THE JOHN PETER ZENGER AWARD
FOR FREEDOM OF THE PRESS
AND THE PEOPLE'S RIGHT TO KNOW

1971

THE NEW YORK TIMES
and the
PENTAGON PAPERS

An Address by

A. M. ROSENTHAL
PREVIOUSLY HONORED

1970  Erwin D. Canham, Editor in Chief, *The Christian Science Monitor*

1969  J. Edward Murray, Managing Editor, *The Arizona Republic*


1967  John S. Knight, Knight Newspapers, Inc.


1965  Eugene C. Pulliam, Publisher, *Arizona Republic* and *Phoenix Gazette*

1964  John Netherland Heiskell, Publisher, *Arkansas Gazette*


1962  John H. Colburn, Managing Editor, Richmond (Va.) *Times-Dispatch*


1960  Virgil M. Newton, Jr., Managing Editor, Tampa (Fla.) *Tribune*

1959  Herbert Brucker, Editor, *Hartford Courant*

1958  John E. Moss, Chairman of House Government Information subcommittee

1957  James R. Wiggins, Vice-President, Executive Editor of the Washington (D.C.) *Post* and *Times Herald*

1956  James S. Pope, Executive Editor, *Louisville Courier-Journal*

1955  Basil L. Walters, Executive Editor, *Chicago Daily News* and Knight newspapers

1954  Palmer Hoyt, Editor and Publisher, *Denver Post*
FOREWORD

The University of Arizona considers the John Peter Zenger Award an important honor. It is an honor it gives with pride, and with a deep sense of commitment to the cause of press freedom.

Through the Zenger Award the University not only bestows an honor on an individual or on a newspaper, but it also seeks to remind all of us that access to public information is one of the strengths of a free people.

Normally this award is presented by the President of the University of Arizona. This year, however, President John P. Schaefer had made an earlier commitment to attend meetings in Brazil, and he felt this commitment could not be changed. He expressed his sincere regret that he could not be here tonight.

President Schaefer also expressed his delight that this University of Arizona award has gone to a newspaper whose history for more than one hundred years has sparkled with deeds of sacrifice and courage, in the best tradition of American journalism.

As there have been in each of the past 17 years, there were this year, when we announced the Zenger winner, indications of pleasure, and indications of disappointment.

This is the first time that I can recall that editorials were written protesting and praising the selection. These editorial differences, I feel, emphasize the growing significance of the award, for if everyone agreed with the choice then it indeed would be a bland one. It is proper that controversy accompany this award, because the man for whom the award is named, John Peter Zenger, achieved immortality through controversy.

Zenger, you will recall, was a printer who established the New York Weekly Journal in 1733. This was a time when publishing a newspaper was a sideline to the print shop. It also was a time, of course, when the American colonies were governed by representatives of the British crown.

It was a time when the term “freedom” meant, not independence from England — that idea was still years in the future — but rather the right of the governed to play a role in determining how they were governed.
The law at that time stated that a man was guilty of seditious libel if he published criticism of the government.

That this criticism was true only made the crime more grievous, because in the eyes of the government it tended to make the public even more dissatisfied.

Zenger published articles that severely criticized the royal governor and his administration. Zenger himself did not write them. They came from sources outside the printshop.

Despite warnings from the colonial government he continued to publish the critical articles until, finally, the provincial governor ordered him arrested on a charge of seditious libel.

The charge specified that the *Weekly Journal* contained many things "tending to raise Factions and Tumults, among the People of this Province, inflaming their Minds with Contempt of his Majesty's Government, and greatly disturbing the peace thereof."

Bail for Zenger was set at 400 pounds, despite the fact that he swore he was not worth more than 40 pounds. He was held in jail for eight months before being brought to trial.

During this time he continued to direct the publication of the *Weekly Journal*, passing his instructions through the jail door to his wife and sons. The *Journal* continued its attacks on the government.

When Zenger finally came to trial on August 4, 1735, his friends, some of whom had been disbarred to prevent them from defending him, obtained the services of Andrew Hamilton, one of the Colonies' most respected lawyers.

One of the first steps Hamilton took in court was to admit the guilt of the defendant. He admitted that Zenger had indeed printed the truthful attacks.

Then Hamilton expanded so successfully on the theme that no man is free if he cannot freely criticize his government, that he convinced the jury to return a verdict of not guilty.

There is a thread that is woven through the years from 1735 to 1971. It is the concept of the people's right to know through a free press.

This concept has been threatened many times. It has been weakened some times. But through the years it has been strengthened. The strengthening process was begun by Zenger, and it was continued by *The New York Times's* publication of the Pentagon Papers.

There are similarities between the Zenger controversy and the controversy surrounding the publication of the Pentagon Papers. These similarities emphasize the appropriateness of the award.
In both cases the material printed was construed as being critical of government leaders. In neither case was there a question of the truth.

In both cases the government went to court, claiming that the publication of the material threatened the national security and public welfare. In both cases the government failed in court to halt publication.

In both cases the publishers declined to surrender to the government what they considered to be their responsibility to inform the public.

The Zenger award, therefore, honors the concept that the press is responsible to all the people. That the press has the duty to fight government attempts to hide its actions from the people.

That is what John Peter Zenger fought for in 1735.


The managing editor of The New York Times, Mr. A. M. Rosenthal, is here to accept for his newspaper the 1971 John Peter Zenger award.

Mr. Rosenthal’s personal honors include the Pulitzer Prize, two Overseas Press Club awards, the George Polk Memorial Award, and the Page One Award of the New York Newspaper Guild.

Mr. Rosenthal began his news career as a campus correspondent for the Times at the College of the City of New York where he received his degree in 1944.

After graduation he joined the staff of the Times, covered the United Nations, and served as a foreign correspondent in India, Poland, Switzerland and Japan. He returned to New York in 1963 as city editor, and subsequently was promoted to assistant managing editor, and managing editor.

Mr. Rosenthal, on behalf of the University of Arizona it is my pleasure to present to The New York Times this silver and turquoise plaque, symbolizing the 1971 John Peter Zenger Award for an outstanding contribution to freedom of the press and, especially, the people’s right to know.

Scottsdale, Arizona January 14, 1972

PHILIP MANGELSDORF, Head
Department of Journalism
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EVER SINCE THE PENTAGON PAPERS APPEARED, I have been asked a great many questions about them. Why we decided to publish them, how we decided to publish them, the problems of classification and secrecy, the legal aspects, and so on.

But what I would like to do now is to think out loud about a couple of questions that have not been asked of me, but which I ask myself all the time.

They are these:

What would have been the consequences if The Times had not published the Pentagon Papers?

What have been the consequences of having published them?

I think that if we had not published the Pentagon Papers, an enormously important body of information affecting every single person in this country, and indeed almost every person in the world, might not ever have been made available.

This body of information did not involve military secrets. It was a treasure house of facts—not rumor or innuendo, but facts. These facts showed the decision-making process in our government, or the lack of a decision-making process, on matters literally of life and death. It seems to me
that these facts belong to the public of the nation whose lives and deaths were involved.

By not publishing them, we would have deprived the people of this country of information rightfully belonging to them, and without which they could not have a clear picture of decisions affecting their existence.

By not publishing them, we would have made a contribution, but a negative one — a contribution to the miasma of doubt and suspicion and emotion that has surrounded the Vietnam war and everything that flowed from it.

I also think, and I choose my words quite carefully here, that another consequence would have been to make a mockery of the American press and the freedom of the press.

Every day in the year, scores of times a day, editors like myself tell our reporters to go out and get the meaning of the story, the facts behind the facts, to go beyond handouts, to investigate, to cut through the muck of verbiage and find out what really happened.

We send people out at great personal risk to themselves to places like Vietnam and to a dozen other wars. We and they accept the risk because we believe we are doing something not only worthwhile, but essential to the functioning of an American democracy, and that is to provide the people of the country with as much meaningful information as possible on which to base their own judgments. I have lived in authoritarian societies and it strikes me that this is the essence of democracy and one of the basic differences between a democratic process and an authoritarian process. And yet, here came the biggest and most important storehouse of information quite possibly in journalistic history. Could we have said no, we will not take the risk to ourselves, we will withhold information from the public that we ourselves consider of utmost importance and, in the deepest meaning of the phrase, a contribution to the national interest; we will buckle to government pressure?

No, it was impossible, we could not have done that. If
we had, how could we ever again expect Americans to believe that we newspapermen are what we say we are and think we are — men devoted to the search for truth and information, not for our own perusal, but for the public’s. I think we could have no longer believed in ourselves and that means nobody could have believed in us.

But in a sense this is hypothetical. Because if The Times had failed in its duty to publish the Pentagon Papers, I believe that there would have been a search for a newspaper that was stronger and I believe that if we had buckled, there would have been editors and publishers in this country who would have survived the test and published.

Well, we did publish. And what have been the consequences?

I think that one important consequence has been to demonstrate that the government’s case in court and in the kind of behind-the-hand leak stories have proven to have been false.

No codes were broken. I believe there were planted stories to that effect, but the government was wise enough not to try to make that point in court.

What else did the government say, plainly or by implication? They said that the military security of the United States would be damaged.

Not one soldier has died as a result and history may show that thousands were spared.

As a matter of fact, the government’s own case was made moot by the government following the Supreme Court decision. Our government proceeded to publish far more of the papers than we had published.

One of the government’s points was that other governments would shy away from dealing with us because of fears of leaks. I assure you that neither the British nor the Russians nor the Chinese nor the Hondurans have boycotted Washington diplomatically because of the publication of the Pentagon Papers.
Another consequence was that before publication by the government of the papers, they were made available to Congress. The real question is not why did The Times publish, but this: If it took the press to break this information free, why had the government been withholding this information from the Congress and the public all along?

There was a consequence as far as the press itself was concerned. A lot of young people who, for reasons with which I do not agree, have been losing faith in the press, found that newspapermen were indeed contributing in important ways to the American democracy. I think that some of them were rather surprised to find that middle-aged establishmentarian types like the people who run newspapers had a set of ethics of their own and were willing to stand up for them. I believe that publication gave the press itself a pride and zest which I think it had earned, but which seemed to be eroding.

But the far most important consequences is the information in the Papers themselves. No, there were no great secrets, but there was something far more important—insight. Insight into how decisions are made, insight into how decisions are concealed, insight into how decisions are avoided.

For the first time, people were able to see a clear continuum of thirty years of American history, perhaps even more clearly than the participants themselves.

It was like opening a box labeled “Thirty years of American history.” Inside the box are men of power, each group in its own little compartment. Behind them they can see only dimly and ahead of them not at all.

But now the reader can. He can look down into this box and see how one decision made in the Eisenhower administration, for instance, made inevitable or more likely a decision made years later in another compartment, although the people in the second compartment might not have known
clearly that they were reacting to the decision made years before.

He can see where assumptions were made and not questioned. He can see the points, the first breaks, where closer self examination might indeed have broken the chain of escalating war, and the thought process that prevented the chain from being broken.

The reader can see that history sometimes is indeed a lock step. But more importantly, he can see quite clearly, for instance, that if there had been public discussion, if the public had been informed, that there might have been ideas and pressures fed into the system that could have changed history. He can see, therefore, how history is affected by secrecy.

He can see quite clearly, I'm afraid, that the government knew many things of vital importance to the people, but that the people did not know. He can see a decision taken to subvert the Geneva Agreements, but withheld from the public. He can see a decision for covert warfare taken but withheld. He can see government people acknowledging to themselves the failure of that decision, but withholding the knowledge of that failure from the public.

As a matter of fact, one of the most important things about the Pentagon Papers is that they revealed that time after time policies failed and the government knew they had failed. But instead of telling the people, one government after another moved into escalation.

He can see, I think, that the country was not brought into one war without being told in advance, but into a series of them — political warfare, covert warfare, guerrilla warfare, commitment of troops on a large scale, aerial bombardment, and then mass warfare.

Each step was preceded by failure, and the people never knew it. Yes, much of this came out piecemeal thanks to American reporters, but often by speculation or conjecture.
If there is any basis at all in our belief that citizens have a right to know, and that only with knowledge can they govern themselves, then the publication of the Pentagon Papers served the interests of the republic.

There is an important historical consequence. The Pentagon Papers provide the frame of reference for all discussion and all debate about the course of the war.

A couple of weeks ago, I was at a managing editors meeting in Philadelphia. Peter Arnett, a magnificent Vietnam war correspondent for the Associated Press, said something then that I believe rather surprised many of the editors present. He said that the publication of the Pentagon Papers in effect outdated everything that had been written on Vietnam and would be essential to everything written on Vietnam henceforth.

What are the consequences as far as the press itself is concerned?

Mixed, but on the whole, good. I think we stand better in the country's eyes and in our own eyes. The court has turned down the government's attempt to suppress the publication of the Pentagon Papers, and has made it clear that government say-so is not enough to block publication.

But there have been losses. For the first time an American government went to court to enjoin the press. It failed in the end, but for fifteen days it set a precedent that could destroy the American democracy if it is continued.

I am not arguing the legalities here. I am stating a simple belief that when a government tries to impose prior restraint, it is striking at the essence of the free press.

There is a lawyer's phrase — chilling of rights. Perhaps I wasn't quite sure at one time what it meant, but I know now. It means that as I stand here, I know that every word I say will be examined by the government, not because they are particularly fascinated by Rosenthal and his words of wisdom, but because they are looking to see if I will say something that will somehow help them in one or another
of the incredible series of investigations and Grand Jury hearings now taking place.

Yes, there was a chill introduced, but there is a vast difference between being chilled and being stifled. A press operating in a chill is testing itself and can prove its worth and vitality by going ahead despite it. I believe that is exactly what is taking place.

I don’t really believe that there is a plot against the free press in this country. I have, however, come to believe that a series of terribly bad and dangerous decisions have been taken by men in government because they do not have a true feeling of the meaning of the free press in their blood and bones. But although there is no plot, the pragmatic end results can be the same if these decisions are allowed to stifle or hinder the press.

Look at the decisions that have been taken. First a deliberate attempt to hack away at the belief in the press which is something far different from criticism. The attack centers not on the press itself, but strangely enough only on those newspapers and journals that the government believes are not wholly in sympathy with the administration. Then a cascade of subpoenas against newspapermen. Then the momentous and unprecedented decision to enjoin the press and try to prevent publication. And now in Boston and Los Angeles this astonishing investigation apparently aimed at finding something criminal in a paper’s obtaining of material which the courts have upheld and which has resulted in no damage at all to the country.

I used to believe that the government found a crime and then looked for the criminal. Now, apparently, they have decided that they have a criminal — Neil Sheehan, or The Times, or both, or whatever — and are looking through the fine print for a crime to hang on them.

Incidentally, about Neil Sheehan and the other reporters who worked with him, I’d like to give you some idea of the feat they accomplished. Every one of them had to become
totally familiar with thousands of pages of material. They had to know more about the Papers than the people who wrote the individual chapters. They had to study the large library of books about Vietnam. They had to study the record we compiled, comparing what was said in public or known by the public to what the Pentagon Papers revealed. And then when they sat down to write, they had to withhold themselves and their own attitudes totally from this story and lead the reader coolly and logically through this enormous collection of documentation and analysis. It was one of the most admirable intellectual exercises I have ever seen.

I was talking about the possible dangerous results of the series of steps our government has taken. But I believe that these steps taken by the government will succeed only if the people, the press and the courts allow them to succeed, and I do not believe that will happen.

It certainly did not happen in the case of the Pentagon Papers. After the injunction was lifted, The Times printed exactly what it had intended to print, no more, no less.

What happened during the injunction? Sure, I was not exactly dancing for joy at the moment when other papers got hold of the story and we were enjoined, but even then and evermore since, I am proud of what happened. I am proud that when we were enjoined, the Washington Post jumped in and when the Post was enjoined, the Boston Globe came through and then one paper after another.

This leads me to what this award means to all of us at The Times. It means that although there is a controversy about the Pentagon Papers, and we accept that as perfectly proper, that included in the enormously gratifying support we have received are people who mean a great deal to us — people in the universities and in the press itself. They are with us and believe as we do and that is heartening.

For the Publisher of The Times, for every reporter, editor, clerk and printer, I accept this with gratitude and pride, not simply in ourselves, but in the American press.