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

1969

THE EDITOR'S RIGHT TO DECIDE

An Address by

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Managing Editor, The Arizona Republic

THE UNIVERSITY OF ARIZONA PRESS
Tucson, Arizona
PREVIOUSLY HONORED

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
IT IS VERY PLEASANT INDEED to be with you again, and to bring greetings of the University of Arizona, and to thank you for the opportunity of presenting the John Peter Zenger Freedom of the Press Award.

I could take this occasion to comment at length on the commonality of purpose and spirit of universities and newspapers. Both are types of institutions dedicated to the freedom of expression and dissemination of information. Both are engaged in education and both will go to great length in protecting legitimate exercise of responsibilities in carrying out these purposes.

You know and understand all this as well as I. Moreover, I am here for another purpose—that of presenting the Zenger Award recipient. You are familiar with the history of this award established by the University of Arizona in 1954 through the leadership of Douglas Martin, who, after achieving a distinguished career as a leading newspaperman of this country, performed brilliantly in a second career as professor and head of the Department of Journalism at the University of Arizona, and as an able and proven writer of Arizona history.

Since 1954, fifteen recipients have been chosen for the Zenger Award, including the well-known and highly respected and gifted publisher of the Arizona Republic and Phoenix Gazette, Mr. Eugene C. Pulliam.

It is with pride and much satisfaction that today I present this award to another Arizonan, a great newspaperman associated with one of the nation's most outstanding newspapers—chosen, may I remind you again, by a national selection committee of 75 newspaper editors and publishers from a list of nominees submitted by the previous fifteen Zenger Award recipients.

J. Edward Murray, Managing Editor of the Arizona Republic since 1960, has been a newspaperman for 30 years. Born on a homestead near Buffalo, South Dakota, he spent his childhood on a sheep and cattle ranch and worked for a gold mining company during high school and college vacations. He was graduated as a member of Phi Beta Kappa in
1938 at the University of Nebraska, where he majored in philosophy and journalism and served as editor of the campus daily.

Mr. Murray started as a reporter with the United Press in Chicago in 1938. He went to England as a war correspondent in 1943. He covered the buzz bomb siege of London, served as chief UP correspondent at the Supreme Headquarters of the Allied Expeditionary Forces, and directed coverage of Mussolini's capture and death along with the war's end in Italy.

After the war he became United Press manager for Italy. He covered the Paris Peace Conference and toured Western European countries several times to report on post-war rehabilitation. In 1947 he toured the United States with the Italian premier.

In 1948 he became managing editor of the Los Angeles Mirror, where he served for 12 years, from the inception of this new newspaper until it reached a circulation of 312,000.

In 1959 Mr. Murray visited Russia on a news-gathering trip that produced a series of articles which were syndicated in a number of American newspapers. Since coming to the Arizona Republic in 1960, he has returned to Europe on five different occasions. Each trip has produced reports that have provided fresh insight regarding developments on both sides of the Iron Curtain. We recall his reports in 1969 which brought us up to date on many features of the Soviet system.

Mr. Murray has been active for more than a dozen years in professional studies and criticism of newspaper methods. In 1960-61 he was national president of The Associated Press Managing Editors Association. In this capacity he appointed and then served on a study committee which produced "The Criteria of a Good Newspaper," a widely accepted set of professional standards for the judging of newspaper quality. He is currently serving on a jury for the awarding of the Pulitzer Prizes. He is a member of the Board of Directors of The American Society of Newspaper Editors, Secretary of the Society, and Editor and Chairman of its monthly magazine, The Bulletin.

In 1967 and 1968 Mr. Murray served as chairman of the Freedom of Information-Bar Committee for the American Society of Newspaper Editors. Through this committee, leaders of the American Association of Newspaper Editors worked with the American Bar Association in seeking solutions to modern problems which confront both journalists and lawyers.

The reports of this endeavor are published in the 1967 and 1968 Problems of Journalism — Proceedings of the American Society of Newspaper Editors. Accomplishments of the committee under Mr. Murray's
chairmanship include the passage of the new Public Records or Freedom of Information Law. This is regarded as the most important Freedom of Information legislation ever passed — not counting the First Amendment to the Constitution, which is in a different class.

The committee's work helped to focus national attention on the credibility gap between the White House and the people, especially concerning the Vietnam War.

In many speeches, debates and conferences with judges and lawyers, Mr. Murray — as ASNE Press-Bar spokesman — fought a running two-year battle with the American Bar Association on the issue of Fair Trial and Free Press. This conflict was initiated by what the press viewed as an effort of the ABA to strengthen the Sixth Amendment at the expense of the First through a reform measure which sought to curtail news sources concerning crime and the courts.

A truce has now been achieved in the Press-Bar conflict, thanks to the efforts of leaders of the American Society of Newspaper Editors and the American Bar Association. Cooperative press-bar agreements, usually at the state level, have been adopted in Arizona and 19 other states. There is general acceptance of the principle of discretionary news coverage.

In this great effort to uphold the freedom of the press, J. Edward Murray has provided strong leadership and wise counsel. His entire career has been marked by unswerving dedication to complete and unbiased news coverage. In upholding freedom of the press, Mr. Murray is a distinguished and effective advocate of the principles for which John Peter Zenger risked imprisonment and trial.

Mr. Murray, in recognition of your achievements in upholding press freedom and your many contributions to American journalism, I present to you, on behalf of the University of Arizona, the silver and turquoise plaque created for the 1969 Zenger award, together with a portfolio of letters of congratulations from your colleagues and friends.

RICHARD A. HARVILL
President
The University of Arizona
1969

J. Edward Murray
Managing Editor
The Arizona Republic

Through its John Peter Zenger Award, the University of Arizona focuses attention annually on how best to preserve our free press. This has always been an important contribution. Naturally, I am highly honored to have been chosen to receive the award this year.

I am sure it has occurred to some of you, as it has to me, that this is an especially interesting year for this award. I mean that freedom of the press is not nearly such a lonely business as it used to be.

I don't know how it is with you, but I am getting a lot more help as an editor than I used to. I don't mean just the Vice President. And I don't mean just on sports. There have always been about the same number of sports editors among the readers as there are readers.

But now I am getting a lot of help from a lot of readers on the main news sections. Everybody is suddenly interested in free press. They want to tell the editor how to use it.

Seriously, the times are exciting and controversial. There is more news than anyone can print or broadcast. Consequently, more and more people want to control what the media can tell us, because they want to control what kind of nation we shall be.
And no wonder. As we begin a new decade, the news media are increasingly important: as a forum for democracy in ferment; as messengers of change, and as one of its main catalysts as well as one of its control mechanisms.

No wonder, then, that so many people want to tell the editor what is news.

Although it is still 14 years until 1984, George Orwell's dread prophecies are already coming true. An example may be found in Joe McGinnis' book, "The Selling of the President," which describes how cleverly and cynically television was used in the last political campaign.

No wonder, then, that everyone now knows the name of the Vice President. He is the new number one press critic, Spiro T. Agnew, who wants to make sure the President and his administration are not criticized too instantly or too querulously. And no raised eyebrows, please.

Never mind that this administration, like the ones before it, will spend about $425 million annually on news gathering and public relations. That's $425 million to manage the news.

And never mind that the Defense Department alone will spend $10 million for publicity to sell its $70 billion budget.

No raised eyebrows, please.

In fairness, Mr. Agnew specifically ruled out censorship. He asked the media to be more self-critical, which is sensible. And he raised the crucial issue of fairness in the news.

His main thrust, however, was that news broadcasters are too liberal. I disagree. TV commentators work under constant conservative pressure which they must counteract to be fair. It comes from sponsors and station owners, and from business-oriented network and station executives who tend to be administrators rather than newsmen.

These voices exert their influence to maintain the status quo. Ironically, it seems to me, they may be helping to bring about what they fear. Perhaps the word revolution resounds seriously in the land again because the Establishment is so
hostile to dissent, because the technocracy tends to be so monolithically self-perpetuating.

To rate space in the media dissent must become confrontation. Protest expresses itself in drop-out hippie communes, and in gigantic rock festivals, and both of these tend to be reported mainly as crime stories. The Black Panthers collect both food and guns, but you don't hear much about the food.

For this, we in the Establishment media may be criticized, it seems to me, but not for being too liberal or for over-playing the bad news.

My main quarrel with Mr. Agnew, however, concerns licensing. That ancient barrier to free press was eliminated in this country even before the First Amendment made it illegal, and even before John Peter Zenger won his fight to establish truth as a sufficient defense against libel.

So, when Mr. Agnew mentioned licensing and asked if the networks should not be "made" to change their ways, he was both out of line and out of date.

Mr. Agnew also objected to the fact that the TV commentators delivered their critiques of the President to the same, huge audiences which the President, and not they, had attracted. He was talking about access to the public via the news media.

I, too, want to talk about access as it affects free press. Until recently, this concept meant access to the sources of the news. Thanks largely to past Zenger award winners, a Freedom of Information law was finally fought through Congress in 1966. Its purpose is to guarantee access to federal government records.

Our controversy over Free Press and Fair Trial also involves this concept of access to news sources. The controversy arose because the American Bar Association tried to restrict the sources of crime and court news. Fortunately, a press-bar truce has been achieved in recent months.

So, these old battles over access to the news itself are
relatively quiescent, at least they appear to be for the moment.

But, as always seems to happen, there is a new, major threat to freedom of the press. This time, it involves a new concept of access and a new interpretation of the First Amendment.

It concerns actual access to the citizen’s attention for certain ideas. This translates into a demand by someone, an individual, a minority, an out-group, for space in the newspaper or time on the air for certain points of view which allegedly are not getting a fair hearing.

The demand would be enforced by court action or by new laws. Therein lies the threat. The press, free since the Constitution was adopted, would again be placed under legal compulsion.

This new concept of access originated in the Equal Time or Fairness Doctrine for radio and TV. This doctrine has operated for 20 years without much affecting the print media. There were two reasons for this. Newspapers and magazines already routinely offered the right-of-reply. And there were many print outlets which presented the whole range of opinion, in contrast to what could be presented in the limited time on the airways.

As I am sure many of you know, however, Professor Jerome Barron has proposed an extension of the Fairness Doctrine to newspapers. Dr. Barron, who teaches at George Washington University Law School, advanced his thesis first in the June, 1967, Harvard Law Review. He has elaborated upon it since in speeches and articles.

Professor Barron contends that the First Amendment should be re-interpreted and used to force the media to give space and time to unpopular ideas, to unorthodox and minority points of view.

Here is a key passage from the original Harvard Law Review article:

“Our constitutional theory is in the grip of a romantic conception of free expression, a belief that the ‘marketplace of
ideas' is freely accessible. But if there were a self-operating marketplace of ideas, it has long ceased to exist. The mass media's development of an antipathy to ideas requires legal intervention if novel and unpopular ideas are to be assured a forum."

I spoke with Dr. Barron at some length about this a year ago in Washington. He firmly believes that either the courts, which is to say judges, or legislators or other government officials, which is to say non-editors, should become the final arbiters of what is a fair presentation of all points of view in a community.

To me, this is simply pre-First Amendment thinking because it puts the government back in the saddle. It would make someone besides the trained editor the judge of the news.

I regret to say that the Barron thesis has gained support. The most alarming proof of this came last year from the Supreme Court. In the so-called Red Lion case (Red Lion Broadcasting Co. v. Federal Communications Commission, 89 S. CT 1794-1969) Justice Byron White wrote:

"It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount. . . . It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance a monopolization of that market, whether it be by the government itself or a private licensee."

Not only does this decision enlarge the Fairness Doctrine, but it pushes the First Amendment in the direction that Professor Barron pushes it.

The First Amendment is preventive only. It says, "Congress shall make no law . . . abridging the freedom of speech, or of the press."

But both Professor Barron and Justice White would give the Amendment a new affirmative dimension which could be used to control the content of the press in certain situations. This is really a deceptive reversal of traditional free press.
Why has such an idea gained headway? Why do so many people, from Mr. Agnew and the Silent Majority on the Right to Professor Barron and the liberal intelligentsia on the Left, want to *tell* the editor what is news, and *make* him print it or broadcast it? I suppose there are many reasons.

We live in a time of disruptive change. The mores are in tatters. There is no reverence for the household gods.

A mutant generation is destroying the tribal myths. There is even a reverse transmission of culture, from the young to the old instead of vice versa. This puts the world out of joint for both. The young despise old values and their symbols. The old abhor the new look, the new life style.

All of this breeds anxiety and fear and hate.

There is assassination, riot, unpopular war, erosion of money, blight in the cities, pollution in the environment, and finally, the talk, if not the threat, of revolution.

The political consensus forged in the Civil War has fractionated. Controversy rages. Real dialogue or communication between contending factions is minimal.

As a result, much of the real news is disturbing and unpleasant. It *is* the news, but it's bad.

The people, in their confused misery, cry: Give us more good news!

And Mr. Agnew's supporters cheer when he scolds the media for disseminating so much negativity, instead of giving a better balance of news.

These people, and I've read hundreds of letters from them, honestly believe that the press helps to increase the bad news by printing so much of it.

In direct contrast, Professor Barron's allies hold that the editor should be superceded as the arbiter of what is news because the media have been too unresponsive to the explosions of social change, and to unorthodox and unpopular ideas.
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In other words, Barron and his advocates are saying the media haven't printed enough of the so-called bad news.

The political Right thinks the press helped create Stokely Carmichael and Eldridge Cleaver, Mario Savio and Mark Rudd, by giving them and theirs too much attention. The old liberal Left thinks these Negro and youth leaders had to resort to violence to be heard.

One side thinks the press helped cause violence and disruption by paying too much attention to it. The other side thinks the press helped cause at least some of this same violence by ignoring dissenters unless they made violent news.

Now these beliefs are not mutually exclusive. Both sides could be partially right.

Not at all incidentally, in its final report this week the Media Task Force of the National Commission on Violence strongly recommended more penetrating reporting of the root causes of social unrest as one of the best ways to reduce violence.

From my own long experience, I believe that good news reporting, if it is thorough enough and perceptive enough, helps to defuse violence. This is true whether one is talking about the Bay of Pigs, Watts, Berkeley, or Vietnam.

But this doesn't answer the question of whether the press was basically right or wrong, sound or unsound, in reporting the disruption of the sixties.

Frankly, I don't think that is the question.

The question rather is: Who would have made a sounder decision on what to print or broadcast in the sixties than did the nation's editors?

Mr. Agnew? His Silent Majority with its strength in the fat suburbs and the Old South?

Professor Barron? Or his judges and legislators and politicians?

And who would have decided between them when they disagreed, as they most certainly would have?
Earl Warren's Supreme Court?
News is today, now, not in the good time of the Supreme Court.
The fact is that any effort, by court action or otherwise, to
dictate to the editor is both unconstitutional and ridiculously
impractical.
For instance, as Clifton Daniel of the New York Times
asked, how much dissent do you publish, if you receive, as the
Times does, over 35,000 letters a year? That's enough to fill 135
complete weekday issues of the newspaper.
Or, how much space do you give to the hate groups?
Or, how much space must the Underground Press give to
President Nixon's views?
And who decides what goes on Page 1?
Although there have been subsidiary issues in the long
fight to keep the press free, the main battles have centered on
just this right of the editor to decide.
This was the right that Zenger won by sweeping away the
old specious concept of formal libel. This was the right denied
by the infamous Sedition Law of 1798 and quickly reinstated
by Jefferson as soon as he became president.
And this right has been central in our day in the continuing
fight against the President's use of executive privilege,
against the bureaucrat's preference for operating in secret,
against the predilection of Congress for closed meetings, and
latterly against the American Bar Association's efforts to give
judges, and even policemen, the right to determine what the
public should know about crime.
Now, I am not saying there isn't a problem of fair selection
and presentation of the news. I know there is. The record of
the press is pock-marked with editors' mistakes. And there may
be American publishers who think freedom of the press belongs
to the man who owns one.
The whole point, however, is that the editor, fallible as
he is, can still do his job better than anyone else in a free
society. And he cannot be compelled by judges, lawyers, policemen, or politicians without doing more damage than good.

But once this constitutional pillar is re-established, and with it as a starting point, then there should be vigorous criticism of the editor and his decisions. This can be done with good result from both inside and outside the profession. And it is being done.

As a matter of fact, it seems to me that the critical flak from the outside has never been so heavy.

At the same time, editors seem to be shedding some of their arrogance in favor of self-criticism. More of them are thinking in terms of protecting free press by making fairer use of it.

And a few editors are even beginning to experiment with relatively new methods for insuring fairness.

For example, the Louisville Courier-Journal has named a full-time staff ombudsman. He investigates reader complaints concerning the newspaper's performance on specific stories and then rectifies mistakes by printing corrections and by more adequate reporting.

The same function, of course, can be served by responsible editors themselves, but they are often too busy, or too defensive, or, in rare cases, too unassailably self-satisfied.

A more elaborate method for providing a critical interchange between the newspaper, or station, and its audience is the local press council. This is a committee of community leaders appointed to meet regularly with the publisher or editor to discuss the fairness and accuracy of news coverage and editorial comment.

Thanks to Ben Bagdikian and the Mellett Fund for a Free and Responsible Press, of which he is president, such press councils have now been held in four small and two large cities in the U.S. These first experiments proved highly educational for both the newspaper and the community representatives.
Four of the councils are to be continued independently of the Mellett Fund by the local media operators. I hope there will be others.

Incidentally, when I visited the Soviet Union last summer along with nine other U.S. editors, we found that such press councils are common there, even though the press is anything but free.

After our Russian trip, the directors of the American Society of Newspaper Editors met in London to study the British Press Council. Although this national body has made a definite contribution toward a more responsible press in Great Britain, we concluded that such a council would be too difficult to operate in the U.S., because of the size of the country and the number of newspapers here.

But we did decide at our London meeting to institute a careful study of the problems involved in establishing an ASNE Grievance Committee. As now conceived, such a committee, using the ASNE Code of Ethics, would hear and assess each year a small number of the most serious complaints concerning the performance of daily newspapers, and then issue a report of its findings. A special committee of editors is working on the project.

Twenty-seven years ago when the Hutchins Commission on Freedom of the Press proposed creation of a national body to review press performance on a continuing basis, the idea was shouted down by publishers and editors. Thus far, the proposed Grievance Committee has produced no cries of outrage or alarm from the profession.

I suspect the fireworks are still to come. But there is little doubt that the climate is better now than it has been for some such idea. It is becoming increasingly clear, I think, that local press councils, or possibly even some form of national professional surveillance, can help to raise standards of fairness in news presentation.

Here again it should be pointed out that the Media Task
Force this week recommended both local press councils and what amounts to a new permanent Hutchins-type commission.

I believe the ASNE Grievance Committee, which would operate from inside the profession, has more merit than a national surveillance commission which would operate from the outside.

No matter how independent of government it might be, a national commission, or press study center, would carry some threat of repression because of its prestige and the generous exposure its decisions would certainly receive.

Even so, it will always be the editor himself who must make the actual decisions as to what is news and when and how to present it.

And the complexities of the seventies offer new challenges to any editor's principles of fairness.

As a start, I believe we should meet the challenge of Professor Barron and his allies by asking them to offer specific examples of minority points of view which they think are being slighted in the press. If we find there are such points of view, we should give them a hearing.

In my view, it is imperative that we as editors do a better job of presenting fairly the whole spectrum of significant ideas and opinion. And I think this is difficult because the large volume of new, unpopular opinion coming from the young and the blacks makes many of us, as well as the Silent Majority uncomfortable.

In this connection, the Detroit News is printing weekly what it calls the "Other Section." Edited by the youngest staff members, this section gives a fair, almost uncensored hearing to the radical counter-culture of pot, long hair, and anti-technocracy.

And, there is the problem of fair representation for minorities on newspaper staffs because not enough trained people are available.

Then there is the problem of handling the new breed of
reporters who also want to be activists. I used to believe, as most editors and publishers still do, that "reporter" and "activist" were mutually exclusive categories. Frankly, under that view only the publisher is allowed to be an activist. Times change.

Now I have come to believe only that if a staff member plays the roles of both reporter and activist, what he is doing at a given time must be carefully indicated for the reader by the manner of by-lined presentation or even by actual label.

There is no question that the complexity of issues now calls for more outright commentary on the news. That is why the Advisory Board of the Pulitzer Prizes has just established a new $1,000 award for criticism or commentary, as differentiated from straight editorials.

And as news gets more complex, we know that print journalism must do more interpretive reporting. This is a subtle, subjective and difficult art.

Basic to this challenge as well as to many others facing the editor today is the goal of objectivity. This is the hallmark ideal of the profession. And it is again being re-thought and re-argued.

For me, objectivity begins with a passion for the truth. This passion dictates that the truth be searched out as diligently as possible and presented just as carefully. And the passion carries over to involvement with the truth after you find it, which is to say, in advocacy. In other words, newsmen should be deeply committed professionally and should also care about the community.

Such professional commitment requires an earnest effort to present the truth fairly, emphasizing facts, identifying purely subjective judgments, and including opposing views or interpretations in a rounded, balanced whole. It's not an easy job. One often fails. But what else is there?

Like all ideals, objectivity is attainable if one's heart is pure. And what may be more to the point, I think objectivity
is usually something which the newspaper reader can recognize when he sees it.

Unfortunately, I am not at all sure that the same is true of the television viewer. Television, despite its many excellences, is essentially a surface reporter of the news. It tends to falsify by its compressive selection to meet rigorous time limits. And it tends to distort by its preference for the pictorial.

Television is also peculiarly subject to the use and abuse of those who want to make the news, their news.

Therefore, it seems to me that fairness demands more rather than less vigorous criticism of an image-conscious President who has learned to use TV superbly to create just the impression he chooses.

I say this because not the President, nor the Vice President, nor the Silent Majority, nor Professor Barron, nor anyone, should substitute for the editor as the arbiter of the news and of its objective presentation.