



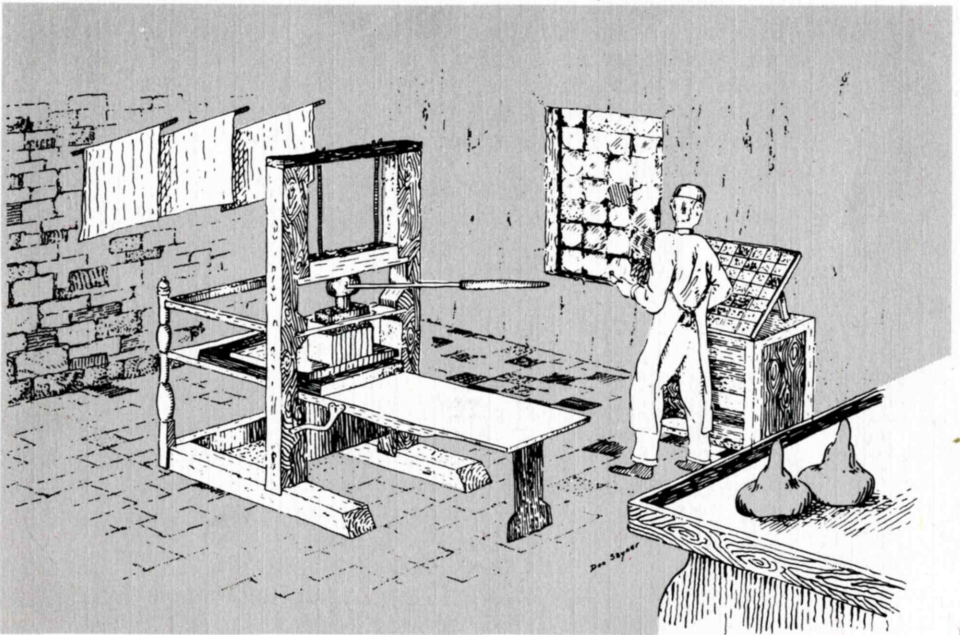
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Anna Catherine Zenger Award

**FOR FREEDOM OF THE PRESS
AND THE PEOPLE'S RIGHT TO KNOW
1996**

Nat Hentoff



Tucson, Arizona
April 28, 1997

"Our Diminishing Protections"
by Nat Hentoff

THE JOHN PETER AND ANNA CATHERINE ZENGER AWARD - 1996

THE ZENGER AWARD WINNERS

- 1996 Nat Hentoff
1995 Ben Bagdikian
1994 Investigative Reporters & Editors
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1992 Helen Thomas, United Press International
1991 Peter Arnett, Cable News Network
1990 Terry A. Anderson, The Associated Press
1989 Robert C. Maynard, The Oakland Tribune
1988 Jean H. Otto, Editorial Page Editor, The Rocky Mountain News
1987 Eugene L. Roberts, Jr., Executive Editor, The Philadelphia Inquirer
1986 John R. Finnegan, Editor, St. Paul (Minn.) Pioneer Press and
Dispatch
1985 Thomas Winship, The Boston Globe
1984 Tom Wicker, Associate Editor, The New York Times
1982 Fred W. Friendly, Edward R. Murrow Professor Emeritus,
Columbia Graduate School of Journalism
1981 Paul S. Cousley, Publisher, Alton (Ill.) Telegraph
1980 Walter Cronkite, CBS
1979 Jack C. Landau, Executive Director,
Reporters Committee for Freedom of the Press
1978 Robert H. Estabrook, Lakeville Journal
1977 Robert W. Greene, Newsday
1976 Donald F. Bolles, The Arizona Republic
1975 Seymour M. Hersh, The New York Times
1974 Thomas E. Gish, Editor and Publisher, The Mountain Eagle
1973 Katharine Graham, Publisher, The Washington Post
1972 Dan Hicks Jr., Editor, Monroe County Democrat
1971 The New York Times
1970 Erwin D. Canham, Editor-in-Chief, The Christian Science Monitor
1969 J. Edward Murray, Managing Editor, The Arizona Republic
1968 Wes Gallagher, General Manager, The Associated Press
1967 John S. Knight, Knight Newspapers, Inc.
1966 Arthur Krock, The New York Times
1965 Eugene C. Pulliam, Publisher, The Arizona Republic and Phoenix
Gazette
1964 John Netherland Heiskell, Publisher, Arkansas Gazette
1963 James B. Reston, Chief Washington Bureau, The New York Times
1962 John H. Colburn, Managing Editor, Richmond (Va.) Times-Dispatch
1961 Clark R. Mollenhoff, Washington, Cowles Publications
1960 Virgil M. Newton Jr., Managing Editor, Tampa (Fla.) Tribune
1959 Herbert Brucker, Editor, Hartford Courant
1958 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 E. Palmer Hoyt, Editor and Publisher, The Denver Post

1996 Zenger Award

NAT HENTOFF

**INTRODUCTION BY JIM PATTEN,
University of Arizona Journalism Department Head**

Tonight we honor a man who belongs in the company of Peter Arnett and Katharine Graham and all the others to whom we've given this beautiful silver and turquoise plaque.

He is Nat Hentoff.

Nat writes a column for The Washington Post that is syndicated in 250 newspapers. His column is appropriately titled Sweet Land of Liberty, because that's what he's about.

He has written about civil liberties, civil rights and criminal justice for The New York Times, the New Republic and The Atlantic. He is a columnist for Village Voice in New York and author of many books, including "Free Speech for Me--But Not for Thee: How the American Left and Right Relentlessly Censor Each Other."

We are not the first to honor him. The American Bar Association gave him its silver gavel award for coverage of the criminal justice system. The American Library Association has honored him for support of intellectual freedom, and the People of the American Way presented him with its First Amendment Award.

You might also be interested to know that he's a leading expert on jazz music and author of a recent book about the stars of jazz called, "Listen to the Stories."

When I called New York to tell Nat Hentoff we had decided to honor him tonight, he expressed pleasure but also a bit of surprise. He said, "I didn't know my work was known that far west." I assured him that we in Arizona do, indeed, know about his work--and approve very much of it. We are kin, Nat, and you are one of us.

I'm honored to present you this award.

Nat Hentoff

That list I heard tonight from Jim Patten has names of my predecessors for this award. It's like a boyhood fantasy that I had of being asked to join Duke Ellington's band but I wasn't that good a saxophone player.

This is a vicarious homecoming for me in a way. My son Nick was graduated from the University of Arizona Law School. He later worked for a federal judge in Phoenix, and he now practices law there. He is exemplifying what William O. Douglas said, "The history of liberty is the history of due process." That's something journalists ought to explore because it affects all kinds of areas besides the courtroom.

Now, for my main heretical theme. John A. Howard, who used to be president of the Rockford College in Illinois, has said that we have in the United States "produced several generations of cultural orphans who have little knowledge and even less appreciation of their heritage of freedom, of the struggles and sacrifices which produced it. We have inadvertently engaged in a kind of unilateral intellectual disarmament."

What he means is that, as I find out in schools that I visit, high schools and colleges, to talk about the Bill of Rights or habeas corpus or the exclusionary rule, you get a blank stare. Now who's responsible for that?

The schools are responsible. OK. That's easy. It isn't easy to fix but you can target [the schools]. It's because the Bill of Rights and the rest of the Constitution is taught very badly, if at all, in most schools. But, also culpable is the press. The coverage of the 1996 presidential election was the worst in many years because it almost entirely omitted the fundamental story. The story was not what it cost to have a night in the Lincoln Bedroom, where Lincoln never slept, no fool he. The story was what Bill Clinton did in his first term and what he has since done to the Constitution.

He is the most destructive president in our history in regard to constitutional guarantees of individual freedom.

The only exception to the future of the press in this regard that I know of...well, there are two. I don't see every newspaper. One is Tony Lewis of The New York Times and the second is me, in The Washington Post. Tony wrote a piece not too long ago saying that Clinton was the worst president in 60 years in terms of what he's done to the Constitution. I go much farther back in the history of America, no president has been that contemptuous of our freedoms and guarantees.

If you look at John Adams in 1798, only seven years after the Bill of Rights was ratified, including the First Amendment, he pushed through the Congress the Alien and Sedition Acts, which put in jail editors, newspapermen, other people because they violated that part of the sedition act which said you cannot put the Congress or the president in a position of ridicule. Not hard to do then or now.

My favorite story about the Alien and Sedition Acts was about an elderly man in a village in New England who had heard that the president, John Adams, was coming to town. This morning he heard the cannonade, while a distance away, announcing the great

man's presence. And the old man said, "I wish they'd shot that up his ass." He was imprisoned. No due process.

In the Civil War, Abraham Lincoln suspended habeas corpus. The Supreme Court was too cowardly to do anything about it until after the war. In the First World War, Woodrow Wilson practically abolished the First Amendment. If you came out against the war or any of his programs or programs of his administration, you were in a great deal of danger of going to jail. Eugene Debs went to jail for a speech. Just a speech.

And there was the cowardly silence of Dwight Eisenhower during the McCarthy years. But no president has more wide-rangedly violated the Constitution as has Clinton.

Habeas corpus. That is the oldest right in the English speaking world. It goes back to the Magna Charta in 1215. In this country the way it works is, if you are convicted in a state court and sentenced to prison or to death row you have the right to appeal to a federal court to review the constitutionality of what the state court did. In my files I have 22 people--and other reporters have more--of people on Death Row who have been there for six, eight, 10, 12 years. And finally because they found a good lawyer and a good investigator, they were released because they didn't commit the murders.

Clinton now, with the help of the Republicans, has reduced that space for habeas corpus petition to one year. That means a good many people on Death Row will not be able to prove their innocence. They will be executed after one year.

By the way, it's a saddening thing to look at some of the past of American history in view of what Clinton has done. Thomas Jefferson was in Paris, he was the ambassador to Paris, while James Madison was writing large parts of the Constitution. And Jefferson sent him an urgent letter, saying do not neglect habeas corpus; it's a crucial right.

During the 1996 campaign, no reporter--no reporter--on the campaign trail, or Jim Lehrer on the Lehrer News Hour, nobody who was covering Clinton or Dole asked one question about what was happening to our civil liberties. Yet Clinton had pushed for unprecedented wiretap powers for the FBI, much of them without a warrant. He came up with the idea--and he almost got it and may get it yet because nobody seems to care about these things--he wanted to have random phone tapping. OK, you get a warrant, but no longer for just one call. The one warrant would cover extensive random calls. Any phones that a person used would be OK without a warrant for that phone to wiretap it. Could be your phone if you knew the guy that came into your house and said "could I use your phone?"

Clinton's anticrime bill of which he is so proud, he inserted 51 more causes of execution, and he started his re-election campaign for this term with a broadcast commercial praising himself for giving more work to executioners.

First Amendment. The most destructive censor in American history, if the Supreme Court agrees with Clinton, in a case now before the court. It will decide in late June or early July whether to uphold the Communications Decency Act, which prohibits anything in cyberspace that is not suitable for children. Imagine what that will do to free expression on the Internet. He forced this on the Justice Department. I know because I know the man who wrote the administration's brief. He was very, very uncomfortable with the whole assignment.

Other Clinton legislation. You can deport aliens now if you suspect them of terrorism without they or their lawyers being able to see the evidence against them. It's contempt for due process, a contempt that is shared, of course, by the Republicans. But

Clinton is the one who had the power to implement this violation of due process and look at the court-stripping in the immigration bill. You take groups of cases and remove jurisdiction of them away from judges. Some of them are of constitutional weight. Rights violations. As Tony Lewis has written, they were cases on the way up to the courts, clear violations of constitutional rights, but now the courts can't handle them since they've been taken away from them by Clinton.

Fourth Amendment. This is something he didn't quite get to do. He wanted to essentially abolish the Fourth Amendment and he'll probably do it yet. In the House, there was a debate on whether to scrap the exclusionary rule. The exclusionary rule means you cannot use illegally obtained evidence at a trial, because that's a violation of the Fourth Amendment. If you take away the exclusionary rule there is no Fourth Amendment. Republicans were in majority, but the White House did not object to what the Republicans were trying to do.

One Democrat, Mel Watt, a congressman from North Carolina, a black constitutional expert, was watching the debate and he put in an amendment that was word-for-word the Fourth Amendment to the Constitution. Watt's amendment was overwhelmingly defeated. The bill was now going to the Senate where Orrin Hatch is chairman of the Judiciary Committee. He liked the idea of doing away with the exclusionary rule, and I asked Hatch's legislative aide, with whom I have an amiable, argumentative relationship, "What do you hear from the White House?" He said, "The president likes it. He just doesn't want to be attached to it." The bill to eliminate the exclusionary rule was stopped. It was stopped by an unholy alliance of the ACLU and the National Rifle Association.

(The NRA) doesn't want people barging into houses looking for guns without a warrant because then you can't sue them because there's no exclusionary rule. And the ACLU has a standing commitment to the Fourth Amendment.

There are other Clinton attacks on civil liberties. I am appalled that no journalist brought this up during the campaign. I was telling this story to a rather large group of journalists at the New York University School of Journalism about a month ago. I asked them what is habeas corpus? Why is it so important? Silence. Well, what do they know about the exclusionary rule? Silence. I told them that as reporters they will screw up a lot of stories if they don't know both the federal Constitution and the constitution of the state where they're working. State constitutions sometimes have more guarantees of individual liberties than the federal Constitution. In fact Justice Brennan used to advise civil liberties lawyers, saying "if you've got a good case under the state constitution, don't mention the Fourth Amendment or the First Amendment or anything in the federal Constitution because Rehnquist will see it and swallow your case."

I said you need to know both constitutions to cover many kinds of stories, not just criminal cases. You need this knowledge when you're reporting on education, health care, corporate frauds. And this knowledge should also be familiar since you yourself may be a defendant or a claimant one day.

I mentioned Justice Douglas at the beginning. He is my favorite, if you can use a word like that, of all of the Supreme Court Justices, though William Brennan is a close second. Douglas was the strongest, most consistent fighter against government intrusion into private lives. Some of the scholars in this field criticize him because they say he didn't create over the years a coherent philosophy of constitutional law. But coursing through nearly everything he wrote was Douglas' unwavering conviction that the people

of the United States are in charge of the government, not the other way around. And that each of us has the fundamental right to his or her own views, even if those views go against the moral or political conclusions of the majority. The other objection to Douglas among constitutional scholars is he didn't use enough footnotes in his opinions. He didn't have to. He was that clear.

He also continually warned against the danger of government's ignorance, willful or otherwise, of the Bill of Rights. In 1976, Douglas wrote to the young lawyers section of the Washington State Bar Association, "The Constitution and the Bill of Rights intended to get government off the backs of the people." He said that before Ronald Reagan. Douglas continued: "Those great documents guarantee to us all the rights to personal and spiritual self-fulfillment. But that guarantee is not self-implemented. As nightfall does not come all at once, neither does oppression. In both instances, there is a twilight where everything remains seemingly unchanged. And it is in such twilight that we all must be most aware of change in the air, however slight, lest we be found unwitting victims of the dark."

The press is supposed to be particularly aware of this change in the air. But in recent years, it has remained silent as the Constitution grows increasingly weaker. This story is more important than even Hillary Rodham Clinton's alleged obstruction of justice [in Whitewater]. This story of the dangers to the Constitution is not being done. I hope that those of you that are becoming journalists will keep in mind that what separates this country from all others is the Bill of Rights and the rest of the Constitution.

Tony Blair is about to become prime minister of England. There have been a lot of stories lately about how Tony Blair is a clone of Bill Clinton. As a matter of fact, he does have paid advisers on his staff who worked for Clinton. In the current campaign he wasn't saying anything substantive about what he was specifically going to do. He just smiled a lot.

By the way, he talks about the new Labor, like Clinton does about the new Democrats. The new Democrats are eviscerating the Democratic Party I knew. New Labor has removed trade unions to the margins. But an interesting story over the last two years is the now conservatives, led by John Major, conducted the most vehemently destructive attack on personal liberties in modern England. The cops can go into your home without a warrant. You no longer have the right to remain silent at a trial, and that is a right that goes back to...17th Century England. And there are a lot of other assaults on British liberties.

Tony Blair, the leader of the opposition then, went along with these Tory atrocities.

Again, I hope those of you who become journalists will keep in mind what protects you as journalists and what therefore protects other people, and those protections are diminishing.

Thank you.