purpose of espousing a specific political philosophy, being vindictive or abusive, or structuring his publication primarily as an advertising service, he will not have proper readership or business success. He might as well be printing pamphlets or handbills.

It is my earnest belief the great majority of daily newspapers in the U.S. are dedicated to reporting the truth. Because of human inadequacies and financial limitations, they may not accomplish all that they want to do, but I believe practically every editor wants to be respected as an honest and truthful newsman, rather than as an advertising salesman.

If this is the case, why is it that the press so often now finds itself in a defensive position? Why does the American press have so many critics? Current charges about the press include bias, lack of believability, lack of objectivity, pro-establishment, and that the editorial position of a newspaper determines and influences news policy.

We seem to be hearing these charges more often in recent

months. We cannot take them lightly, and if we are to gain added respect, we must do all we can to eliminate grounds for such charges.

* * * * *

Unfortunately, we have too many instances where reporters are not being as honest and factual as they should be. They allow personal bias to enter their stories and, some lazy or uninspired editors are lax in not exercising a proper degree of leadership and direction. Carelessness is far too prevalent.

I am afraid that in some cases, editors have almost lost control of their newspapers' news presentation and content. I do not believe in allowing reporters to determine how stories should be played, which stories are important and what the editorial policy of the newspaper should be. I realize the importance of reporters and editors conferring about how news reports should be handled, but the editor must have the final authority.

There needs to be strong and honorable leadership and direction from editorial management. Control by a committee is not good. One strong news executive can be much more effective than having day to day news and editorial policies determined by a mediocre board of directors which might give primary consideration to reader and advertiser reaction rather than to the most accurate and objective way to present the news.

In cases where a newspaper is not reporting as honestly and factually as possible, and where there is lack of leadership, the public has a right to complain about the performance of the press, and it behooves management to shape up, or lose the reader support and confidence which is essential to any successful operation.

When an individual sees shabby performance by his hometown newspaper day after day, it is natural to assume the same situation exists in other communities. Consequently, when he reads about complaints of the press, he is likely to think, "based on what I know about our own paper, I suppose these complaints about the press in general are justified and factual."

Newspaper editors and publishers have the responsibility and obligation to demand accuracy and honesty in all reporting. A newspaper cannot be treated as a toy or plaything by a publisher or the owner. A newspaper, to give proper service, should be sound financially so that it does not have distracting worries about meeting payrolls, paying good salaries or buying modern equipment. It must not be afraid to speak out editorially on matters which might run counter to major advertisers, mortgage holders, or powerful individuals within a community.

* * * * *

People should not lull themselves into thinking government censorship could not happen in the U.S. History has shown it can happen in any country where the public doesn't care and the press does not measure up in its performance. More often it comes as creeping paralysis rather than from an abrupt edict.

The Nixon administration apparently is opposed to free dissemination of news, insofar as it crosses with administration plans and policy, and it has harassed and contributed to undermining the credibility of the press. White House Press conferences have been almost eliminated, secrecy and threats prevail, and numerous Washington correspondents are aware of an increased effort to manage

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government news. Recently I asked the editor of one of the nation's best-known newspapers what he thought was the biggest problem facing our business today and he replied with firmness, "It is obvious to me that not enough editors and publishers are sufficiently concerned about the inroads and infringements of the Nixon administration on freedom of the press."

Last week I asked one of the nation's most experienced and capable newsmen if he agreed with this statement and he said, "I concur, there is no doubt about it. And, there are likely to be more inroads in the future."

"The credibility of our business is the number one problem we face today and the present administration, because it is Republican, has thought they could get by with attempts to discredit the press easier and with less fuss than a Democratic administration might be able to do."

"There are attacks on the media by the government, demands to see copy and many other harassments. This isn't too different than it has been in the past, however, it is just becoming more frequent and it is likely to get worse. This is big government and bureaucracy."

"We are the carriers of news, we report controversial issues and we will continue to have our credibility challenged."

Those who are addicted to criticizing newspapers should be mindful that a free press is the one principal guarantee for democracy and freedom of information. Residents of Chile, South Korea and the Philippines recently have learned how quickly criticism of government can be silenced by censorship.

Those in the newspaper business probably can prevent such a news blackout more effectively than anyone else. Editors must exercise a proper degree of control over their editorial staff, demanding honest reporting; and publishers must be willing to provide the money to attract top-flight men and women into the newsrooms across the country.

Our primary effort at this time should be centered on the people we have in our newsrooms, the people writing news reports and headlines, those who edit news copy, who make assignments, deciding what wire copy to use and making up the paper day after day.

We need to check the intellectual honesty and integrity of these people, and to determine if they are properly prepared and skilled.

Are they dedicated to telling the truth? Are they coming into our newsrooms with realization of the importance of being factual and honest? Do they realize news is *not* something to be played with?

* * * * *

I am selfish for the newspaper business. I think it is a most rewarding and satisfying occupation.

The sky is the limit for young men and women who are highly motivated, interested in working hard and who would hope to leave their community in somewhat better condition than it was when they came upon the journalistic scene. We need more bright, alert, enthusiastic young men and women if we are to meet our potential and our obligation.

To me, the primary role of the newspaper business is to inform, enlighten, stimulate a desire for improvement, and to help bring about constructive changes in our society through a well-informed and interested citizenry.

Perhaps newspaper men should think more often about the role of the newspaper. Perhaps we need to do more frequent soul-searching about our goals and our performance. If we in the business have fuzzy thoughts about our role, how can we expect the lay person to understand what we are trying to accomplish? We need to speak out more frequently about our purposes and goals, and to remind the reading public that we do not generate or manufacture news; we have the primary obligation to report it—honestly, clearly, fairly, completely and decently.

We can do all this, we can do a better job than we have been doing in the past, and we can achieve an enviable record of performance *IF* we set our sights high, maintain worthy standards and expect top performance from our reporters and editors. . . .

We should not expect our readers to love us, but by good performance we can force them to respect us.

Ellsberg on His Case: The First Prosecution of a Source

Editor's Note: In early November 1972, Daniel Ellsberg met with the Nieman Fellows and their wives for an informal discussion of war and peace, censorship and freedom, and his trial. Here are some excerpts from his remarks:

The first question that I have asked many people I have seen recently is why they think, if they have ever thought about it at all, that no newspaper source has ever been prosecuted before. There has never been an indictment or a prosecution, let alone a conviction, of anyone for giving information to a newspaper before. Since classified information regularly gets into newspapers, as everyone knows, it does raise a question as to why I am the first and why there haven't been any earlier. . . . The real answer turns out to be, to the best of our understanding now after a year of looking into this, that the reason no one has ever been prosecuted is that no government counsel ever regarded it as against the law. . . .

For example, Dean Rusk was very anxious to prosecute Roger Hilsman mainly for the nasty things Roger said about Rusk in his book—but with what would have been the very good excuse that Hilsman had declassified hundreds of pages of Top Secret material in preparing the book. Schlesinger, Sorensen and later many others did the same thing. But Rusk was given the opinion by State's Legal Adviser that there was no legal basis on which to prosecute. . . . The central fact is that there is no statute directly or even remotely underlying the classification system, per se. It is based on an administrative order. . . .

My understanding is that until a few years ago it was quite clear-cut that information was not to be regarded as property that could be stolen. Copyright law requires civil damages, and anyway that law is not available to government. The government cannot copyright information on the theory that the information with which they deal generally belongs to the public and not to the government.

If I am convicted—and you could even say since my indictment—leaking becomes a crime about which a newspaperman can be asked directly. . . . Maybe one day you

could all go to prison. There are a lot of people who would not go to prison—and sources know that very well. I was told by James Reston a few weeks ago that people at The Times had a very strong feeling that sources had been drying up on them since Peter Bridge went to jail. The sources had to do with Vietnam negotiations and the Watergate affair. . . . The effect then is something like a water-tight system of censorship. The government can in the future just go to the man whose by-line appears on a story and ask him who gave it to him. Then they can prosecute the source. . . .

I think that newspapers should be quite interested in my case and the issue it raises. I do not mean an interest from the point of view of affecting the case—but of being aware of what is up and what may well be in store for newspapers. . . . If the government gets a conviction, they will have something to work with. This administration does want to censor the newspapers. . . .

In the last year I have come to understand what the First Amendment is about—what its functional relationship is to our democracy. In the same way I have come to see the classification system—of which I was a part—in a different light. I see it as a vast censorship system. . . . It is a system whose primary and major function is to keep information that is potentially embarrassing to U.S. government officials out of political discussion in the U.S. . . . What is the real criterion by which a person decides whether to stamp something "Confidential," "Secret," "Top Secret," or "Not Classified"? A person with long experience in this told me that you ask yourself how important it is that the material not be in the newspaper tomorrow. You consider the level of importance of that, and how long you want to keep it out of the newspapers. . . . One in a thousand times the reason is that you don't want it in a newspaper because you don't want Russia to know. More often it will be a piece of information you have already told the Russians. Look at the current negotiations on Vietnam—the conversations with Le Duc Tho. They are not secrets from the Vietnamese. . . .

You just can't get the full impact of the Pentagon Papers in a quick summary. The contents are so implausible, so incredible, that an American who trusts his government just is not going to absorb what the Papers say. If you read all of them, or a lot of them, the inescapable impression is that our government is run like a conspiracy. It is run conspiratorially. That doesn't necessarily mean that the people running it do not have what they see as the best interests of the U.S. and mankind at heart, not that they are trying to enrich themselves, nor to do something they perceive as evil. Quite the contrary. But they do perceive themselves as doing something that the public would not let them do if they knew about it. They perceive an important difference between their own conception of the demands

of national security and the conception of important segments of the public. Thus tremendous privacy, cutting out most of government staffs from information, cutting out Congress, emasculating the Constitution in many ways along the way, cutting out the courts, certainly cutting out the press and finally lying to each other—lying almost reflexively and automatically. . . . In some cases the actions

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involve burning down countries. That's what we've done in large parts of Laos and Vietnam. The reasons for their [officials] doing this, which are reasons in which they feel justified in terms of their jobs, are reasons they knew better than ever to have tried to argue or expose in public.

Secret documents eventually become available. The Pentagon Papers are an attempt to get a jump on that process by twenty-five years, while the war is still going on. Very few newspapers I think have really done the job of looking closely at what Washington did and how it was done. . . . One question is how much newspapers lose, in their role as interpreters of events to the public, by using only back-grounders, private sources, leaks, public statements and so forth. The answer I think is that they lose an enormous amount. . . . The effect of not getting at important, accurate information is that newspapers are converted into a sort of transmission belt for the Executive branch.

The classification system serves an important purpose, it serves the purpose of news management. It means that some high officials can leak information but keep the information classified. Thus presidents and other high officials who are assumed to have the right of leaking can determine when a piece of information shall become known, who shall get to print it, and in what context and interpretation it shall become known. At the same time these high officials can control the ability of other, less friendly people, to get at information and compare leaked information with other information that was not revealed. . . .

One way of dealing with this problem would be a law saying everything had to be declassified in two years. . . . Instead of placing the burden of proof on someone who challenged classification, the burden of proof might be on the person who was for establishing or continuing classification. Decision could be made not mainly by the Executive branch but by representatives of Congress or the courts.

Some people have suggested a public board involving people from the press, the courts, etc., to make decisions about classification.

Others have pointed out that when various economic questions arise, newspapers lose no time in rushing in to lobby for legislation. But when questions concerning the First Amendment come up, they are remarkably detached. Lawyers for newspapers, as I understand it, tend to have backgrounds in property law but very little knowledge of the First Amendment. . . .

If a newspaper does defend First Amendment rights as they apply only to the newsman and ignores unprecedented action against a source—I think, to say the least, that is shortsighted. If you are interested in the transmission of information, bear in mind there is more than one way to plug up that flow of information. The government is interested in plugging it up at every step. But a good plug on the source is as good as anything else. . . . To the best of my knowledge, newspapers have shown close to zero interest in the First Amendment or in the broader issues of my case. One can simply say they are standing by while the first prosecution of a source is underway. And that is not wise.

Notes on Contributors

Anthony Lewis, a Nieman Fellow in 1956–57, is with the London bureau of *The New York Times*. **Morton Mintz**, a Nieman Fellow in 1963–64, is a reporter with *The Washington Post*. **Daniel Ellsberg**, A.B. Harvard University 1952, A.M. 1954, Ph.D. 1963, is a former government employee now on trial in Los Angeles for releasing the Pentagon Papers to the public. His interview with the Nieman Fellows was edited for this issue by **Kevin Buckley**, a News-week correspondent who was most recently Saigon bureau chief, and a Nieman Fellow this year. **Melvin Mencher** is an associate professor of journalism at Columbia University. He was a Nieman Fellow in 1952–53. **Wayne Greenhaw** is a reporter with the *Alabama Journal*. **Edward Norton** reports for *The Record* in Hackensack, New Jersey. Both are members of this year's class of Nieman Fellows. **Gerald Meyer**, a Nieman Fellow in 1971–72, is a reporter for the *St. Louis Post-Dispatch*.



Journalism Teachers: A Failure of Nerve and Verve

A professional serves the public. He and she do so through their learning, independence, and availability.

Though the professional is certainly a craftsman, he is distinguished from the worker, who relies on customary practices, by his ability to analyze what the worker is doing, to theorize about these practices, and to advance the craft by his new ideas and concepts.

The professional is independent, particularly of the government. In theory, he is skeptical of the powerful, especially those who control the purse. He has a set of values and responsibilities to which he adheres, whatever the political, social, or economic climate.

The professional makes his services available to those who need them. He has a duty, an obligation to go beyond self-service to serve all members of society, not only those who are able to reward him.

The journalism teacher is a professional. If the practice of journalism is not a profession—and someone, one of the Alsops I believe, said it was a trade, like undertaking—then certainly teaching is a profession.

Thus, when I became a journalism teacher in the late fifties, I embarked on some professional tasks. My primary responsibility was to teach the young, to fashion their souls, as Thomas Carlyle put it. As important was my responsibility to study the practice of journalism and to theorize about it and thereby advance its competence.

For a few years I combined teaching the young and the study of the press by the device well known to journalism instructors: students studied newspapers and wrote critical analyses. Some good work was being done by the students, and one year I decided to summarize the work of five of them for a state press association magazine. After all, the only way to advance the practice of journalism is to make your assessments known. Three newspapers were from the state, two from out of state. The in-state publications were studied by students who came from the communities in which they were published.

The criticism was muted, but it was clear that two of the three newspapers from within the state were short on local news and relied on the old standby—wire copy—to fill the news columns. One newspaper was obviously bad. Of 40 issues the student examined, a local news story appeared

on page one of only one issue, and that was a sports story. A grand jury had been called to investigate county officials; the newspaper's story about the call ran all of two inches on page 3.

"In the case of Newspaper B," I wrote in my summary for the state publication, "there was general lethargy throughout."

Newspaper B was edited by one of the grand old men of journalism in the state, the kind of fellow who is honored by the journalism schools that have "halls of fame" or "editors of the year"—not for what the man has done as a journalist, but for who he is. Anyway, this editor-publisher was furious. He called the dean to demand that I be slapped down. The dean asked whether there were errors, and the outraged editor said there were many. Together they went through every issue the student had examined. The dean did not find an error in the student's work. But the editor did not relent. He saw to it that the state press magazine issued a retraction which stated that my article contained errors and libelous material. (I was never asked to reply to that, and my letter of rebuttal was not printed.)

I learned from that experience what most of my colleagues knew about on stepping onto the campus: keep criticism in the confines of the classroom. I wish I could say that the student profited from the experience. A few years later he died in Vietnam where he was photographing the war.

Here is another example, to give additional personal testimony about the reasons for the reluctance of journalism teachers to take seriously their responsibilities to criticize the media and—more—to make the journalism schools the center of a continuing and vigorous criticism of the press.

There are whole states in the country that have not a single distinguished newspaper published within their borders.

My second attempt came a few years ago, when, tired of the tedious pieces in journalism education's most prestigious publication, I wrote to a score of colleagues about changing the periodical so that it might reflect some of the life and blood of the business we came from and for which we are preparing the young. (This was before the rise of the various journalism reviews.) Of the 20 journalism teachers to whom I wrote, I received replies from a handful; and two were enthusiastic.

Why such apathy? The reasons are many. First, I should point out that few respectable critics of the press have come

from the ranks of the journalism practitioners, and hardly from journalism education. Critics of stature in journalism include Walter Lippmann, A. J. Liebling, Lincoln Steffens. You can add Upton Sinclair and any two of your choice. Not a journalism teacher among them. Compare this with the distinguished critics of law who are on the faculties of law schools.

This may seem exaggerated, but I have seen more penetrating and courageous analyses of press performance by students and college journalists than by their teachers.

There are whole states in the country that have not a single distinguished newspaper published within their borders. In some cities and states there is such a cesspool of corruption, of repression, of communal strife that schools of social relations and departments of political science, sociology, and psychology have made reputations through their studies of these situations. Not so the journalism school or department. In fact, in one eastern state—noted for the wholesale corruption of public officials by private industry—the press is being studied to see why it lay side-by-side with the grafters and pols and never once complained. The study is NOT being made by a journalism department.

The causes of this lack of interest are many. Let me first examine the journalism teacher.

The journalism teacher whose background includes work on a newspaper or broadcast station is ambivalent about the craft he once practiced. Its failures and his personal frustrations may have been the reasons he left. The business is not now markedly better than it was in his day. There is still a rift between the practice of journalism and the “expectations of ordinary people,” to paraphrase one of Paul A. Freund’s criticisms of the judiciary. With distance comes the ease of insulation. It is difficult for the former practitioner to take himself back to the world in which he sometimes felt trapped.

The practitioner-teacher knows that probably 80 per cent of the newspapers and broadcast stations in his state are so bad that an informed criticism of them would be a frustrating and tiring task—much like the frustrations he faced when he was a journeyman journalist. It would also be risky, for reasons I will shortly elaborate. So why not occupy himself in academe—which rewards detailed studies of the minutiae of a subject?

Journalism educators struggle for respect on the campus and among the practitioners of the craft. In the academic pecking order, only the member of the education faculty is crouched lower than the journalism teacher. In the real world, the journalism teacher is often regarded as the newspaperman who couldn’t hack it, or the journalism student who dared not essay the real world on graduation.

The journalism teacher can find respectability on the campus by joining the ranks of the accepted: the sociologist,

the historian, the psychologist, the mass communications specialist. He rises in the academic order as his distance from the 6 o’clock news and the first edition increases.

But he must make a go of it with the working press, too. And he can by being the good old boy, as we used to put it in the southwest. He stands for drinks with the publishers, goes to the state press convention to mix with the editors, and he hopes that the payoff for his geniality and friendship will

In the real world, the journalism teacher is often regarded as the newspaperman who couldn’t hack it, or the journalism student who dared not essay the real world on graduation.

come in donations for the library his department is planning, in scholarships, and in jobs for the hordes of graduates he is unleashing on the industry.

Moreover, the department—and the university, for that matter—can always use a good press, particularly if the university is state-supported or a private institution in economic trouble; and these categories seem to leave no institution out. No sensible journalism teacher would compromise the institution by antagonizing the state press.

In summary, we see at work on the teacher his weariness with the working press, which includes the feeling that no criticism will improve it; his need to be accepted by his campus peers; cronyism with the profession; and the pressure to play at public relations for the department and the university.

In some instances, these factors have led to the corruption of the journalism department. Some schools are for sale, not necessarily to a high bidder. But how else can one describe some annual awards, which are often followed by a donation or at least by a good press for the awarding institutions? When several graduates of a midwestern journalism school protested an award to a notoriously conservative publisher, by a foundation with which the school is associated, several members of the faculty told the protestors that they had better learn to get along in the world of reality.

There is not enough criticism of the practices of the profession in the other professional schools on the campus. Business, law, and the medical schools also manage to live with the practitioners. In law, a publication has developed—Juris Doctor—that plays an even more aggressive role in legal criticism than that of the journalism reviews that have sprung up. The editor, Wendy Moonan, says she has noticed that some of her critical pieces are appearing in the state bar journals, which should give journalism teachers

courage. And on several campuses, law and medical students, with the encouragement of some of their teachers, have formed groups that have criticized some of the practices of professionals, particularly the inadequate attention given to the poor and to the powerless.

The journalist faces the same demand on him as do other professionals: the demand to recognize the invisible people of our society. Journalism's most publicized failure was chronicled not by a critic of the press anchored in the relative safety of an educational institution but by a presidential

The journalist faces the same demand on him as do other professionals: the demand to recognize the invisible people of our society.

commission. The commission showed that the press had failed to chronicle the daily life of black America. There are many other invisible men and women in our society who are ignored by the press until they shout, picket, and storm the barricades the press has helped to erect.

It would be to the self-interest of the press, and it would give the journalism school some self-respect, if criticism of the state press could be centered in the university. I emphasize that the studies be made of the state press, not of *The Washington Post*, *The New York Times*, *Los Angeles Times*, *St. Louis Post-Dispatch*, or of network television. If these respectable giants are to be studied, let it be for the students' establishment of standards and criteria to apply to newspapers and stations nearby—which certainly suffer from a lack of informed criticism, unlike the giants. (There are other, much smaller newspapers of quality, too, and here I mention only newspapers in Watsonville, California, and in Burlington, Iowa.)

What other organization or institution is better suited to the study of the communications media than the university? The students are from communities around the state. They know—or can easily find out—what is going on in town. The journalism school usually has a close enough relationship to the newspapers and broadcast stations so that access to publishers and editors would not be difficult. Many of the students know reporters on the staffs. Some have even worked on newspapers and stations in their home towns. Direct observation of the processes of reporting and writing is feasible on weekends and vacations.

As for the faculty member, there are risks. But he is usually protected by tenure, which—if it is to be justified in this period of attack on the perquisites of teaching—requires professional behavior from the teacher.

No question we need criticism of the press more than ever. No question the ground is well prepared for its reception, much better than it was when I tried. There are now several good journalism reviews, and there is a growing literature on the press council. The council is being touted as the best device or technique available for press criticism. This latest suggestion for institutionalizing press criticism misses the mark somewhat, for much of its work would be based on what is printed and aired.

It is not so much what the press carries that is the source of trouble today, but what it fails to report, what it refuses to crusade for, what it evades commenting upon. (It may be significant that the original work on access to the media has been done by a person trained in the law who understands the First Amendment.)

The press council is a good idea. Every oar is important in getting press criticism underway. Politicians can take their complaints to the council. Motion picture distributors can discuss X ratings and movie advertising there. But as a body from which a meaningful examination of the press is to come?—I beg to differ. The council is, in fact, being urged by many of those who seek to avoid a close, continuing scrutiny of the press as an institution aligned with the power structure.

Let us go a step beyond criticism in the journalism school. Some schools could serve as centers for the training of members of the alternate media, and when the school finds a community in which the press fails to meet the needs of all the people, the journalism school might itself produce pilot publications that serve these people, whoever they might be.

I have no doubt that many journalism teachers are tigers in their classrooms, holding up to ridicule and contempt some of the work of their practicing brethren. (We do have to give our students standards by which to judge their work; the standards they will find in the field will be of the most practical kind, with short-range utility.) Criticism inside the classroom is safe. In fact, one of the reasons journalism teachers and their departments are embarrassed by the college newspaper is that its news and commentary are broadcast widely. The embarrassment often is not at a job poorly done, but at one too well brought off.

Then, too, we are worried about the growing public indifference, if not intolerance, of free speech and free press, and if we collectively knock press performance we may feed the anti-democratic fervor that seems to be developing.

Of course, all professionals are overworked. They are in frequent demand off the campus as well as on it. On campus, the journalism teacher spends much of his time administering; he plans and supervises high school press conferences; he runs current events forums; he attends admissions and curriculum committee meetings. He is caught up in the

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1973-74 Nieman Selection Committee

Three newspapermen and three officers of Harvard University will serve on the committee to select Nieman Fellows in Journalism for the academic year 1973-74.

The Fellowships provide a year of background study at Harvard for experienced newsmen on leave from their publications. Applications may be made to the Nieman Fellowship office at Harvard until March 15, 1973, and the Fellowship awards will be announced in June.

The committee to select Nieman Fellows for 1973-74 includes:

Charles W. Bailey, Editor of the Minneapolis Tribune. Mr. Bailey received his A.B. degree *magna cum laude* from Harvard in 1950. He is a past president of the White House Correspondents Association and is a member of the Nieman Advisory Committee.

Richard Dudman, Chief Washington Correspondent of the St. Louis Post-Dispatch. Mr. Dudman was graduated from Stanford University in 1940 and was a Nieman Fellow in 1953-54. He is a trustee of the Washington Journalism Center.

Dolph C. Simons Jr., President and Publisher of the Lawrence, Kansas, Daily Journal-World. Mr. Simons received his A.B. from the University of Kansas in 1951 and is a past director of the Inland Daily Press Association. He received the Elijah Parish Lovejoy Award for 1972 and is a member of the Nieman Advisory Committee.

Doris H. Kearns, Associate Professor of Government at Harvard University. Miss Kearns received her A.B. degree *magna cum laude* from Colby College in 1964, and her Ph.D.

from Harvard in 1968. She was a White House Fellow in 1967-68 and is currently Assistant Director of Harvard's Institute of Politics.

William M. Pinkerton, Assistant to the Vice President for Government and Community Affairs at Harvard University. Mr. Pinkerton was graduated from the University of Wisconsin in 1931 and was a Nieman Fellow in 1940-41. He is a former correspondent for the Associated Press and former News Officer of Harvard University.

James C. Thomson Jr., Curator of the Nieman Fellowships and Lecturer on History at Harvard University. Mr. Thomson was graduated from Yale University in 1953, received A.B. and A.M. degrees from Cambridge University in 1955 and 1959, and a Ph.D. from Harvard in 1961.

Journalists wishing to spend the academic year in background studies at Harvard University must apply by March 15, 1973. Applicants, who are required to return to their employers, must have had at least three years of news experience and must be under 40.

About 12 Fellowships will be awarded for 1973-74. Each grant provides for a year of residence and study at Harvard for journalists on leave from their jobs.

The current class includes 12 Fellows from the United States and three Associate Fellows from foreign countries.

The 1973-74 class will be the 36th annual group of Nieman Fellows at Harvard University. The Fellowships were established in 1938 under a bequest from Agnes Wahl Nieman in memory of her husband, Lucius W. Nieman, founder of the Milwaukee Journal.

Journalism Teachers

(continued from page 20)

success of the journalism school or department; the more students it accepts, the less professional work he does. After a while, the administrative detail becomes his greatest challenge. He is certainly correct to complain of the load, but there is safety in the busy-ness of administrative detail. As for the journalism teacher's off-campus activity, I believe students have a point when they talk about careerism among their teachers.

There is still another pressure at work within the journalism school that keeps it from its task of serving the media

It is not so much what the press carries that is the source of trouble today, but what it fails to report, what it refuses to crusade for, what it evades commenting upon.

through meaningful criticism. This is the trend-become-absolute-demand that instructors in the journalism schools be possessed of the academic working paper, the doctor of philosophy.

With the growth of the Ph.D. syndrome in the journalism school, we have seen reticence and irrelevance grow within our ranks.

As Jacques Barzun has pointed out in his book, *THE HOUSE OF INTELLECT*, most young academicians "worry more about the acceptability of the subject [they plan for their research and publications] in academic eyes than about their chances of doing and saying something useful; that is, few care about the fitness of the matter and none about the readability of the results."

I have a feeling that if A. J. Liebling were writing his press criticism today it would be seen by some of our colleagues as unworthy of the university imprimatur. Not enough class, academic class, that is.

There are two kinds of journalism academicians: the Ph.D.'s and the practitioners. About a year ago the dean of a journalism school called me to ask about a retired newspaperman on a New York newspaper. He was to be that faculty's practitioner: an older man, a man steeped in the traditions of the newsroom, a man some 40 years from his students, which is a few dozen generations away as time is now measured by youth.

With his retirement pay and social security, he would have been a good catch for a department beset by financial pressure. But he would have been the worst possible choice

for instructing young men and women in the journalism of the seventies.

I read recently in an alumni bulletin what some journalism students had to say about another practitioner, a veteran hired for their tutelage. All he can do, they complained, is tell anecdotes. They were admonished to sit still at the feet of their mentor.

There is something wrong with the way journalism faculties are selected. The young man who wants to teach must have his Ph.D. In the latest listing of available journalism teaching posts, a graduate degree is required for one, a Ph.D. preferred for two, and the doctorate required for the three others. The Ph.D. gives him the credentials to teach courses about behavior, international communication, and methodology. Also, I suspect, he will bring respectability to the journalism faculty.

But the practitioner, the fellow who teaches those reporting-writing-editing courses—he can be a war horse, an old gladiator. He is tossed into the classroom and expected to teach. If his students are lucky, the old pro may have schematized journalism so that he can teach it. Otherwise, his classes will be a string of anecdotes, much reading of a usually simplistic journalism textbook, and a lot of unimaginative exercises.

What happens when a faculty is Ph.D. ridden is obvious. There is a hygienic, antiseptic view of the media. Those who care about what the newspaper is printing and what the television station is showing in town become the grubbers among the unclean, the trackers of spoor.

But what can be more fitting for all those in journalism education than to make journalism schools and departments come alive to the need to assess press performance in their communities and states? Alfred North Whitehead said that education is a study of the insistent present. But we on journalism faculties—of all places—are unwilling to face up to the insistent, troublesome, and dangerous present.

Unless we do, we will be preparing historians, sociologists, teachers, and journalistic craftsmen; but certainly not professionals, which is what we are being paid to do.

—Melvin Mencher

Coming Soon:

Excerpts from the transcript of a joint Nieman Foundation-Kennedy Institute of Politics Conference on campaign decision-making in the 1972 presidential election.

VIEWPOINT

The Reporter and the Scholar: The Folly of Disdain

Two years ago, some months before becoming a Nieman Fellow, I had an unexpectedly memorable lunchtime conversation with several other reporters at my paper. The talk meandered, but for a few minutes it settled on the question of whether the academic community has anything important to offer the experienced journalist. Opinion was decidedly negative and the subject was soon dropped, apparently because it didn't seem to deserve much attention. Almost everyone agreed that professional scholars, while harmless enough and perhaps even interesting, are really players of games. Certainly they could provide little of value to newsmen who live and work in the hard world of public affairs.

I recall, vaguely, that I was the only dissenter in the group. More clearly, I remember that my disagreement with the others was brief and without conviction. Half-apologetically, I mumbled something to the effect that possibly some professors knew things that we didn't but should. Nobody believed me, and I wasn't sure myself, so I returned to my sandwich and the talk moved on to other things.

Today, of all the hundreds of hours that I have spent talking shop with people who write the news, that episode is the only fragment of conversation that I can remember with any clarity. It troubled me occasionally in the months before I came to Harvard, and I began to think in a semi-coherent way that there was something very wrong about what had been said. My own feeble rebuttal, no doubt forgotten by my friends, became a source of private embarrassment to me. But once I returned to the scholar's home ground, it troubled me far more. A period of academic work,

measured against my earlier work and attitudes in the news business, persuaded me that in our conversation my co-workers and I revealed grave deficiencies. I think we displayed ignorance, arrogance, and unconscious anti-intellectualism. I am also beginning to think that such deficiencies, however well camouflaged, are commonplace in even the most respected quarters of American journalism.

My group of lunch companions had not, I should explain, been taken from the dregs of the working press. It included a graduate of one of the Ivy League's most revered institutions, alumni of the country's two best-known graduate schools of journalism, and a veteran of a major wire service. They were young, productive reporters for a big, good daily; they were readers of books; they were regarded as promising staff members. They were unlike large numbers of their peers, in fact, in their ability to talk about the intellectual community without ridiculing it. But in quickly agreeing that there was no significant connection between what happens in the newsroom and what happens in the university, they became typical. By accepting the idea that the press can adequately do its work without assistance from the longheaded folk who inhabit campuses, they put themselves squarely in the broad mainstream of the American journalistic tradition. By "they," of course, I mean "we." Most of us are green-eyeshade men at heart, and we are all quite wrong. Our wrongness is crippling our work—our profession, if that's what it is.

Traditionally, there have been two principal ways of relating journalism to academic or artistic disciplines. Significantly, these relations have usually been expressed by non-journalists; journalists seem to have been always indifferent to the whole question. And interestingly, these expressions of connection have been in terms highly flattering to journalists; insofar as there has been antipathy between journalism and aca-

demia, it is largely the fault of journalists.

The first way of relating journalism to more formal kinds of mental work has been to say that all are essentially the same thing. In Matthew Arnold's words, journalism is "literature in a hurry." Or history in a hurry, many persons would say. The journalist, in other words, is performing the same function as the scholar, but he is doing so under the legendary deadline. Personally, I have long been attracted to this view, and until recently I believed it was mostly true. But Harvard changed my mind. For one thing, journalism is not really literature at all. Literature may or may not be "above" journalism—actually, that's a foolish question—but certainly it is different. Any effort to compare journalism with literature on literature's terms will make journalism seem a third-rate imitation.

Journalism is also not history; rather, as commonly practiced in the United States, it is the "objective" collection and dissemination of information. Few historians would define their work primarily in these terms. Most, I think, would say that historical study involves intellectual interpretation and analysis of a kind that cyclical deadlines make not only difficult but impossible, and that the demands of popular readership make hazardous. "The man who does not feel issues deeply cannot write great history about them," Professor H. Stuart Hughes has written of his profession. Few reporters could get away with a similar statement about their work; reporting the news is plainly not like doing history.

This leaves only interpretative and analytical journalism to be compared with the historian's craft. And even this comparison has discomfiting implications, if only because so many of journalism's best-known analysts have little real respect for the work of professional scholars and therefore, while paying occasional lip service to the academy, make no effort to keep abreast of it.

Historical scholarship is a dialectical process. It changes and progresses by steps, growing more complete with each new step. The newsman who understands the world in terms that were current during his undergraduate days is very much like a racing driver trying to use a Stutz Bearcat at Indianapolis in 1972. What's far worse, he necessarily infects his work with his inadequacies and passes them on to his readers.

The second traditional way of relating journalism to academia is even more complimentary to the press than the first. It puts journalism in the forefront of the process by which the world is made comprehensible. In the clock of human affairs, some proponent of this view once said, journalism is the second hand, history the minute hand, philosophy the hour hand. By implication, journalists are the reapers of data, the indispensable shock troops of information-harvesting. Historians follow behind, gleaning the fields already worked by the press, refining the newsman's work and somehow preparing it for the final ruminations of the philosopher. This description does have plausibility; journalists are, after all, the first to observe and record such things as Congressional action. As a journalist, I wish it were an accurate description of my role. But I think, regretfully, that it is utter nonsense. It degrades the achievements of history and exalts journalism to absurd and giddy heights.

If the clock analogy worked, historians would depend primarily upon the press for their raw materials. Most do not; they have learned to be extremely wary of journalistic materials and prefer to use other, more basic sources. And if the journalist were really "ahead" of the historian in any but an incidental sense—the sense in which newspapers and broadcasters are the first to relay the President's public statements, for example—academic study would be a rather superfluous thing. But in fact historians and political scientists are generally far ahead of journalists in

their understanding not only of the remote past but also of the recent past and therefore of the present as well. Newsmen should find nothing shameful in this fact; it is potentially productive for journalism, and in any case it is almost certainly inevitable. What's shameful is the stubbornness with which we journalists cling to our illusions of superiority and self-sufficiency, cutting ourselves off from the help that only scholarship is able to provide. It may be true that, by present standards of performance, a reporter who is abysmally ignorant of American history and contemporary historical thought can do a quite adequate job of covering national affairs. But this may mean that prevailing standards are about ankle-high.

Our 1971-72 Nieman class happened to arrive at Harvard at the beginning of a year in which the most popular courses on American political history were not being offered. We were obliged, as a consequence, to create a bi-weekly "Nieman seminar" and recruit a professor to direct it. This seminar, as it took shape, came to involve a heavy load of reading—far more than most temporarily retired newsmen are willing to do for most standard lecture courses. And as led by Professor Allen Matusow, the discussions provided more critical insight than would have been possible in even the most ambitious program of independent reading. The benefits of all this were twofold. First, and presumably as expected, we had the opportunity to learn a great deal about the United States. Secondly, and more surprisingly for most of us, we learned how much we don't know about the nation whose life it is our work to report. This second result was humbling, sometimes almost humiliating. It was also the more significant of the two. I think it will help some of us to be less insulated, less smug, in the years ahead.

Some of us learned that historical understanding has developed since we were last in school. And we discovered

that the new levels of understanding reached by scholars, insofar as they put the day's breaking news into new perspective, give contemporary events a significance that we'd not previously suspected. Finally, we learned to expect that 1972's level of understanding was likely to be obsolescent by 1984. There are noted newsmen, I'm sure, who would insist that they don't need to understand the news in the way I am suggesting. They don't know what they are missing.

A Nieman Fellowship is, to be sure, a rare opportunity. It makes catching-up an unusually easy process. But its benefits need not be unique to the Nieman program or confined to the twelve persons brought to Harvard each year. Wherever there are major news organizations, universities are nearby and staffed with scholars who would not sneer if approached by journalists. Scholarly works that consider and attempt to explain foreign policy, domestic legislation, city problems and power alliances find their way into libraries and bookstores everywhere. Scholarly journals are not much harder to find than Newsweek, though it's a rare reporter who ever glances at them.

A hundred newsmen will buy and read the trivial autobiography of a radical of passing celebrity, or with incestuous glee will read the latest featherweight book by a fellow journalist, for every one who will acknowledge the existence of something entitled *Political Order in Changing Societies*—especially if its author has never been on the Johnny Carson Show. One of the sorriest spectacles in journalism is the columnist fumbling half-blindly to explain a recent shift in voting patterns, completely unaware that solid explanations have already been offered by a political science teacher in the same town. The columnist should be free to disagree with the teacher, of course. But for him to remain ignorant of the teacher's work is disgraceful.

All this points to a momentous failure

of communication on the part of the communications industry. The university today is reaching only the undergraduate who will be tomorrow's journalist; by the time that youngster approaches mid-career he too, adopting the habits of his profession, will probably be out of touch with developing ideas. Like today's grand moguls of the punditry business, he will be preaching a conventional wisdom already rendered obsolete by new scholarship. The press could and should be a link between the scholarly world and the public. But, cutting itself off from the work of scholars, the press short-circuits a vital process and cuts the nation off from many of its best thinkers and researchers. All parts of the community—the public, the university, and the press itself—suffer as a result.

Several years ago I worked briefly for an old editor who had been a teacher before becoming a journalist and afterwards continued to teach part-time. One day shortly before his retirement he told me that he had suffered throughout his career from having what he called "the academic stench." He said that his colleagues in the press had never quite trusted him, had never quite accepted him as a member of the eyeshade fellowship, because of his suspicious links with the academic world. I do not think he was paranoid. Until recently I thought his words were funny, but I don't think so any more. Disdain for the academy has long been high fashion in the journalistic world. The American press is not likely to mature so long as this remains true.

—Gerald Meyer



Book Reviews

The FBI and the Berrigans:

The Making of a Conspiracy

by Jack Nelson and Ronald J. Ostrow

(Coward, McCann & Geoghegan, Inc.; \$7.95)

Not too long ago, when I was a rookie reporter on the Alabama Journal in Montgomery, I used to watch Jack Nelson from afar and think, Maybe some day I'll be able to do it in his kind of give-'em-hell way. That was back when he had a crewcut and before he'd grown his sideburns long.

Of course, I was thinking about digging into a story like the Milledgeville State Hospital for the exposé on the mentally ill which won Jack the Pulitzer when he worked for the Atlanta Constitution. And about uncovering the killing of three black college students by state patrolmen in Orangeburg, South Carolina, written in collaboration with Jack Bass in THE ORANGEBURG MASSACRE in 1970.

The thing about it is, I'm still thinking that way. When I picked up THE FBI AND THE BERRIGANS, I headed into those words ninety-to-nothing—and I was never truly disappointed. This book is the best piece of tough, thorough investigation and strong, careful writing in a long series of Nelson products.

He and Ronald J. Ostrow, both correspondents in Washington D.C. for the Los Angeles Times and both former Nieman Fellows, set a tremendous task for themselves in THE FBI AND THE BERRIGANS. They tell the story of what happened after the late FBI Director J. Edgar Hoover publicly accused Fathers Philip and Daniel Berrigan and the East Coast Conspiracy to Save Lives, an anti-war group, of conspiring to "blow up underground electrical conduits and steam pipes serving the Washington D.C. area" and to "kidnap a highly placed Government official." What happens after the accusation is a series of gin-clear scenes reported in a hard-hitting style, never letting up until the final word is uttered.

Obviously both Nelson and Ostrow feel annoyed and finally sickened by the actions of supposedly responsible government officials, just as the reader is affected, but their story is told with straightforward style. Seldom do the writers impose their own editorial viewpoint upon the narrative. And when they do, it is supported by pertinent and interesting facts.

As in all decent writing, every sentence in THE FBI AND THE BERRIGANS pulls the reader like a magnet to

the next. The smooth narrative drives with a graceful energy through all 306 pages.

The reporters do not overburden their book with the lives and characters of the Berrigans, about whom reams of newspaper copy and stacks of books have been written. But neither do they ignore the importance of small details concerning the brothers, characterizing them as neither saints nor sinners. One of the most interesting sections of the book shows dramatically how the brothers went underground after their conviction for destroying Selective Service records. Occasionally surfacing in more or less conservative surroundings to preach non-violence, for a long while they eluded and thereby embarrassed the FBI, which had prided itself on being the most efficient criminal-investigating force in the world. And the writers show that perhaps because of the embarrassment these two mild-mannered men caused that great bureaucracy, it stooped to an all-time low in "the making of a conspiracy."

Nelson and Ostrow concentrate the most powerful chapters of their reporter's reporting on Boyd Frederick Douglas Jr., who turned from a friend of the Berrigans to FBI informant. A prototype of the late sixties and early seventies, he is Tommy the Traveler, a pathetic sort of animal who is represented as a human being; he walks and talks and tells lies with equal proficiency. Time and again witnesses are quoted who question the reliability of Douglas, a man who had spent most of his adult life in jails of one type or another and who had a psychological history of untruthfulness. Nevertheless, the FBI used him to trap Philip Berrigan, and the Justice Department used him as its primary witness in the conspiracy trial.

Those of us who have covered news stories in the South during the past decade are not unfamiliar with such Bureau tactics. Tales have come to us from the early fifties when smear techniques were used to further McCarthy-like politicians, using FBI informant files as the basis of evidence. In other cases, agents were suspiciously present and close-mouthed when local law enforcement officer friends were being investigated concerning the mysterious death of a black. Always there were unanswered questions in the reporter's mind, lingering there, with the hope they would be answered at another time.

While *THE FBI AND THE BERRIGANS* is a story of high intrigue, it is a story which answers almost all of the questions. Only the final chapter drops to anything below first-rate. The end appears rushed. The fight in the jury-room has neither the impact nor the depth of the rest of the book. Even so, the last words are worth remembering:

"But in the Berrigan case, there was a special lesson: So powerful had the director of the FBI become that the President of the United States, who frequently

reminded his countrymen that he was a lawyer, chose to ignore Hoover's blatant violation of the Bill of Rights. Instead the Nixon Administration prosecuted in a vain attempt to show the FBI director had his facts right. When a nation that prides itself on being a system of laws—not men—permits itself to be corrupted, the portents are ominous."

One hopes that these words will continue to echo in the conscience of our country for a long, long while.

—Wayne Greenhaw

The Best and the Brightest

by David Halberstam

(Random House; \$10)

With six books to his credit and his last working day in a city room several years behind him, David Halberstam would seem to deserve the title "author" or "historian." But on a recent visit to Harvard (and the Nieman Fellows) he said that he still chooses to be known as a "reporter." In his latest book—a sweeping yet detailed and above all, magnetically readable account of the policy-making of the Vietnam war—Halberstam lives up to and perhaps beyond his self-definition. Quite apart from what his book tells about how the war was made, it says something interesting—and challenging—about the journalistic profession. At this late date, it is still full of news. Halberstam himself suggests one explanation. When he set out to examine the men responsible for Vietnam policy—John Kennedy, Lyndon Johnson, McGeorge Bundy, Dean Rusk, Robert MacNamara, Maxwell Taylor et al—he found "the existing journalistic definition of them and what they represented was strikingly similar to their own definition of themselves." When the book is debated among journalists as it surely will be, that observation ought to be kept in mind.

In Halberstam's account, the hubris of the policy-makers was instrumental in their decisions which eventually produced catastrophe in Indochina. Perhaps equally important, his study reminds one of how important their inflated images—largely propagated by the press—were in gulling others to go along with their decisions. After all, several were speed readers. One was a former president of Ford, with a mind like a computer. Another was a former Harvard dean, with a mind like a steel (well tempered) trap. Another was a soldier-diplomat who could not only jump out of airplanes but read Greek as well. To a great extent the press marvelled at their supposed excellence. And this excellence became an important factor in

the debate in which they were pitted against some dissenting journalists such as Halberstam and a dovish minority in government service. Could such wizards really make terrible decisions? Eventually, the myth of their surpassing competence assisted their deliberate deception of press and public in bringing about the war nobody wanted. Perhaps more searching exploration of what Halberstam finds to have been their mediocrity would have made a difference.

In his author's note, Halberstam says he spent three and a half years on the book, conducting more than 500 interviews and reading virtually all the relevant literature of the period. His diligence is apparent on every page. In the best tradition of reporting he was evidently able to find a host of observant, well-informed and certainly candid sources who were near or in the centers of power. He was also able to read and debrief other journalists to great advantage—as a glance at the index will show.

The narrative splices vivid and telling profiles of individuals amidst a long-lens description of the social, political and bureaucratic conditions in which they worked. The profiles alone would make the book a success. One of the most striking concerns the late John McNaughton, the assistant to Robert MacNamara and probably the most conspicuous author cited in the Pentagon Papers. McNaughton's memos are chilling—reminiscent of "A Modest Proposal" in their speculations about, for example, the hoped-for magnitude of civilian casualties in North Vietnam from a proposed bombing campaign. But according to Halberstam, McNaughton had serious though secret doubts about the war policies he was pushing. Skeptical as he was, he was the perfect bureaucrat to the end (in a 1967 plane crash). Indeed, Halberstam recounts an incident in which McNaughton instructed Daniel Ellsberg to draft a paper on total disengagement from Vietnam. But the cautious McNaughton adjured Ellsberg to keep the project super-secret—not even to allow a secretary to type his drafts. "You should be clear," McNaughton warned, according to Halberstam, "that you could be signing the death warrant to your career by having anything to do with calculations and decisions like these. A lot of people were ruined for less."

One such person—who is fascinatingly limned in another profile—was John Paton Davies, the diplomat who paid with exile for his accuracy and prescience about China. The so-called "loss of China" is a major theme in the book and its exploration as a backdrop to the Vietnam disaster one of its most valuable aspects. The witch-hunts of the early fifties, as Halberstam points out, virtually erased Asian expertise in Washington. Perhaps more importantly, the experience made it politically imperative to be "hard-nosed" about future potential "loss" situations. All the policy-makers lived in the shadow of the early fifties—and

some even sought to darken it. "There had to be a moral for him here," Halberstam writes of Dean Rusk and his early errors about China and Korea. "If you are wrong on the hawkish side of an event you are all right; if you are accurate on the dovish side you are in trouble." The China-policy heritage is an important factor in Daniel Ellsberg's superb essay, "The Quagmire Myth and the Stalemate Machine." If that is one of the best analyses of the war based on documents, Halberstam's seems certainly the best based on people. The two could profitably be read together—perhaps with occasional references to the memoirs of Albert Speer.

Anger runs through Halberstam's account—an attitude which is certainly in order considering the irreparable damage most of his subjects wrought on the people of Indochina and the US. "You know," Halberstam quotes MacNamara telling a friend about the Pentagon Papers, "they could hang people for what's in there." Yet, as Halberstam asserts, the arrogance of the failed policy-makers remains undiminished. "What was singularly missing from all the memoirs of the period—save from a brief interview with Dean Rusk after the publication of the Pentagon Papers—was an iota of public admission that they had miscalculated. The faults, it seemed, were not theirs, the fault was with this country which was not worthy of them." Halberstam's excellent book will surely discomfit many of the people he has discussed. They can ignore it only at the peril of confirming its damning estimates of themselves. One can hope that his efforts might coax out a full—and this time candid—appraisal of themselves from "the best and the brightest."

—Kevin Buckley

Deadline for the Media:

Today's Challenges to Press, TV & Radio

by James Aronson

(Bobbs Merrill; \$8.95)

"The communications media," writes James Aronson in his introduction, "are a crucial part of the power complex which sets the course of life for the nation and, to an extent, for the peoples of the world. The media condition the citizen to think the thoughts that are preferred by the government, industry, the military and the educational establishment. There is hardly an iota of difference among them."

Having supplied us with this early precis of his philosophy, editor Aronson—formerly with "The National Guardian"—launches into a recent history of the American press in

ferment. To summarize that history: the artillery of the press is under attack—through conventional and guerilla warfare—by high government officials, working newsmen and an increasingly suspicious public which is finding other things to do with its time.

What bothers Aronson most is the one-sided assault on certain liberal press outlets by conservative government officials. These same reactionary officials, he notes, fail to criticize the more powerful and larger conservative press in the U.S.—the mainline metropolitan papers and the hundreds of small dailies that ill-serve their public. The author fears that an already subservient press will become more craven in the face of official pressure, censorship and economic sanctions.

Aronson's forecast is not optimistic. He details how some newsmen have worked as investigators for the government and have been paid for their work. The legal thickets in which Earl Caldwell found himself over story sources made every thinking reporter wonder what *his* answer would be to a prosecutor who demanded that the reporter play detective for him.

Another recent phenomenon is the rise of local journalism reviews, and Aronson explains them in city-by-city detail. Unrest in the newsroom is not new; in the Depression it led to the creation of the American Newspaper Guild. Today the unrest is transformed to print, and the reviews provide an open window for frustrated newsmen. The window works two ways: it lets in fresh air, and it lets the public glimpse the gears that move the most secretive of American businesses—the newspaper.

Aronson gives high marks to these reviews, particularly one published in Cleveland by an ex-reporter. This journal and the others serve as surrogate press councils—in the absence of a national press council, with little likelihood of

one developing, despite the recommendation nearly 25 years ago by the Hutchins study panel. Aronson urges that disgruntled reporters study the history of the staff-run *Le Monde*. This noted Paris daily is a participatory commercial success. The staff determines policy; the stockholders collect the profit. In *Le Monde's* experience, Aronson writes, the staff policy role has meant greater professionalism, wider public respect, and greater profits for the stockholders.

Some strong cure is clearly needed. The U.S. newspaper business is pressured by electronic media and changing reader tastes—yet manifests an ice-age slowness to respond to these conditions. Only a few boardrooms have been responsive. Reporters have gone to jail to protect First Amendment rights—jailed for doing their job, at the bidding and pay of publishers. Let a judge jail a publisher one of these days, and the outcry from the boardrooms promises to be megatons greater than it has been.

Aronson suggests that an establishment press which muzzles its staff and prevents them from digging into the root causes of poverty, crime and cabalistic politics deserves the spread of angry, embarrassing journalism reviews and increasingly successful counter-establishment newspapers and magazines. Yet these latter publications are not without their troubles, as Aronson reveals in telling how staff radicals forced his resignation as editor when he refused to allow "The National Guardian" to be drawn into the divisive politics of the Left.

Aronson's thoughtful survey deserves to be read by publishers and editors who think at all about their business. One suspects, however, that it will attract many more readers from among the reporters and newsmen who already know the problems.

—Edward Norton

Why is so much attention paid to crime in the streets and so little to "crime in the suites"?

—Morton Mintz

(See page 13, this issue)