

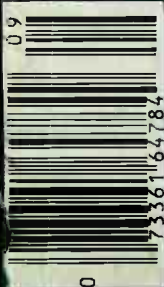
Covering the Energy Mess ■ Supreme Court Blues ■ The Sun-Times Caper

COLUMBIA JOURNALISM REVIEW

SEPTEMBER / OCTOBER 1979 • \$2.00

**MacNeil/Lehrer:
Up there
with God, mom,
and
apple pie**

by ANDREW KOPKIND



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The thought is by Josiah Holland. The interpretation is by Corita Kent of Immaculate Heart College.

"The mind grows by what it feeds on."

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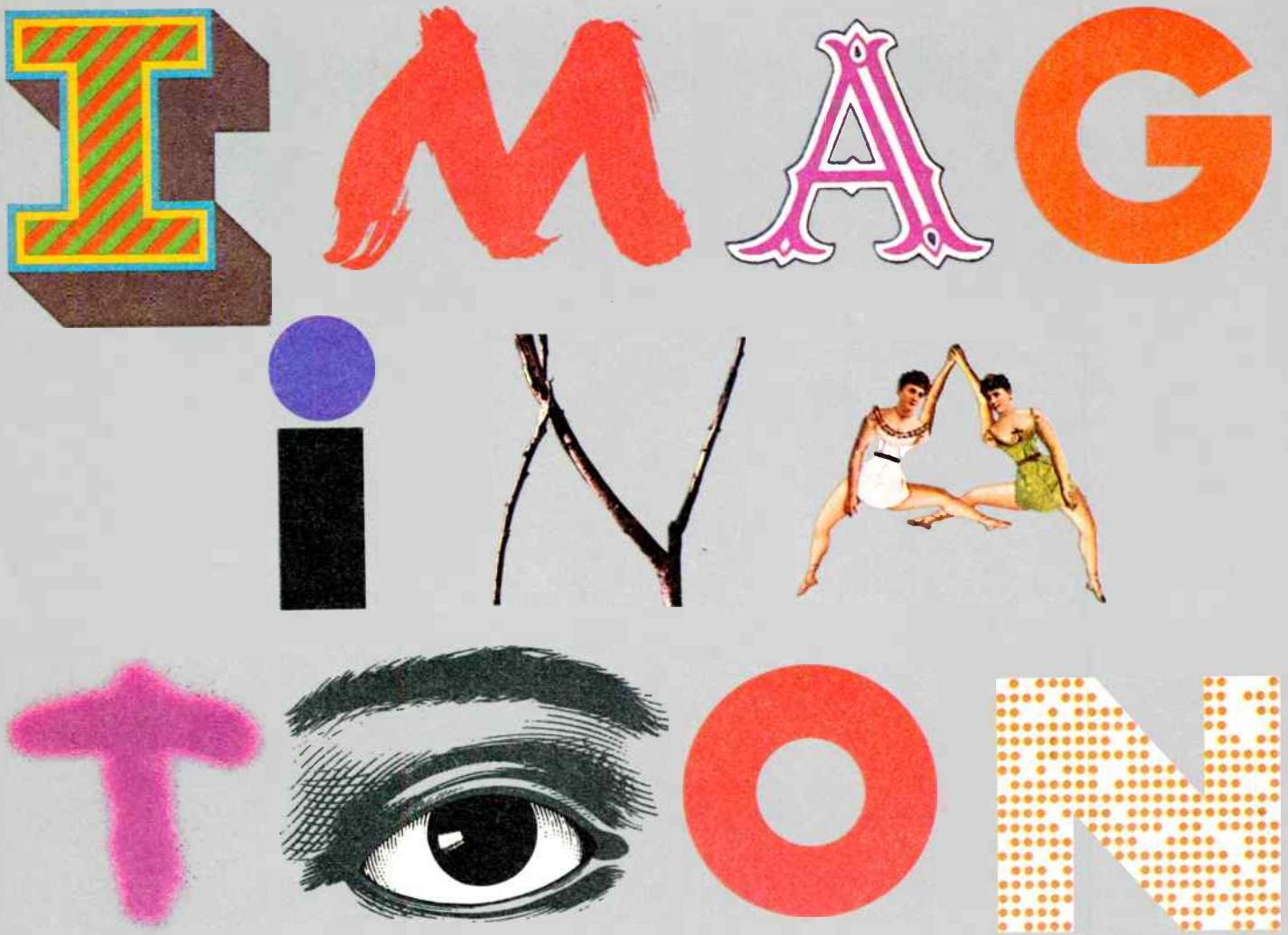
The mind grows
by what it feeds on

Josiah Holland

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Conte



What would tomorrow be without it?

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To assess the performance of journalism in all its forms, to call attention to its shortcomings and strengths, and to help define — or redefine — standards of honest, responsible service . . . to help stimulate continuing improvement in the profession and to speak out for what is right, fair, and decent

—Excerpt from the *Review's* founding editorial, Autumn 1961

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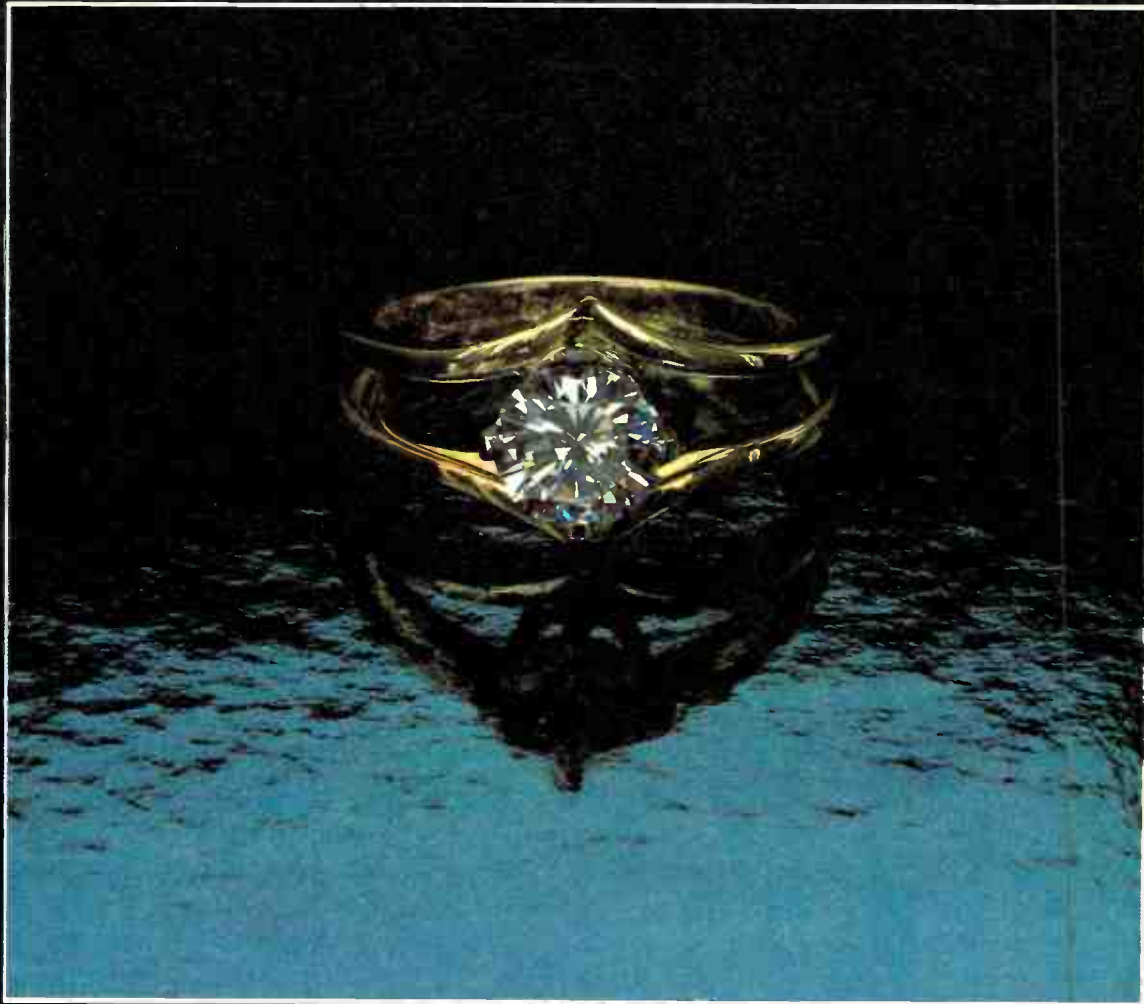
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of the press, and that cannot be
limited without being lost.”**

Thomas Jefferson

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CHRONICLE

Godfather III: Don shot— press wounds self

Carmine Galante, a sixty-nine-year-old convicted drug trafficker, was converted into a sieve on July 12 by machine-gun bullets and shotgun pellets fired from guns held by four men or three men as he was eating lunch at a Brooklyn, New York, restaurant or after he had finished lunch.

Why?

Well, as it turned out, he was killed by "executioners" on behalf of the National Commission of Organized Crime leaders who deemed him a high-handed gangster who was inching into territory belonging to other gangsters. Or he was assassinated on orders from his own Crime Family because he had ignored a decree that he step down as Boss. Or it had happened because, though he was Boss of his own Family (which had once been the Joe Bananas Family) he wanted to be the Boss of All Bosses. Or it was because he was the Boss of All Bosses and wasn't filling the job as well as had the late and somewhat revered Vito Genovese. Or because he refused to get out of

the illegal drug traffic. Or any combination of the above.

And although he was unequivocally the current Godfather of the American Mafia, or at least might have been (depending upon which page of the *New York Post* you read) except for the presence of one Funzi Tieri, who was also the Godfather, there were other Family Godfathers who thought they deserved a shot at being the One True Godfather.

These included the Gambino Family Boss Aniello Dellacroce and his underboss Paul Castellano, or the Gambino Family Boss Paul Castellano and his underboss Aniello Dellacroce; the Colombo Family Boss Joe Brancato and his underboss John (Sonny) Franzese or Colombo Family Boss John (Sonny) Franzese and his underboss Joe Brancato; Mr. Tieri, who is also known as Frank and who is the Boss of the Genovese Family, and Anthony (Antonio or Ducks) Corallo, Boss of the Lucchese Family.

This, dear reader, all of the above, was shoveled out to you and to me by the newspapers, television, and radio in the days after the Galante shooting. The "word" was out, and thanks to the "sources," who spilled and kept spilling,

the *New York Post*, the *Daily News*, the *New York Times*, and the city's television and radio outlets have told me virtually everything I need to know about Organized Crime, aka the Black Hand, or the Unione Siciliana, the Camorra, the Brotherhood, the Organization, or the "Mafia," mostly the Mafia.

Thanks to their efforts, I am now an expert on the Mafia's latest violent rupture. The *Times* told me Galante died after being marked for death for a year because of his desire to be Boss of All Bosses. The *Post* said, no, it was six months and Galante had refused to "step down." WINS noted that it had all come about as a result of a midtown hotel meeting a couple of weeks before the "hit," and NBC's on-the-scene organized-crime expert delivered a theory involving drugs and other social menaces in her standup in front of the restaurant where Galante was shot. The *News* said the other Family Bosses celebrated his death with a linguine lunch. WCBS used an Organization chart to help us through the labyrinth of organized crime, and did a job so thorough that one expects the station will receive an Emmy for a piece at least as well done

Dying on page one: even the Times couldn't resist a crime-scene shot, but it cropped off Galante's head, while the News and Post reveled in gore



as its story on Atlantic City last year which used film clips from *Godfather II* to illustrate its findings. (They really did, and they really did receive an Emmy.)

All of the examples cited, by the way, were delivered and written with unhesitating authority. *Everything* was true, whether it agreed with the previous day's truth or not. Once again, as it had after the shootings of Joe Colombo and Joey Gallo and after the emergence of Carmine Galante from under the organized crime rug of the Drug Enforcement Administration two years ago, the press prostituted itself for a headline. In quest of sensation, it suspended all of the rules it says it lives by. It went with rumors, police hearsay, neighborhood gossip, and sick romance; it quoted dozens, nay scores, of "police experts on organized crime" (the *Times*), "police intelligence sources" (the *Post*), "observers" (the *News*) to say whatever it wished. And the *Post*, five days after the shooting, even knocked down its previous stories, which it said had come from "law enforcement sources," in favor of reports from "mob sources" and "underworld sources."

At no time was there any hint of skepticism in the daily press. Why not? The FBI, we know now, does not always tell the truth, does not always observe the civil rights of Americans. But the press accepts without question any federal pronouncements regarding "organized crime." Why? I suppose the answer is that the press is lazy. Why work when you can be spoon-fed high drama?

The press did not ask the questions it is supposed to ask, questions that it asks under *all* other circumstances.

Who? Carmine Galante.

What? Shot.

When? July 12.

Where? In a Brooklyn restaurant.

Why?

Ah, there is the question. The whys flew thick and fast and reporters on every journal in town, on every radio and television station, took whatever version of the answer happened to be passed to them and ran with it.

So they, too, must be asked: why? The only answer I see is that they closed their eyes to what they should have been doing in favor of a cheap and tawdry luridness. They all did it and they are poor reporters for having done so.

Fred Ferretti

Fred Ferretti is a reporter for The New York Times.

The Bundy case: fair trial and free press

When a sensational criminal case goes to trial in a state that permits cameras in the courtroom, and when it attracts more than 100 journalists, is conflict inevitable between the First Amendment guarantee of a free press and the defendant's Sixth Amendment right to a fair trial?

"It doesn't have to be," says Judge Edward D. Cowart. He ought to know. This summer Judge Cowart presided over the first-degree murder trial of Theodore Bundy, charged with the brutal beating deaths of two Florida State University students—a trial that ended with a conviction on July 24 and a death sentence a week later. The handsome, thirty-two-year-old Bundy, described by one court-appointed psychiatrist as a modern-day "Jack the Ripper," has also been indicted for two other killings in Florida and Colorado, and he is a suspect in more than two dozen other murders and disappearances of young women in three western states. He quickly became the subject of intense pre-trial publicity which threatened his fair-trial rights and promised to turn his legal battle into a media circus.

Judge Cowart, who is chief of the Miami circuit and who was the second judge assigned to the case, did everything in his power to protect Bundy from the excesses of the press. He reissued gag orders on all the principals, moved the trial from Tallahassee 500 miles south to Miami, permitted detailed questioning of potential jurors as to the impact of the media, offered extra peremptory challenges because of the publicity, and sequestered the jury.

At the same time, the judge, who reportedly checked with a PR consultant on how to handle the press in this case, went out of his way to make things easier for reporters. He worked with Atlanta-based ABC-TV producer Steve Tello to set up a spacious press center on the ninth floor of the Dade County Metro Justice Building (where reporters could watch the trial on monitors) and to draw up a list of ground rules (limiting use of cameras and tape recorders on the fourth floor, where the trial was held). When the journalists arrived, Judge Cowart toured the center, greeting and welcoming them. In the days that followed he

ruled against a defense motion to bar "electronic media devices" (a single, silent videotape camera and microphone are permitted by Florida law), and another to prevent photographic reproduction of particularly gruesome color photographs of the two dead women.

In a more unusual move to accommodate the press, he allowed a press pool representative to listen in on bench conferences he held with the attorneys and then to circulate memos to colleagues about what had just been said. He also made himself available for impromptu interviews and inquiries in the corridors, as well as for more formal discussions—on camera and on the record—in his chambers.

How did the arrangements work out? In remarks to the judge before the sentence was announced, Bundy called reporters "sharks" and said that in the long term having a camera in court "can only be detrimental." Journalists, at least, saw it differently. Tony Polk, a reporter for the *Rocky Mountain News*, delivers their nearly unanimous verdict: "The camera in the courtroom diminished the circus-like atmosphere. Reporters didn't have to rush from the court whenever something important happened. And the arrangement all but ended those dehumanizing scenes where cameramen and photographers lie in wait for defendants being led out of court." Adds Jane Wallace, a reporter for KBTU, the Denver ABC affiliate, "Judge Cowart handled the touchy aspects of covering the story with tact and delicacy."

If Judge Cowart's careful balancing act tended to settle the constitutional issue for reporters, it did create some new professional problems. Wallace remarks that the videotape record imposed new standards for accuracy. "You had to be damn sure you got it right," she says. "If you didn't, you had to go back and check it."

Rick Barry, a reporter for the Tampa, Florida, *Tribune*, thinks the video feed encouraged "a new form of lazy journalism. As each day passed, more and more reporters viewed the trial from the ninth-floor press room, where smoking was permitted and wisecracks were appreciated."

This had an effect on coverage, he says. "The camera shows only what the cameraman deems important, and that varied from day to day, depending on the sensitivity of the person chosen from the

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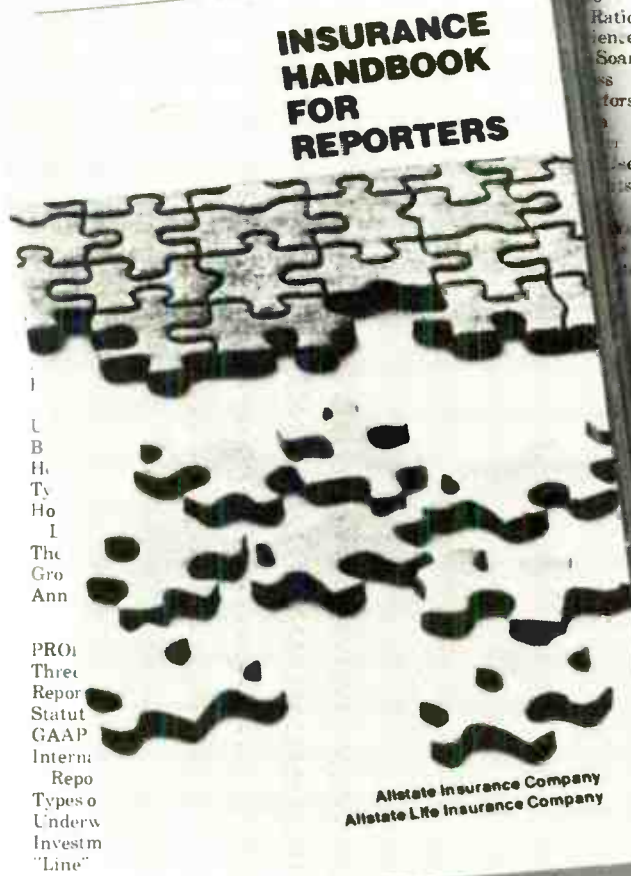
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Ray Fisher

Remote reporting in the ninth-floor press center: a fair trial but a lazy press?

pool. Spectators' reactions—and the Bundy audience of oddly fascinated young women made for interesting watching—were all but unreported."

Steve Tello, however, is pleased with the fruits of his labors. "It was the biggest and most elaborate setup of its kind, and it showed what you can do when there's adequate pre-planning," says the

TV producer. "The days of quick-and-dirty courtroom coverage by the electronic media are numbered."

Judge Cowart was pleased, too. "I think what this whole arrangement here at the Bundy trial is all about is accuracy," he said in his office the night before the case went to the jury. "The reporting is just more accurate under these condi-

tions. The First and Sixth Amendments don't need to be in combat. Sometimes there's a conflict, and when there is, I think the Sixth should prevail. But most of the time they are not irreconcilable."

Mark Pinsky

Mark Pinsky covered the Bundy case for several newspapers and magazines.

Knight-Ridder discovers the world

Knight-Ridder has staked \$600,000 on the first phase of a proposition that must seem risky to less imaginative newspaper chains: that Americans are interested in foreign news. Anyone who has idled in a gasoline line realizes how dependent the U.S. is on the rest of the world. But nobody would know it from watching the organizations that now control 71 percent of the nation's daily newspaper readership. Not a single chain bothers to field a comprehensive foreign staff.

The thirty-one-paper Knight-Ridder group aims to change that. News bureaus have been opened in London and firmly scheduled for Singapore, with six others planned for Beijing, Vienna, Nairobi, Tokyo, Jerusalem, and Mexico City.

This constitutes a welcome revolution. Studies indicate that, after years of decline, foreign news fills no more than 10 percent of newspaper newsholes. The ranks of foreign correspondents, once the elite corps of the trade, have thinned so dramatically that they are now an endangered species.

Knight-Ridder is betting that protecting the breed can help solve other problems. Chief strategist James Batten, a corporate vice president, is putting together a system that relies on personal

ties and financial interest, on the assumption that editors directly involved in planning foreign coverage with reporters they know—and whose expenses they are aware of—will be receptive to their stories and ambitious in playing them. "We're aiming for high-impact stuff," says Batten, "and we want it to be relevant." Both he and Don Carter, who heads the chain's sixteen medium-sized dailies, also expect the new bureaus to help keep experienced reporters in the chain. As Batten puts it, "There just isn't any doubt that we have lost some first-class reporters because they wanted foreign experience and we didn't have the bureaus."

The first priority is the reporting; and there are some innovations in store. Stories will benefit the chain's national wire service, but the operation will not be centralized along traditional lines. Instead, each of Knight-Ridder's four big-city dailies will get two bureaus to run as the paper—not the chain—sees fit. The *Detroit Free Press* will staff eastern Europe and black Africa, concentrating on stories of particular interest to that city's large minority populations. Similar reasoning gave coverage of Japan and Mexico to the *San*

Jose Mercury and *News*, and Israel to *The Miami Herald*. The *Herald*, the chain's flagship paper, will also get the prestigious Beijing bureau, when and if the Chinese come through with a visa.

The Philadelphia Inquirer is already in the foreign-bureau business, its London office having opened this August, with Singapore to follow in September. National editor James Naughton describes both as suitcase posts to be staffed by bachelors with orders to travel. "They will give us a very mobile presence in Asia and western Europe, and a terrific base for covering parts of Africa," he says with evident excitement. Correspondents are being asked to write about the impact of leaders and events, and running political stories will be largely left to others "so we can zig," as Naughton puts it, "when others zag."

The Inquirer's leadership is fitting. Last year editor Eugene Roberts sent reporter Richard Ben Cramer to the Middle East to make sense out of the confusion. He came back with a Pulitzer Prize-winning series that demonstrated what could be accomplished by covering foreign affairs with the same close attention most papers now lavish only on backyard stories.

Charles R. Eisendrath

continued

Do you make these 10 common typewriter mistakes?

Most people make their fair share of typing mistakes. But the biggest mistake you can make is buying the wrong typewriter in the first place. There are ten things you should check out. They can help you avoid making these ten typewriter mistakes.

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Try the touch. A responsive touch makes for easier typing. You want a touch that is prompt, easy and dependable. For instance, note how smoothly the Smith-Corona performs functions such as carriage return and back-space.

Listen to the sound. Believe it or not, a typewriter has a sound of its own. If it sounds tinny, beware. It may indicate that the typewriter's construction is too light.

Note the look of the type. Lines and individual letters should be straight. The impression should be crisp, clean and even. The print quality should not vary over the page.



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Consider the overall design. You want a typewriter that looks contemporary but not eccentric. Smith-Corona, for instance, is an example of classic good design you'll live happily with for years.

Look at the carrying case. Does it have double walls for

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Ask who makes it. Smith-Corona makes every typewriter that bears its name — which is not true of most other brands.

So consider the maker's reputation. A company with a solid reputation will still be around tomorrow and in the future to give your typewriter necessary service and maintenance.

Try the Smith-Corona carbon film ribbon. We offer a re-usable nylon fabric ribbon, good for ordinary typing jobs. This is the only kind most portables offer. But we also offer carbon film ribbon in five colors. It's the same kind of ribbon that the most expensive office typewriters use, and it's perfect for jobs requiring a crisp professional look such as term papers or a resume.

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'I lost my copyright through The New York Times'

"The *Times* memorandum is shocking. It's astounding," says Abby Rand of the Freelance Council of the Society of American Travel Writers.

"It is a flagrant way of circumventing what I take to be the intent of the copyright act, which was to protect writers," says economist Robert Lekachman, an occasional contributor to *The New York Times*.

"The memo is not intended to be oppressive or any of the terrible things you're about to write," warns Truman

W. Eustis, III, senior attorney for The New York Times Company.

The controversy concerns a memorandum mailed in May and June to all regular stringers and freelance contributors to *The New York Times*. Written by Eustis and approved by assistant managing editor Peter Millones and Times Company vice-chairman James Goodale, it read, in part:

The copyright law requires that we spell out the basis for transactions with you. . . .

Our standard agreement with contributors is that all their material accepted by The New York Times is considered "work made for hire." This gives us all rights in the material throughout the world for which they are paid the regular fee, per diem page rate or whatever is agreed at the time of the assignment.

This does not change the fact that when you write for The Times you do so as an independent freelance contributor, not as an employee of The Times. Acceptance of your next check constitutes acceptance of this policy.

Please refer any questions to the editor with whom you regularly deal.

Freelance contributors are angry because the memo seems to undermine the economic security they won in 1976 under the provisions of the Copyright Revision Act, which went into effect last year. The act, which carefully distinguishes between ownership of copyright and ownership of a manuscript for one-time use, established the principle that a writer selling a manuscript for publication retains all rights to subsequent use

Deli journalism

United Press International had a slightly sour taste in its mouth and the *Waterbury* (Connecticut) *Republican* had two fewer stringers after UPI picked up a story from the Sunday, July 8, *Republican* about a "bio-chemist" who claimed to have manufactured a red, white, and blue pickle—with fifty stars, more or less.

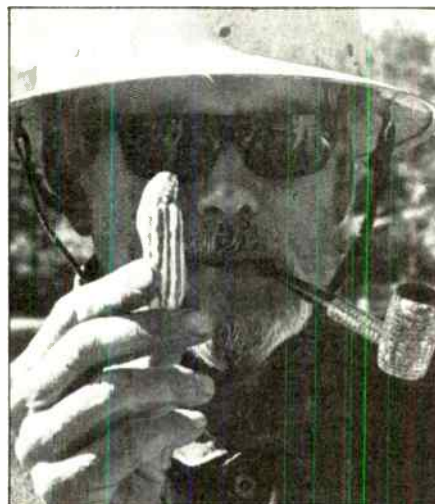
In a story headlined INTRODUCING: THE STAR-SPANGLED PICKLE and dated Winsted, Connecticut, stringers Ed Chaberek and Gregory Zabielski wrote: "Pickles and patriotism might seem an unlikely combination, but Abel Gruss has brought the two together."

"Gruss, who describes himself as a 'horticultural hobbyist' and a bio-chemist by profession, perfected the pickle about four years ago in response to a 'quirk of patriotic caprice.'" By 1976, the year of the nation's Bicentennial, "Gruss' pickles were in full bloom," said the *Republican*. It ran a picture of Gruss, complete with corn cob pipe, sunglasses, and patriotic pickle in hand.

UPI swallowed the story whole (Gruss "says he's also developed yellow pickles with purple polka dots and green and blue pickles with a 'handsome brown tweed'") and ran it as an AMs on the na-

tional wires, only to find itself issuing a mandatory kill a few hours later.

The kill came after UPI queried the *Republican* for art and a *Republican* editor discovered that Gruss was so photo-



Farmer Gruss: UPI bought his pickle

genic that Chaberek and Zabielski had used him before—for a different, if no less dubious story.

Both of them were fired; however, neither expresses regret over what they refuse to characterize as a hoax. "It was a

tongue-in-cheek article," Zabielski says. "The news media take themselves a little too seriously. It was obvious it wasn't a news story."

"We sent them [the *Republican*] so many stories of the same nature," Chaberek says, "we thought there was an unwritten understanding. The story was so absurd there was no way for anybody to believe it."

"Fifty percent of the stories we sent them were exaggerated," he remarks, adding that the *Republican* had yet to run a piece on another of their finds—a local high school teacher whose topsoil was so fertile his tomato stakes themselves grew vines. "The theme that runs through all our stories," says Chaberek, "is to lighten peoples' lives."

Both reporters are now unemployed, but "trying to sell some of our other ideas" to *Playboy*. Chaberek had been a *Republican* stringer for four years, Zabielski for two, and both had previously worked for *The Hartford Courant*.

"The only regret I have," rues Zabielski, "is that the story wasn't run as we wrote it." Gruss wasn't only adept at public-spirited pickles, he says. Unsung were his Yankee Doodle Noodles.

John R. Cochran



Has America become shortsighted?

America once had a vision of its future.

And that vision led us to become the most productive nation on earth, with our citizens enjoying the highest standard of living of any nation in the world.

Today, inflation erodes our economic growth. Inadequate capital investment limits opportunity and undermines our international competitive position. Our companies are hard pressed to keep up with accelerating technological developments. Productivity has been growing much faster in other major industrial nations than it has in the United States.

Why has American economic performance slipped?

Essentially, we seem to have lost sight of what truly drives our economy and what is required to keep our products and services competitive in world markets. Worse, our vision of the future appears to have narrowed to include only that which is politically fashionable and expedient for the short-term.

It is politically fashionable, for example, to charge that company profits are too high... are a "windfall"

... or are even "obscene." Yet profits constitute the key support for expanding company facilities, financing new research and development, replacing outmoded and inefficient equipment and, ultimately, ensuring greater productivity, higher wages and more jobs.

It's also politically fashionable to demand greater governmental "safeguards," i.e. regulations on the activities of companies. Yet, each year, government regulations cost our society — both companies and individuals — about \$100 billion. Much of which could be used instead for new plants, for new products, for new research, for new technology and to create new jobs. All of which would make us more competitive in world markets.

It's politically expedient for government — in the interest of "protecting the general welfare" — to spend billions of taxpayer dollars on over-regulation without fully weighing costs against benefits. Government overspending, and the resulting federal budget deficit, remains a primary cause of our nation's most serious problem, inflation.

Clearly, we must, as a nation, restore our vision and, with it, our productive capacity.

In the months ahead, we at Chase intend to speak out on the "productive capacity" question: on inflation, on profits, on government regulation, on business investment, on research and development.

Our reason for doing so is quite straightforward. If, as a nation, we are unable to revitalize our productive capacity, Chase's shareholders, customers and employees — together with millions of other Americans — will pay the price. It's a price we need not, and should not, have to pay.

So, we will speak out — as loudly and clearly as we can. We'll do it in our own self interest. And, we believe, in yours.



CHASE

of the work. There is one exception, however. The act stipulated that "work made for hire"—work done by a regular employee or in accordance with a written commission—remains the property of the publisher.

To the freelance writers who received it, the *Times* memo seems to be an attempt to return their relationship with the paper to the status quo ante. Stringers and freelancers who under the new law are presumed to be selling one-time publication rights *only* to the newspaper have discovered that they are going to be working "for hire"—and selling more than they had bargained for.

The memo made it clear that by endorsing their checks from the paper, stringers would be signing away all rights to their work. And freelance writers would be little better off: subsequent clarifications from the *Times*'s legal department indicate that the paper wants not only rights to use of the material by all units of the far-flung Times Company, but international newspaper and maga-

zine rights as well.

This arrangement suits company needs at a moment when the *Times*, like many other newspapers, is relying heavily on freelance contributions to fill out its new sections, lifestyle features, and op-ed page. And by classifying contributions as work for hire, the company clears the way for use of the material by its news service, special features syndicate, index, and information bank.

Not all newspaper companies are so canny or, perhaps, so covetous. Richard Harwood, deputy managing editor of *The Washington Post*, says, "Freelancers deal with all types of editors and the precise terms of the deal are not always spelled out. There are cases in which the writer will retain the copyright to his work." In most cases, the *Los Angeles Times* buys first rights only, says the paper's permissions coordinator Cheryl Preston. Irvin Letofsky, editor of that paper's Sunday magazine, *Calendar*, adds, "I just buy

one-time rights and it's all theirs [the contributors']. I'm just worried about filling up space. You can put that down: S-P-A-C-E."

Some parties to the dispute even question whether work-made-for-hire contracts have legal standing in the case of freelance contributors. "Publishers are using magic words to indicate something is work made for hire when it is not," says Leonard Meranus, a Cincinnati attorney who is also a contributing editor of *Writer's Digest* magazine. "I can try and sell you a Cadillac all day long, but if it's got four legs and a tail, it's still a horse."

Norman Schreiber, chairman of the copyright committee of the American Society of Journalists and Authors, perceives a trend: "Writers are losing their right to negotiate," he says. Rand, of the Society of American Travel Writers, urges resistance. "It is important for writers to be firm," she says, "so that publishers learn that just as they can't push the pressmen, deliverers, and reporters around, neither can they push freelancers around." Rand says that when other publishers have sent her work-for-hire contracts, "I've just crossed them out and written 'North American rights.'"

The New York Times, for its part, seems to be saying that it doesn't regard the memo as the final word. Eustis, its senior attorney, calls it "a stop one" mainly intended to establish a position with the paper's stringers. "Nobody is going to let the Congress write our contract for us," he says. But he also emphasizes that "The important part of the memo is where it says, 'Please refer any questions to the editor with whom you regularly deal.'"

As the negotiations proceed, participants might do well to remember advice that Eustis himself gave to a recent Practising Law Institute seminar on Legal and Business Aspects of the Magazine Industry for 1979. "The number one determinant of what rights are acquired," he wrote, "is what rights the author will sell to you."

Ellen S. Freilich

Ellen S. Freilich is a New York-based freelance.

Follow-up: the exorcised Guild

"The Guild: Spooked Again?" the *Review* asked in its May/June issue. The answer is now in: the exorcists won. The spook issue had arisen last October, when the Newspaper Guild's executive board approved a plan to reactivate a training program for Latin American journalists. Funding was to come from the U.S. Agency for International Development and it was to be administered by the American Institute for Free Labor Development, a group which has been tied to the CIA in the past. Many members objected to reviving a link with the government which the Guild had severed in 1967 after an earlier brush with nearly \$1 million in CIA-tainted money.

At the Guild's annual convention, held in Boston from July 2 through 6, opponents of the plan won a reversal of the executive board's decision. The chief agents for this policy change were six board members who had been outvoted last October. Forming an Ad Hoc Committee for an Informed Membership, they worked to alert members to the is-

ssues raised by the Latin American project. When the convention began, the six found their numbers swelled to about fifty—a sizable bloc of activists among the 229 delegates.

By the night of July 5, a majority of the delegates appeared to oppose the plan. To prevent a floor fight, Guild president Charles A. Perlik recessed the convention at midnight, called the executive board into session, and, reportedly, told the six, "It's your ball game," and asked them to draft a resolution.

When the convention reconvened at about 1:30 a.m., Larry Hatfield of the San Francisco-Oakland local read aloud a resolution which stated that not only would the Guild no longer accept government funds for international activities, but that it would also no longer accept money for similar purposes from private corporations.

The strong proposal was accepted. The issue had been resolved. Said Perlik: "The good of the organization required the step it took." *J.S.*

"This may be the only computer center where one of the job hazards is seasickness?"



The Hollis Hedberg, Gulf's own floating computer center.

"This computer center happens to be on the *Hollis Hedberg*," says Gulf Research Geophysicist John McDonald. "It's the only research vessel in the industry that has complete data processing right on board. And that makes all the difference."

"The typical oil exploration ship is equipped only to record raw data from whatever equipment it has on board to detect oil deposits under the ocean floor. Usually they



"On-board computers help you learn a lot more, a lot faster."

have seismic sounding gear, occasionally magnetometers and gravity meters. The raw data gets sent to an onshore computer center for analysis, and by the time analysis is complete, the ship could be a thousand miles away.

"By contrast, the *Hedberg* has a full complement of recording equipment, including hydrocarbon 'sniffers,' and with computers right on board, we can make a preliminary analysis immediately. If it looks good, we go back for a second look at that location.

"It could take five or six years between the time you find an oil deposit and the time you actually start drilling for oil, so any time we save in exploration puts the country that much closer to a new supply of petroleum.

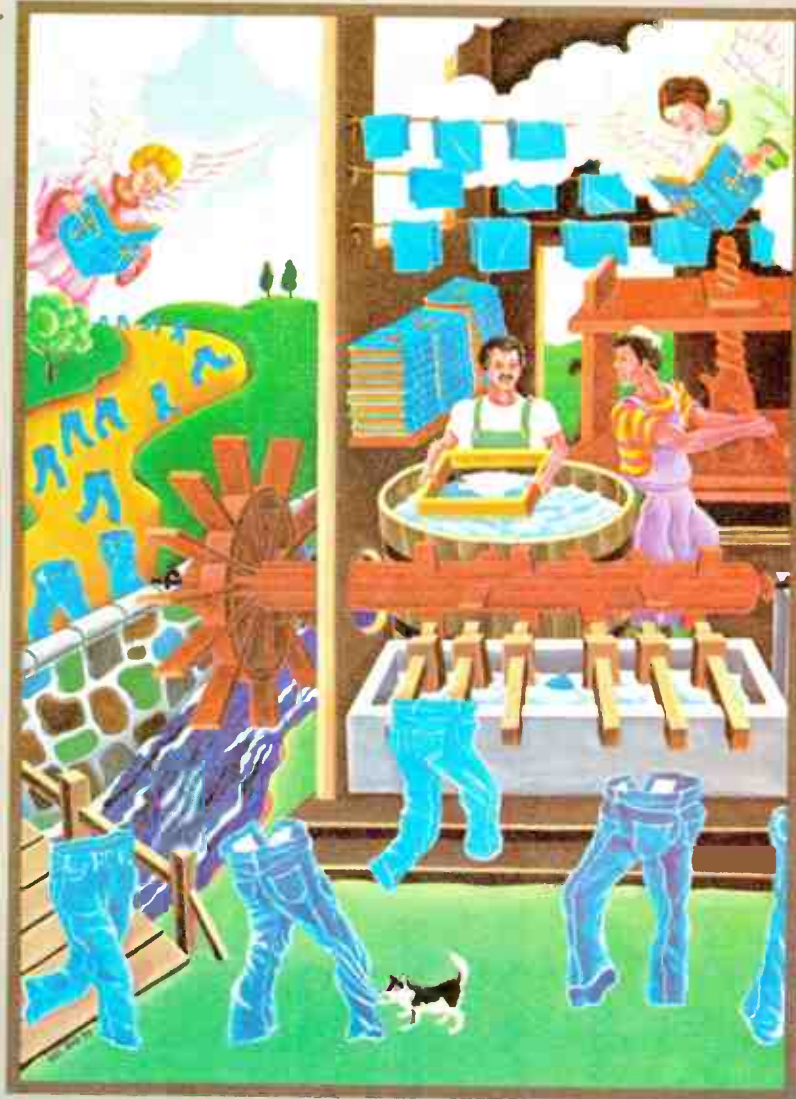
"It's a real challenge, trying to find that invisible spot under the seabed that's likely to produce oil. But the *Hedberg* is one of the best ways there is of finding it."



**Gulf people:
meeting the challenge.**

Gulf Oil Corporation

Blue jeans
make great Bible
covers.



Nowadays, more and more publishers of Bibles, diaries, schoolbooks and the like are choosing a product made in part from denim cuttings for their books' covers.

The product is called "specialty paperboard." It's one of many paper products we make. And its primary ingredient is waste — waste paper and waste cloth.

Specialty paperboard also has over 600 other uses, from gaskets to toothpaste cap liners, and the number grows daily as manufacturers discover that it's an attractive, economical alternative to plastic and leather.

We like that, of course. It's good for business, and it helps us conserve the resource we depend on.

Using waste as well as trees to make paper helps us to provide the jobs, products and profits all of us need while sustaining the forests all of us love.

Which is what we think you expect of us, and what we expect of ourselves.

Boise Cascade Corporation 
A company worth looking at.

AT ISSUE

State and press: who governs?

by EDWARD JAY EPSTEIN

David Halberstam's recent narrative about journalistic enterprise, *The Powers That Be*, is an unabashed romance of power. In this tale, the knights-errant are news reporters, endowed with every conceivable virtue. Their quest is to expose the excesses of government, such as Vietnam and campaign corruption. Although harassed by the greedy squires who own the news organizations, the reporters persist relentlessly in their pursuit. Finally, with the publication of the Pentagon Papers and the capture of the Watergate conspirators, they storm the castle itself and depose the evil tyrant, Richard Nixon.

What accounts for such journalistic victories? In his enthusiastic chronicling of the triumphs of his knights over the forces of the federal government, Halberstam assumes that this collapse of governmental power proceeds directly from the strength of investigative journalism. Here Halberstam may be confusing cause with effect. I would argue that investigative journalism is a symptom, not a cause, of the disintegration of the governing authority in this nation.

As any reporter should know, investigative journalism depends on the "plant," or deliberate disclosure of damaging material to a selected reporter, more than on the "leak," an accidental gush of inside information. Since reporters have no means of compelling insiders to disclose secrets, these insiders must have a self-serving reason for going outside

the channels of their organizations and divulging information to reporters. They may want to advance themselves, their allies, or a policy they favor; or they may wish to discredit an opponent, block a program, or cast doubt on their superior's judgment. In other words, some form of internal dissension produces the plant.

Dissension no doubt exists in all organizations. In a well-run hierarchy, however, insiders are unlikely to disclose secrets to reporters. For one thing, they can be pinpointed as the source in the distribution ladder of information—or, at least, they fear being so identified. And if caught, or even suspected, they will almost certainly be fired (and without recommendations to land them subsequent employment). Given the nature of the penalties, employees of such organizations tend to express their dissent, if they do so at all, through the channels of the hierarchy itself. This explains why there is virtually no investigative reporting of close-knit hierarchies such as Exxon, Citibank, DuPont, or the United Automobile Workers, and why, when private organizations are exposed, it is invariably because a governmental agency has forced the information out.

In a disintegrating organization, on the other hand, not only is dissension rife, but normal lines of authority have collapsed. Those who disagree with programs, promotions, and policies find communicating through internal channels to be ineffective, if not impossible. They also perceive little risk of being pinpointed as a source of disclosure—or removed if suspected—should they resort to the external channel of the press. Under such circumstances, insiders can be expected to seek redress from outsiders.

The United States government is

this kind of organization. Increasing protection under Civil Service reforms has made it almost impossible to fire anyone for disclosing secrets. Moreover, with the discoveries about Nixon's plumbers, the very idea of attempting to pinpoint leaks is now viewed with disdain—and justifiable trepidation. The nominal chain of command, in which authority flows from the president downward through the executive branch, has also been torn asunder by congressional subcommittees, which have made direct alliances with various parts of the bureaucracy. In this chaos, bureaucrats are looking toward congressional appropriation subcommittees, and not the president, for budgetary privileges.

Watergate was merely the final sign of the breakdown of presidential authority over the government: dissenting bureaucrats in the FBI, CIA, Department of Justice, and the IRS went to *The Washington Post*, *Time*, *The New York Times*, and other organs of the elite press for redress. Another sign of this breakdown is the complete inability of three presidents, over the past six years, to devise a coherent program to limit the importation of petroleum products into the United States.

In this context, the level of investigative journalism may be viewed as a barometer of the governing power of the executive: the greater the incidence of journalistic revelation, the weaker the power to govern may be presumed to be.

The glorification of the reporter and the systematic concealment of his sources is the cooperative means by which the true state of disarray in government is kept hidden from the public. If the reporter can be established as an intrepid, omniscient Sherlock Holmes, the focus of attention is shifted from the bureaucratic sources and from the struggles between the real interests that lead them to seek out the press. In accomplishing this glorification with consummate skill, Halberstam unfortunately obscures, as do all great reporters, the real powers that be. ■

Edward Jay Epstein has written two books on journalism, News From Nowhere and Between Fact and Fiction.

PUBLISHER'S NOTES

President and press

Jimmy Carter delayed longer than most presidents in blaming the news media for his problems. Two-and-a-half years after taking office, he complained that press and broadcasters had "grossly distorted" and "exaggerated" the implications of his shake-up of his Cabinet and staff.

As usual, journalism isn't blameless. It's time, however, for Carter to learn that when a president acts without explanation, leaving an information void, reporters and his own official family will move in to fill the vacuum with the best deductions they can make. It was his own team which supplied the "exaggeration," for example, of Hamilton Jordan's powers under his awesome new title of chief of staff.

(Incidentally, Jordan doesn't strengthen his shaky reputation by saying "the media is . . ." and "the media has . . ." The effects is bad.)

The Mirage non-award

After reflection, this column must dissent respectfully from the Pulitzer Prize board, also headquartered at Columbia, in the Mirage case. This, of course, is the case in which the *Chicago Sun-Times* financed two reporters in opening a bar. They soon were solicited by numerous city inspectors and tax agents for bribes. They paid, kept law enforcement authorities informed, and then did an exposé of the whole shabby mess (see p. 51).

The Pulitzer board, after long discussion, decided against honoring this extraordinary feat (and other nominated stories involving reporters "misrepresenting" themselves). The reasoning of the board majority, according to abundant leaks, was that the *Sun-Times* report involved deception bordering on entrapment. To his credit, we think, Clayton Kirkpatrick, editor of the rival *Chicago Tribune*, was one who voted against the majority.

This writer must question the wisdom of the majority. The central issue is: how else could such corruption be exposed? If the reporters had simply quizzed bar owners, none would have provided documented evidence on the record. If one had, he'd soon have been out of business.

Moreover, there are ample defensible precedents for *judicious* use of the technique. Courageous cops stemmed the wave of taxicab hold-ups in New York by posing as cab drivers. They have caught habitual muggers of the elderly by posing as oldsters. And across the country newspapers and broadcast stations have exposed cheating repair shops by bringing in cars or TV sets rigged in some simple way requiring only minor repairs.

Believing the Mirage case to be well within the bounds of responsible, defensible conduct, this column offers its own imaginary award to the *Chicago Sun-Times* for service to its community.

VDT question

While dissenting, this writer also registers reservations about part of one of our own *Review* articles. In the July/August issue, an able young French sociologist, Dominique Wolton, wrote provocatively about the long-term social implications of new communications technology. Speaking of computer-typesetting and video display terminals, he chided American journalists for not recognizing that they were downgrading themselves and could impair their creative role by taking over production functions.

Most news professionals who have used the VDTs seem to us to save much of their own time by easily keyboarding revisions, inserts, and paragraph-switching without having to retype or cut and paste a whole blooming page. Copy editors soon find it a joy to edit by keyboard. And all rejoice that their copy generally comes out as it left the

newsroom, with typographic errors greatly reduced.

To say this downgrades the journalist seems a little like saying direct-dialing of long-distance calls de-mans and impedes us all.

Our own copybook

As a succinct summary of the qualities needed by a journalist, the list given to the entering class of the Columbia Graduate School of Journalism by the new dean, Osborn Elliott, seems worth repeating (along with his apologies "if some sound as if they were lifted from the Boy Scout Manual"):

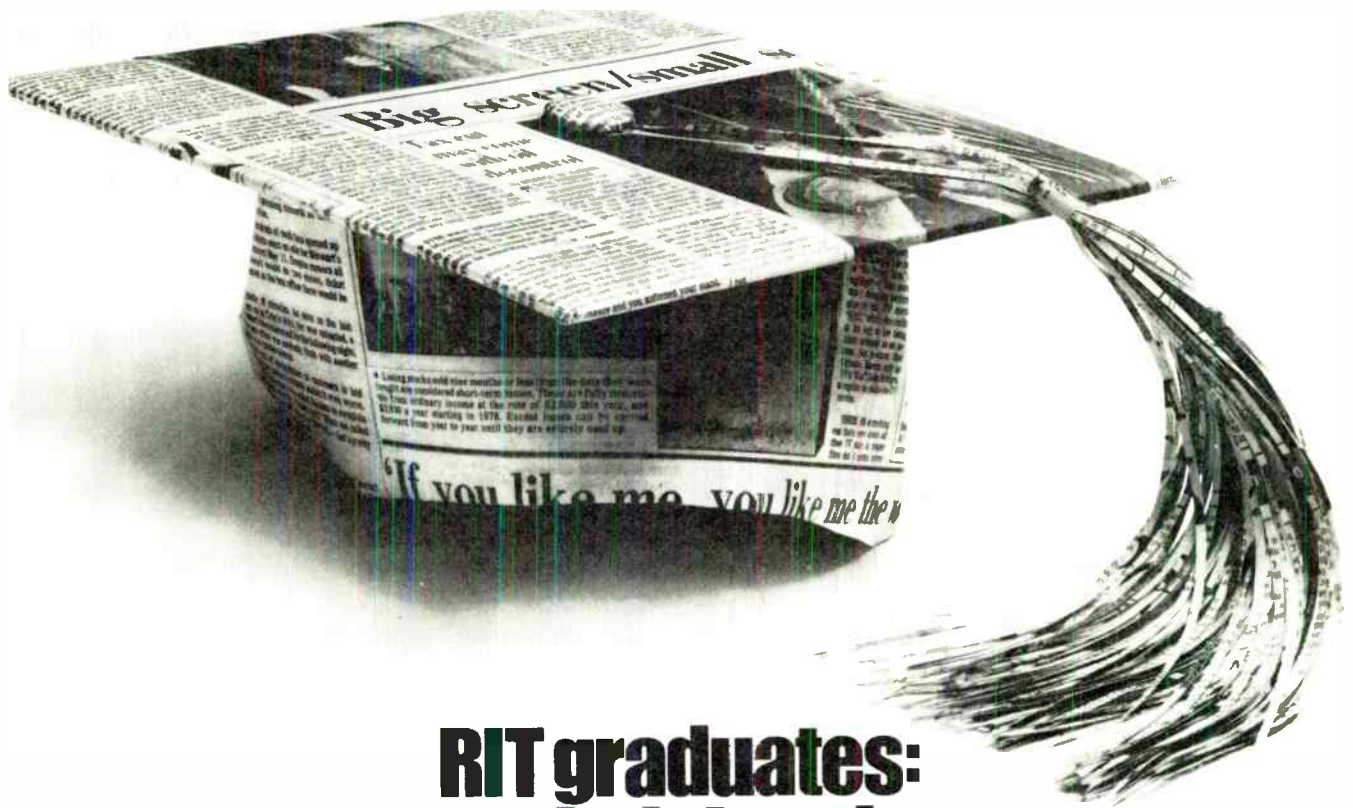
- An open mind, a willingness to learn, and the knowledge that things are not always what they seem to be.
- A belief in the dignity of man, and a compassion for those upon whom the world too often heaps indignities.
- A high regard for the riches of the English language, and an eagerness to learn its proper use.
- An appreciation for the conflicts and complexities of modern life, and an understanding that they often cannot be reconciled.
- An awareness that even the best-motivated persons make mistakes, and a willingness—too seldom found among journalists—to admit your own.
- A capacity for hard work and long, irregular hours.
- An abiding concern for justice.
- A dedication to the truth.
- A sense of humor.

To these we would add: "Skepticism without cynicism."

CJR honor

The *Review* was pleased to receive in August an award from the Association for Education in Journalism. It was the first annual award "for professional excellence" voted by the association's Qualitative Studies Division. The presentation cited "dedication since 1961 to press responsibility through critical surveillance of professional performance."

E.W.B.



RIT graduates: we're helping them help you.

This year, the Rochester Institute of Technology celebrates its 150th year of commitment to quality careers. Students who earn a B.S. degree at RIT are well-equipped to meet the many challenges facing the newspaper industry. Each graduate, therefore, is one more reason for us at Rockwell-Goss — and you who are also committed to our industry — to look to the future with optimism. As the leading manufacturer of newspaper

We read you. We're Rockwell-Goss.

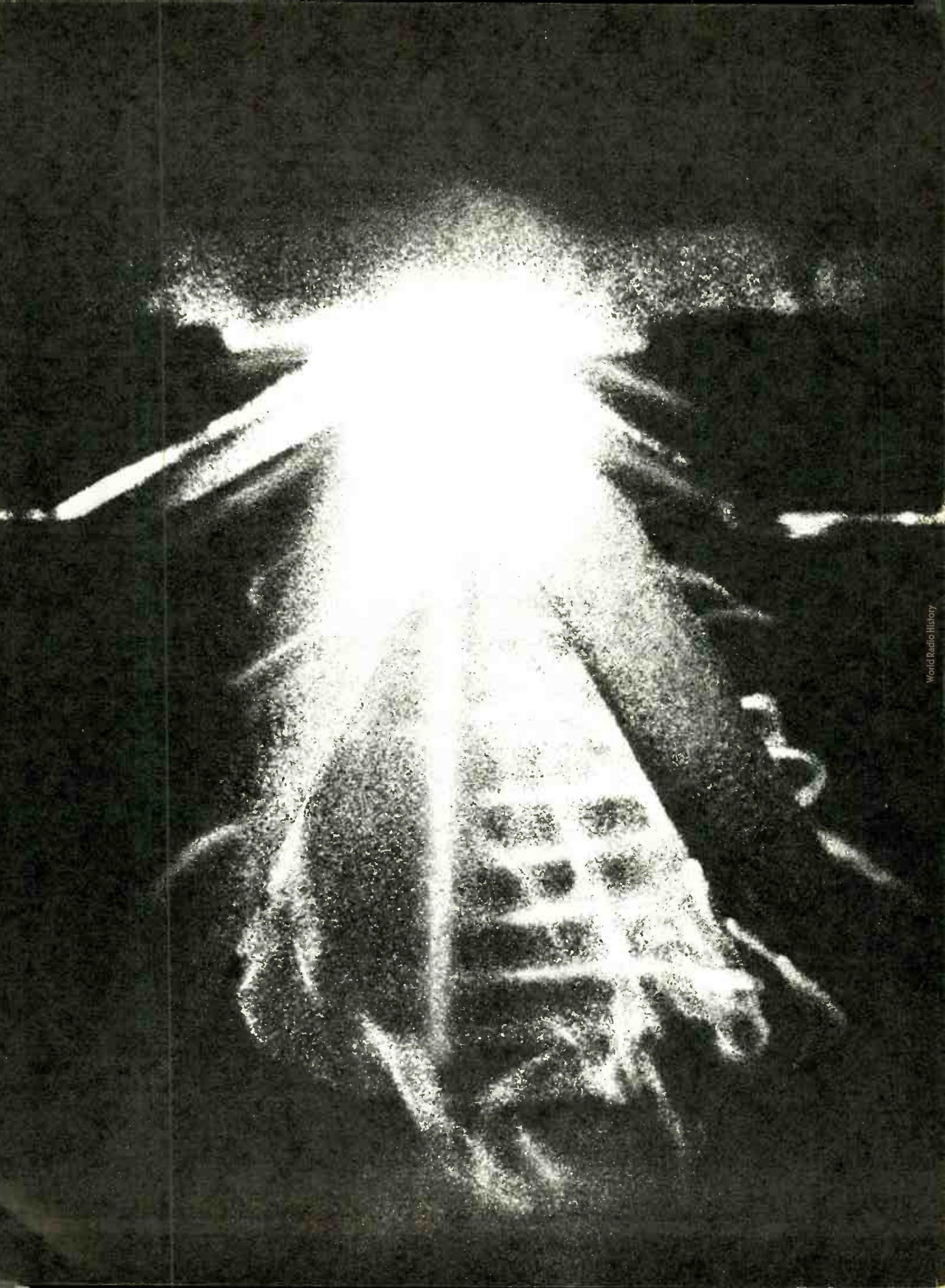
presses, we have supported RIT with substantial donations of systems and equipment — and we'll continue to do so. We're helping them help you because our interest in newspapering doesn't end with the production of press equipment. It encompasses anything and everything that

affects the newspaper industry. Graphic Systems Division, Rockwell International, 3100 South Central Ave., Chicago, IL 60650.



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International**

...where science gets down to business



The Atomic Bond.

Using tiny explosive charges, Western Electric engineers are bonding metals with the elemental "glue" of the Universe.

Here's how it works. The atoms of all metals have a natural attraction for one another. If it weren't for the ever-present film of impurities coating the surface—the oxides, nitrides, and absorbed gasses—all metal atoms would bond to each other when brought together.

Exploding Things Together.

But the force of a high-intensity explosion on two adjacent metals will clean away the film of impurities. The explosion literally "blows" the impurities off the surfaces. So the atoms of the different metals can bond together.

The bond that results is stronger than both of the metals themselves.

As an industrial technique, explosive bonding has proved valuable in the manufacture of such heavyweight products as bi-metallic gun barrels.

Pinpoint Explosions.

But how would explosives work in the delicate, intricate world of telephone circuitry?

Scientists at Western Electric's Engineering Research Center solved the problem by developing ways to miniaturize and control explosive bonding. Soon, they could splice the ends of two thin communications wires inside a miniature explosive coated sleeve.

And they could repair tiny defective contacts on delicate circuit boards. These gold contacts (membrane-thin "fingers" 1/10 by 3/4 of an inch) are re clad by thin sheets of gold foil (.0005 inches thick),

coated with explosives. The repairs are literally "blown" onto the contacts, without disturbing the delicate circuitry less than 1/10 of an inch away.

Miniaturized explosive bonding is only one way we're helping your Bell Telephone Company hold down the cost of your telephone service today. For the future, it promises the benefits of bonding widely disparate metals and all sorts of other materials.

You Can Take It For Granted.

Most important, explosive bonds are contributing to the clarity of communications, the reliability of switching, the taken-for-granted assurance you have when you reach for your telephone.

The atomic bond—it's another innovation from Western Electric.

Keeping your communications system the best in the world.



Western Electric

COMMENT

From polis to theatre

On July 15, this country's embattled president spoke to Americans of his difficulties as their leader, of his sense of the nation, and of the energy crisis and his plans to meet it. Thirty-five minutes after he began, he was off the air, his place taken by network newsmen and commentators. Within moments, viewers, if they stayed tuned, heard some of the following:

LESLEY STAHL (ON CBS): . . . I did hear a new voice, Roger. I was told that he would be speaking with a louder voice from now on, and I did hear one. I heard a firmer voice than I've heard. . . .

SAM DONALDSON (ON ABC): . . . But, Frank, I want to talk about tonight. This was an extraordinary performance by this man. I mean, he gave it a heck of a shot . . . he used gestures; he tried to sound forceful; at times he even shouted at us a little bit. . . .

CHRIS WALLACE (ON NBC, introducing George Will and Haynes Johnson): Tom, these are two of the drama critics of American politics, part of that group that will tell us in the next few days whether Jimmy Carter had a hit or a flop. . . .

A new voice. A louder voice. A firmer voice. Gestures. A performance. Drama critics. A hit or a flop. In short, the self-evidently important presidential address, delivered amidst a national crisis, was turned, as soon as the speaker had faded from the screen, into a midsummer night's spectacle.

Stahl, Donaldson, and Wallace were not alone in their approach to this event. CBS's Roger Mudd ("He certainly gave the impression tonight that he was acting and leading") and ABC's Charles Gibson ("We can tell you a little bit about how it played in Pittsburgh") were among the others who looked at the energy speech in straight theatrical terms or for its impact as a political performance. Either way, when commentators were not busy eliciting pro forma comments from political leaders or from random representatives of the American public, the metaphor of the spectacle dominated the thinking about the speech. Few comments addressed the substance of what the president had said.

The White House, of course, has to shoulder much of the blame for the way those who heard the speech chose to respond to it. As Mudd remarked, it was the president himself who called the speech a political turning point, and it was presumably the White House which spread the word—passed on by Stahl—that

Carter "would be speaking with a louder voice from now on." Small wonder, then, that journalists picked up these themes and moved to underscore, literally and politically, the drama of the occasion.

Whatever the details of this particular event, however, the press should long ago have come to terms with the fact that political power is increasingly exercised in this country through *spectacles of leadership*. The president must govern, of course, but above all he must appear to be governing, and he must do so by creating events at which he looks like a president, conveys the qualities of the leader, and acts the part he was elected to play.

Creating the presidency as a spectacle of itself has been a collective accomplishment, and our recent presidents and their media advisors must bear much of the responsibility. But the press, by the very intensity of its scrutiny, has encouraged this development. It has often focused on matters of presidential form and has seen in them—in a false dialectical insight—matters of content.

Some of this activity has been motivated by a sound impulse to demystify both the office and its occupants. Theodore H. White long ago started spreading the word that presidents were made, and Joe McGinness upped the ante by telling us how they were sold. For the American people to rule themselves, the argument has gone, they have to be in possession of the full facts of government. And this means, the argument has concluded, that all the stage business of presidential performance and politics must be revealed.

But this has had an unanticipated consequence: by creating the presidency as a spectacle in which the president is the star, the press has also cast the American public in the role of the audience.

An audience, as we know, is not part of the action. It is distanced from the performer. And it is passive. Through the media, on such occasions as the president's energy speech, this particular audience has become increasingly aware of the president as a performer, and of itself as an audience being played to. With a theatrical consciousness such as this, there can be no direct and passionate communication between leaders and the people, and none of the constructive illusion that leaders must cultivate in order to govern. What we have instead is the self-conscious assumption of roles and the creation of citizens as connoisseurs of political drama.

An American public that sees itself as an audience

becomes both passive and cynical. Passive, because an audience, by its very nature, watches. Cynical, because the demystification of presidential technique exposes its artifice but leaves the power untouched. Far better for the news media, video and press alike, to turn their undivided attention to the substance of presidential action and to place in the hands of the public the real stuff of political knowledge. We don't need drama critics. We need the facts.

Watchmen, what of the night?

We ran into a fog bank the other day. It seemed to us an experience worth sharing with our readers because this spot of bad weather had been created by that august body of editors, network executives, and others interested in assuring fairness in the press, the National News Council.

The fog started to roll in when, in early June, the council released its findings on eight cases, one of which was *Janeway against Esquire*. An AP reporter picked up the council's report and on June 12 filed a story which began: "The National News Council has said it agrees with economist Eliot Janeway that an *Esquire* magazine article about him contained 'malicious falsehood, distortion and misrepresentation.'"

The reporter—in what was a journalistic gaffe—had quoted from Janeway's complaint to the council rather than from the council's finding. Council chairman Norman E. Isaacs was annoyed, but, he says, "What could we do?"

One thing the council could have done was to have phrased its conclusion more carefully. As it stood, the wording appeared to justify the AP lead. It read:

The Council believes that the errors of fact, combined with instances of overreaching . . . were sufficient to justify a finding that the complaint was justified.

Janeway's complaint, boiled down in the council's report, was a twenty-one-page bill of single-spaced particulars. The council's language strongly suggested to us—and apparently to the AP reporter as well—that the complaint was warranted in its entirety.

This was also the way Chris Welles, the author of the *Esquire* article in question, read the council's conclusion. He complained vehemently in a letter to the council. After noting that Janeway's complaint "challenged well over a hundred of the article's details, assertions, and conclusions," Welles observed: "After weighing this fusillade, the council found only two errors of fact and seven specific areas in which it felt there 'appears' or 'seems' to have been overreaching. Yet it then concluded that [these] were sufficient to justify a finding that the complaint was warranted."

The council, which condenses its reports for publication in the *Review*, thereupon expanded its conclu-

sion, adding fifteen words in an attempt to make clear that it had not found Janeway's complaint warranted in its entirety. The added words state that the council is "confining its findings to what it perceives to be the journalistic flaws in the article." Since Welles's article was a piece of journalism, and since all its alleged flaws might thus be regarded as journalistic, this language strikes us as only marginally less opaque than the original. Meanwhile, the report (see pp. 87-89) still ends with the words "the complaint was warranted."

Confining our own finding to what we perceive to be the flaws in the council's quasi-judicial ruling, we find the council guilty of some overreaching of its own. The fog that has crept into that body's prose should be sent packing on little cat's feet.

Concurring: Barrett, Cooper, Manoff, Swan

Abstaining: Ridder, von Rosenvinge

The Van Deerlin rewrite: too late for laissez-faire

The rewrite is dead, and that is good news for journalism. Spearheaded by Representative Lionel Van Deerlin of California, the House Subcommittee on Communications had been struggling for three years to draft a new legislative charter for the broadcast industry to replace the Communications Act of 1934. More than 1,200 witnesses had testified before the panel, but despite the investment of time, talent, and taxes, the entire effort collapsed, perhaps fittingly, on Friday the thirteenth of July.

When the Communications Act was adopted in the early years of broadcasting, Congress chose as its regulatory standard "the public interest, convenience, or necessity"—language borrowed from the Interstate Commerce Act. Van Deerlin's initial draft for a new law, however, made no mention of the "public interest," an omission that infuriated "public interest" groups in broadcasting, which stood to lose the single most powerful weapon in their legal arsenal.

When a second draft of the rewrite was unveiled last March, it contained among its provisions: full deregulation of television—including elimination of the fairness doctrine and equal time rule—after ten years, and the immediate deregulation of radio. Cable TV also would have been freed from federal oversight. Ralph Nader's National Citizens Committee for Broadcasting labeled it a "public interest disaster."

While fragments of the sunken rewrite may be salvaged in the form of amendments to the present law—and deregulation of radio remains on the FCC's agenda—it seems clear that Van Deerlin's grand design has come to naught. And the question arises, Why?

Perhaps the California congressman was proceeding

from a false premise: that the emergence of new technologies—especially those making possible the eventual reception of up to 100 TV channels in the home—makes regulation as we have known it unnecessary and even counterproductive. The marketplace, he reasoned, could serve as a surrogate FCC, ensuring the diversity the government has tried to promote for a half-century without significant success.

But while Congress could have rewritten the Communications Act if it chose to, no one can rewrite history or escape its consequences. From the earliest days of commercial broadcasting, Congress had replaced the play of marketplace forces with federal compulsion. With its public-interest standard, Congress forced into journalistic activity many broadcasters who were neither inclined nor equipped to report or analyze the news. The consequences have been far-reaching.

Since 1963—the year CBS and NBC expanded their evening newscasts to a half-hour—polls have shown television to be increasingly significant as the primary news source of the American people. And thanks to television, whose evening news weaned viewers from their reading, the afternoon newspaper has become a troubled, if not an endangered, institution.

It was not foreordained that the three networks would develop expensive, far-flung news organizations committed to a non-tabloid approach and including in their ranks some of the nation's foremost journalists. If radio and television had been creatures of the market from the start, some broadcasters undoubtedly would have recognized the medium's unique capacity to inform. But certainly not all, and probably not most. The "radio music box" of David Sarnoff's early vision might have remained just that.

Without the FCC's sword of Damocles dangling over their affiliates' heads, then, the networks never could have forced a half-hour of news down their throats in the sixties. As a matter of fact, a decade later, in a different regulatory climate—with networks viewed more as villains than heroes—plans for a full hour of national news were aborted in the face of this same affiliate resistance.

It is admittedly a discomfiting situation when the prospects for serious journalism on the nation's most popular medium depend, as they always have, on government enthusiasm. There is clearly a contradiction between the sweeping negative injunction of the First Amendment ("Congress shall make no law. . . .") and the positive command embodied in the public-interest standard ("The Federal Communications Commission shall . . ."). Recently, an FCC official

stated with disarming candor that "as regulators . . . part of what we want to do is raise the anxiety levels of the people we regulate on the theory that . . . the more scared [they] run, the better off consumers are going to be."

While this is the sort of talk that the Van Deerlin bill was trying to silence, the lesson of its defeat is that it's too late to turn back now. While individual rules such as the fairness doctrine remain open to review, the bedrock public-interest standard remains. Broadcast news, with all its limitations, is a pervasive force in American life, and now requires the legal underpinning that the standard provides. As Betsy Ashton, a correspondent and anchor for Washington's WJLA-TV, testified during hearings on the measure, "We have seen aggressive, award-winning local news operations eliminated by new owners who view radio as strictly an entertainment medium, even a money-making machine. In deregulation we see the potential for a flood of that kind of activity."

Current Washington wisdom notwithstanding, the concept of deregulation in favor of marketplace forces cannot be applied indiscriminately. No one, for example, would suggest that nuclear power plants be deregulated: the public's need to know about the conduct of foreign policy and the performance of elected officials is just as properly the concern of government.

Back in 1934, when the printed word reigned supreme and newspaper competition flourished, a laissez-faire system for broadcasting might have made First Amendment sense. But Congress decided differently. In 1979, the goal of public policy should be to foster a marketplace of ideas, not just a marketplace. The failure of the rewrite marks an implicit recognition by Congress that news on the air is more than an article of commerce.

STEVE KNOLL

Steve Knoll, a former Variety reporter, is a freelance who writes on the media.

Darts and laurels

Dart: to the *Ketchikan (Alaska) Daily News*, for its overcharged headline following the execution of John Spenselink (May 25): **FIST CLENCHES, HANDS CURL AND BLACKEN AS ELECTRICITY SURGES.**

Dart: to WISN-TV, Milwaukee, for assigning three reporters to deliver remarks prepared by the mayor's staff to introduce His Honor at Fourth of July celebrations at local parks.

Laurel: to Richard Salant, for a classy response upon learning that his New York City press card might

be depriving a working reporter of the necessary credential ("Cardless in Gotham," *CJR*, July/August). "I am returning my card to you for cancellation," wrote the NBC vice-chairman to the city's police department on August 1. "It is obvious that others have a far greater need for it than I."

Dart: to *The Ingham County (Michigan) News*. After a straightforward and objective report (May 2) on a decision by county commissioners that required banks to participate in the state's low-income home loan program (if they wanted county deposits), the publisher relieved the county beat reporter and reassigned the story to himself. The result: more than 175 unbylined column-inches of follow-up devoted exclusively to the bankers' protests.

Laurel: to *The Arizona Daily Star*. The *Star* turned in a sterling performance in support of its movie critic, whose unfriendly reviews of films, ticket prices, and popcorn had prompted a local movie chain to post her picture in its box offices with instructions to deny her admission. The paper ran editorials, letters to the editor, and empty white space in place of the stifled reviews until the week-long ban was lifted.

Dart: to the *Indianapolis Star*, for pachydermatous journalism. After reporting on the rape of a twenty-four-year-old woman by a masked intruder wielding a knife, the July 2 account stoically concluded: "The woman was not harmed."

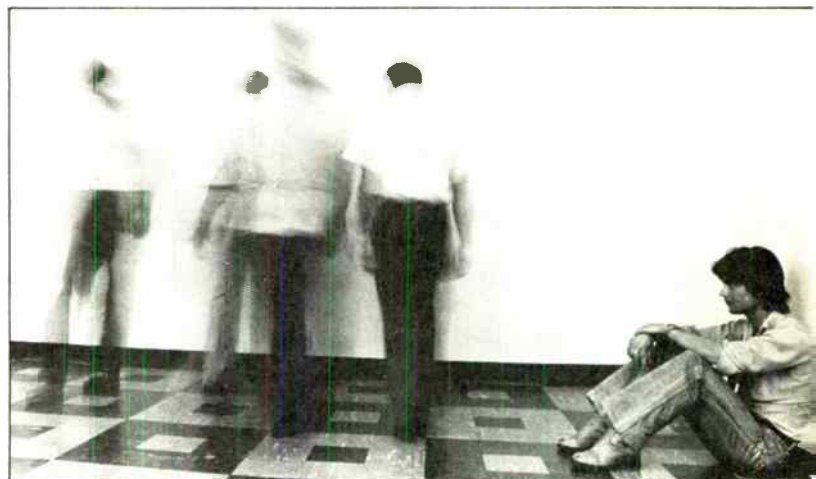
Laurel: to WLS-TV, Chicago, and its Target 7 investigative unit, for a bloodcurdling probe of a hysterectomy-happy Oak Lawn gynecologist long protected by a conspiracy of professional silence. The four-part series (May 22-25) led to the curtailment of the doctor's hospital privileges and a state investigation.

Dart: to *The Atlanta Journal and Constitution*, for reporting without qualification the June 18 Rotary Club luncheon remarks made by Charles E. Glover, the papers' president, in which he "attempted to dispel myths" about the connection "often thought to exist" between Cox Enterprises, Inc. (publisher of the two dailies) and Cox Broadcasting Corporation, "two Atlanta-based media firms with similar names." The day the report appeared, Cox Broadcasting published its annual proxy statement disclosing that (1) the chairman of Cox Enterprises is also chairman of the executive committee of Cox Broadcasting; (2) two other directors of Cox Enterprises are also directors of Cox Broadcasting; and (3) the same Cox family which owns the majority of the stock of Cox Enterprises also owns 46.15 percent of the Cox Broadcasting stock.

Dart: to the *Palm Beach Times*, for the racism in its June 7 story on a local American Indian ballplayer. "Jerry George has no pretensions about his ancestry," ran Bill Pinella's feather-bedecked piece. "He's al-

most 100 percent Apache and he's proud, very proud of it."

Dart: to *Houston City Magazine* publisher Francois de Menil, for killing a story in the June issue on safety problems at the beleaguered South Texas Nuclear Project, one of the world's largest. Denying accusations that he had been influenced by his relationship with friend and neighbor George Brown, founder of Brown & Root, the project's builders, Menil explained that he didn't want to publish a magazine "that terrorizes people and makes them want to leave Houston."



Dart: to the *Los Angeles Herald Examiner*, for running this bogus photo with a July 1 piece on the exploitation of mentally retarded prison inmates. Up against the wall above are the art director of the paper's "California Living" section, its chief photographer, a lab man, and a freelance; brooding in the corner, the chief copy boy. And substituting for the County Jail: the *Her-Ex* newsroom.

Dart: to the Colorado Press Association, for distributing the following to some 300 member newspapers: (1) an insertion order for a paid ad from the Independent Petroleum Association of Mountain States announcing "a new column in this newspaper" called "Energy Focus"; (2) a sample of the free camera-ready column that IPAMS would be sending every week; (3) a letter to editors instructing them to "RUN THE ADVERTISEMENT and you will be paid for the ad. . . . If you choose not to use the column, either now or in the future, STILL RUN THE AD and forget the column. If some reader asks you about the column you can say you prefer to develop your energy information locally. . . ."

Dart: to *The Christian Science Monitor*. A May 18 release on the loss of U.S. farmland that was planted by the Council on Environmental Quality sprouted ten days later as a "Special to The Christian Science Monitor." ■

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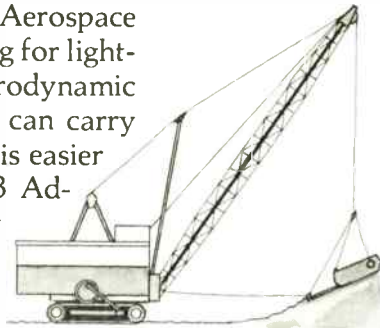
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A fire at the government records center in St. Louis led us to a promising way to conserve energy—a new system for drying crops. To save millions of water-soaked records, we turned to the vacuum chambers we'd built to test spacecraft. It worked. Now we've combined vacuum and microwaves for a safer crop-drying system that uses less energy than conventional dryers while reducing damage to fragile crops. A pilot plant is already drying crops for the U.S. Department of Agriculture at Tifton, Georgia.



use computers to help mine coal...

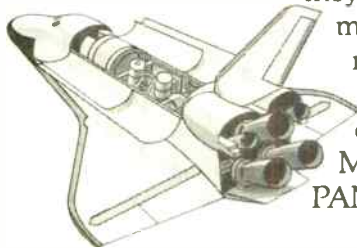
In the minds of engineers with a zest for innovation, it's but a short journey from electronics that help guide planes to electronics that help mine coal. We've developed a computerized information and display system that helps operators run massive draglines more efficiently, to mine coal while using less energy—and with greater safety. Data collected by a computer on the dragline is available for management analysis and maintenance planning. Underground or undersea, on the surface, in the air, and into space, common applications of technology often yield uncommon results.



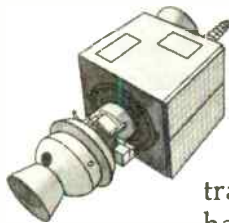
Marines in close quarters.

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MacNeil/Lehrer's class act

Some call it the best news show on television.

Others call it elitist.

But they all miss the point: *The MacNeil/Lehrer Report* is a daily briefing for the country's new managers

by ANDREW KOPKIND

The *MacNeil/Lehrer Report* is public television's only daily national news program. Implicit in that status is an obligation to serve as a model for the best and the brightest broadcast that television news can produce. In the small but influential audience of educated, politically sensitive, and culturally elevated viewers who catch the half-hour program on one of the 240 public television outlets around the country, it is admired as an oasis in the vast wasteland of commercial network news.

"Our audience is a little fanatical," says executive editor Robin MacNeil, the show's weightiest anchor. "I've never gotten a letter from anyone who disliked the program as a whole." Adds Charlayne Hunter-Gault, the swing anchor who fills in when MacNeil or associate editor Jim Lehrer is absent, "We're right up there with God, mom, and apple pie."

Only four seasons old, *The MacNeil/Lehrer Report* has already won a fistful of prizes—Emmys, a Peabody, and the DuPont-Columbia—and it is seen by many media critics as a paradigm of serious newscasting and a living rebuke to the banality of video journalism. "We're redefining the news," MacNeil claims. In program form, that new definition turns out to be a leisurely thirty minutes of agreeable conversation among several reasonably articulate people (the anchors included) on a single matter of interest. Where the commercial networks spent forty-five seconds covering the conclusion of the new international trade agreement this summer by running a clip of President Carter signing the treaty, *MacNeil/Lehrer* devoted an entire show—and then another—and will perhaps devote another—to the agreement's provisions.

Andrew Kopkind is on the staff of The Village Voice and has written widely on politics and culture.

"We've been called a substitute, an alternative, an antidote, and a complement to the network news," says executive producer Al Vecchione, who joined the program after stints as a media consultant to President Carter and the Democratic National Committee. But no one suggests that *MacNeil/Lehrer* is a direct challenge to its rivals. "I don't see John Chancellor committing suicide because of us," MacNeil says with a smile.

Take a typical program during the height of the energy crisis last spring: the *Report* that night was slugged "EPA Coal Regulations." In the ramshackle old West Side movie theatre which has been converted into New York's public television studio, Robin MacNeil sits with Ralph Bailey, the chairman of the Continental Oil Company. In the less dilapidated but still modest set in the public television station in Washington, Jim Lehrer is flanked by an assistant administrator of the Environmental Protection Agency, a vice president of the principal electric-utility lobby, and Governor John D. Rockefeller IV of West Virginia.

Lehrer and MacNeil take turns interviewing their guests back and forth, from one city to the other, and viewers have the impression that they appear larger than life to one another, speaking out from the giant screens suspended above their conversation pits. Their questions are designed to elicit information from experts, not to cross-examine defendants in the style of *60 Minutes*. MacNeil finds "cheap confrontation" distasteful.

The "EPA Coal Regulations" show wanders along these paths:

LEHRER: Have you done an economic study on what it will cost the utility industry to install the technology necessary to meet these new rules?

THE EPA MAN: In 1995, the utility industry is going to have

annual revenue requirements for all of its needs of about \$175 billion a year. This standard will add \$3.3 billion a year to that. Translated into terms of consumers' utility bills, that works out to be about \$1.20 per month on the average. . . .

LEHRER: [Do] you expect this additional expense to be passed on to the consumer?

EPA MAN: Oh yes. We all wind up paying for the quality of life we want to try to enjoy.

LEHRER: Thank you, Robin?

MacNeil then turns to the lobbyist and engages him in a conversation about sludge. Later they get to the oil executive and to Governor Rockefeller, and there is a bit of cross talk until the director signals that time is running out. The art of the program imitates life: it has no beginning, middle, or end. Arguments continue, debates lengthen, events unfold: nothing is resolved.

The format of inconclusive discussion in the Capital and the Metropolis is not rigidly enforced, but the essential texture holds through all the variations. Sometimes guests may be interviewed by "remote" from other cities; occasionally the program includes filmed segments to illustrate the topic under discussion by the evening's talking heads. The program really hits the big time when *MacNeil/Lehrer* manages to bag a news headliner of international importance: the shah of Iran (on an imperial visit to Williamsburg), the Ayatollah Khomeini (in his Paris exile), General Somoza (holding on in Managua), and President Sadat (summitting in Washington).

Whether the topic of the day is nuclear safety, revolution in Iran, or the taste of tomatoes (all subjects of recent programs), the conversations convey a sense of incompleteness of topic as well as scope. Let the networks give the news a specious dramatic integrity; MacNeil covers just as many bases as he can until, catching his cue, he decides to call it a night.

"Gentlemen," he said to his guests in a *Report* on the gasoline shortage, "we're not going to solve this argument, which has gone on for weeks, and probably will continue. We've heard your charge, and your reply to it. . . . Thank you very much for joining us. Good night."

What is to be done?

The departures from network concepts of content and presentation are what give the program its cultural cachet, and what elicit the critical raves the show has received. MacNeil himself has been among the harshest critics of the network news formula, and in 1968 he wrote a book to present his case. *The People Machine* is both thoughtful and polemical, and it provides MacNeil's list of the outrages against intelligence and truth committed by the network news departments: the elevation of images over ideas, the disruptive advertisements, the preoccupation with entertainment, the brevity of coverage, the manipulation of the viewers' emotions.

The critics, of course, have been flogging the net-

work news shows for so long now that their points have passed into common usage. We also know much about the network news because Walter Cronkite repeats its message every night: "That's the way it is" has become a secular incantation. But even without this enunciation, the message can be discerned in the structure of the stories that appear on the screen on any given night.

The news that Cronkite, Chancellor, and other network newscasters deliver is composed of flashing glimpses of the world, of one-line summaries of enormously complex events, of dozens of stories squeezed into twenty-odd minutes (and surrounded by advertisements), of drama and immediacy and passion—at least so far as it is possible to impart them to the news.

"The way it is" in Nicaragua is a picture of a woman weeping in the ruins of her war-torn house. In the American economy, it's the interior of a supermarket with a tight shot of the price of hamburger—followed by a peek at a chart showing all the vectors soaring upward. New York during the 1977 blackout is black looters carrying television sets through shattered windows. When the DC-10s are grounded, it is a zoom into the deadly pylon cracks.

This is the truth about the world, the nightly message reads, all of the truth that's fit to be seen. That's the way the world is. The undeniability of the images, the sheer range, complexity, and quantity of events, together with the preeminence of the presidents, emperors, parliaments shown in (or out of) control of them, suggest that there is little that the average woman or man can do to change the course of history.

In sharp contrast, the structure of any given *MacNeil/Lehrer Report* is composed of talking heads rather than explosive images, of conversation covering several points of view rather than a homogeneous statement of the world's condition, of panels of experts, proposals for policy, and the sense of incompleteness—and therefore of possibility—rather than a feeling of finality.

The message here comes in the form of a question. What is to be done? the program asks. What is to be done about . . . "The Diesel Crisis," as one recent broadcast was entitled. The crisis in question was the June protest by independent truckers over the price and scarcity of fuel for their rigs.

MacNeil and Lehrer chose as their panelists that night the president of the Association of American Railroads, a deputy administrator in the Department of Energy, the president of a truckers' trade group, and Daniel O'Neill, chairman of the Interstate Commerce Commission. An oil-company representative was expected but did not appear.

No angry truckers here; no pictures of violent confrontations or lines of trucks holding up traffic on interstate highways. Instead, there was a discussion of what government should do about diesel fuel supplies. The railroad man wanted the government to relax pollution-control regulations to allow utilities to burn coal. ICC chairman O'Neill favored the status quo.



'Talking heads rather than explosive images, conversation covering several points of view rather than a homogeneous statement of the world's condition, panels of experts, proposals for policy, and a sense of possibility, rather than finality'

The DOE *apparatchik* said he was meeting with oil-company representatives to get more fuel on a voluntary basis; but if that did not work, he warned, mandatory allocations might be required.

The commercial networks didn't call the fuel shortage "the diesel crisis"; for them, it was the truckers' strike, the truckers' violence, the crippling protest. It was a story to be reported, not a crisis to be managed.

What is to be done? Most *MacNeil/Lehrer* conversations do not provide solutions; but, over time, the program suggests a method for approaching social issues based on implicit assumptions: government agencies are responsible for social problems, experts and executives should manage national crises, private industry has to reconcile its legitimate interests with national policy, and disruptions and outbreaks of insurgency must be stanching as soon as they appear. And if no further conclusions are reached, there is always room for reconsideration in a future program. Life, after all, is unfinished business.

The messages embodied in the network news and the *Report* are both rooted in American consciousness, but they have different and distinct functions: the news as defined by the commercial newscasters is intended to be watched; the news as redefined by MacNeil is supposed to be used.

A Roper poll taken last year concluded that the *Report's* audience of two million was weighted with "shakers and movers," and that although it was not narrowly restricted to one well-defined economic, educational, or racial group, it was "tilted 'upscale,'" "strongly oriented towards news and public affairs," and "politically/socially active."

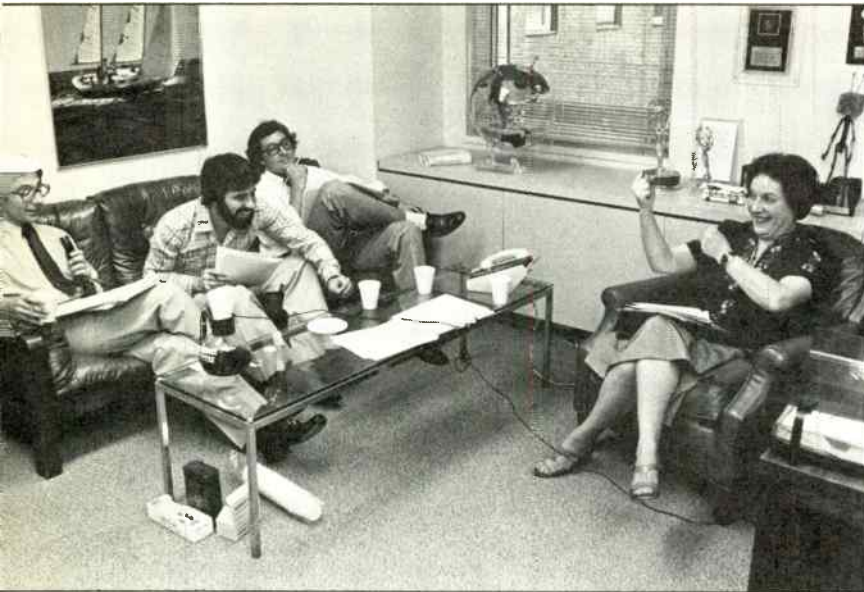
Inasmuch as MacNeil starts with the notion that the program's news must be "a necessary or useful part" of the lives of the audience, as he wrote in *The People Machine*, it seems likely that the program's audience is largely composed of people who feel they must confront the issues the *Report* presents. In many ways, they would seem to be like the program's panelists, who, except for the odd Somoza or Sadat, are those MacNeil calls "people who really know—the staff assistant, and not necessarily the senator." They are economists, legal experts, administrators in government agencies, managers in the private sector—not, usually, the president, the speaker of the house, the chairman of Exxon.

Like the guests on the show, the core audience would seem to be made up of people who are charged with the implementation of the policies discussed, and the translation of the implicit assumptions into practical programs. It is the function of the *Report* to see that these viewers are instructed as well as informed by the way the issues are framed.

Anchors on the margin

Ideas do not materialize out of thin air, and neither do issues drop from the blue. The ideas and issues which determine the structure and constitute the running message of the *Report* grow from the way the program is put together, its personnel, and its relation to public television.

Although the *Report* originates in two places at once—Washington's WETA and New York's WNET—its center of gravity is in the Henry Hudson Hotel, a run-down relic of a once respectable hotel on the edge of midtown Manhattan (and two blocks from



the theatre-studio). The hotel's lower floors—which seem to be in a state of perpetual but unconvincing rehabilitation—belong to WNET, which founded *The MacNeil/Lehrer Report* and continues to subsidize it, along with WETA and other public television stations, the Corporation for Public Broadcasting, the Exxon Corporation, and Allied Chemical.

The *Report* has most of one floor to itself, and this summer it was in the final stages of a classy remodeling job: wall-to-wall carpeting, arty posters framed in clean chrome, roomy offices for the top people, and ample modular spaces for the lesser lights. An antechamber houses a copying machine and a coffee maker, and it also contains a dart board, where MacNeil and his colleagues while away the idle minutes of the day in friendly sport.

The tone of the office—as of the preparations for the show and for *The MacNeil/Lehrer Report* itself—is set in a low key. Staff members insist that there are moments of high tension and operational crisis, but during all of my many visits there, the mood seemed more like that of a sanctuary than a news center.

MacNeil himself is supremely cool and collected. He is Canadian by birth and education, and, if a Canadian sensibility is identifiable, by attitude as well. At least he is not-American, although he is not really foreign, either. Perhaps he is closest to what the British sometimes call mid-Atlantic—with an accent and attitude that put him halfway between New York and London. On camera and in person he impresses viewers and visitors with a comfortable quota of charm, wit, and decency—words used like Homeric epithets by his co-workers.

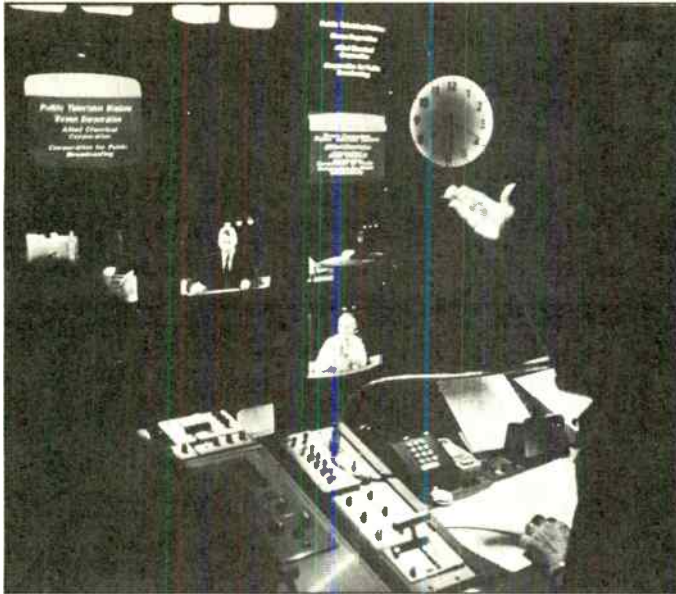
Robin (a nickname in general use everywhere except in print, where he is Robert) MacNeil has been around. He has worked for the Canadian Broadcasting

Corporation in Canada, Reuters in England, and NBC in Europe and Africa. He used his Canadian passport to get into Cuba during the 1962 missile crisis. He covered Kennedy in Washington and did his half of NBC's weekend news program, *The Scherer-MacNeil Report*, in the mid-1960s. After a spell with the BBC, he anchored a public television news review in Washington. There he met Jim Lehrer, and the two of them teamed up to anchor the televised hearings of the Watergate committee investigations. For that effort, they got an Emmy. He is serious and dedicated about his program; "It's the best job in television," he told me in the course of a sushi lunch one noontime in New York.

Charlayne Hunter-Gault is, in her own way, not-American as well: she is a black woman from Georgia. In the early 1960s she made news herself by entering the previously bleached-white University of Georgia, with one other student, Hamilton Holmes. She was a *cause célèbre* for a short time, but then the fuss subsided; she finished her years in Athens, then moved to New York and jobs at *The New Yorker* and *The New York Times*. Two seasons ago, with no experience in electronic journalism, she was hired as the *Report's* correspondent and third anchor.

Jim Lehrer is as down-home Texan as you can find, but in his own way he is off the norm of television's stereotypical American. He is wry, rustic, and regional, rather than homogenized into the manners and tones of the all-purpose broadcasting standard—what used to be called "Kansas City American" in radio. Lehrer worked on newspapers and public television in Texas before he came to Washington and his first collaboration with MacNeil.

The commercial networks also use reporters who are far from the Kansas City mold, but they rarely seem to make it to the top. Dan Rather, for example, is



Unfinished business: at a planning meeting with MacNeil, members of the New York staff pass around the open mike to Washington (left). A show gets aired—here, the first on last spring's gasoline crisis—but the debate goes on

apparently still too Southern to be Walter Cronkite's heir; Roger Mudd is closer to the middle. CBS's Ed Bradley is, in many assessments, one of the best television reporters and performers on the air; but he still gets a weekend anchor spot, the slot filled with minority tokens on local television stations all around the country.

It may be an accident that all three on-camera performers for *MacNeil/Lehrer* are off-center in their backgrounds and mannerisms, but it is appropriate nonetheless. Their personal marginality resonates with the content and format of the production, and with the audience—the urbanized, specialized, and increasingly alienated managerial intelligentsia of the “new class” which looks at the middle American mass from its outer edge, with some condescension and a little fear.

Tools and techniques are paramount for this new managerial class. They are the stuff of its instrumentalist vision, according to which society is a machine to be fixed, political conflicts are technical problems to be solved, and designated experts are the technicians appointed to do the job. News, for them, is an instrument of management.

The instrumentalist message grows in the coolness of *The MacNeil/Lehrer Report* production, away from the bustle of global reporting and the hustle of network competition. Once a week, usually, at a civilized hour on Thursday morning, the editors and producers get together in their offices in New York and Washington for a joint meeting conducted with loudspeaker-telephones in both locations. Robin MacNeil is in charge here, as he is of all aspects of the program. He, Hunter-Gault, and executive producer Vecchione are generally in New York along with three program producers—although there is considerable to-

ing and fro-ing between the cities. They chat with Lehrer and two Washington-based producers about the items on a tentative two-week schedule, as well as about ideas to be developed farther into the future.

For a fortnight in July, for instance, the schedule read: Skylab, the Supreme Court, Refugees, Harold Brown, Lost Land, Summer Teenage Unemployment, Rental Crunch, Muzorewa, Ben Fernandez, Sugar Fight, and John Anderson.

MacNeil mulls over all the topics in a manner almost identical with his presentation on the air: precise, amiable, and gently commanding. He even looks the same: Oxford blue shirt, wide conservative tie, a faint smile that connotes intelligence rather than amusement. He is surrounded by a wallful of framed citations of merit and prize statuettes. To one side are the obligatory snapshots of the interviewer standing with his most notable interviewees and fellow media personalities.

MacNeil's colleagues pass around microphones attached to the telephone speaker that sits on MacNeil's desk. He listens attentively to all the comments, and then offers a final suggestion that is taken to be the clear decision.

“How are we coming with the boiling-water reactor program?” he asked the conferees one morning, by way of opening a discussion on an upcoming program on reactor safety a few weeks after the Three Mile Island nuclear accident. The program's producer gave a brief status report and MacNeil and one or two others in the room offered a few offhand comments about reactor technology—bits and pieces they had noted in the press, or had heard in conversations during that critical period after the emergency.

Then, over the loudspeaker from Washington, a producer mentioned that an anti-nuclear-energy demonstration was due in town that weekend, and many

thousands of marchers were expected. MacNeil seemed surprised and mildly interested by the news; he suggested that if the demonstrations turned out to be of major significance, the *Report* might include a five-minute introduction about the event as a lead-in to the program.

As it happened, the demonstrations that Sunday in May were the biggest and most broad-based in the history of the anti-nuclear movement. To many observers, the event expressed a significant political development: it seemed to signal the explosion of grass-roots opposition to the left of the Carter administration, and the rebirth of an activism akin to that of the 1960s, but now concerned with the issues of energy and the economy rather than with Vietnam and civil rights.

In the discussion in MacNeil's office that Thursday, however, the technical problems of nuclear power were the overriding concern; the political implications of the issue were dismissed. MacNeil simply asked the producer in Washington whether the march was going to be "big"; the producer said that he had heard it would be. No one else in the room said a word. MacNeil told Washington that if it was "big enough," they should do the short lead-in. If not, forget it.

In fact, the whole program was forgotten over the weekend—not because of political problems, but because of technical difficulties with the production itself. The proper panel of experts could not be assembled and the staff had difficulties analyzing the technological details of reactor construction. But one *Report* is hardly ever missed: the nuclear energy problem will still be around when *MacNeil/Lehrer* gets ready to take another stab at solving it.

"On stories with a very high factor of audience emotion or anxiety built in," MacNeil says about Three Mile Island, "we try to de-emotionalize them so people can get at them." The theory he advances here is at once a rationalization for the *Report's* talking-heads format and an expression of its ideological function. It holds that the incendiary imagery of commercial newscasting makes a news event so immediate that problem-solving and crisis management are impeded. The point is to drain the emotional charge from a critical atmosphere, rather than augment it.

MacNeil commands the practical production of his show, as he is in charge of its theoretical thrust. But the instrumentalist message is not his alone. Behind the *Report*, first, is the force of the public television establishment itself, which depends on government grants (via the Corporation for Public Broadcasting), government support (in legislation establishing public television's powers), corporate gifts, and approval and small contributions from the almost 300 public television stations in the U.S.

"People here got burned pretty badly by Nixon's attacks on public television," one *MacNeil/Lehrer* staffer tells me. "They're cautious about appearing too liberal. They could get put out of business very easily."

Public television is an instrumentalist's dream incarnate. It appears to invite a range of opinions, leaning slightly, perhaps, to a pleasant liberal side. But the opinions expressed, of course, must be reasonable, and this is a judgment which only the people at public television and the loyalist viewers are qualified to make. When it comes to the news, Cronkite can put on any kook in the world—a looter, a terrorist, a mobster, a schizophrenic—and he is insulated by the fundamental claim: that's the way it is. Public television's only nightly news program narrows that range to those who accept its terms of debate.

The staff members drawn to *The MacNeil/Lehrer Report* are also likely to see the world in a similar way: they come from the new class and hold its values. The higher up they are in the show's ranks, the more attuned they are to its instrumentalist perspective. The lower echelons—the nine reporter-researchers (five based in New York, four in Washington)—include some young journalists who seem more seized with both the politics and the drama of news than are their superiors.

Reporters are not invited to the important scheduling meeting on Thursday, where they are represented by the program producers responsible for their work. Although the entire staff goes to a general meeting on Friday, the reporters complain—gently—that they are excluded from the critical moments of the decision-making process. Many of the topics eventually aired originate with them, and they may become strongly at-

Hunter-Gault (center,



C. J. R. Harvey/Wang

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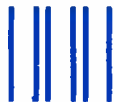
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tached to a cause they cannot argue for in the scheduling meeting.

"There's a lot of energy in us," one reporter says in the course of a meal I had with the New York crew. "There's a sense of mission, to get across the message, to tell certain stories that we feel need to be told."

But the *Report* defeats advocacy. Another reporter, for example, tells me that she slowly built a case for a program on teenage abortions, which she thought could raise the political issues posed by the women's movement. She "planted the seed," and ultimately convinced the producers to schedule it. As it was aired, however, it was reduced to a show about the "problem" of teenage abortions—about how many teenagers seek and get abortions, how they go about it, what obstacles are in their way, and what might be done for the girls. It was thirty minutes, once again, about technique and social management.

Us against them

In the ideal form, according to MacNeil, a program should never tilt to one side or another, and most of them remain true to his penchant for the middle. "You could say that I'm pretty much on the liberal side myself," MacNeil tells me, "but I'm as careful as I can be to keep my opinions out of it. I'm as nonpartisan as I can be."

But there are exceptions to the model of perfect balance, and in a way they are more interesting to analyze, because they illustrate how an instrumentalist

rear) and the staff: gentle complaints and defeated advocacy



message can be kept intact even though a show displays an apparent bias. There have been four recent programs that tilt one way or another—despite MacNeil's intentions—and while they differ in certain respects, they all illustrate the same point: that the framework of the debate tells us more about its meaning than does the outcome.

□ For *MacNeil/Lehrer's* first show on SALT II, Washington reporter Rob Hershman and producer Jo Franklin chose a panel consisting of Mark Lowenthal, a national defense analyst for the Congressional Research Service; Senator Jake Garn, a Utah Republican; and William Colby, the former CIA director. The panel was stacked against the treaty: Lowenthal implied that there were so many technical problems as to make verification seem impossible. Garn is one of the leaders of the Senate fight against the whole treaty. Colby was meant to be the administration's spokesman, but his defense was lukewarm at best, and his opinions on detente were so adamantly anti-Soviet that the sum of his conversation was to praise the treaty with faint damns.

□ A program last spring on the implications of the new international trade agreement focused on protectionism—the practice of erecting barriers to imports and subsidizing domestic manufacturing. The panelists were all free-traders: a small businessman from Massachusetts, a conservative economics professor of the Milton Friedman stripe, a spokesman for a free-trade lobby, and a congressional export-policy authority. The discussion assumed that free trade was indisputably good, and protectionism bad. Notable was the absence of any representative of the protectionist side, which has many adherents these days not only among businessmen threatened by foreign competition, but in sectors of the labor movement and the political left, where there is support for national economic planning, which would require some protectionist measures to help redirect marketplace forces.

□ On the occasion of the opening of the Faneuil Hall Market redevelopment last year in Boston, *MacNeil/Lehrer* profiled its developer, James Rouse, who "pulled it off," according to Lehrer. The program was a frank celebration of urban renewal: Rouse was responsible, Lehrer said, for "the revitalizing of a run-down section of the city, the reversing of the old 'downtown is dead and gone' syndrome." Missing from the show was anything but the slightest hint of the political struggles around the process of "gentrification" of low-income neighborhoods, the wars now raging in several cities between the middle class and the poor over territory that has become valuable as the young "new class" moves into city centers.

□ The interview with General Somoza—conducted via PBS satellite from Managua—was tilted heavily toward Somoza's side, not least by the very banality of the questions:

MACNEIL: The fighting was quite heavy as we understood it in some of the other cities, like León, involving artillery

and aircraft. Is the fighting as heavy in Estelí?

SOMOZA: Yes

MACNEIL: I see. Do you expect the loss of life there to be similar to that reported from the other cities?

SOMOZA: I don't think it's going to be as light. . . .

LEHRER: . . . Would you agree to OAS mediation?

SOMOZA: Nicaragua is a member of the Organization of American States. Therefore we are bound to take the decisions of such a supranational body in the way that it can be helpful to Nicaragua. I don't think mediation is contemplated. . . .

And so it wandered, down half-beaten tracks, until Lehrer said, "All right. We have to leave it there. Thank you, Mr. President."

The tilts of these four programs were caused by different factors. In the case of the SALT report, it was by the choice of the panelists, which was perhaps accidental, since it is not always possible to construct a perfectly balanced guest list. The free-trade show was a case of missing the point. When I point out to MacNeil that an important side of the issue has been omitted, he nods in agreement: "I'll buy that," he says. The reporter who covers business, Lew Silverman, is one of the most seasoned journalists in the New York crew, but he is conservative in his economics, and perhaps did not consider the protectionist argument legitimate, or interesting, or sufficiently important to include. The Rouse program, like that with Somoza, as well as most interviews of leaders great and small, was complimentary, as though the anchors had been so overawed by the importance of their guest that they had forgotten to ask their tough questions.

The bias in these shows did not substantially affect their message, however. For the ideology is contained in the questions, not the answers; in how the debate is set up, not in how it comes out; in who plays, not in who wins.

□ The SALT show was set up as a discussion of verification—a technical problem. The instrumentalist view of SALT is that it is a matter to be resolved by experts in science, diplomacy, and congressional ratification. That view de-emotionalizes an issue seen by others as one of global struggle between empires capable of genocidal warfare.

□ The free-trade program was also concerned with problem-solving: how to get government and business to remove protectionist barriers. Questions about the fundamental value of free trade would only get in the way of the management process.

□ The Rouse interview began with the assumption that the reintroduction of the middle class into the inner city is an unalloyed advantage. Although this movement raises the spectre of conflict between social classes, the instrumentalist treatment, characteristically, avoided it. Rouse might have said anything he pleased, but the basic question the program asked was: how do you get "our people" into "their" territory?

□ Finally, the Somoza interview—when it was not simply superficial or gentle—was primarily directed at

the management of the crisis in Nicaragua. Somoza's answers were secondary to the anchors' questions, and the questions were framed by the decision to spotlight the dictator. What might the message have been if the subject were a Sandinista? If the questions had been about this country's historical hegemony in Central America and its growing contradiction in revolutionary movements throughout the region?

The MacNeil/Lehrer Report, as its accolades demonstrate, serves society well in the perspective of its managers and technicians. What it fails to do—deliberately—is to open up the debate to non-instrumentalist ideologies. Gar Alperovitz, a liberal economist and political activist who participated in a June *Report* on the economy, was pleased at first that he could present his point of view. But in the end he felt frustrated by the format of the show, by its willful incompleteness, and by the insistence that adversaries debate rather than project new ideas.

"Old ideas are easy to do," he says. "But if you want to change people's consciousness—about inflation, recession, energy, for instance—you need a forum for advocating the new modes of thought; you need the space to show how the old ideas aren't working, why they've failed, and even why people find it hard to accept the new ones you're propounding."

Americans value certain tenets: freedom of discourse, the equality of ideas, the adversary system, objectivity. These are properly cherished ideals, but they are just that: abstractions that are valuable in their institutional applications when they work to the advantage of the participating parties. But the ideals may also be misapplied. The adversary system, for example, produces the best results, on the whole, in courts of law. On a television news program, however, it may serve to limit the power of the very ideas invited to contend. Objectivity, in the same way, may be illusory in a specific application. The *Report* is objective—or nonpartisan, as Robin MacNeil calls it—only in superficial ways. The underlying instrumentalist structure constitutes a definite, political commitment. Freedom of discourse, too, seems to be an unexceptionable virtue. But *MacNeil/Lehrer* narrows its application to mean freedom for those who discourse in a certain way, adhere to predetermined rules, and accept the unstated assumptions of the debate.

The ideology implicit in the content, format, and production of *The MacNeil/Lehrer Report* is created by the application of these and similar abstractions to a specific context. Television pages list it as a news program, but it appears to be more of a daily briefing for the people who manage the affairs of this society. The fact is, the program and its core audience are woven inextricably into a single skein of news analysis and news-users: the show and its audience share a common consciousness. If you appreciate that new managerial class, you'll enjoy *The MacNeil/Lehrer Report*. If you don't appreciate it, turn quickly to Cronkite. ■

ENERGY

COPING WITH A CRISIS

In late July, as gas lines disappeared and the administration assessed the impact of the president's energy speech and Cabinet shuffle, reporters and editors from around the country convened at the Harvard Business School for an energy seminar. While there, they took part in a roundtable discussion. "Energy and the Press: Caught in the Middle."

The moderator was Daniel Yergin, lecturer at the Kennedy School at Harvard and co-editor with Professor Robert Stobaugh of *Energy Future: Report of the Energy Project* at the Harvard Business School, a widely praised study of energy sources and options.

Yergin outlined the major themes of the roundtable: "How to figure out what the story is. How the press can inform itself. Whom to believe. How to convey information to a public that alternates between inattention and conspiracy theories. How to get reliable numbers."

The participants heard from in these edited excerpts are:

Carol Curtis, energy editor, Business Week

Stuart Diamond, environmental and energy specialist, Newsday

Roz Liston, business and energy reporter, UPI

Steven Rattner, reporter, The New York Times

Eileen Shanahan, senior assistant managing editor, The Washington Star

Paul Solman, reporter, WGBH, Boston

Paul Steiger, financial editor, Los Angeles Times

Joe H. Stroud, editor and senior vice president, Detroit Free Press

YERGIN: One is struck by the incredible confusion that surrounds this thing called the energy problem. In this morning's *Boston Globe*, there was a story saying that as many as four in ten Americans believe that the United States produces enough oil domestically to meet its present energy needs. In other words, they are unaware that



'I think we're all doing a lousy job, but only because the problem is so hard'

Eileen Shanahan

the United States imports any oil at all from overseas. This is a sign of how difficult it is to convey this story.

Some would say that this is a story different from that which journalism, or at least non-trade journalism, has been used to dealing with. So what we want to talk about are the problems journalists face in covering it, the organizational problems that this story poses for editors, and

the forces that shape your stories.

I'm going to start by asking the panel [Curtis, Rattner, Shanahan, and Steiger] to talk about what has been the biggest problem for them in the last few months in covering energy, and then what thoughts they may have on the strengths and weaknesses of the coverage. Why don't we start with Eileen Shanahan.

SHANAHAN: I'm a newcomer to dealing with the energy story as an editor. I've been doing it for just a few weeks, coordinating the story that laps across the metro desk, national desk, and financial desk. I don't have any particular background in the area, but I did spend a lifetime as an economics reporter, so what I have to say is related to that.

It seems to me that for public understanding—and public acceptance of policy decisions in the energy area—the most crucial problem is that the vast majority of the American people don't believe *any* numbers. There is a feeling abroad that the numbers are all lies, related to the widespread suspicion of the oil industry. It seems to me that the most important prerequisite to improved coverage of the energy story would be to change the way those statistics are produced so that the people would have some confidence in them.

In other areas there is a tension among experts, so that when people at the Federal Reserve, say, are putting together the industrial production index or people at the Commerce Department are putting together the gross national product estimate, and they see a figure that looks cockeyed, they go back and

check and challenge their industry sources.

I think we need to set up as a matter of national policy this same sort of method for dealing with energy statistics. I don't just mean oil. Electrical usage is in the same category. So is coal mining. I think it will take a while to reach the point in energy statistics that occurred in economic statistics in 1972 when three people



CJR/Christopher Morrow

'There's a staggering amount of misinformation and misconception and misunderstanding'

Steven Rattner

quit the Bureau of Labor Statistics rather than fiddle with the seasonal adjustment at Nixon's instructions. That was one of the most shocking things that ever happened to the people who try to cover national economic policy.

YERGIN: Let's hear the two reporters and then we'll come back to another editor.

RATTNER: I guess my problem with energy coverage in general is twofold. On one level, for a very long time it was simply a matter of business reporting or company reporting, and was handled that way. The people who were covering it tended to see it only as a question of how well Exxon or Gulf was going to do, and there was no group of reporters trained in the broader questions of energy coverage—the impact on the public, the way in which energy interacts with social and economic patterns and international

problems, and all the rest.

This is a phenomenon that has reversed itself in the last six years since the Arab oil embargo. Before the embargo I think at *The New York Times* we had a half a person, who sort of did it when there was a story. Now we have two people in the Washington bureau alone who are doing energy full-time.

The second problem I have is, all that notwithstanding, I don't think the quality of energy coverage today, as a rule, is anything we should be particularly proud of. I like to think that the *Times* does it well and I know that publications like *The Wall Street Journal* and *Business Week* do it very well. But I have to say that, in the most recent difficulty, it was pretty vividly demonstrated that in the rest of the country the quality of the coverage just isn't very good. There's a staggering amount of misinformation and misconception and misunderstanding.

WHOM DO YOU TRUST?

CURTIS: I do think there is a difference in doing oil-company reporting and reporting other industries—and this relates to my own biggest problem covering energy. I think oil companies are very good at telling the press what they want them to know. And at keeping from the press what they don't want them to know. What I like to do when I'm writing an oil story is, after checking with the oil companies and getting their response, to call as many other sources as I possibly can—private economists, people in universities, consultants—and see if I can't get some kind of a consensus, which I know goes a lot deeper than the oil-company line.

Generally, I would disagree with Steve on the kind of job that the press has been doing. Before the embargo, almost no publication had an energy editor. I think *Business Week* was one of the first to dub someone energy editor, and that was back in 1972. Since then, energy has been on and off the front page. It's suddenly been taken off the business page and made into a political and international issue. And generally speaking, the publications that have time to do a

lot of checking of different sources—the weeklies and the monthlies—have been doing a good job. I expect that coverage of energy is going to improve. Steadily, and very rapidly.

YERGIN: Paul Steiger?

STEIGER: California's more dependent on gasoline than many other parts of the country, and the perception of our people is very heavily focused on whether they can get gasoline. So energy has been a subject that the *Los Angeles Times* has been very interested in at least half a dozen years. Since the embargo, we've had two people full-time in Los Angeles and at least one full-time in Washington covering energy. Plus we've devoted a lot of efforts of other reporters from our local staff, Washington staff, national staff, foreign staff, and our business staff to this subject. We've found that prac-



CJR/Christopher Morrow

'When a crisis begins to develop we've found that we simply have to have one person directing all of the energy coverage'

Paul Steiger

tically all of our major news departments get involved in doing energy stories. But when a crisis begins to develop we've found that we simply have to have one person directing all of the energy coverage. And I would commend this approach to other people. It worked very well for us. I think Eileen is doing it the same way at *The Washington Star*.

There are two problems that persist. One has already been dis-

cussed—the difficulty of getting reliable data. The other is avoiding your own ideological world-view traps.

The energy story has so many elements—economic, political, sociological, psychological, international, military—that practically any three-syllable adjective you can think of applies to it. People have their particular biases. If they're conspiracy theorists, they can put the data points together and come up with a rationale for somebody's conspiracy, whether it's the oil companies' conspiracy or somebody else's. If they're economics-minded, their reaction is that it's all a question of price, and if oil were deregulated the system would work a lot better. If their world view is geopolitics, they think of the story in terms of the Strait of Hormuz.

One of the problems we had was to try to develop our own unifying theory of what is going on through our reporting, but then not interpreting every new development in terms of that theory. If you do a story that points out the advantages of decontrol in terms of clearing the market, for example, you should be wary of ignoring stories that reflect the hardship that decontrol may impose on the poor family in New England which may face a doubling of its heating oil bills. So far, I think, we've done a pretty good job of avoiding those ideological traps.

RATTNER: I think there's a related problem: every time a crisis like this one erupts, a lot of people who have spent no time with it are all of a sudden thrust in. A classic example is the gasoline allocation system, which is an extraordinarily complicated system. And both in my paper and in other papers a lot of people were thrust into it outside Washington. I don't want to take a Washington view of this, but people who had never dealt with the allocation system were all of a sudden told, well, understand the gasoline allocation system. The number of stories that completely misunderstood it even as to the facts—just what stations got how much gasoline and under what circumstances—was really extraordinary.

YERGIN: How do you determine

who to trust as sources on a story like this?

CURTIS: It's much more difficult in the energy field than in other fields to find independent experts—that is, experts who aren't with the industry or with some government agency, who don't have some kind of an ax to grind. So when you're doing a story, your choices are often limited to someone who you know has an obvious bias.

DIAMOND: One of the fundamental ideas of reporting is that you always have to decide who to believe in any story you do. In covering energy, you just filter out the biases of the sources and you can figure out who's right and who's wrong. I've had no problems with that.

SHANAHAN: What have you been covering? I don't mean to sound antagonistic, but I'm really sorry to hear you say that. I mean, have you just been covering the local supply situation or what?

DIAMOND: Local, regional, national, and international. I think that you can figure out if you have a difference of opinion and come to a conclusion based on the available information. What I have a much more fundamental problem with is the transfer of information from experts in the public to journalists—experts who will speak with reporters to raise their consciousness to the point where they can write intelligently about energy matters. Not on a special basis such as this, but on a daily basis.

SHANAHAN: It seems to me that there is a body of certain known, honest people in certain fields who don't let their advocacy overcome reasonably straightforward discussion of the matter. You have the obvious interest of the companies, you have a federal bureaucracy which is frequently wrong or incompetent or both. And you have people like some of the public-interest advocacy groups, who are plainly on the other side. Then when you're trying to tell the readers what they want to know very desperately—I mean, "To hell with Washington, why do I have to wait in line for gas?"—nobody seems to be willing to say "I don't know."

We temporarily called a halt to our daily gas-watch feature that ran on the first local page, because it just lurched from one side to the other. Today it's great, tomorrow it's rotten, this weekend's going to be the best, this weekend's going to be the worst. Finally you realize that the official spokesmen for the gasoline bureaus and the American Automobile Association don't know a damn thing. And we weren't serving the reader by quoting that stuff in the paper. And so it was finally a question of, we don't believe anybody, so



CJR/Christopher Morrow

**'I have a more
fundamental problem with
the transfer
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experts in the public
to journalists'**

Stuart Diamond

we'll stop printing. Instead of quoting dealers' forecasts, we do certain service things. We list facts: five gas stations were open on Sunday last weekend, seventeen are going to be open this weekend, and here are their addresses and hours. That sort of thing.

STEIGER: What we did was conduct a poll of gas stations. We did it every Wednesday. We brought in a phalanx of temporary employees to do the interviewing, had a consultant design the sample for us and help us with the questions. So over a period of about four or five weeks we had a fairly consistent matrix that would spit out what percentage said they were going to be open on Saturday and what percentage on Sunday. Because we had the same problem Ei-

leen did: when you talked to the so-called spokesmen they were talking through their hats.

RATTNER: I have to go back to a previous theme. I think that the public's confusion about what was going on the last three months in many ways mirrors the confusion among the press as to what was going on at the time. Indeed, at *The New York Times*, if you want to get down to the specifics of it, we spent a substantial amount of time at the Washington bureau arguing among ourselves as to whether or not there was an energy crisis. And it's a question that really bothered me at the time, because I felt very strongly that you can't expect the American people to have a clear idea as to what's going on if the people who are charged with communicating it to them have no clear idea of what's going on.

YERGIN: Can you tell us the outcome of the argument?

RATTNER: Some of the people went on vacation. But I like to think that a consensus did emerge. The fundamentals of the argument, to take one specific, were, well, there's the argument that there can't be an energy problem because in the first part of 1979 we imported more oil than we did in the first part of 1978. Well, that's true, and people who spend any time with the numbers know that's true. But that's a simplistic point. It doesn't take into account the inventory situation in the two periods and what was actually going on. These kinds of arguments raged for a while, but I like to think that eventually a consensus did emerge that the crisis was real.

DEFINING THE PROBLEM

STROUD: I'd be interested in knowing what the panel would say if you had to define the energy problem in fifty or a hundred words.

STEIGER: The energy problem is that over a period of years our demand for oil achieved upward momentum faster than the rate of finding new supplies, particularly finding new supplies within our own borders, but ultimately finding new supplies all around the world. It has resulted in a tightening of supply which has given price leverage to

those countries that control the major sources of supply. Our challenge is to diminish our need for oil whether through conservation or interposition of alternate sources.

SHANAHAN: There is the problem of use increasing to the point of creating real shortages, and also the political-economic reaction of producer nations—a new thing in the world. I think the political aspect of the problem, of which the Mexican



CURTIS/Christopher Merrow

'I think that this is a learning process for every energy reporter. I think we're making progress'

Carol Curtis

response is one example, is one of the most interesting. They're saying, we're going to produce oil at a pace to suit our developmental needs. The hell with you people. We don't give a damn if you're starving for oil or not. It seems to me that this nationalism is something that Americans ought to be more sympathetic to than we are. The producer countries are a piece of the puzzle that we have done very little to get across.

RATTNER: I think the fundamental problem is that we're undergoing a forced transition from oil to other fuels. Principally it is a result of political forces operating on a worldwide basis that have imposed on us a resource constraint with regard to oil that wouldn't exist in the absence of these various producer-government and consumer-government relationships. As a result we are enduring the economic dislocations and price

effects that would normally accompany a depletion of a resource, but for fundamentally political reasons at the moment.

CURTIS: I think the problem is that something that up until the embargo always seemed easy to get suddenly became very hard to get for reasons—mostly political—that seem easy to correct but in fact are very difficult to correct. And solutions are unpleasant.

STROUD: To what extent do you think that the coverage in the publications you work for reflects that vision of what has happened? I'm talking here about credibility and public perception.

STEIGER: I think our coverage in the *Los Angeles Times* has reflected the view I expressed. But when you are in the newspaper business you're reporting events as they occur, and this is a sufficiently complex subject that, without some kind of magic brain scan on our readers, I'm not sure precisely how they perceive it. The polls suggest that our readers, like most people, tend to put the principal blame on the oil companies. I don't think our coverage has put the principal blame on the oil companies. But that is certainly a message that the readers have given.

SHANAHAN: I think we're all doing a lousy job, including *The New York Times*, but only because the problem is so hard. And I think we have to build the knowledge base first.

RATTNER: I think that at the *Times* we really mirror a certain amount of the hubbub and confusion. I don't think that what I write necessarily reflects any kind of consensus among the other reporters on the paper who write on the subject. Therefore I think that we have tended to express a variety of viewpoints.

CURTIS: I think the coverage certainly does reflect the complexity of the issue. You also have to judge your audience accurately. And I think that this is a learning process for every energy reporter. So I think we're making progress. So far, I think that the coverage has tended to be a little simplistic, mostly because audiences have only recently come to the energy issue with any kind of interest. And interest is still based

pretty much on how people are affected economically. When the gas lines go away, people don't concentrate for the length of time they need to concentrate to understand the complexities.

STROUD: I think that somehow we've communicated a conspiracy theory to the people. And I think it's true of *The New York Times*, *The Washington Star*, the *Los Angeles Times*, the *Detroit Free Press*, or whatever.

YERGIN: Why do you think this is so?

STROUD: I suspect it's because we bring some of our own ideological biases.

VOICE: Isn't part of the problem fundamentally cultural? Because the prices have been so low for so long, we've developed a culture that is so wasteful with so many forms of energy that it requires a fundamental reordering of our lives. You can't sell newspapers by telling people they've been bad all these years. And they really haven't been bad. It's just the culture: the system has developed to this point. But people don't want to hear that.

THE HEART OF THE MATTER

SHANAHAN: We're all avoiding the heart of the matter, I think. The fact of the matter is that the way we structure daily newspaper stories is designed, with true genius, to defeat understanding. More and more we recognize this. *The Wall Street Journal* was the breakthrough newspaper in saying, no, you don't have to have the pyramid structure and all that. More and more all of our papers are doing some kind of a takeout: here's what happened since the last time you paid attention. We all know you can't tell the whole story in eight hundred words, which is a long story to our paper. All of us who are serious about this story—which I have become convinced is real and long-term—have to go back and battle for the kind of space and the kind of time to do the takeouts to get it right.

YERGIN: Eight hundred words seems to me just clearing your throat.

SHANAHAN: Exactly.

SOLMAN: Since I work for a nightly news show, I have a real sense of what the constraints are. We spend a whole lot more time on a story than most commercial nightly news stations do. But eight hundred words is eight minutes on a news show, and compute the figures—eight minutes is more than you'll ever get for anything other than an assassination. It's something to think about when



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'I think that somehow we've communicated a conspiracy theory to the people'

Joe H. Stroud

you realize that 80 percent of the American public get their first information from TV or radio.

YERGIN: I'd like to ask Roz Liston for a wire-service response to what she's heard.

LISTON: First of all, I'd like to tell you what the editors ask from us on energy from around the country. Time and again they ask for explanatory pieces, particularly Q and As. These would be weekend pieces, not spot pieces. They want explanations: Why is there an energy crisis? Is there an energy crisis?

I think our weakness is that we have limited space, certainly in our spot coverage. It's been our feeling at UPI that the only way we are going to inform our readers is to tell them in the second or third graph of the story what the development in Saudi Arabia means in terms of home heating oil, diesel fuel, gas, or

whatever. We try to get it high up in the story: how is it going to affect the American consumer? We tend to do a more in-depth study of the energy problems in weekend pieces for that reason. We try to get across over and over again: How is it going to affect the American consumer? Why should he care about the spot price and all that?

YERGIN: How do you evaluate wire-service coverage of the problem?

LISTON: I just started doing the daily wrap-up on energy for UPI. It's up to you to tell me how we're doing. I'd like to know where we are weak, because it's very hard for us to tell.

SHANAHAN: Back to numbers. I hold with the position that no number standing alone ever tells anybody anything. Both wire services, for example, on their stories on the Tokyo agreement, said the agreement was that imports wouldn't exceed eight-and-a-half million barrels a day, but they didn't tell me what they were now. I don't think any of us is doing a good job of giving the public the benchmarks. Which may be one reason the public doesn't yet believe that the shortage is real and long-term.

RATTNER: The problem of our dependence on foreign oil is a problem that grew right up until the day of the Arab oil embargo, and I know that a lot of people wrote stories saying that we were running into this problem. But people didn't pay attention. I think you have to persuade them that dependence has penalties in the here and now.

STROUD: That may have been true in 1972. But now they've had two examples of the fact that dependence has a penalty.

YERGIN: I think this time around the effect will be more pervasive than the first.

SHANAHAN: We should all be thinking. Right now as an editor I'm trying to think ahead toward the heating oil shortages we're going to have this winter. I do think we have to try and keep the body of expertise we've developed, if only on kind of a standby basis. We're all so short-staffed. It's hard to persuade any-

body that the energy issue is going to be around, and we need to keep someone around so they're ready to go when it gets to be a crisis.

Basically I think we are building a body of knowledge. And the next crisis, whether it's heating oil this winter or gas lines again next spring or something—it's going to be better. I don't mean terrific. Just better.

No quick fix

The energy crisis,
as vast in scope
as the Depression,
is today's
ultimate political
and economic story

by DANIEL YERGIN

The stories in the summer of 1978 were about the oil glut and how long it would last. The stories in the summer of 1979 were about the oil shortage and how long it would last. No wonder the public is confused, and the press. If it is any consolation, so are the experts.

In November 1978, I participated in an energy conference at which one of the nation's most quoted energy experts was the featured speaker. He announced that the U.S. would probably get through the 1980s without an energy crisis; before January 1979 was out, he had joined those saying that we were on the verge of an energy disaster. Even for those who watch it full-time, the energy problem is hard to grasp, much less to explain.

As a voracious clipper of articles on the subject, I am impressed by the group of thoughtful and informed energy writers which has re-

cently emerged. Yet I find myself in agreement with those on the panel who express dissatisfaction with the general level of reporting and who feel that the public's confusion and ignorance must reflect, at least in part, inadequacies in the coverage.

It is not surprising that the media are having difficulty. After all, when was the last time that the political-economic system itself was the subject of a major running story? Probably not since the Depression. The new story, fraught with technological complexities, presents an unprecedented challenge to journalism.

At the heart of the difficulty is the fact that "the energy problem" is not really one problem at all. It is a series of problems, some of them only tangentially related: storm windows, nuclear waste disposal, OPEC geopolitics, and sun rights. This creates a paradox. On the one hand, the number and complexity of these concerns means that reporters must specialize. On the other, it means that each news organization must be able to convey a sense of the problem *as a whole* to its readers and viewers, and this requires an editorial hand with a broad grasp of the entire political, economic, and technological story.

The wide disagreement over what the core of the story is makes this all the more difficult, and the search for villains and villainy only adds to the confusion. Some see Washington as the enemy: get rid of all regulations and the problem will be solved, they say. Others believe that oil companies are the problem. Change the oil companies, we are urged. Some believe it is the environmentalists. Run over the environmentalists, they say, and you will have it licked. It is no wonder that the public and the press, bombarded by such conflicting oversimplifications, are confused.

I agree with those panelists who maintain that the problem is structural: American oil production peaked in 1970, energy demand has continued to grow, and we have become increasingly dependent on Middle Eastern oil. All of these factors are also situated in a web of un-

certainties: Persian Gulf politics, domestic political wind-shifts, the very inexactitude of the economic models developed to predict the shape of future energy needs and resources. Accidents—which have often transformed the world's oil markets—cannot easily be factored into equations. And geology does not necessarily worship at the temple of price elasticities.

It may well be that the way news is covered makes it difficult to do justice to the complexity of the energy question. At the same time, coverage seems to mirror the character of the political debate in the country, and a good deal of that debate has not been on target with reality.

Much of the writing about petroleum issues today, for example, ignores the fact that oil companies are no longer as powerful as they were two decades ago. Both in this country and in western Europe they are increasingly regulated, and in the OPEC countries, since the early 1970s, they have lost control over the ownership of reserves, production rates, and pricing. A series of miracles has also been proffered in recent years—nuclear power, coal, fusion, and, currently, synthetic fuels. But our energy problems will not be solved with "another Manhattan project" or "another man in space program," metaphors for the kind of quick technological fix which the press has embraced all too often. Finally, the energy source that is both the cheapest and the largest—conservation energy—is the least reported of all energy options.

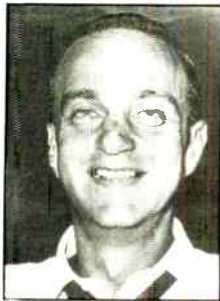
But perhaps, after all, there has been progress. It seems to me that after an uncertain start during the early summer, the major national dailies did an effective job of setting the synthetic fuel boomlet into perspective, and did so in only a matter of weeks. To be sure, this was in part a reflection of the fact that Congress itself had developed a healthy skepticism of this panacea. But it also reflects the fact that the press, at last, is developing a solid analytical capability of its own. Much more of this kind of activity is going to be needed in the future. ■

Weekly News Quiz

Questions are based on what you should have learned from *The New York Times* by the end of any given week, if you are paying that newspaper the attention it expects. Answers appear on page 75.

1. A member of Israel's negotiating team raised new hopes for the Mideast peace talks in the face of growing tensions. What is his name, what names was he called in the Knesset, and what new tensions caused him to withdraw, the following day, his growing hopes?

2. The mystery of plant life's interaction with animal life has been deepened by researchers at Fordham University. What is the mystery? Name five plants and four animals.



Roy Cohn

3. The man pictured above seems to have everybody in America (except, of course, anyone in a position of real authority at the *Times*) buffaloed. Who is he and what is his charm?

4. The mood in Sri Lanka is more pensive now. Explain.

5. "We have flatly denied that we plan to take over Holland and I can confirm that," says a high-ranking official of a major nation. What kind of shoes do they wear in Holland?

6. The State Comptroller's office in Albany has revealed that the disbursing procedures of seventy-one departments of the New York City government are being placed under tighter scrutiny. Who is the State Comptroller? Where is Albany? Is it up around Lake George somewhere? Up around Cornell? Where is Cornell?

7. There is a worldwide shortage of (breath/gasoline/people/time).

8. In a midyear economic review, the Carter administration forecast

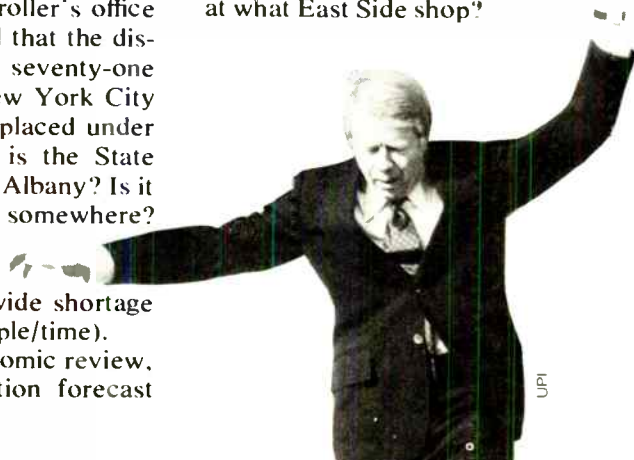
that over the next six months the price of gas could go as high as \$4.97 a gallon, unemployment could rise to 38 million and inflation could climb to 42.3 percent without its being whose fault?

9. The Pffowles-Sargeaunt system of orthography, according to which Iranian names have been converted to English spelling since 1934, is being replaced by a more accurate system, whereby "Ayatollah Ruhollah Khomeini" will be rendered as "I.O. Tolaruhola O. Maney," Prime Minister "Mehdi Bazargan" as "Idhem Nagrazab," and Brig. Gen. "Saif Amir Rahimi" as "Bear Man Jackson." Where did they ever dig up Pffowles and Sargeaunt?

10. Among the various consultants in different fields summoned by President Carter to Camp David for his latest summit session on the energy problem was (Ralph Bellamy/Joseph Gargan/Bernard L. Barker/Norman Vincent Peale).

11. According to (C.L. Sulzberger/William Safire/Arthur Daley/Mimi Sheraton), the inane hypocrisy of the Department of Health, Education and Welfare's anti-smoking campaign is revealed by its peculiar refusal to follow the tangent of "the smoking Lancegate pistols packed by Puffabilly the Kid Brother and the Loan Arranger." Can you spot and name all the rhetorical devices employed?

12. An increasingly popular means of enhancing the fun of camping out is Portacoals, a carryalong low campfire (can be set to glow or smoulder) in an eye-pleasing off-red bakelite case. It is \$69.50 at what East Side shop?



UPI



13. This man has been sliding in the polls. Who is he, what is his job and whose idea was he in the first place? Name three good places within the bounds of New York City where the increasingly popular pastime of sliding in the polls may be enjoyed.

14. John Leonard was bemused in his garden, "growing tensions," when Vladimir and Dmitri got each other in a sort of mutual hammerlock and had to be prized apart by a vaguely, multiply allusive remark. What was the remark? How would you have answered it? Would it have prized you and either Vladimir or Dmitri apart?

15. President Carter said he plans to whip a portion of Sen. Edward Kennedy's anatomy. Do you know what portion? If you do, if in fact you are aware that any hint of anatomy was involved, then you have been reading some other newspaper. Why? Don't you like the new Science section? There was something fascinating in there about anatomy just last Tuesday. How did you like that? Didn't you see it? Didn't you even look at the graphs?

16. As a matter of fact, your name was on page 4, column 3 last week. We haven't heard anything from you about it. Did you miss it? Why? Don't you read the first section of the paper? That's where the hard news is. Don't you enjoy hard news? The *Times* has to have some hard news. Why do you read this quiz and don't read the news? Do you read this quiz? Does anybody? Anybody who is upscale? Should we offer prizes?

ROY BLOUNT, JR.

Roy Blount, Jr., is a freelance writer whose articles and fiction have appeared in *The New York Times*, *The New Yorker*, *Esquire*, and other magazines.

Nicaragua: a despot falls,

by MAX HOLLAND

How well does the American press report a popular revolution that challenges United States policy? In Iran, badly. In Nicaragua, better—although still too much the way the falling leader and the State Department see it.

Compared with coverage of the shah, whose image as a merely willful modernizer endured until the last days of his regime (and persists in some quarters still), Nicaragua's President Anastasio Somoza Debayle had a bad press. A year ago, for example, with both men still in power, the first issue of the new *Life* found the shah to be "autocratic," while Somoza was offered to the readers—flat out—as a "dictator."

The press as a whole lent little credence to Somoza's portrayal of himself as a legitimate and progressive leader. References to his "support of labor unions, minimum wage scales, agrarian reform, social security, a national medical scheme, compulsory education, and so on" were to be found mainly in guest columns, ostensibly written by Somoza himself, in *The Christian Science Monitor* (October 19, 1978) and *The New York Times* (March 6, 1978). With the revolution under way, moving accounts of its human costs were filed by Guy Gugliotta of *The Miami Herald*, Leonard Greenwood of the *Los Angeles Times*, Karen DeYoung of *The Washington Post*, and Bernard Diederich of *Time*.

But the press failed where it was most important to succeed: in reporting the politics of the revolution and the diverse but compatible motivations of the opposition coalition. To be sure, the anti-Somoza forces within Nicaragua's business community—organized into the Broad Opposition Front—found themselves adequately represented in the

Max Holland is an associate at the Center for International Policy in Washington. He visited Nicaragua in 1978 on a grant from The Fund for Investigative Journalism.

American press. These were people, however, whose motives were readily accessible to Americans raised to value a free market. As Alan Riding pointed out in the July 30, 1978, *New York Times Magazine*, the business community—a traditional ally of the Somozas—began to desert because "they were unaccustomed to and angered by what they considered 'unfair competition' from the Somoza group during the profitable reconstruction boom [after the catastrophic 1972 earthquake]."

The Sandinistas themselves did not fare so well in the American press. Somoza, of course, maintained that the leaders of the Sandinist National Liberation Front, (FSLN) were simply Marxists controlled by Cuba, and that Nicaraguan businessmen who supported them, as well as the several Latin American nations which did likewise, were essentially dupes. Little was known about the armed rebels until the nationwide uprising of September 1978, but in the absence of better information the press simply cast the opposition in the role that Somoza had written for it:

□ "The guerrillas are trying to overthrow Somoza and install a Marxist government in Nicaragua." (Combined news services, *The Washington Post*, August 25, 1978)

□ "The guerrillas advocate a Marxist society." (The Associated Press, August 31, 1978)

□ "... a Marxist government boasting close ties with Cuba... would be a rallying point for other Communist groups planning takeovers in neighboring countries." (*U.S. News & World Report*, September 11, 1978)

The September mutiny—when popular insurrections and a general strike followed the seizure of the National Palace by Commander Zero and a platoon of guerrillas—forced most news outlets to take a closer look at what was happening in the country. It became increasingly apparent that the Sandinistas were not a monolithic band of conspira-

tors, and that a popular movement that cut across class and ideology was behind the effort to put an end to the Somoza dynasty. "President Somoza charges Cuba is behind the current unrest," the AP reported on September 14, "but the Marxist-oriented guerrillas recently have been attracting youths of various political and social colorations." The "militant Marxist" (*The Washington Star*) or merely "Marxist" appellation used before the uprising gradually gave way to "Marxist-led" (*Los Angeles Times*), until by the spring most outlets simply identified Somoza's armed opponents as "Sandinistas" or "guerrillas."

Dropping the pejorative buzzwords was not much of an improvement, however, for there were other ways to cast aspersions on a movement whose national character the press still failed to appreciate. The way *Newsweek* turned the knife was typical: "To prepare for a new order in Nicaragua," the magazine wrote in "Marx and Nicaragua," a July 23 report, "the Sandinistas issued a 21-page program of reforms that seemed reassuringly moderate—on paper. There was some question about how much that paper was worth." The insinuation was clear: whatever the apparent facts, guerrilla leaders could not be trusted to deny what North Americans were accusing them of. This school of thought might be called the *expanded-dupe* version, since now—in addition to Nicaraguan businessmen and Venezuela and Costa Rica—the dupes included the great mass of the Nicaraguan people.

The Sandinistas had tried to explain themselves and their movement to the American press during the final ten months of struggle, and not a few interviews were published with Sandinista spokesmen and military figures. Understand our history, they repeatedly admonished, and you will understand what we believe in and why we have taken up arms.

The American press did convey

the press stumbles

some of this history, largely by recounting the fact that the United States had installed Anastasio Somoza Garcia as the first commander of the National Guard (in 1933), the number of years the Somoza dynasty had been in power (forty-two), and something about the fact that the U.S. had trained and equipped the Guard for decades (resulting in the highest per capita military assistance for training to any country in Latin America).

But Americans learned little of how Nicaraguans experienced this history, of what it meant to them, and therefore could understand little of why they were willing to pay such a terrible price in human lives to overcome it. American reporting failed to convey the movement's deep roots in the frustration and suffering of the Nicaraguan people.

The way the press reported the American mediation effort during Somoza's last months was symptomatic of this failure. Jeremiah O'Leary stated the theme in *The Washington Star* on July 1, implicitly condemning the Sandinistas as sectarian and describing the U.S. effort as "aimed at establishing a link among the other groups so there can be some hope that a moderate and broad-based interim government can replace Somoza." Ultimately, of course, both the American government and most of the press came to realize that the moderates had no popular support—precisely because they represented no break with the Nicaraguan past and hoped that the United States would intervene to rid them of Somoza, while salvaging something of *Somocismo*. The Sandinistas, in contrast, railed against U.S. intervention, since it was U.S. help that had played a crucial role in bringing about the hated dynasty in the first place.

Having a poor understanding of the dynamics of the Nicaraguan revolution, the American press was easy prey for talk of conspiracy and external inspiration. If generals always refight the last war, journalists

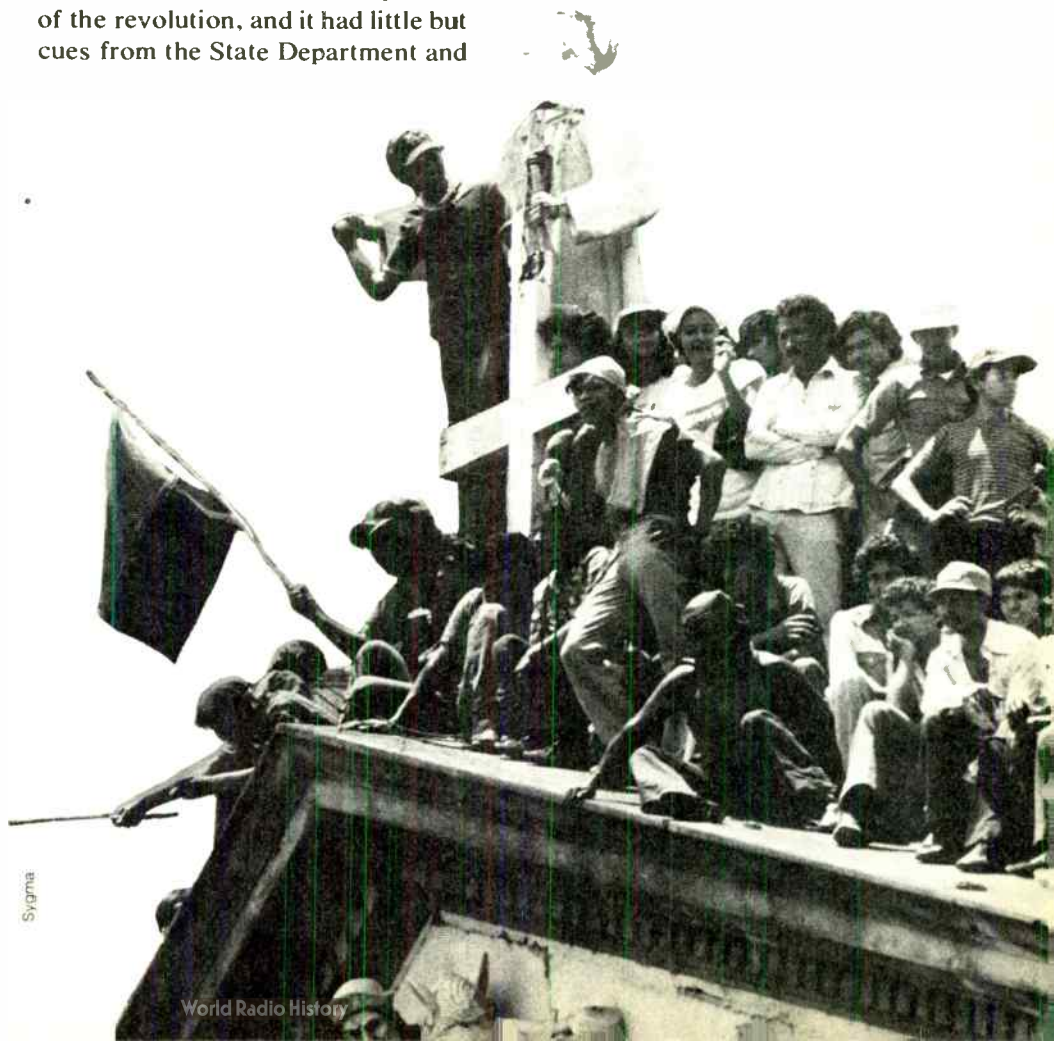
frequently view the future through the past, and the notion that Nicaragua could become a "second Cuba" took hold—encouraged, no doubt, by the State Department and the White House. *The Miami Herald* and *The New York Times* were two papers which resisted the fatal simplicity of the analogy, and on July 8 Alan Riding, the *Times's* Central American correspondent, even warned about the self-fulfilling potential of the comparison: "If Washington fears a 'second Cuba,'" he wrote, "many Latin Americans believe that Washington helped create the 'first' Cuba by alienating the young Castro regime."

History does repeat itself—but never exactly. A case can be made, moreover, that to understand an event on its own terms it is the *differences* and not the similarities that matter. But the American press as a whole did not understand enough about Nicaragua and its history to come to terms with the uniqueness of the revolution, and it had little but cues from the State Department and

its own memory of Caribbean revolutions to guide it.

Thus, far into events, we find *Time* solemnly informing its readers in this year's July 30 issue that "To *Time* Correspondent Bernard Diederich, who was in Havana 20 years ago when Fidel Castro's bearded guerrillas marched into that city, there were striking parallels. . . . The FSLN's slogan, FREE THE FATHERLAND OR DIE, was the battle cry of Nicaragua's legendary rebel leader of the 1930s, Augusto Sandino. It had inspired the Castroite catch phrase, FATHERLAND OR DEATH."

In the rush to analogy, however, *Time* forgot Patrick Henry's little phrase, GIVE ME LIBERTY OR GIVE ME DEATH, as well as the revolutionary injunction that used to adorn all New Hampshire license plates: LIVE FREE OR DIE. Conceivably these sentiments, too, inspired the Nicaraguan revolution. ■





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Dealing with the energy crisis

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This is a formidable undertaking. Half the generating capacity needed by 1990 isn't under construction yet. Coal-fired plants started this year will take up to 10 years to complete, nuclear plants up to 14.

Why 2½ to three times longer to construct a plant today than 10 years ago? Because you must figure five to seven years just for the paperwork on, say, a million-kw coal-fired station.

This is intolerable.

Complying with a constantly growing tangle of overlapping, unclear, sometimes irrational, energy rules and regulations consumes weeks and months of expensive time. Every day of delay

on a million-kw plant adds more than \$300,000 to its cost.

At least with gasoline, patience and money can eventually get you a few gallons. But you can't carry kilowatts in a bucket or store them in a tank.

America can't afford these delays.

Consumers can't afford to pay the bill.

Energy rules and regulations can, and must, be streamlined—analyzed, consolidated, and eliminated where they serve no real purpose.

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A message from the nation's consumer-owned nonprofit electric cooperatives and power districts



America's rural electric systems

For more information, write: Dept J, National Rural Electric Cooperative Association, 1800 Mass. Ave., NW, Washington, DC 20036.



The Mirage takes shape

The *Sun-Times*'s tavern series exposed city-wide corruption—but raised questions about press ethics.

Here, the reporters who wrote the series describe how, and why, their newspaper started pouring shots in the Windy City

by ZAY N. SMITH and PAMELA ZEKMAN

It was no place for a story conference. Pamela Zekman knew that much. Reporters and their editors were supposed to work these things out in the city room or at a conference table—not in the middle of the Michigan Avenue Bridge.

But James Hoge, editor of the *Chicago Sun-Times*, saw no reason to waste the moment. It was the afternoon of February 25, 1976. A downtown luncheon seminar on law enforcement had just ended. Hoge walked alongside his new investiga-

Zay N. Smith and Pamela Zekman, who both joined the Sun-Times in 1976, are the authors of The Mirage, an account of their experience as reporters and bartenders which will be published by Random House. This article has been adapted from the book.

tive reporter, hired away from the *Chicago Tribune* only weeks before, and sought to get acquainted.

"Any projects in mind? Any investigations?"

Zekman had been expecting the question since her arrival at the *Sun-Times*. She still didn't know quite how to put the answer.

"There's a lot of things we could try," she said, finally. "I know about some lawyers who sell babies. And those new medical clinics popping up in the ghetto neighborhoods. But there's something else I'd rather talk about. I guess I should warn you right off, it's always been kind of a fantasy of mine."

"What is it?"

"A tavern."

"And you . . ."

"I'd like to open one."

Hoge looked straight ahead, his eyebrows slightly raised. Zekman instantly wished she had held off until she knew the man better. Maybe she should have hit him for a drink first—and then a whole tavern.

"I know it sounds a little ambitious," she said. "But we're always getting complaints about the shake-downs and payoffs in this city. The fire inspectors, the building inspectors, the police . . ."

"This is Chicago," Hoge said.

"And if we owned a tavern, we could be there when it happened. We could see how the system actually works. We could photograph it, get it down on paper once and for all . . ."

Zekman let her voice trail off. She

They set 'em up: (above, from the left) managing editor Loory, executive editor Hoge, reporters Zekman and Smith, BGA investigator Recktenwald, and editor Otwell

could see Hoge was thinking.

"As I say, it's kind of a fantasy of mine."

Hoge nodded slowly. "I can see where it'd be a hell of a story," he said. "We'd get a good look at the contractors and the jukebox companies, too. A good look at a lot of things. But there's something you have to realize . . ."

Now it was Hoge's turn to trail off. Zekman knew enough to finish the sentence for him.

"You mean it would cost a lot of money and newspapers aren't money trees."

"You have the general idea."

"I figured maybe thirty thousand."

"At least that. I'd say more like fifty or sixty."

Another silence. A long one this time. Zekman prepared for a lecture on the financial realities of the newspaper business. Every editor had his own way of saying: nice idea, but let's get serious. It was time she learned Hoge's way.

"We'd have to budget at least a year ahead for something like that," he said. "At least a year."

Zekman slowed the stroll. "Are you saying . . . ?"

"And there are a lot of questions. Entrapment for one. Security. We'd have to go at it very carefully."

"Are you saying we could actually do it?"

"Let me take a look at the budget. That's where we'd have to start."

The story conference continued across the Michigan Avenue Bridge and into the steel-and-glass river fortress that houses the *Sun-Times*. Hoge couldn't help smiling as he talked of all the things a newspaper tavern might discover. Zekman stayed silent. She had been waiting more than five years to hear an editor talk like this.

The one story she wanted most had always stayed out of reach: the story of the day-to-day corruption that Chicago's small-business owners endured. And nowhere was the corruption greater than at the street level, where city inspectors, policemen, and other public servants put the arm on thousands of small-busi-

ness owners. The shakedown traffic at this level ran into millions of dollars, in many small installments.

The shakedown victims were not much help. In fact, the city's small-business owners seemed intent on *protecting* the system. Some thought they had a good thing going. There was nothing like a hundred-dollar payoff to avoid a thousand dollars in repairs and renovations. The other victims—those who liked to do business on the straight—called often to complain, but almost always refused to go on record for the same reason they paid off: fear of City Hall.

As early as 1971, Zekman had campaigned for a tavern project at the *Tribune*. But the paper's editors and attorneys had worried about the expense and legal entanglements.

Nobody had seen the charm. Nobody until now.

Secrecy begins at home

It was December 23, but there was no Christmas tree for the *Sun-Times* city room. The only clue to the holiday was a less hectic pace among the editors and reporters. Yet Hoge seemed in a bright enough mood when he called Zekman into his office.

"Do I look like Santa Claus?" he asked.

Zekman studied him. "Just offhand . . ."

"I am."

"You are?"

"I am."

Zekman tried not to run as she headed back through the city room to her desk. She dialed the number of the Better Government Association and waited until William Recktenwald, the BGA's chief investigator, was on the line. With Hoge's approval, she had sounded out Recktenwald on having his organization join the *Sun-Times*'s tavern project. She spoke in a low voice.

"Reck, we've got it."

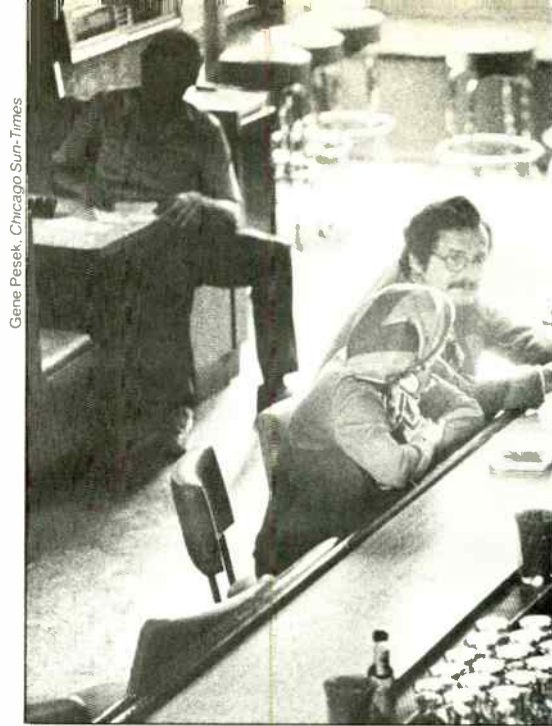
"Got what?"

"The tavern. I just talked with Hoge."

"You've got the money?"

"We've got the money."

Project security—the keeping of the secret—would be Zekman's first worry from now on. Chicago was



Gene Peseck, Chicago Sun-Times

On the house: with the bar in business.

the city of the Front Page. Everybody was on the lookout for good stories to steal. And the smallest slip—a lost memorandum, an overheard conversation—could easily wreck months of effort. So Zekman would stay quiet. She would lay false trails. She would even withhold information on her expense vouchers, because she never knew who would see what and who would hear about it next.

The tavern would have to be kept secret, for openers, from the *Sun-Times*'s own city room. And then there were the real trouble spots.

Zekman could just barely see into another city room from her desk. Publisher Marshall Field kept his two newspapers—the morning tabloid *Sun-Times*, the afternoon broadsheet *Chicago Daily News*—side by side. A wire-service room, with glass windows all around, was all that separated them. That and the sharpest sense of rivalry. The *Tribune*, only a block away in its Prairie Gothic tower, made it a three-way chase.

A lesson in law

In the last week of December, most of the tavern hierarchy was assembled in the *Sun-Times* conference room: Hoge, editor Ralph Otwell, managing editor Stuart H. Loory, metropolitan editor Joseph Reilly. Zekman and Recktenwald sat along



Loory joins Zekman for a working lunch

one side of the long walnut table.

A. Daniel Feldman, the *Sun-Times*'s attorney, was the last to enter. Zekman couldn't help staring at him as she explained the project. She remembered the unhappy effect the *Tribune*'s attorney had produced in years past.

"Sounds like a good idea," Feldman said. "In a way, I'm surprised you haven't tried something like this before now."

"Then you don't see any problems?" Zekman asked.

"Plenty of them. But that's to be expected."

It took about an hour to go through the initial list of problems—and the guidelines that would help solve them. The trick was to keep the project within ethical and legal boundaries even while it was covered over with Chicago corruption.

Entrapment. This was the foremost concern of the project. According to Illinois law:

A person is not guilty of an offense if his conduct is incited or induced by a public officer or employee, or agent of either, for the purpose of obtaining evidence for the prosecution of such a person. However, this Section is inapplicable if a public officer or employee, or agent of either, merely affords to such person the opportunity or facility for committing an offense in furtherance of a criminal purpose which such person has originated.

This meant that it was all right to

give somebody a chance to show off his normal talent for lawbreaking. It was not all right to nudge that person into committing a crime.

Illinois courts tended to give the doctrine a liberal interpretation. But the *Sun-Times* would be very conservative here. It wouldn't offer a single nudge toward the commission of a crime. The only act would be to open a tavern—then let the visitors take it from there. This was a matter of news judgment as well as ethics. The aim of the project was to catch Chicago in the act of being itself.

Invasion of Privacy. It would be an invasion of privacy if a reporter worked under cover, say, as a politician's valet or housemaid. But a tavern was a licensed public place. The *Sun-Times*, of course, would exercise special discretion about certain kinds of revelations. If a tippler told a story that was worth sharing but quite personal, his identity would be protected. As for criminal acts, the newspaper would reveal names, dates, places, and amounts.

Eavesdropping. Illinois law forbade the secret use of sound-recording equipment without a court order. The *Sun-Times* would therefore depend on hidden photographers, multiple witnesses, and detailed memorandums for its documentation.

General Liability. The *Sun-Times* would try to run a clean, safe tavern. It would buy all the right insurance. It would be in roughly the same position as the city's other 6,624 liquor licensees.

The meeting was adjourned. Zekman headed for another, less formal, meeting several blocks away. The Kinzie Steak House was in the midst of its regular lunchtime rush. Zekman leaned over her salad and kept her voice low. Tyrone P. Fahner, incoming director of the Illinois Department of Law Enforcement, listened intently.

"That's a terrific idea," he said. "If you don't do it, maybe we will."

"Then you think we can manage something?"

"I'm sure we can."

Any person who witnessed a crime was required, by law, to report it to the police. Zekman and her

colleagues would probably witness their share. But whom to call? The Chicago Police Department was one of the project's potential targets. The Justice Department and the FBI had pretty good security, but neither was inclined to go along with press investigations.

That left Fahner and the Illinois Department of Law Enforcement. Zekman knew Fahner from his past work as a federal prosecutor. He was nonpolitical. He could keep a secret. He would have adequate jurisdiction when he assumed his new post. And he respected the need of newspapers to remain free of government interference.

"I've got to make one thing clear for the record," Zekman said, choosing her words with care. "All we want is the chance to fulfill our obligation, as citizens, to report crimes to an appropriate law-enforcement agency. That has to be the extent of the involvement. We can't be your agents, in any sense."

"That's fine with us. We wouldn't want you to be."

Fahner said he would inform one of his top assistants of the project. The tavern would call him and report, in detail, any crimes that occurred. He would accept the information. He would protect the tavern's cover. And he would keep his hands off.

Meeting the fixer

It was not until late January that Zekman and Recktenwald moved out through the city to shop for a tavern. The expedition had been delayed a couple of weeks so that Recktenwald could alter his appearance. It took that long for his new mustache and mutton chops to look respectable. Zekman's problem was her conspicuous red hair. She considered wearing a blonde wig that the *Tribune* had bought for her during its 1972 investigation of interstate gunrunners. (The blonde Zekman had shopped for a small arsenal to test the market.) But the wig seemed a troublesome solution for a project that might last the better part of a year; she finally decided to make do with a scarf and dark glasses.

continued



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The cover story came easier. Recktenwald would become Ray Patterson; Zekman, his wife and helpmate Pam Patterson, for as long as the shopping might take.

From there on it was a matter of searching the newspaper classifieds under "Business Opportunities," marking the bargains, and climbing into Recktenwald's Chevrolet station wagon. The shopping would be taken slowly—a day or two a week over several months—with the rest of the time spent on planning and research.

Recktenwald started his car and got the heater going.

"Let's go over our story once more," Zekman suggested.

"We've been married five years," said Recktenwald. "We're looking to buy a tavern. We don't know much about the business, but we've got a friend who's going to be our partner, and he does. We're sort of scouting around until he gets in from Baltimore to join us."

"You think that sounds okay?"

"We'll find out."

"So you're going into business?" Philip J. Barasch said. "You've come to the right place." It was the morning of March 1. Zekman and Recktenwald had by now checked out more than seventy taverns and, as prospective owners, had heard endless shoptalk about payoffs, illegal kickbacks, and tax fraud. Now they had come to the office of Philip J. Barasch & Sons—real estate, tax accounting, insurance—on the city's northwest side. Barasch was handling the sale of several dozen taverns and restaurants at the moment. A few seemed worth a look.

There was little hint of Barasch's special skills as a fixer when Zekman and Recktenwald, still playing the Pattersons, first encountered him. Barasch, a squat man with a nervous squint, stood in the middle of a seemingly lawful hubbub: clients coming and going, telephones ringing all the time. It was not until Barasch led the way to his private office that Mr. Fixit took over.

The office was furnished in bright vinyls and wood veneers. The desk

was covered with heaps of file folders, one of which was stuffed with cash.

Zekman waited until everybody was comfortable before she asked about Skip's Friendly Tap, a tavern with an \$18,000 purchase price. Barasch got right down to business, Chicago style. So you want to buy a tavern? The first thing we should talk about is tax fraud. You can't judge a tavern until you know how much it takes off the top.

"They show a gross of forty-one thousand, eight hundred and three dollars," Barasch said. "But in reality they make sixty thousand. I handle their books."

Barasch saw that he had surprised the Pattersons with such sudden talk of tax fraud. This, in turn, surprised him.

"Are you from Chicago? Ever been in business yourselves? Well, I'm telling you this is how it works. Everybody chisels it down. I have seven hundred businesses and all but maybe four do it. They slice it off so they won't have to pay their sales tax and federal tax. That's what they all do."

So Barasch had settled that. But then he surprised his visitors once again. He didn't merely talk about tax fraud. He put it in writing. He handed out cards that described various taverns and restaurants for sale. The cards included brief remarks about the style of cheating at each:

Skip's Friendly Tap: gross business "\$41,803 with 20% adjustment; in reality 60,000."

Elston Lounge: gross business "\$5,000 (cuts ½ sales tax)."

Papa's III: "... cuts down figures strong . . . 5 bartenders, not all on books." [The three taverns have since been sold to new owners.]

Barasch looked through his files for more cards and offered a lecture on all the procedures that must be followed in opening a tavern: licenses, inspections, insurance bonds, incorporation fees. He hinted there were adventurous ways to handle most of these technicalities. He said he would explain further when the Pattersons became his clients at a hundred dollars a month.

Zekman studied Barasch, then interrupted. "Do you mind if I take notes?" she asked. "I'm losing track of these instructions."

"That's my little wife," said Recktenwald, suppressing a smile. "She's so damned efficient. She'd make a great secretary."

Barasch looked up from his files, thought a moment, then shrugged.

"Oh, sure, sure," he said. "Here's a pencil."

A secretary outside waved for his attention. There was somebody he had to see.

"Be right back," he said.

Zekman reached for the card that described the Elston Lounge. She put it in her purse.

"I think I want to take some of these with me," she said.

"Why do that?" Recktenwald asked. "Maybe he'll make copies for us."

"You think so?"

"He's letting you take notes, isn't he?"

Barasch came bustling back into the office.

"We were wondering if you could make copies of some of these cards for us," Recktenwald said. "We'd like to take them and look at these places."

"Oh, sure, sure. No problem."

Barasch gave the cards to a secretary and asked for a Xerox copy of each. He moved back to his desk, sat down, and smiled at his visitors. The Pattersons were obviously his kind of people. Yeah, he said, he worked hard and enjoyed the rewards. He employed eight lawyers and twenty bookkeepers. He owned more than forty buildings across the city, and a chain of newsstands, too. He claimed to be the "second largest tax accountant in the Midwest after H & R Block."

'It's seedy. I like it.'

By mid-April, Zekman and Recktenwald had narrowed their choice of taverns to five. In the *Sun-Times* conference room, editors Hoge, Otwell, Loory, and Reilly were looking at photographs of the possibilities.

"Now this tavern is our favorite," Zekman said. "It's called the Firehouse. It needs some work, but it's

got a loft in back the photographers . . ."

"What's all this stuff all over the outside?"

"Which stuff?"

"The white stuff."

"Pigeon droppings."

Stuart Loory volunteered to make a managing editor's judgment. He visited the Firehouse several days later. He looked around him as he sipped a cold beer. It was small, but comfortably so, with twenty-two barstools and four booths. A loft behind the back wall would serve as a photographer's hideout. A huge mirror-backed bar left over from the 1890s was decrepit but impressive. And the price was right: \$18,000 for the trade and fixtures, plus \$300 monthly rent to the building's landlord. Loory went to the Firehouse's pay telephone and called Zekman in the *Sun-Times* city room.

"It's seedy," he said. "But I like it."

On Friday, June 24, the *Sun-Times* accounting department delivered a check for \$17,500—the tavern's down payment (\$5,000) plus the initial stake—to James Hoge. The stub was marked only "For Investigative Project," because that was all the accounting department knew. Four days later, the *Sun-Times*, under a careful cover, owned a tavern.

There was one last question: what should it be called? No one was quite sure even now, and the license applications were waiting. It was Recktenwald who did the necessary research.

"I've been looking in the dictionary," he said. "I checked the definition of 'mirage.' And you know what? That's exactly what this place is going to be."

The Mirage. It was a good name. And it was fair warning.

Stories on tap

By mid-July the salesmen were arriving in bunches. They said their product was pinball machines and jukeboxes. Zekman and Recktenwald discovered they were really trading in illegal kickbacks, tax fraud, and political fixes.

"Hi, I'm Ted Tudor and I'll give

you a thousand dollars if you take my jukebox," said the man in the checkered sport coat as he walked into the Mirage.

Tudor, a salesman with J & J Jukebox, was the first of many to woo the Mirage with an illegal kickback. Merv Dukatt of Top's Vending, Inc., one of the city's largest, thought plain cash was a little vulgar. "I'll buy your liquor license," he said.

Other salesmen preferred to sweeten the deal with illegal loans. The salesmen all admitted that such favors were forbidden under Chicago ordinances. Zekman, just to make it official, later talked to the Chicago License and Liquor Control Commission. An official there explained that the city didn't want its taverns to have any secret financial interests—especially crime syndicate interests.

The official pointed out, however, that he was talking only hypothetically. The fact was he had never run across such practices. "I find it difficult to believe that anybody would go around giving a thousand dollars for an account," he said. "Where would they get the money?"

But eighteen of the Mirage's twenty-two salesmen managed to offer illegal kickbacks totaling \$11,100. And six of them offered illegal loans totaling \$7,300.

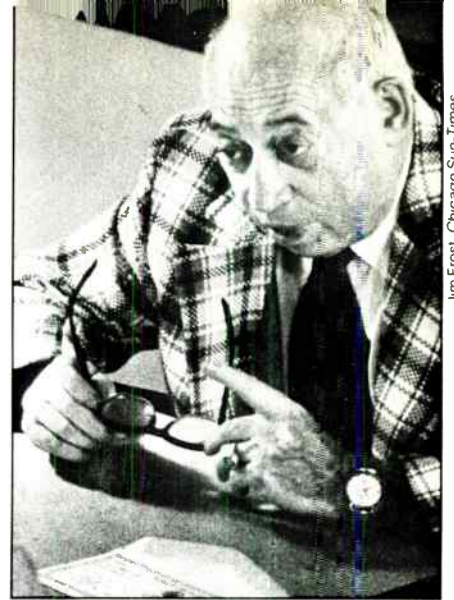
On July 25, Zekman and Recktenwald again visited Barasch at his office. The purpose was simply to hire him as the Mirage's tax accountant. But Barasch saw no reason to leave it at that.

He started with a look at the Mirage's state sales tax bond. The Mirage owed about \$1,200 here.

"With my connections, I'll get it down to three hundred dollars," Barasch said. "I know the head guy there. I'll sit down and talk to him."

Barasch then noticed that the Mirage had listed its true monthly rent of \$300.

"No, no, no," he said. "If you show this, we'll never be able to get a three-hundred dollar bond. We'll make it a hundred and fifty. That way it will be all right."



Jim Frost, Chicago Sun-Times

In flagrante delicto: Philip J. Barasch, the Mirage's Mr. Fixit, on the job at the bar

He erased the \$300 and wrote in \$150. He then noticed that the Mirage had left blank the space for number of employees.

"I just want to put one employee in there—that's all," he said. "I don't care if you have ten. I'm putting one in there."

Zekman started taking notes. Barasch's next question would make his visitors sit up and listen.

"Have your inspectors been in there yet?" There was a momentary silence. "Don't worry about a thing," Barasch went on. "I'll walk you right through."

"What do you mean?"

"I'll give you detailed instructions on that," Barasch said, leaning forward. "I want you to take two envelopes. You put ten dollars in each envelope. When the Building Department guy comes in, you give him an envelope with ten dollars and my card and you tell him I represent you. When the fire inspector comes in, you give him the other envelope and tell him I represent you. The inspectors come around once and you're rid of them."

Zekman wasn't sure she had this straight. Was Barasch saying that none of the inspectors was honest?

"I never met one in fifty years," Barasch said. "You see, they all do it to supplement their income."

Zekman nodded slowly. The Mirage wasn't yet open. But as a journalistic enterprise it was definitely in business. ■

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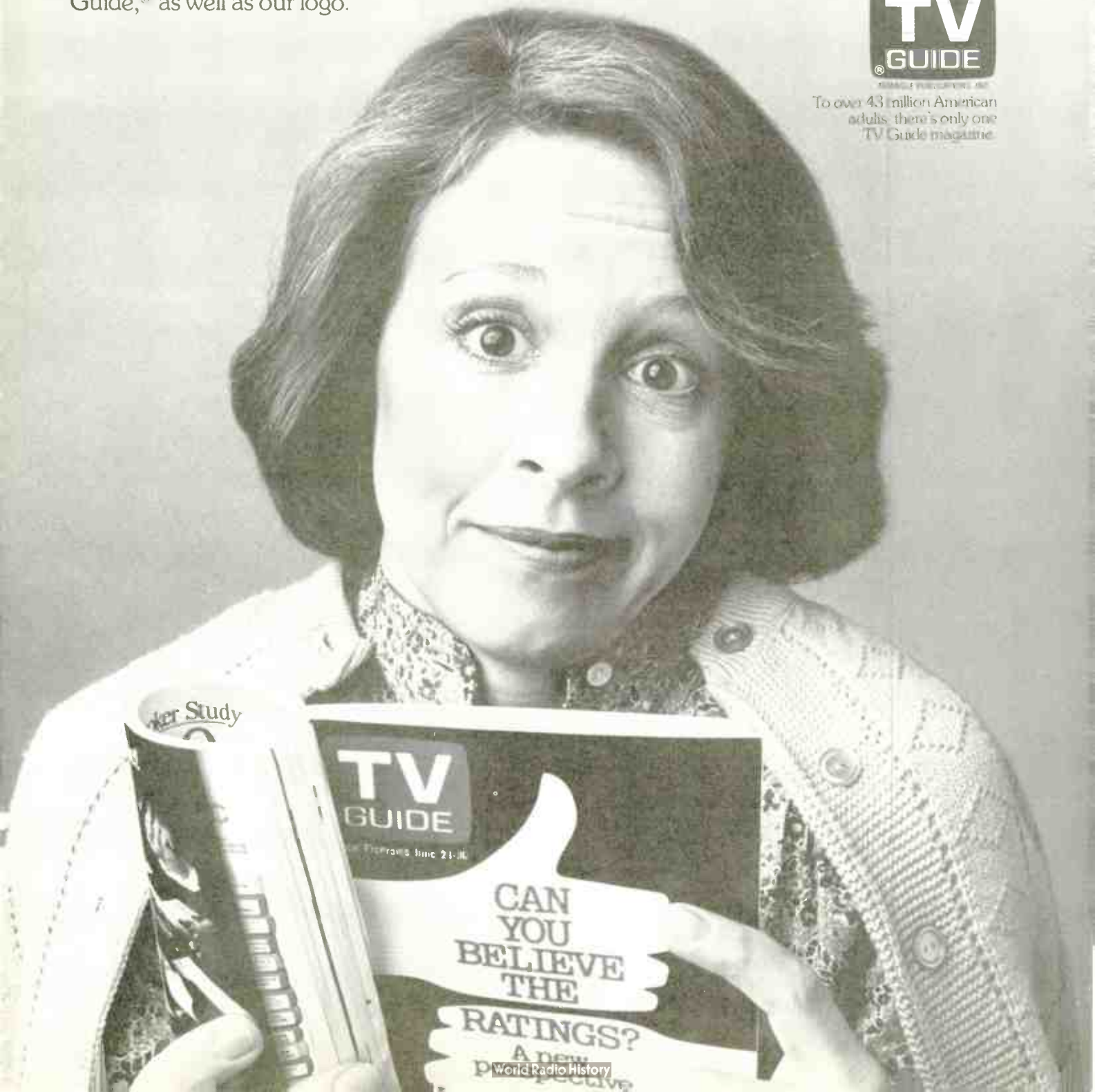
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NO QUARTER FROM THIS COURT

Each month last spring, the press endured another assault. The Supreme Court landed the blows—but some of the wounds were self-inflicted

MARCH 10

by BRUCE W. SANFORD

Bob Woodward attacks the National Press Club's overcooked chicken breast with characteristic thoroughness. In a few moments he will address an overflow luncheon crowd attending a First Amendment Survival Seminar sponsored by sixteen news-media organizations to combat panic over recent Supreme Court decisions. It is an impressive sight; the conference has drawn more than 400 journalists to Washington, mostly from the Eastern seaboard, on a lugubrious Saturday morning in March.

Seated together on the dais, Woodward and I chat about his forthcoming book on the inner workings of the Court. It will almost certainly upset most of the Justices and those people who disapprove of debunking one of the last revered institutions in America. I tease him with warnings that the book will be criticized for doing democracy a disservice at a time when our institutions are suffering from prolonged scrutiny. He does not rise to the bait except to grimace and say in his best Ben Bradlee imitation that he finds the argument "stunningly unpersuasive."

I suggest that publication should be delayed until after the Court has handed down the four potentially crucial First Amendment cases of the current term. He laughs, pauses, and reflects: "There will always be First Amendment cases."

Woodward's speech is a thoughtful and somber analysis of *Zurcher v. Stanford Daily*, the May 1978 decision which upheld police use of a search warrant to invade a newsroom. The speech is well received; clearly, the crowd here is more interested in past decisions than in pending cases.

Listening to this journalist who professes fascination with the law, I sense again, as I have on several occasions this winter, a dramatic unfolding. The hostility between the Supreme Court and the press has

been building since 1972, when the Court ruled in *Branzburg v. Hayes* that reporters had to divulge their confidential sources to a grand jury. Now, seven years later, we await the Court's pronouncements in four major cases. Three of them—*Gannett Co., Inc. v. DePasquale* and the companion public-figure cases *Hutchinson v. Proxmire* and *Wolston v. Reader's Digest Assn., Inc.*—have vast implications for access to the news and the freedom to print it. The other—*Herbert v. Lando*—presents a highly emotional issue for journalists, the extent to which libel plaintiffs can explore their state of mind.

A quizzical pattern has also been developing in the last several years of this festering relationship. Since 1975, the Court has waited until the last day—or nearly—of the term to hand down its major First Amendment decisions. Some observers detect malevolence in this timing, as if the Court enjoyed keeping the press on tenterhooks. Others see only amusing expediency: the Justices simply want to drop their First Amendment bombshells and then quickly leave town for the summer to avoid the rage of the Washington press corps.

Whatever the reason, I find myself wondering whether the pattern since *Branzburg* will be maintained in 1979. And I wonder whether press reaction to the Court's decisions will exacerbate or ease the acrimony, and whether the reaction will further alienate a public already antagonistic to the press.

APRIL: *Herbert v. Lando*

Few people in the communications industry have as broad a perspective on the Supreme Court and the First Amendment as Tyrone Brown. A law clerk to Chief Justice Earl Warren in the late 1960s and later general counsel for the Post-Newsweek stations, Brown is the newest appointee to the Federal Communications Commission. He is already earning a reputation as one of the brightest, most hardworking of

Bruce W. Sanford, a former reporter for The Wall Street Journal, is a partner in the firm of Baker & Hostetler, practicing communications law for UPI, Scripps-Howard, and other news organizations.

the commissioners, a man to watch in Washington.

Brown's perspective on the Court is historical, dispassionate. He hints that if the press is having a rough time it's probably because the judiciary is reflecting public antagonism toward the press. "All these so-called absolute principles like the First Amendment," he says, "are functions of the time when they're decided. The Justices' role is a process role—making accommodations between various power groups in the country at various times. The Warren Court balanced competing interests more in favor of the First Amendment. The Burger Court appears to be doing otherwise."

But Brown doesn't believe broadcasters can cite public hostility or adverse court decisions to explain why they don't do probing, aggressive reporting. It is the "economic tyranny created by the need for mass audiences" that makes broadcasters shy away from controversy in news programming, he explains. I mention *60 Minutes*, and Brown agrees that it is an exception to this rule. "In recent years," he adds, sounding little like other FCC commissioners, "there's been a tendency for broadcasters to stick their necks out, and that's good."

The decision in *Herbert v. Lando*, the *60 Minutes* case, is handed down on April 18, and at first it seems clear that, having stuck its neck out as television's most enterprising news program, the show has come dangerously close to losing it.

The Court's decision comes on the eve of the American Newspaper Publishers Association's annual convention in New York. The timing is unfortunate. Greeted by a ludicrous seven-tiered cardboard cake dedicated to the First Amendment as they pass through the lobby of the Waldorf Astoria, the publishers hear Allen Neuharth, president and chairman of both the ANPA and the Gannett Company, denounce the decision as a devastating blow to First Amendment freedoms.

Neuharth accuses "the imperial judiciary... that is bending the First Amendment at every turn" of creating an "atmosphere of intimidation." Others echo these sentiments. William A. Leonard, president of CBS News, is quoted as saying that the decision denies "constitutional protection to the journalist's most precious possession—his mind, his thoughts, and his editorial judgment."

In *Herbert*, a 6-3 opinion of the Court compels Mike Wallace and producer Barry Lando to answer questions during the pre-trial discovery process about their thoughts, conversations, and conclusions while preparing their disparaging story on former Lieutenant Colonel Anthony Herbert, who had accused the army of covering up reports of civilian killings in Vietnam. The newsmen must answer the questions, the Court says, because Herbert, who concedes his status as a public figure, has the immensely difficult burden of proving that Wallace or Lando made their broadcast with "actual malice"—that is, with knowledge of the

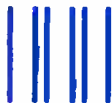


falsity of what they were saying or while having serious doubts about its truth. Where better (or where else), the Court reasons, to look for evidence of such malice than in the minds of the journalists who prepared the story?

A few spokesmen for the press, such as Clayton Kirkpatrick, editor of the *Chicago Tribune*, quietly suggest that the *Herbert* decision is of minor legal significance. In fact, this is the view of most news-media lawyers. To them, *Herbert* is a sensible, unsurprising decision which hardly changes libel law at all, other than to put it back where it was before Judge Irving Kaufman of the Second Circuit, a wonderful First Amendment hawk, fashioned, out of whole cloth, a dazzling new privilege to safeguard the editorial process. In a sense, it was Kaufman's decision which had departed from the mainstream of libel law and past pre-trial practice. The Supreme Court may be seen to have restored equilibrium in *Herbert* by reversing an aberrational decision.

"The Allen Neuharths overreacted," says Charles W. Bailey, editor of the *Minneapolis Tribune* and chairman of the Freedom of Information Committee of the American Society of Newspaper Editors, "but it was really a reaction to the Court's general hostility to the press." Reporters, too, at first saw ominous portents in *Herbert*. But when they consider how they will handle themselves should they end up in court, they readily admit that the decision does not present much of a problem. "There was a lot of talk around the paper after the decision, and we agreed that we'd never end up testifying that we doubted the truth of a story," says Tom Reid, a reporter on *The Washington Post's* national staff. "If you're not as sure of something as you'd like to be, you write it differently."

If *Herbert* does in fact prove damaging to the press, it will be indirectly, despite the earliest predictions of direct, irreparable harm. First, its notoriety educates plaintiffs' libel lawyers, most of whom are not as tenacious or skilled as Colonel Herbert's counsel. The case will serve as a primer on how to pursue a libel suit and



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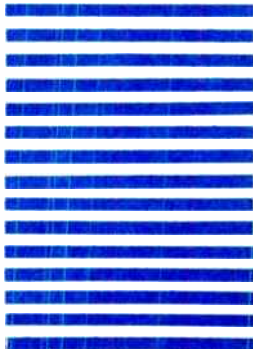
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Diana Bryan

will teach them that by being dogged during the discovery process they may collect enough evidence to persuade a jury that a journalist had reservations about the truth of his story.

Second, *Herbert* may also have the effect—arguably undesirable—of persuading editors to draw their lawyers into the editorial process early in the development of potentially libelous coverage. Consulting counsel may make expressions of doubt about a story subject to the attorney-client privilege and, consequently, not discoverable by a libel plaintiff like Colonel Herbert. Timing will be critical; newsroom discussions occurring prior to the consultation with the lawyer probably won't be privileged.

During the spring, wailing over *Herbert* gradually abates as other First Amendment decisions are handed down, and by July *The New York Times* recognizes that one "view gaining some currency" is that *Herbert* was merely "a psychological blow" to the news media. A self-inflicted blow too, it seems, since without the outcry many would have never sensed a great defeat.

JUNE: *Hutchinson v. Proxmire* and *Wolston v. Reader's Digest Assn., Inc.*

Unlike *Herbert*, greeted by a fanfare, the two public-figure cases are met on June 26 with rather perfunctory news coverage, much of it focusing on the Court's refusal in *Hutchinson v. Proxmire* to extend congressional immunity from libel suits to cover statements made in press releases or on television.

Ironically, the public-figure cases are far more significant for the press than *Herbert*. They deal a series of staggering, unexpected blows that will cost the industry millions of dollars and that will have an immeasurable but definite effect on aggressive news coverage. "We have been deeply wounded," *New York Times* lawyer Floyd Abrams will later say.

Superficially, the cases appear innocuous. "I'm not troubled by them, are you?" one editor after another asks me. This is doubtlessly due to the way the Court's opinions gloss over the vast importance of having a

person classified as a public figure. In libel law, public officials and public figures are saddled with the heavy burden of proving actual malice, and, as a result, rarely get the opportunity to reach the trial stage where they can play to a jury's anti-press bias. Libel suits brought by such people seldom survive a pre-trial defense motion for summary judgment—when a judge may simply dismiss the suit as being without merit.

In its decisions in the *Hutchinson* and *Wolston* cases, the Court essentially restates the definition of a public figure, but constricts the category by refusing to find that either of the plaintiffs falls within it. There are, the Court rules, two kinds of public figures: a small group of individuals who occupy positions of "persuasive power and influence"; and people who have "thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved" and who have, therefore, become public figures for the limited purpose of comment on their connection with these controversies.

This two-part test sounds plausible, but unless it is applied expansively both categories become limited to a few prominent people or limelight-seekers, who, as a practical matter, will rarely risk ranking the news media with a libel suit in any event.

In the first case, the record shows that Dr. Ronald Hutchinson, director of research for a Michigan state mental hospital, sought and received more than \$500,000 in federal grants to fund his research into the behavior of monkeys, "such as the clenching of jaws when they were exposed to various aggravating stressful stimuli." That use of public money earned him Senator William Proxmire's Golden Fleece award and quick, summary dismissals of his libel suit by lower federal courts, which saw him as a public figure subject to comment on his use of federal funds.

Nonetheless, eight of the nine Justices breezily determine that "neither [Hutchinson's] applications for federal grants nor his publications in professional jour-

nals can be said to have invited that degree of public attention and comment . . . essential to meet the public figure test.” Accordingly, Hutchinson’s lawsuit is resuscitated and returned to the lower courts for trial.

In the companion *Wolston* case, Justice Rehnquist writes an opinion which deliberately understates the newsworthiness and public character of the plaintiff and which is relentlessly one-sided in its characterization of his actions.

Rehnquist depicts Ilya Wolston, a nephew of the confessed Soviet spies Myra and Jack Soble, as a man beleaguered by “a major investigation into the activities of Soviet intelligence agents in the United States.” Wolston had pleaded guilty in 1958 to a contempt charge of failing to respond to a grand jury subpoena, but Rehnquist accepts Wolston’s contention that he didn’t appear because “of his poor health.” Thus, Rehnquist writes, “we decline to hold that his mere citation for contempt rendered him a public figure for purposes of comment on the investigation of Soviet espionage.”

But the most telling passage is yet to come. After deciding that Wolston has not “voluntarily thrust” or “injected” himself into the public controversy surrounding espionage and thereby made himself a public figure, Rehnquist concludes: “To hold otherwise would create an ‘open season’ for all who sought to defame persons convicted of a crime.” This is *merely* unbelievable language. Reporters and editors don’t go hunting for people (least of all criminals) to defame.

Most startling of all, eight of the Justices (two of them for different reasons) vote to narrow the application of the public-figure category. The most common libel plaintiff is the criminal suspect or defendant, but the Court expressly rejects the contention “that any person who engages in criminal conduct automatically becomes a public figure for purposes of comment on a limited range of issues relating to his conviction.” The impact of this one sentence will be stunning, since the subject of the most common type of potentially libelous story—the report about the administration of criminal justice—now will probably not be classifiable as a public figure.

Most damaging of all are the footnotes in *Hutchinson*. In two gratuitous swipes, the Chief Justice manages to undermine further the basic constitutional protection afforded by *New York Times Co. v. Sullivan*, the 1964 landmark case that first established the public-official test. The footnotes outrage lawyers who sense they will be interpreted by lower courts as a signal to resolve all doubts to the detriment of the press.

First, after finding that the Court cannot decide whether or not libel cases ought to be resolved by summary judgment, the Chief Justice writes in footnote 9:

Considering the nuances of the issues raised here, we are constrained to express some doubt about the so-called “rule” [favoring summary judgment in First Amendment cases]. The proof of “actual malice” calls a defendant’s

state of mind into question . . . and does not readily lend itself to summary disposition.

“Footnote 9 throws summary judgment right out the window and tries to make all libel cases go to juries, which will stick it to the press if they can,” argues Richard Schmidt, general counsel of the American Society of Newspaper Editors. “It’s also an open invitation to a lot of fringe characters to harass the press with spurious libel cases.”

Having undermined summary judgment as a bulwark against frivolous libel actions in one footnote, the Chief Justice breaches the “public employee” defense in another. “The Court has not provided precise boundaries for the category of ‘public official,’” he writes in footnote 8: “it cannot be thought to include all public employees, however.”

The suggestion here that the public-official category might be shrunk departs drastically from a long line of precedent holding that public employees such as policemen, school teachers, and social workers are public officials for libel-law purposes. The Chief Justice’s footnote undercuts the public-official test and with it the whole rationale underlying the Court’s own finding in *New York Times*—that the press should be allowed the breathing space and the margin of error necessary to encourage robust debate about public affairs.

Having restricted the application of the public-figure category, and having hinted at the vulnerability of the public-official defense and the summary-judgment procedure, the Court seems to be redressing what it perceives as the unbalanced, unchecked power of the press. Publishers and broadcasters may yet fare better at the hands of lower federal and state judges, but they will receive no quarter from this Supreme Court.

JULY: *Gannett Co., Inc. v. DePasquale*

Thirty-nine weeks have passed since November 22, 1978, when Robert C. Bernius, a tall, thirty-three-year-old lawyer with the Rochester law firm which represents the Gannett Company, made his maiden oral argument before the Supreme Court. Every Monday morning since then, a call has come from the Gannett News Service in Washington to alert Bernius to whether the Court has spoken in the *DePasquale* case.

Finally, on July 2, just as the Court’s term draws to a close, the waiting ends. Two teletype machines, working from opposite ends of the eighty-one pages of opinions, bring the news to the Lincoln First Tower in downtown Rochester. Slowly, the Gannett lawyer reads and digests the 5–4 majority opinion written by Justice Stewart, the three concurring opinions, and an unusually lengthy and stern dissenting opinion written by Justice Blackmun.

Allen Neuharth had been pessimistic, and correct, about the outcome, but not even he expected the mystery and drama of Stewart’s majority opinion—a loosely drafted, sweeping denial of the public’s right of access to the criminal justice process. The decision upholds the closing of a pre-trial suppression-of-evidence hearing in a murder prosecution, but Stewart’s

broad language suggests that even trials may be closed to the public and press whenever a defendant and the judge agree to do so. The opinion focuses on the Sixth Amendment guarantee of a speedy and public trial and ignores First Amendment considerations.

Overnight, Stewart, who in a famous speech at Yale Law School had once advocated a special status for the press under the First Amendment, dismays his admirers in the fourth estate; they do not understand how even a simplistic view of the Sixth Amendment can blind him to the First Amendment issues at stake.

Nor does Blackmun, who writes a forty-four-page dissent accusing Stewart of departing from his own views on the virtues of public trials. After studying the dissent, some lawyers believe that it was originally prepared as the majority opinion and then changed slightly when some Justice, perhaps Powell or Stevens, switched his vote.

The key to the *DePasquale* ruling is the concurring opinion of Justice Powell. It will ultimately determine whether courtroom doors slam shut all over America.

Powell writes that reporters have a First Amendment interest in being present at pre-trial hearings, and he adopts an approach which news media lawyers hope will be used by trial judges in considering whether or not to close their courtrooms. Together with the four dissenters, Powell forms a majority which insists that a judge satisfy three conditions prior to closing a courtroom:

- that there be a showing of the possibility of injury to the defendant's right to a fair trial if publicity continues;
- that consideration be given to alternate means of preserving a fair trial;
- that care be exercised to ensure that restrictions go no further than what is necessary to protect the defendant's right to a fair trial.

Within days of the Court's decision, Bob Bernius finds himself in a New York State trial court again, arguing against a defendant's motion that a pre-trial hearing be closed. Monroe County Judge Robert P. Kennedy surprises Bernius by saying that he has read all the opinions in *DePasquale* and that he is persuaded by Powell's approach. Kennedy rules that the defendant has the responsibility to show that the "fairness of his trial will be prejudiced by public access to the proceedings" (the first of the three conditions) and that this defendant has not met that test.

Conscientious judges like Kennedy, of course, do not worry the press. But there are some judges who fear scrutiny for political or personal reasons, and there are others who will close their courtrooms simply to avoid the risk of committing an error that would justify appellate reversal.

Such judges may use Rehnquist's concurring opinion as a handy excuse: "If the parties agree on a closed proceeding, the trial court is not required . . . to advance any reason whatsoever for declining to open a

pretrial hearing or trial to the public." The First Amendment is not, the Justice sniffs, some sort of "constitutional 'sunshine law.'"

SEPTEMBER

The Court's new term will begin soon, but the Justices will not have before them a petition to reconsider the *DePasquale* case. After canvassing a number of news-media lawyers, Gannett has decided not to seek reconsideration. Despite dozens of closed courtrooms since the decision, the chances for a reversal are remote and the down-side risks—that it would just look like grandstanding—are great. Better to wait for another case with different facts to wind its way up to the Court.

Gannett has called a New York meeting for all the lawyers of its eighty newspapers and urged them to "look for a good case" to use in challenging *DePasquale*. The same word has spread elsewhere in the industry, although, unfortunately, it will not be easy to improve upon the facts of *DePasquale*. But the sheer carelessness of Stewart's opinion and the widespread criticism by all kinds of people unaffiliated with the press have created guarded hopes that it will eventually be overruled. David F. Stolberg, a Scripps-Howard executive and chairman of ASNE's press/bar committee, sounds a common theme: "Stewart's decision is so violative of our whole Anglo-American tradition of open government that the minority position must eventually prevail. In the meantime, it is not just a press fight—it is a freedom fight."

The Court's 1979 term has turned out to be a watershed for the press in unexpected ways. And this year, if the past is any guide, there is likely to be more attention paid to the aftermath of the past year's decisions—closed courtrooms and more difficult libel trials—than to the First Amendment cases of the 1980 term. In August, the Chief Justice himself reflects this preoccupation with the past when he makes a highly unusual remark to a Gannett reporter that *DePasquale* applies only to pre-trial proceedings, not to trials.

The year to come may be less bleak if the press learns to rely more on lower federal and state courts than on that strangely troubled group of nine men in Washington. "We have to fight it out at the local level," says Charles Bailey of the *Minneapolis Tribune*. "We must try to prevent federal rules from becoming state rules, and keep punching all the time."

Nor need journalists necessarily dread trials by unsympathetic juries and judges. It is true that jurors do not like reporters who are careless with facts and cavalier with people's reputations. But they also dislike golddigging plaintiffs, incompetent bureaucrats, greedy doctors, and corrupt public servants. The task, as I saw in preparing a libel trial in Memphis this past May, is to convince jurors that the reporter accused of libel is really one of Lou Grant's best. After all, truth and illusion, as the Supreme Court amply demonstrated this past year, are no easier to distinguish in a courtroom than in life. ■

You Don't Have To Join The Union.

It took nearly seven years, over \$150,000, the courage of two prominent American commentators and the expertise of a national legal defense foundation. But an all-important fact was permanently established in a U.S. court this year.

You don't have to be a member of the American Federation of Television and Radio Artists (AFTRA) to hold a job in the broadcasting industry.

So ended the historic legal battle between broadcast commentators William F. Buckley, Jr. and M. Stanton Evans and AFTRA. It did not end easily.

AFTRA first dictated that if

Buckley and Evans wished to continue broadcasting, they would have to remain members of the union. Much later in court, AFTRA conceded that it could legally require only fees and not membership. But it continued in the marketplace to compel companies with AFTRA contracts to employ only persons who are members of AFTRA "in good standing."

Finally, on January 16, 1978, AFTRA grudgingly promised to send a notice to all of its Code signatories regarding TV and radio performers that "under prevailing law such persons were not obligated to accept membership in AFTRA."

It was a significant victory for Buckley and Evans (who immediately resigned from AFTRA), for the National Right to Work Legal Defense Foundation, which provided the funds and the legal expertise, and for rights guaranteed by the First Amendment of the U.S. Constitution—freedom of speech and association.

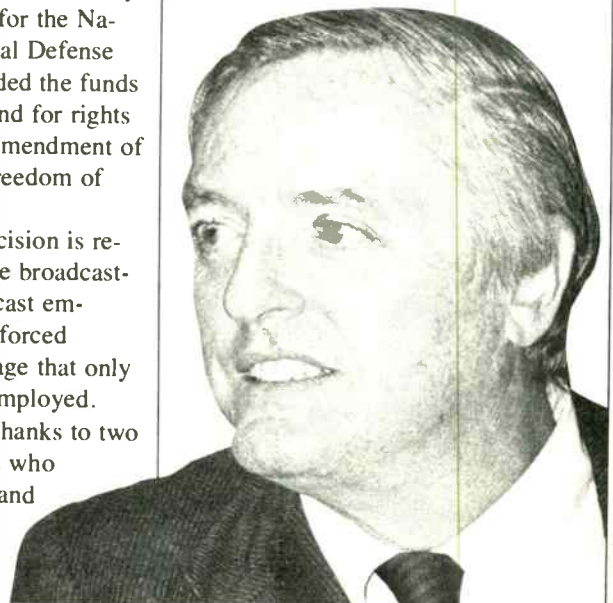
The Buckley-Evans decision is reverberating throughout the broadcasting industry. Most broadcast employers had rigorously enforced AFTRA's contract language that only union *members* may be employed.

Now the truth is out—thanks to two determined commentators who took a stand for freedom and the legal defense foundation that supported them all the way.

The National Right to Work Legal Defense Foundation is helping everyone it can. It is currently assisting individual workers in more than 100 cases involving academic freedom, political freedom, freedom from union violence, and the right to work for government without paying a private organization for that privilege.

If you'd like to help prevent such abuses and protect the rights of American workers across the country, write:

The National Right to Work Legal
Defense Foundation
Suite 600
8316 Arlington Boulevard
Fairfax, Virginia 22038



BOOKS

Looking for Mr. Wunderbar

The Undesirable Journalist

by Günter Wallraff. Translated by Steve Gooch and Paul Knight. The Overlook Press. 180 pp. \$10.

by ROBERT SHERRILL

Günter Wallraff is a West German who has, I gather, become sort of a cult hero to the antiestablishment establishment. It is obvious that I can't claim to be a part of that establishment; until I saw this book I had never heard of him.

For others who may be in that same boat, let me pass on my new-found information: Wallraff is (they say) a man of many disguises who believes it is entirely fair and proper to lie and deceive in order to penetrate the secrets of big industry and big government. He has (they say) at various times pretended to be a priest, an official of the German Interior Ministry, an insurance investigator, a police informer, a derelict, and so forth. His most famous deception (in 1976) was pretending to represent a group of wealthy, right-wing Germans who were eager to support Portugal's ex-President Antonio de Spínola in an armed effort to regain power. He allegedly lured Spínola into making such self-incriminating statements that the proposed coup was aborted and Spínola was booted out of Switzerland, where he had been living under a vow of neutrality.

Wallraff, who despises capitalists, excuses his conduct this way: "I decided to conspire to take a look over the wall of camouflage, denials and

Robert Sherrill is White House correspondent for *The Nation*.

lies. The method I adopted was only slightly illegal by comparison with the illegal deceptions and maneuvers which I unmasked." A good excuse, I'd say. I'm only sorry that it hasn't produced better material.

Perhaps because of his ideological motivation, Wallraff has stirred some portions of the press to question his conduct: Should reporters represent themselves as anything but reporters? Should reporters lie, cheat, and steal in the name of truth?

A little tut-tutting and sermonizing make us feel righteous and purged. But let's not waste too much time on it. Trying to decide in the abstract how far a reporter should go is about as futile as parents trying to decide how far their daughter should go. When the passions are up and the story is tempting, any reporter (capitalist or socialist) is likely to do whatever the moment seems to call for.

No good reporter is honest all the

time, and it's silly to pretend otherwise. The ethical difference between a reporter's accepting stolen information (for example, the Pentagon Papers) and actually stealing the information is so slight as to be of little consequence; it is simply the difference between being a thief and being a fence. Most good reporters in Washington make their living by fencing stolen (leaked) property from time to time. Would they be willing to take the next step: themselves lifting the material from the files? If the data were of sufficient importance, I would certainly hope so—if the data showed, for example, secret bombings by the Pentagon or secret payoffs to high-level government officials.

As for obtaining information by pretending to be something other than a reporter, where is the long-toothed reporter who hasn't? Sometimes deception pays off in a pretty good story that couldn't have been

The dark-trousered anarchist and his wife: Good show! Good grief!



Stiern magazine

got any other way. I remember that a couple of years ago a reporter exposed defects in the Pentagon's security system by pretending to be a military-industrial contractor. He bid on a project and was sent all sorts of secret data about facilities at various military bases. Good show.

The most commonly employed pretense, and in some respects the most difficult to defend, is feigned sympathy. Wallraff uses it a lot. But all reporters do. Where is the reporter who has not pretended sympathy for a cause or for a person only to better obtain the information that will harm them? Is that unethical? I suppose judgment will depend on which side one is rooting for. I sure didn't think it was unethical for Marshall Frady to butter up to George Wallace in order to get some great stuff on the Alabama governor, nor did I feel anything but admiration for Joe McGinniss for worming his way into the bosom of the Nixon gang in order to produce *The Selling of the President*.

Wallraff sometimes shows an exceptionally good sense of black humor in his deceptions, as when he visited an ex-Nazi, now a city official, and pretended to "come from Israel and offer him the 'Jacob Goldmann Reconciliation Medal' from the Tel Aviv Cultural Centre: for special merit in the field of rising above the past." Wallraff's purpose was "to find out how far cynicism and hypocrisy can go." He discovered, as many good Germans have shown in the past, that the people of that nation can carry cynicism and hypocrisy to almost any length.

But except for providing a few ugly laughs, very few, the material we get in *The Undesirable Journalist* is very bumpy going. The translation is part of the problem: there's an awkwardness here that finally exhausts patience. But even making allowances for that, one reads these stories with astonishment. How could they have made such a big reputation for Wallraff? Why are the mythmakers so excited?

Two recent articles about Wallraff—"Undercover in the New

Germany: The Many Cloaks and Daggers of Gunter Wallraff" by Abbie Hoffman, in the February/March issue of *Mother Jones*, and "The Many Masks of Günter Wallraff" by John Dornberg, in the April issue of *Quest*—are to the point.

Hoffman writes of Wallraff: "He wears tinted glasses and the no-nonsense short-sleeve dress shirt, cuffed dark trousers and sensible black shoes of a journalist whose sympathies rest with the working class." I'll bet you hadn't known that a journalist's sympathies could be detected from the color and relative sensibleness of his shoes. But wait, Hoffman the mythmaker has other strange criteria: "a large shoulder bag, bulging with cassettes, newspapers, crumpled pads of notes, a change of underwear, and a half-eaten sandwich, betrays the born anarchist." Good grief.

Dornberg is equally overwhelmed by Wallraff. Some people are a bit skeptical about the accuracy of the quotes Wallraff uses in his stories, but Dornberg tells us that even when Wallraff has left his tape recorder at home he still reproduces quotes accurately because he "has trained his memory through meditation." Dornberg also has this to say in defense of Wallraff's portrayal of life in Germany: "It is a composite picture that many West Germans, and most experienced foreign observers, have difficulty accepting as entirely valid. But because each piece in the mosaic represents only what Wallraff personally sees, hears, and experiences, *no one has been able to fault the factual accuracy of his stories.*" The emphasis is mine, and I want to stress it, because while most of his material cannot be faulted for factual accuracy, neither can it be supported by anything but Wallraff's word.

I am, however, willing to give Wallraff the benefit of the doubt, because most of the articles reprinted in this book don't interest me enough to stir even a small wiggle of skepticism. During his employment

as porter and messenger for a large corporation, for example, he sneaks into the corporate file cabinets and comes away with the conclusion that the workers are ill-treated and underpaid and that the executives are overly pampered and vastly overpaid. I'm sure he is absolutely correct in that conclusion, for the same is true the world around. But beyond that truism he doesn't go. Hiring himself out, he finally does not produce any special insights into the social and economic imbalance between workers and employers in the trades he wants to expose.

If he wants to become a porter so that he can report on life as seen from the level of a porter, okay, that's a nice journalistic stunt. But to name just a few who could make my point, Emma Rothschild, Carey McWilliams, Steven Brill, Mimi Conway, and Ben Franklin have done one hell of a lot better job describing the injustice of the workplace without actually becoming an auto assembler, stoop laborer, steel worker, mill hand, or coal miner. In fact, Wallraff as a porter is a very sloppy journalist. He gives us neither a true feeling for the work nor convincing criticism of the men who run the corporation.

Apparently, context is the key to his success, for if it is true, as Dornberg claims, that Wallraff is "West Germany's only muckraker"—*only* muckraker—then we are obviously confronted with a unique situation. A uniquely sad and dangerous situation, for it means that German journalism is such a desert that the sprouting of one small flower seems a miracle. I gather from what Wallraff, Hoffman, and Dornberg say that *Bild Zeitung*, one of Germany's most widely read newspapers, is so scruffy that it would, by comparison, make the *National Enquirer* seem scholarly. Does *Bild's* success indicate a general insanity in the German press and a national battiness so rampant that Wallraff is driven to disguises and stylistic entrechats in order to be noticed within that national Bedlam? Perhaps it does. And we must not overlook the

legal restraints placed on German reporters. Judging from the troubles Wallraff has encountered, Germany gives libel and slander laws a special Teutonic elasticity.

So it may be that Wallraff is a hero of sorts after all. It may be that he should be tolerantly judged not as a journalist, but as a guerrilla fighter. And it may be that the quality of these articles, ranging from second-rate to awful by U.S. standards, is uplifted by the more miserable quality of the rest of the German press. I don't know. But *something* that doesn't strike my eye in this collection has to explain the one-and-a-half million copies of Wallraff's books reportedly circulating in that country.

Cancer country: where newspapers fear to tread

**The Pendulum and the Toxic Cloud:
The Course of Dioxin Contamination**
by Thomas Whiteside.

Yale University Press. 205 pp. \$4.95

Malignant Neglect

by the Environmental Defense Fund
and Robert H. Boyle. Alfred A. Knopf.

275 pp. \$10.00

The Politics of Cancer

by Samuel S. Epstein, M.D.

Sierra Club Books. 583 pp. \$12.50

by WILLARD STERNE
RANDALL

In her small apartment in the Milan, Italy, suburb of Seveso, Signora Romilde Brambilla and her neighbors are telling the American reporter what has happened to their lives since a toxic cloud escaped from a nearby chemical plant, drenching their community with dioxin.

One neighbor had a kidney removed. Others developed blurred vision. A year after the explosion, others still suffer from dizzy spells.

Williard Sterne Randall is the co-author of Building 6: The Tragedy at Bridesburg, an account of cancer deaths among chemical-plant workers.

chronic diarrhea, headaches. Then there is the terrible itching, *un tormento*.

What troubles the women most, however, is what didn't happen. After domestic animals sickened and died, the government sealed Seveso into zones. Residents in the zone with the highest dioxin concentrations were forced to evacuate, leaving everything. Decontamination squads stripped houses, literally scraping everything above the subsoil into trucks, which then hauled the debris away. But outside an arbitrary line on a map, across a narrow street, nothing was done for Signora Brambilla and thousands of her neighbors. Their animals, too, have died horribly, and now the women are sick and frightened.

The reporter questioning the Italian women is *New Yorker* reporter-at-large Thomas Whiteside, who has spent nearly ten years on the trail of evidence implicating a chemical kill-

er. His long chain of evidence reaches to Vietnam, where soldiers and civilians, many of whom now have cancer and other diseases, came in contact with dioxin-contaminated Agent Orange; to Oregon, where women spontaneously aborted after government aerial sprayings; to factories in West Germany, the Netherlands, West Virginia, and Michigan; to grasslands in the Southwest; to farms in Mississippi; and to the Love Canal in Niagara Falls, New York.

In clear, understated prose, Whiteside has produced a quiet little classic in *The Pendulum and the Toxic Cloud*. By the logic of soft-news packagers, perhaps it makes sense that this work should appear as unheralded as two other important books bearing on cancer: *Malignant Neglect* and *The Politics of Cancer*. The fact that these three books on various aspects of the preventable plague of our synthetic so-

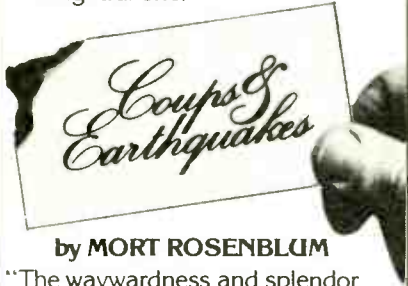
The injured of Seveso: who is reporting our plagues?



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ciety are needed is a mark of the failure of many American newspapers to fulfill the promise of their environmental coverage.

When the environmental movement surfaced in April 1970, it became a children's crusade of sorts, the anti-Vietnam War activists often joining hands with suburban matrons and their families to clean up litter from the land, chemicals from the water, pollutants from the air. Americans began to worry about the ozone layer, the greenhouse effect, pesticides, cyclamates; a lexicon of unfamiliar words dotted the news columns.

A new beat, covering something called "the environment," attracted away from the tedium of government and general-assignment reporting more than 100 generally idealistic reporters on eighty-three newspapers. Most of them had little science background. They began to poke into every corner of this new assignment, their environment—something which, for all their professional curiosity, many had never before explored.

Getting out of doors (and away from the usual official sources), reporters took off on such voyages as Gary Brooten's fifty-mile canoe trip down the polluted waters of the Schuylkill River. Brooten, a reporter for the Philadelphia *Bulletin*, set out to discover who was using this once-scenic river as a chemical sewer. In three years of aggressive reporting, he named the names of corporate offenders, running a "ten worst polluters" list on the *Bulletin's* front page. But when he left to join the new Environmental Protection Agency in 1972, he was not replaced. Philadelphia has had a full-time environmental reporter for only

one of the past seven years. (The reporter was Susan Stranahan, who was taken off the beat last March, only weeks before the Three Mile Island story broke.)

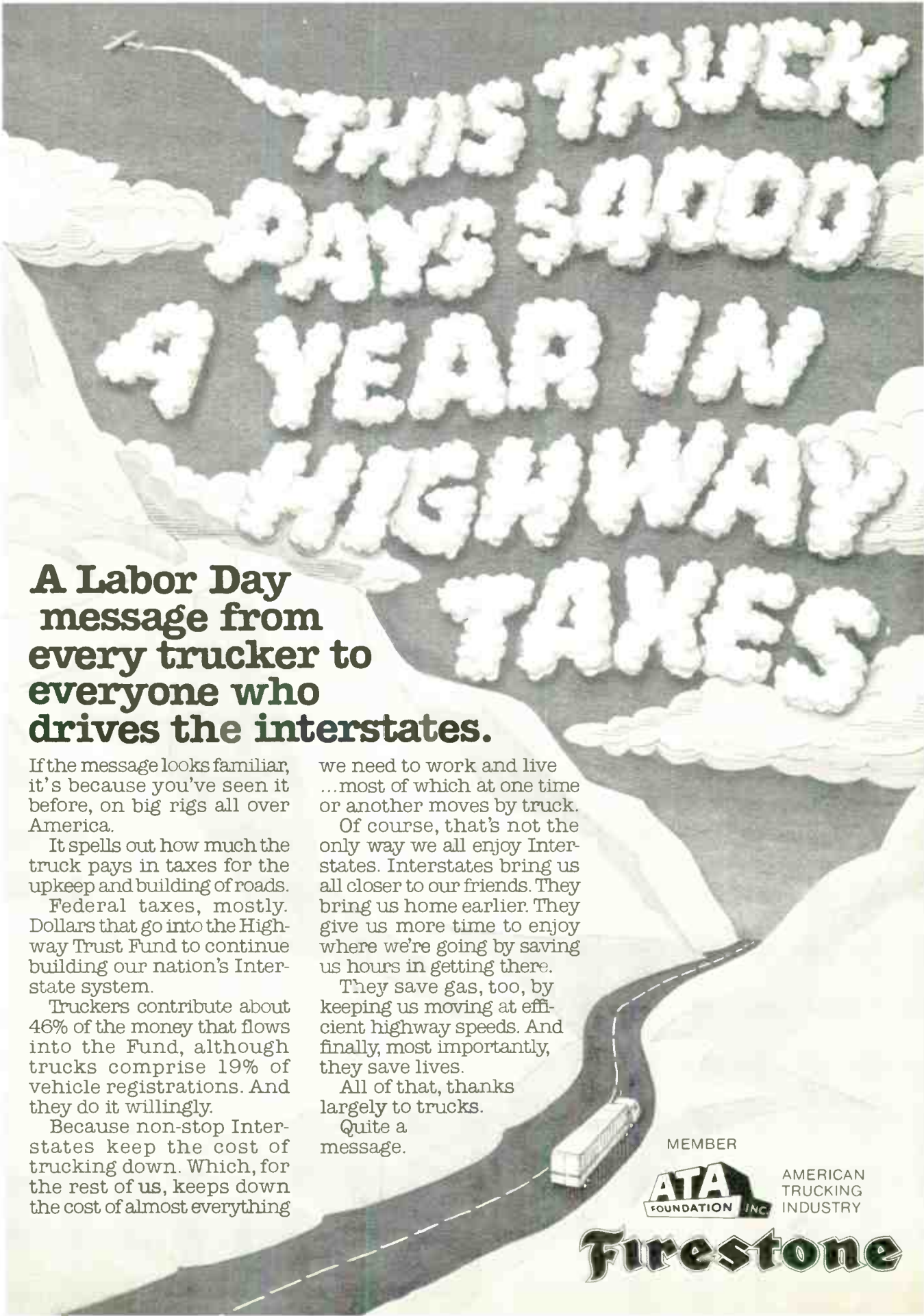
Such sporadic efforts to develop environmental stories are fairly typical of newspapers in other old industrial cities. It seems axiomatic that, the worse a city's environmental degradation, the more powerful its polluters—and the less its newspapers press the issue.

In Cleveland, says *Plain Dealer* reporter Richard Widman, the city's leading daily has yet to learn that "to succeed on any environmental story, you have to print it day after day on the front of the paper, and when they hit you, not cop out, but come back the very next day."

In Cleveland and Philadelphia, the seventies will end without one full-time staff member having developed stories on the environmental quality of the city in which he or she works. The nation's newspapers, once concerned about the environment, now seem to be increasingly indifferent to it. According to a study by Professor Clay Schoenfeld of the University of Wisconsin, only 8 of 107 environmental reporters listed in an August 1970 *Editor & Publisher* poll "are known to be in place on the same papers and still covering the environment."

While the number of environmental reporters dwindled, the regulatory bureaucracy burgeoned. Nowadays what little environmental reporting there is tends to focus on how that bureaucracy functions. This takes the heat off the polluters.

This narrow focus has served to conceal from the newspaper-reading public the seriousness, and the causes, of the great new pandemic that daily claims 1,000 victims: can-



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Quite a message.

MEMBER



AMERICAN
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cer. And yet there are few news stories around that are as significant for the public.

Why is the press reluctant to go after this story with the persistence it deserves? Some media observers, such as Brooten, see a lazy environmental press as the cause. Media critic Ben Bagdikian offers another explanation: "There's uncertainty about the economic future and, as one result, there's pressure to stop covering negative things like pollution and hazards of the workplace. Many editors and publishers are yielding to years of hammering by corporate executives who insist the press is prejudiced."

Evaluating coverage nearly a decade after Earth Day, Glenda Daniels, a Chicago-based environmental columnist, says, "We're covering the environment like Latin American politics: if there's a revolution, we throw a lot of people in for a short time, and then nothing."

Thomas Whiteside's *The Pen-*

dulum and The Toxic Cloud serves as a reminder of what environmental reporting can be. The careful accumulation of detail, the painstaking effort to present and evaluate evidence on one family of toxic chemicals, and the book's sheer thoughtfulness, are all the marks of a valuable craftsman.

Writing about chemicals and the effect on the environment is difficult. Certain terms that must be used again and again—2,4,5-T, the herbicide used to defoliate the forests of Vietnam; 2,4,5-trichlorophenol, the compound produced at Seveso—are bulky and resist contraction. But Whiteside's argument that chemical giants such as Dow are inviting us all to participate in "a sort of democracy of risk," and that our government is largely failing to prevent that risk from growing, has the momentum of a tale of detection.

Like Whiteside, Robert Boyle also started writing on the environment at the beginning of the decade. In

that Earth Week season of 1970, a marine scientist asked Boyle if *Sports Illustrated* could arrange to have the eggs and flesh of coastal gamefish tested for residues of DDT and other pesticides. It could. In May 1970 *Sports Illustrated* correspondents collected fish from the Atlantic, Gulf, and Pacific coasts; tests revealed that several species contained high concentrations of polychlorinated biphenyls (PCBs), a persistent chemical now known to cause cancer. Out of that chance encounter grew Boyle's bridling impatience with bureaucrats who, he now asserts, are guilty of malignant neglect of the terrible risks of environmentally caused cancer.

Boyle's writing is brisk and lucid. (The technical sections, prepared by staff members of the Environmental Defense Fund, are less so.) *Malignant Neglect's* chief usefulness for reporter and consumer is that it offers a wide variety of practical information on how to lessen exposures to environmental poisons in the home and supermarket. It makes a solid case that government agencies have failed to fulfill the promises of politicians on that long-ago Earth Day. By extension, it warns reporters against relying on environmental agencies such as the EPA (a "dismal and disorganized" bureaucracy) for their stories. But the book must be faulted for using the worker only as a passing example of environmental cancer hazards. According to the National Institute for Occupational Safety and Health, "one in every four American workers, approximately 21 million, currently may be exposed on either a full or part-time basis" to hazardous substances. Of sixteen million working women of child-bearing age, estimates Eula Bingham, director of the Occupational Safety and Health Administration, "about one million are exposed to chemicals that could harm their unborn children."

A book on neglect that neglects the grossest environmental dangers has a serious flaw, one which seems

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to reflect the elitist attitude of the Environmental Defense Fund toward the men and women who work in the carcinogenic gulags of American industry. It is an attitude that shapes, and distorts, almost all environmental reporting.

Samuel S. Epstein's *The Politics of Cancer* is a major compendium on the disease and a political analysis of why, despite the disease's massive impact on the nation's health and economy, a carcinogenic environment is allowed to persist. An investigative report, it is also an essential reference book, with several case studies of such hazards as asbestos and benzene, of red dyes #2 and #40, and of pesticides, and with an impressive set of appendices on such subjects as "chemicals known to induce cancer in humans" and "substances regulated as recognized carcinogens." The weight of his evidence makes an even stronger indictment of government environmental agencies than does *Malignant Neglect*.

As Epstein makes abundantly clear, cancer has already reached plague proportions. As he also makes clear, this plague can be prevented. Informed environmental reporting could lead the way.

The Gonzo morality

The Great Shark Hunt: Strange Tales from a Strange Time

by Hunter S. Thompson. Summit Books. 602 pp. \$14.95

by RALPH WHITEHEAD, JR.

The Great Shark Hunt, a Hunter Thompson reader, offers the bulk and flavor of his work in the mainstream and on the margins of popular journalism. It reaches through sixteen years to pull together four dozen magazine pieces and passages from his books: *The Hell's Angels*, *Fear and Loathing in Las Vegas*, and *Fear and Loathing on the Cam-*

Ralph Whitehead, Jr. is a professor of journalism at the University of Massachusetts at Amherst.

paign Trail. What's more, for the Gonzologists, it adds a full list of articles and books by and about the man.

More to the point, by pulling so much of his topical work into a single pile, *The Great Shark Hunt* also creates a surprising impression. If you drop all these pages of HST at only a few sittings, you're likely to experience a striking acid insight—in spite of the engagingly manic ravings of his *Rolling Stone* persona, Thompson is actually a conventional writer, provided he's judged by the full body of his work.

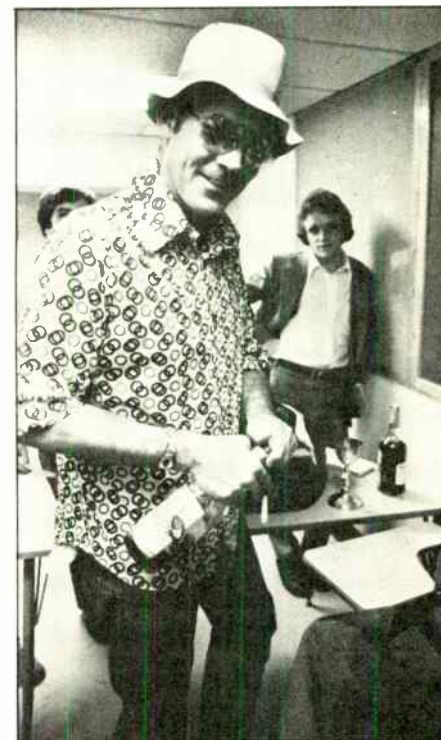
For one thing, he's versed in the American classics, and his writing shows it. For the title piece in this reader, and for his avowed taste for rambling metaphysically during the lobster shift, he owes a debt to *Moby Dick*. For his chosen role as the hip provocateur, the man who changes identities from moment to moment and jumps into the center of his tale even as he writes it, he owes a similar debt to *The Confidence Man*. Evidently, he has also studied Twain's hyperbole and Mencken's invective.

True to his generation (he's in his early forties), he's a student of Hemingway and Fitzgerald. The author of this collection obviously had his head shaped by the campus literary tastes of the fifties, long before he had it bent by the less linear experiences of the sixties. Even as his own celebrity flows in the pop groove cut for Hemingway, Thompson takes Fitzgerald's side in the old Scott versus Papa debate, as it surfaces in two of these pieces, written with a coffeehouse flavor for the *The National Observer* some fifteen years ago. Even in the wilder work he did in the seventies, Thompson invokes Jay Gatsby far more often than Timothy Leary.

As a matter of fact, even though it was billed as the mind-bending account of the ultimate bad trip, *Fear and Loathing in Las Vegas* can also be read as a tribute to *The Great Gatsby*. The periods and settings of the books correspond—the Jazz Age and the Psychedelic Age, the newly-rich estates of Long Island and the

gaming rooms of Las Vegas. Further, the books take up the same theme, what's known grandly as The American Dream or prosaically as the sense of possibility. With a jackpot to fill your pocket and a few tabs of acid to expand your mind, all things can seem possible to you, just as sharply and vainly as they did to Gatsby.

Moreover, Thompson's work displays a traditional outlook. He's an old-fashioned moralist, even if he does favor a hip idiom, and he's drawn again and again in these pages



Thompson: a good citizen after all

to treat some of the leading rituals in the popular culture: political campaigns, prizefights, horse races, bikers' runs, gambling binges, hypes, and more. These rituals ought to create value, call for choices, and shape character. Some actually do. For Thompson's persona, the source of ultimate value is adrenalin. The authentic ritual can still release it, still provide its rush, and someday a graduate student in Gonzology will trace the adrenalin motif through the Thompson *oeuvre*.

Usually, though, the rituals he finds are dead, exhausted, and simply oblige Thompson's geeks and

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villains to go through empty motions. This boredom, this empty space at the center of things, is the heart of darkness in Thompson's moral scheme.

Finally, Thompson's political writing shows an earnest sense of good citizenship. His accounts of the Freak Power movement and the early months of the 1972 campaign, as well as his wide-eyed 1976 endorsement of Jimmy Carter, are merit-badge material. For the last ten years, chiefly through his sugar-coated civic lectures in *Rolling Stone*, this man has been trying to pull the counterculture to the polls.

If he has to dramatize national politics, if he has to cast its motions into the language of rock music and the drug trade, if he has to give politics a countercultural charge, he's willing to do it. In the early chapters of his 1972 campaign book, for example, the Thompson persona keeps picking up hitchhikers. They're young, hip, and apolitical. He puts the case to them for political involvement, and does it coolly, but the device is still evident: these minor figures are supposed to be Everyhead, or the typical *Rolling Stone* reader. Bringing them into his tale is a measure of how hard Thompson has been trying.

Don't get the wrong idea. This book is bubbling with Thompson's *schticks*: kinghell rages, foul screeds, drug marathons, paranoid inventions, and the rest. In a collection of this size, though, the stage business gets stale and crumbles away, and the character of the writer begins to emerge. Remarkable as it may seem, Hunter S. Thompson, doctor of journalism and pharmacology and alter ego to Raoul Duke, is actually an admirable square.

Dotty but deadly

Poison Penmanship: The Gentle Art of Muckraking

by Jessica Mitford. Alfred A. Knopf.
277 pp. \$10

by PENN KIMBALL

Jessica Mitford is the writing illustration of two seemingly contradictory maxims: first, great journalists are born, not made; second, good journalism is a teachable skill. In the profession, more seem to agree with the first than are willing to concede the second. Great journalists, on or off the job, are unfortunately sometimes not even passable teachers. So, if the torch of a noble profession is to be passed on in a world marked by less than universal genius, there is a need for role models with the additional talent to explain what they do—with insight, wit, and style.

Mitford, British-born and raised, was past forty when she wrote and sold her first magazine article to *The Nation*, "Trial by Headline." She received some bum advice on the virtues of short paragraphs from an ex-newspaperman trying to be helpful and the editors cut out the best part of her piece: her own editorial thoughts based on her reporting. This she explains in a "Comment" appended to this and sixteen other examples of her subsequent work. A dozen years after her initial effort, *Time* dubbed her "Queen of the Muckrakers." Never one to take herself too seriously, Mitford confesses she had to look up the Americanism in her Oxford dictionary.

The art of digging out and exposing humbug is Mitford's strong suit. Corruption of the spirit is her favor-

Penn Kimball, who used to be a newspaperman, has just completed twenty years as a professor at Columbia's Graduate School of Journalism.

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Without chemicals,
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ite target—whether it be unctuous funeral directors preying upon the grief-stricken (immortalized in *The American Way of Death*), or successful authors exploiting a gullible public (exposed by “Let Us Now Appraise Famous Writers”) or academic administrators cowering before political pressure (footnoted in “My Short and Happy Life as a Distinguished Professor”). In publishing her stuff, American magazines, particularly *The Atlantic*, show the importance of their survival as yeast in the media mix.

An aristocrat by birth, Mitford has a natural affinity for the underdog. Her noble instincts and some of her best ideas have been abetted by her husband, Bob Treuhaft, a California attorney drawn to deserving if not always pecunious causes. Uneducated in any formal sense, she was brought up at home to those superior standards of literacy one notices even among politicians in Britain. Carl Bernstein, who provides an afterword, describes her work as the triumph of the amateur: “Armed with a sturdy pair of legs, a winsome manner, an unfailing ear and an instinct for the jugular, she sets on her merry way—looking very much the picture of a slightly dotty English lady struggling with a term paper for a class at her community college.”

The *appearance* (italics hers) of objectivity is crucial to the ultimate Mitfordian technique: letting her villains destroy themselves. Accuracy, not objectivity—“if to be objective means having no point of view, or giving equal weight to all information that comes one’s way”—is her goal.

Her introduction should be required reading in every journalism school in the country. It wouldn’t hurt to make it available in a few newsrooms. In a couple of dozen pages Mitford sets forth a catechism of good sense for would-be muckrakers: choose only subjects in which you can become “besotted by and absorbed in the matter at hand”; research the topic with the object “to know, if possible, *more* about your subject than the target of the

investigation does”; be on the lookout for the middle-echelon person to whom nobody pays attention and who is often dying to talk; “failure to proofread is like preparing a magnificent dinner and forgetting to set the table, so that the wretched guests have to scramble for the food as best they can”—and so on.

The comments after each of her pieces (some of which she has restored to their original drafts) are more than a clever idea to make a book out of reprints. The stories behind the stories are both fun and re-

warding. Who censored what because of which advertiser? Who came up with the perfect title? Which famous person tried to kill a piece with his indiscreet quote? What are the ethics of using unguarded comment for publication? What mistakes came to light in the afterglow of praise?

Mitford, *mirabile dictu*, is a journalist not too proud to confess error. Perhaps it is a sign of her amateur standing. The most important feature of her book is also the secret of her success: credibility.

‘Poison Penmanship’: Mitford on muckraking

Does muckraking really accomplish anything, or does it at best lead to reforms that merely gloss over the basic flaws of society? Lincoln Steffens, originator of the genre and author of the pioneering *Shame of the Cities*, eventually came to take a dim view. “He was now certain that muckraking in itself had run its course and led to no solutions,” writes Justin Kaplan, Steffens’s biographer. “Muckraking, it seemed, had only been a way of shouting at society, and this was pointless, especially now that one had to shout louder and louder to get people to listen, much less to do something.”

What of today’s muckrakers? Ralph Nader is probably the leader in exposing misdeeds of the giant corporations. . . . My own efforts have been (with the possible exception of *The Trial of Dr. Spock* and *Kind and Usual Punishment*) on a far less consequential scale. The undertakers [exposed in *The American Way of Death*] are, after all, hardly on a par with such formidable Nader adversaries as General Motors or the puissant drug industry. Most of the subjects of investigation in this collection are odd pockets of American enterprise that happened to strike my fancy (or, as the OED would say, appealed to my “depraved interest in what is morally unsavoury or scandalous”): Elizabeth Arden’s retreat for rich fat women; the Famous Writers’ correspondence

school; the Sign of the Dove, a high-priced New York tourist trap. I wish I could point to some overriding social purpose in these articles; the sad truth is that the best I can say for them is that I got pleasure from mocking these enterprises and the individuals who profit from them.

On the political front, it seems clear that over the last decade young and energetic muckrakers succeeded in laying the groundwork for the toppling of two presidents. Robert Scheer’s early pamphlet *How We Got Involved in Vietnam*, originally published in an obscure journal, became the text for innumerable teach-ins and source material for scores of subsequent books and articles. These in turn were immensely influential in fanning the anti-Vietnam War protest which led to the downfall of LBJ. Similarly the Woodward-Bernstein exposures initiated the chain of events that brought down Nixon. In each case the written word lit the fire and fed the flames.

But then (you will groan) we had Ford and now Carter, there have been no fundamental changes or improvements in any aspect of American life. Which merely points up the need for a new generation of muckrakers who will hone and perfect the craft, and will shout long and loud enough to get people not only to listen but to do something.

UNFINISHED BUSINESS

H-bomb reaction

TO THE REVIEW:

Robert Friedman's "The United States v. The Progressive" [CJR, July/August] is outstanding—and so is the editorial on *The Progressive's* First Amendment case. We are profoundly grateful. My guess is that this will be the definitive account of the case for a long time to come.

ERWIN KNOLL
Editor
The Progressive
Madison, Wisc.

What happened at Harrisburg

TO THE REVIEW:

Peter Sandman and Mary Paden did a wonderful recapitulation of the Three Mile Island news coverage ["At Three Mile Island," CJR, July/August].

For all of us who lived with the situation twenty-four hours a day for over a week, we in Harrisburg thank you.

JOHN H. BAUM
Publisher
The Patriot and Evening News
Harrisburg, Pa.

TO THE REVIEW:

Peter Sandman and Mary Paden leave readers with the impression that reporters significantly overstated the dangers associated with that infamous hydrogen bubble. The problem, as they describe it, turned on confusion over the explosiveness of the bubble, and they take a shot at Walter Cronkite who, they say, "couldn't resist glimpsing Armageddon on the horizon."

In fact, the bubble was dangerous whether or not it was explosive, and was so perceived at the time and is so perceived now by Harold Denton, Roger Mattson, and other senior NRC staff. That is what Walter Cronkite reported. The risk, the real if remote potential for meltdown, was *not* based on the bubble's explosiveness but on its existence, the fact that expanding, noncondensable gas could block the flow of cooling water to the atomic core.

By emphasizing the confusion over the explosion question in the hothouse atmosphere of Middletown and Harris-

burg, the authors ignore the reporting done quite accurately from Washington and elsewhere, and contribute to some rewriting of history—that the bubble wasn't dangerous, when in fact it was.

ROBERT SCHAKNE
Correspondent
CBS News
Washington, D.C.

TO THE REVIEW:

Paden and Sandman indirectly quote Ron Nordland as saying that I apologized "to *Inquirer* reporter Ray Holton the next day" for allegedly having "lied" to him [about a leak of radiation from the containment vessel].

I might have apologized for not being able to link the phony story the *Inquirer* set me up with and the real events, which I didn't know about at the time—but for lying? Never!

Other than that one point, "At Three

Mile Island" is a damned good overview. Paden and Sandman essentially saw what I saw—on both sides of the press-briefing-platform footlights.

KARL ABRAHAM
Public affairs officer
Nuclear Regulatory Commission
King of Prussia, Pa.

TO THE REVIEW:

Overall, I found your Three Mile Island story highly interesting. I also found some confusion, and an inaccuracy. Both concern the infamous bubble.

UPI appears to be roundly criticized for its Friday story in which a senior Nuclear Regulatory Commission official said the risk of a meltdown would exist during the next few days. Your story says "UPI's bulletin had provoked a near panic in Harrisburg. . . ." The AP, however, appears to have been the knight in shining armor for its story Sat-

Answers to Quiz

Questions appear on page 45.

1. The entire Asian landmass.
2. Coriander, minced.
3. A human heart. The transplant, made possible through the use of deductible corporate jets, two bright red fire engines and the combined efforts of Rhodesian and South Carolinian surgical and negotiating teams, did little to alleviate growing tensions.
4. Matisse.
5. Twice. Smallpox. A panel on coal.
6. Franz Josef Strauss was chosen as the opposition's candidate for chancellor in the 1980 elections. The day before, he had been ejected for punching a referee during his team's victory over the Virgin Islands. The referee had made a slighting reference to "The Blue Danube Waltz," by Strauss.
7. Mr. Amin.
8. In the first two cases the court brought in decisions of *ejectamus manus nostra*, or "we throw up our hands." In the third ruling, the Court upheld sweeping federal procedures for disclosures of news photographers' wisecracks.
9. "The wartime equivalent of morals."
10. Misses Capelius and Puhl.
11. Soft leathers, patent leathers, suede, snakeskin, and metallic vinyl, with covered buckles, and buckleless versions of stretchy elasticized fabrics. Reds, purples, hot pinks, and yellows.
12. Loss of U.S. aid over car fumes.
13. Near Kalgoorlie, Australia, because of cracks in the Backfire bomber's underwing engine mounts, or pylons, which an emerging congressional consensus proposes to remedy by attachment of clarifying riders or "understandings" which could seriously increase U.S.-Soviet tensions in light of the seventy-eight-degree cooling limit in public buildings this summer.
14. If Mr. Brown is the engineer, and the engineer's son is wearing yellow trousers, and the brakeman is *not* named Mr. White, then the fourth passenger from the left must be the one with the sandy beard, which makes Mr. Black the son of the uncle's wife.
15. The rebel junta will not be recognized as such until it withdraws its demands.
16. Feet.

R.B., Jr.

urday saying the bubble could become explosive.

But wait! Your story, referring to AP's copy of Saturday evening, says: "It would also duplicate in many essentials a more widely discussed UPI story of the day before. . . ." Pardon?

Concerning the content of a UPI advisory which moved Saturday night, your story says: "UPI fired off an advisory misleadingly telling editors that Denton had said *there was no danger* of a hydrogen explosion." The italics are mine. The UPI advisory read: "Harold Denton of the Nuclear Regulatory Commission told newsmen in a special briefing that there is no danger of an *imminent* hydrogen explosion. . . ." Again, the italics are mine.

JEFFREY L. FIELD
Associate editor
United Press International
New York

TO THE REVIEW:

Sandman and Paden write that, "The Atomic Industrial Forum, never before at a loss for words . . . gave no interviews." I would like to point out that as an AIF representative and staff physicist, I was at TMI from the evening of Wednesday, March 28, until April 3. While the AIF held no press conferences, I and other staffers in Washington, D.C., New York, and Hershey made ourselves available. We not only talked with reporters from newspapers and magazines but also appeared on TV and radio and were quoted extensively.

MARK P. MILLS
Communications services manager
Atomic Industrial Forum
Washington, D.C.

Peter M. Sandman and Mary Paden reply: *The point we tried to make was that nobody knew how dangerous the bubble was, how long until it would become more dangerous, or how to fix it. We did not criticize reporters for this confusion. As the NRC transcripts revealed, it was the sources who were confused. We also were not criticizing UPI for its Friday meltdown story. We saw it as a parallel to AP's Saturday explosive-bubble story in that both reported the private assessments of NRC officials rather than their euphemistically worded statements.*

Why not scoop the court?

TO THE REVIEW:

I take issue down the line with David Rubin's criticism of "exclusive" stories

about Supreme Court decisions broadcast by ABC News ["Why Scoop the Court?" *CJR*, July/August]. It is nonsense to say that these stories serve no public purpose because the decisions would have been published anyway. Most of the so-called "exclusives" coming out of Washington are about developments that would have been known in a few days anyway, and most reporters and editors scramble for them, for good reason.

Such advance stories about Supreme Court decisions may or may not have some public consequence; but are editors to judge whether to publish or broadcast on the basis of assumed consequences? If so, what consequences will be sought, and who will decide? Are editors to say that *some* advance stories should be published but not others? If so, on what basis would Rubin have the distinction made? Are reporters to be told to dig for anything they can get at *some* government agencies but not others? If so, who will draw the line and on what criteria? Are newspapers and broadcast journalists to seek to be first with *some* news, but not with other news? If so, how is that policy to be justified?

There are only two rules that can bring us anywhere near evenhandedness: First, find out what you can. Second, publish or broadcast what you know. (I should point out what may be considered a conflict of interest: my wife, Pamela Hill, works for ABC News, although she had no responsibility for the Supreme Court stories.)

TOM WICKER
Associate editor
The New York Times

David M. Rubin replies: *Wicker fails to point out what public purpose the Supreme Court leaks serve. This is not surprising. I could think of none either. What is more, editors and reporters are paid to make precisely the kind of judgments before which Wicker trembles in his second paragraph.*

'The Reporter': R.I.P.

TO THE REVIEW:

The *Columbia Journalism Review* is surely ill-served by a commentary so vague, oblique, and peremptory as that provided by Carey McWilliams on Martin Doudna's book about *The Reporter* ["Concerned About the Planet," *CJR*, July/August]. Doudna's book struck me,

an early *Reporter* alumnus, as admirably factual and complete.

Although McWilliams does, grudgingly, acknowledge *The Reporter* as a critic of Senator Joseph McCarthy, he fails to give it credit for attacking almost immediately after McCarthy's act opened, and he commits what even Max Ascoli's enemies would agree is a howler by asserting that the magazine "failed to trace [McCarthyism's] impact on foreign policy."

There is no mention of *The Reporter's* definitive pieces on the China lobby, its warnings about wiretapping, its role in exposing Nixon's 1952 secret fund, its exposures of "loyalty" boards, to name a few from just the early years.

The Reporter's almost-twenty-year history deserves an accurate epitaph.

WILLIAM KNAPP
Senior editor
The New Yorker

Was the press-card deck stacked?

TO THE REVIEW:

I write this letter in angry protest to Michael Massing's "Cardless in Gotham" [*CJR*, July/August]. His assertion that "those who least need the card can most easily obtain it" is ludicrous and completely untrue. I think the police criteria for a press card are too stern and I made that quite clear to the reporter. My basic belief is that the police department should not be in the business of deciding who is to be a journalist.

I told all of this and more to the reporter, who chose to ignore it all and, instead, used a quote out of context to prove his nonobjective story line.

Traditionally, the press card has been the journalist's license. For an editor, publisher, reporter, or copyboy to have one is certainly "basically an ego thing." Massing conveniently obscured such a thought.

CARL J. PELLECK
Reporter
New York Post

Michael Massing replies: *I stand by my quote from Pelleck.*

TO THE REVIEW:

The New York City press-card problems Massing describes can be easily resolved—abolish the cards.

As far as I've been able to determine, Worcester, Massachusetts, is the only major New England city that still issues police press passes. The Boston police

We asked Americans:

'Why Isn't America Using More Coal?'

Because Union Carbide's business depends on energy, our future growth depends on national policies which bring about reliable, long-term energy supplies from many sources, including coal. Since public attitudes help shape public policy, we commissioned a survey which included this question:

"Thinking about (each of the following), is it your feeling that this is keeping the U.S. from using more coal, or do you feel this is not having much effect on the use of coal in this country?"

	Restrains coal use	Not much effect
Coal's effect on environment	48%	40%
Coal's effect on human health	39%	50%
Cost of mining & transporting	34%	53%
Government regulations	49%	36%

Source: May 1979 national probability sample, by telephone, of 1,000 adults. Conducted for Union Carbide by Roger Seasonweir Associates, Inc. ("Don't Know" not shown.)

Half say regulations and environmental problems restrain coal use.

Most experts agree that we have a 300- to 400-year supply of coal in the United States, and 3 out of 4 Americans feel that we should rely heavily on coal for our energy needs. But when asked why coal—which represents 80% of our known energy resources—provides only 20% of our current needs, almost half named government regulations and the environmental effects of mining and using coal as restraining influences.

Getting on with the job.

HEW has found that "intensified use of coal as an energy source... would not lead to serious health or ecological consequences if certain precautions are taken." In addition, the National Coal Policy Project, composed of environmentalists, coal companies, utilities and other industries, recently

reached agreement on a body of policies which would allow increased coal production and use in an environmentally acceptable manner.

In recognition of the country's urgent need to replace scarce oil with abundant coal, the President has asked federal regulatory agencies to review their policies and to propose ways of encouraging the greater use of domestic coal. At the same time, the country has an opportunity to take other steps towards this end:

- Make sure that regulations for the use of coal properly protect the environment—but don't needlessly inhibit coal production or use.
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- Support legislation which provides for demonstration projects to convert coal into gas and liquid fuels and chemical raw materials.

Union Carbide's commitment to coal.

Union Carbide believes that America must use its abundant coal resources to help secure its energy future. And that we can do so in ways that protect land, air, water—and people. To those ends, we plan to use coal as a boiler fuel, whenever practical, in new facilities.

We first began research on converting coal to chemicals in the 1930's, but stopped work on these projects in the 1960's because coal could not compete with world oil then priced at \$2 a barrel. With current energy shortages and skyrocketing oil and gas prices, it is again in our interest to turn to the coal utilization technologies we've developed over the years.

This advertisement is part of a continuing series on public opinions and national concerns.

For more information, write for a complimentary copy of the national survey, "Public Attitudes on Energy." Address: Energy, Union Carbide Corporation, Box G-16, 270 Park Avenue, New York, New York 10017



department stopped the practice about ten years ago.

The cards represent a form of external registration in a business that shouldn't be regulated by public agencies.

RICHARD D. CARRENO
Ombudsman
The News
Southbridge, Mass.

A French connection

TO THE REVIEW:

As the former New York bureau chief of *Le Figaro* who resigned by telex as soon as the announcement of the paper's sale to Robert Hersant emerged on the AFP teleprinter, I believe there are some ethical aspects involved in the date of Raymond Aron's resignation which were obscured in Charles Eisendrath's "Politics and Journalism: The French Connection" [CJR, May/June].

Eisendrath writes that Aron left the paper "after Hersant bought it." This is misleading unless one understands that the word "after" here means close to two years. In the meantime, he had been, under Hersant's *direction générale*, the *directeur politique* of *Le Figaro*.

Most of the some sixty staffers who

"opted out" by invoking the *clause de conscience* felt—and still feel—that if Aron had done the same, Hersant would have had to retreat. By keeping a name like Aron's on his masthead, Hersant could show that we were unreasonably prejudiced against him, that we were *plus royalistes que le roi*. From this point of view, Aron let himself be used as a front for Hersant.

By the way, the *clause de conscience* which seems so to amaze Eisendrath is about the only principle to survive among the big resolutions for "a new kind of press" we made during the Occupation. It means that a journalist, in a newspaper, is not part of the furniture, and cannot be sold with it.

LÉO SAUVAGE
New York

A doomsday puzzle

TO THE REVIEW:

A "dart" for apparently failing to check some of the sources cited by Tom Gervasi in his article on *Aviation Week* ["The Doomsday Beat," CJR, May/June]. Gervasi took out of context a remark in a speech by Thomas V. Jones, chairman of the board of Northrop Cor-

poration. In the editorial from the August 8, 1977, issue of *Aviation Week*, Jones said, "The President has correctly recognized that arms advocacy is not a proper role for government. Foreign countries should not be subjected to sales pressure by our government." In the area of arms exports, he said, "... before permitting any discussion of arms programs with other nations, there should be clear determinations, country by country, of U.S. policy regarding the extent to which various categories, performance capabilities and quantities of U.S. equipment will be allowed to be considered for purchase by the foreign government."

How Gervasi can call that "rejection of the guidelines and an appeal for *laissez faire*" is at best puzzling.

LES DALY
Corporate vice-president, public affairs
Northrop Corporation
Los Angeles

Tom Gervasi replies: *The central point Jones made was, quite simply, that the government should "avoid the role of advocate for specific [arms sales] programs" and do no more than indicate where any business activities might interfere with foreign policy.* ■

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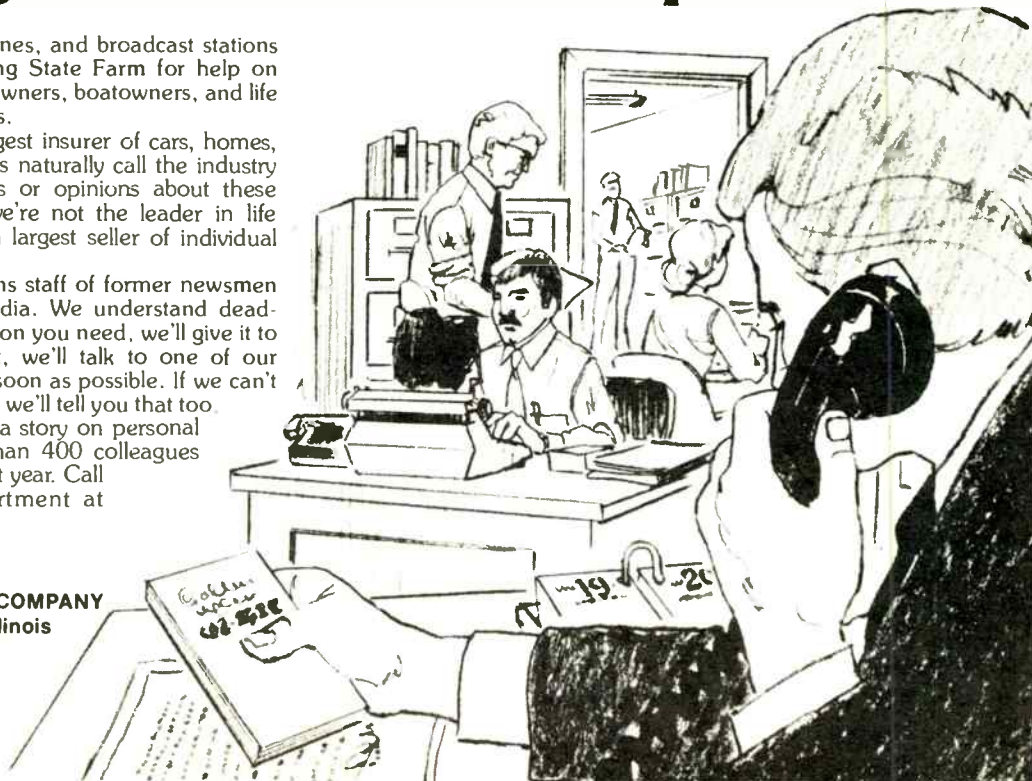
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For instance, because America runs primarily on petroleum, we're working on ways to change coal into synthetic gas and oil.

And we've developed ways to reduce pollution when coal is burned.

At a time when some people in government are trying to limit oil

company participation in the coal business, Conoco's efforts to reduce dependence on foreign oil demonstrate a very important point:

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Doing more with energy.

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NATIONAL NEWS COUNCIL REPORT

TV gatekeeping held inadequate in independent production

Issue: First, did the public TV documentary *Bad Boys* misrepresent conditions at a New York high school—and, second, did the sponsoring station (WNET) fail to exercise adequate responsibility over the final product?

Complaint: Martin Ilivicky, the principal of Bryant High School in New York City, complained that *Bad Boys*, a documentary broadcast on WNET (Channel 13) on October 29, 1978, had "misrepresented the school in an obvious disregard of the truth."

The program, produced for WNET by independent filmmakers Alan and Susan Raymond, focused on the problems of troubled youth. It began by examining a high school truant population and then moved to two correctional institutions, Spofford Detention Center in the Bronx, and Brookwood Center, an upstate-New York maximum-security facility for boys under sixteen. The report on high school truants took place in and around the Bryant High School area, and covered approximately the first thirty minutes of the two-hour documentary.

Mr. Ilivicky charged that: the broadcast had unfairly created the impression of "a school in total chaos" by presenting scenes that were factually inaccurate and by focusing on what he described as

The reports of the National News Council are prepared by the Council and appear in the Review as pertinent information and as a convenient reference source. Publication, which is made possible by the William and Mary Greve Foundation, does not imply approval or disapproval of the findings by the foundation or by the Review.

The nature of complaints and response of news organizations are condensed in this report. The Council's conclusions, reached at its meeting last June 11 and 12 in New York, are presented in full.

the "aberrant student"; the producers had gained admittance to the school under false pretenses by claiming that they intended to make a documentary on "values and attitudes of high school students" and by stating that Bryant was one of the schools selected for this purpose although no other school was depicted in the documentary; and the documentary's assertion that Bryant had been chosen because it had been selected by a presidential committee as "one of America's ten most typical high schools" was unverifiable.

Mr. Ilivicky concluded that the Bryant segment was unbalanced because the many scenes of normal classroom and school activity which had been filmed were "left in the out-takes."

In his response, Robert N. Gold, general counsel for WNET, said:

We believe that our actions in connection with *Bad Boys* were in all ways consistent with the special relationship that exists between WNET/Thirteen and independent producers. This relationship is one that must strike a reasonable balance between our commitment to truly diverse and independent producers and our responsibility to our audience for the programs we broadcast.

Alan and Susan Raymond are independent producers. They conceived of the documentary *Bad Boys*, and produced it in association with The Television Laboratory (the 'TV Lab') at WNET/Thirteen. As independent producers, the Raymonds are the appropriate parties to respond to complaints of this nature

It was and continues to be our view that the thrust of the Bryant High School segment of *Bad Boys* was generally perceived as the Raymonds intended: namely, a closer look at the small but significant portion of urban high school adolescents who 'hang out,' are truant and otherwise display the type of deviant behavior that may ultimately lead to more sophisticated forms of anti-social acts.

(The Raymonds have not responded to the complaint.)

The response also took note of:

□ Three script changes, made with the approval of the Raymonds, and inserted before rebroadcast of the program locally in January 1979. Those script changes, the response said, were "geared to reemphasizing the point that the Bryant segment was only about a small portion of the student body."

□ Broadcast of a Board of Education-

produced rebuttal to the program, entitled *We're Not Bad Boys*, and assistance in attempting to arrange broadcast of the rebuttal on Public Broadcasting Service stations which had aired *Bad Boys*.

Council action: The Council is faced at the outset with a problem of responsibility. WNET has stated that it allowed the producers complete freedom in making the program. The program was produced as part of the station's experimental TV laboratory, designed to encourage the works of independent producers. Clearly, such independent production has a place in public television and WNET should be applauded for encouraging it. Nevertheless, the licensee cannot escape the responsibility for that which it airs.

The subject of truancy, and its potential as a spawning ground for more serious forms of antisocial behavior, was clearly in focus in *Bad Boys*. The selection of Bryant High School as a place to

'WNET should be applauded for encouraging independent production'

examine the subject was also appropriate. Bryant, like most city high schools, has a truancy problem.

However, the producers did not, as WNET suggested in its reply, concentrate wholly on the truant population in the Bryant portion of the program. They went into classrooms, and the class they chose to concentrate on to show the students' dislike for school was a typing class for problem students with serious learning difficulties. It was not typical of the school as a whole, wherein most students apply themselves to their classwork. The producers spent several weeks at the school and videotaped much of the normal classroom activity. Virtually none of this was used.

The program's script said that the problem truants "hanging out" at a nearby candy store were clearly visible from the school principal's office. They are not. The program depicted large groups of students outside the school as truant, making no effort to distinguish between

those who were actual truants and those who were waiting to go to class or had finished their classes on the school's staggered classroom schedule.

The script said that Bryant had been chosen for examination because it had been "selected by a Presidential committee as one of America's ten most typical high schools." Neither school officials, the Board of Education, nor the Department of Health, Education and Welfare knew of any such designation having been made about Bryant.

As the complaint also noted, the producers gained admission to the school by telling officials that they intended to make a documentary on "values and attitudes of high school students." In a newspaper interview the Raymonds freely admitted this, adding: "If we said we were making a film about truants they never would have let us in." The use of such a ruse places a special responsibility on the producers to place their story in proper perspective, and the Council believes the Raymonds failed to do that insofar as Bryant is concerned.

All of the above factors, the Council believes, add up to the fact that the producers overreached in the Bryant segment in their desire to highlight the problems of truancy. Because WNET failed to exercise proper oversight, the Council finds the complaint against it warranted.

Concurring: Brady, Isaacs, McKay, Otwell, Rusher, and Scott.

Dissenting: Ghiglione, Huston, and Renick.

Abstaining: Roberts.

Note: Council member Cooney took no part because she is a member of WNET's board.

Dissenting opinion by Mr. Ghiglione (Huston concurring): The question is not, as it was phrased by the principal of Bryant High School, whether the program "misrepresented the school." The segment of the program in question was about truancy, not about Bryant, and the producers and WNET had no responsibility to evenhandedly describe the entire student population, "normal classroom and school activity," as well as the shenanigans of those who only "hang out." Nevertheless, the majority opinion calls for such a balancing act: "The producers spent several weeks at the school and videotaped much of the normal classroom activity. Virtually none of this was used."

I disagree with more than the applica-

tion of that standard to the program. The unwillingness of the Raymonds to talk to the Council about their program is unfortunate. But I am uncomfortable with the majority's reliance in part on a *New York Post* article for the conclusion that the Raymonds used a ruse to gain admittance to Bryant. That kind of evidence is insufficient.

The majority opinion notes a number of minor errors. I do not defend those mistakes, but I also do not believe they should cause the Council to find the complaint warranted.

Dissenting opinion by Mr. Renick (Huston concurring): While WNET must assume the ultimate responsibility for what it broadcasts, the Council goes a step too far in interpreting this as meaning that WNET failed to "exercise proper oversight" by not being more involved with the outside producers of *Bad Boys* in the actual production of the segment; the videotaping, editing, writing, and all other aspects.

Such interference would be a deterrent to the creative output of independent documentary producers. There is a great need for more diversity of ideas, approaches, and techniques in documentary programming. What the Council suggests would discourage such contributions. Stations have the right to air or not to air, but they should aim for a hands-off policy in production.

I further found the *Bad Boys* segment a most illuminating look at truancy. It was not meant to be a balanced look inside Bryant High School.

Stans's row with syndicate over rebuttal

Issue: When a former public official, Maurice Stans, complained that a syndicated column about him was unfair, he was offered space to respond. Problems developed: Was Mr. Stans entitled to a rebuttal and on what terms?

Complaint: Maurice Stans, former secretary of commerce, and chairman of the Finance Committee to Reelect the President (Nixon, 1972), complained that a column written by Martha Angle and Robert Walters and distributed by Newspaper Enterprise Association was inaccurate and irresponsible. Mr. Stans submitted the column as it had appeared in

the *Las Vegas Review-Journal* of February 28, 1978. It was based on documents obtained under the Freedom of Information Act from the file of the Watergate special prosecutor and described some of Mr. Stans's fund-raising efforts.

The thrust of Mr. Stans's complaint centered on differences between allegations in the documents obtained from the special prosecutor's file and what later transpired. Mr. Stans contended that "the sources from which the authors obtained their information . . . related primarily to other persons, and only incidentally to me, and the authors knew, or should have known, that the incidental references to me had been overtaken and contradicted by subsequent public disclosures."

What Mr. Stans was focusing upon was that in later court proceedings he pleaded guilty to five misdemeanor charges, which he described as technical, and not willful. The Angle-Walters column mentioned this, but laid all the emphasis on what was in the files.

Mr. Stans's attorney wrote to NEA on March 30, 1978, denouncing the column, asking for an apology, and asking that the letter be published. NEA's counsel responded, offering Mr. Stans "an opportunity to tell his side of the story" in an "op-ed type of article." Mr. Stans rejected this, asserting that it was unacceptable because it would not allow him to mention the original "devastating column." He termed the offer "specious and meaningless because such a step would have provided no remedy for the damages done. . . ."

NEA then made another offer for a rebuttal column. This was also refused since Mr. Stans said: "The only thing that will satisfy me at this time is a direct apology in the same column, printed in the same papers."

David Hendin, vice-president and executive editor of NEA, said that he was prepared from the outset to grant Mr. Stans rebuttal space even though he held that the column contained no substantive factual errors. He wrote:

The inability to get together on a solution was quite simple: I was insisting upon receiving an article written specifically for newspaper readers. Since the article I suggested Mr. Stans write would have appeared in newspapers a minimum of two months after the original column, it would seem ludicrous to refer to the original column. This is especially true since the Stans article would be distributed and thus considered for use by all of our clients—some of whom had not used the original column in question.

Mr. Hendin said that although he be-

lied no reference should be made to the original column, he had no objection to a rebuttal which dealt specifically with issues raised by that column. Additionally, Mr. Hendin said, the drafts submitted by Mr. Stans's attorneys were of "poor journalistic quality" and, therefore, would not be used by NEA clients.

Council action: The Angle-Walters column about Mr. Stans's fund-raising activities was accurate in the narrow context in which it interpreted material obtained from the Watergate special prosecutor's file. The use of such material was clearly privileged, but the Council does not believe the column accurately reflected the subsequent public record on many of the points cited in the memorandum. The column employed material accusing Mr. Stans of activities for which he was never formally tried. He was tried only on the five misdemeanor charges relating to the handling of cash donations.

In light of the record, the Council believes Mr. Stans was entitled to some form of rebuttal. As a matter of practice, most syndicates will offer to forward to the customers of a column a reasonable rebuttal to derogatory material appearing in the column, and NEA offered to do that in this case. It rejected what Mr. Stans's attorneys submitted, however, because it was in substance a legal document rather than a personal letter or a column-style communication and because it referred to the original offending column at a time when the reference was too dated to be newsworthy.

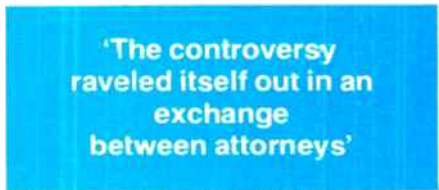
The Council rejects the latter objection; Mr. Stans and his attorneys were entitled to identify what they were refuting. The former has more substance; newspapers understandably would rather print a personal letter or a column than a legal document. Perhaps Mr. Stans ought thereupon to have demanded the right to have his legal document forwarded by the syndicate to the relevant newspapers anyway, so they might individually decide whether to publish it. Perhaps he even did so, though the record is unclear. What actually seems to have happened is that the controversy raveled itself out in an exchange of letters between attorneys, culminating in a demand by Mr. Stans for "a direct apology." In these circumstances, and especially in view of the fact that NEA did not refuse to distribute some more orthodox form of reply, we are unwilling to hold the complaint "warranted."

Concurring: Brady, Cooney, Isaacs, Ot-

well, Pulitzer, Renick, Roberts, and Rusher.

Dissenting: Ghiglione, Huston, McKay, and Scott.

Concurring opinion by Ms. Roberts: I concur with the majority opinion that the complaint is unwarranted. However, I understand one majority conclusion is premised on a right of a person to reply to what he perceives to be derogatory material in a syndicated column, despite the fact the column contains no factual inaccuracy. I believe this places an im-



possible burden on the press, and amounts to an obligation of the press to provide access rejected by the Supreme Court in *Miami Herald Publishing Co. v. Tornillo* (1974) and never before supported by the Council to my knowledge.

In this case, the column purported to reveal material regarding Maurice Stans from a "series of memos prepared in 1973 and 1974 by the Watergate Special Prosecution Force but only recently made public after the Fund for Constitutional Government filed a lawsuit to force their disclosure." Unfortunately, the columnists termed this material "evidence," but they were careful to point out to the reader that Mr. Stans "pleaded guilty to five misdemeanor charges" relating to other matters, and even with respect to these charges "he claimed the violations were 'not willful,' and (were) of minor, technical nature." Thus, the reader could judge whether or not the material from the memos was suspect as to the reported activities of Mr. Stans since he was not in fact tried or convicted growing out of these alleged activities. The columnists repeatedly described such activities not as actual happenings but as matters "recounted" in one of the special prosecutor's memos, and remarks attributed to Mr. Stans were labeled statements "he is quoted as saying in a special prosecutor's memo."

While I believe the public is better served if a columnist seeks a response from a public figure who is the subject of a column, I do not believe the record is clear in this case what, if any, effort the columnists made to obtain such a response or that the request of response is mandatory in each and every instance, especially when the reader is explicitly

advised what is being related is from prosecutor's files and which material did not result in prosecution of Mr. Stans.

Such a right would be mandatory, in my view, in the event there is a danger the reader could be misled by untrue, inaccurate material. Here the reader was advised at the outset of the source of the information and of the fact Mr. Stans was never prosecuted on charges growing out of the activities reported in these memos. Mr. Stans does not contend the memos did not in fact state what the column says; he contests the fact underlying the memos.

I believe the Council's conclusion in this aspect of the case can only mean syndicated columns, which so often deal with public figures such as Mr. Stans, must allow space for a riposte every time a public figure is depicted in any manner other than laudatory, and no matter how factually accurate or careful a columnist is to place the derogatory material in perspective.

Dissenting opinion by Ms. Huston (Ghiglione, McKay, and Scott concurring): The Angle-Walters column, based on material from the Watergate special prosecu-

THE NATIONAL NEWS COUNCIL
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tor's file, may have been accurate enough in reporting allegations made in the early 1970s, but the authors failed to disclose subsequent developments, including the fact that the allegations had never been tested in court. The column reported allegations of wrongdoing with which Mr. Stans was never charged.

Although the material was circulated in the form of a column, it was a reporterial column. So, as with any article making an accusation, the Angle-Walters piece should have included a response from the person charged with wrongdoing. At the very least, the reporters should have reported that they attempted to reach Mr. Stans for comment.

The column was distributed by NEA, which, because of its nature as a syndicator, complicates the process of response, particularly since NEA will not disclose to the subject of a column the newspapers to which the column was offered.

The NEA's own policy statement, entitled "A Statement on Ethics and Principles," has delineated what it calls the "Right of Response." Its commendable statement reads: "In our editorial material, we strive to be fair and accurate at all times. Our editors, writers and contributors attempt to recognize opposing points of view. . . ." However, in this case we found no evidence that NEA's editors or writers attempted to recognize opposing points of view.

Further, the policy states that in certain cases NEA would "invite the complaining organization or individual to present its or his position in an article which shall be of similar length to the article or column in question. This will be distributed to those newspapers which received the original article and column."

In this case, NEA acknowledged Mr. Stans's right of response, but over ensuing months the matter became mired in disagreements as to the form and timing of the response. The news organization contended that Mr. Stans's response was not in the proper journalistic form. But NEA should have found a way to accommodate Mr. Stans in his right to be heard. Newspaper reporters, rewriters, and editors know how to translate legalese into "newspaperese." They should have done so in this case, putting Mr. Stans's response into journalistic form.

By not forwarding any communication from Mr. Stans or his attorney to the newspapers it serves, NEA, in effect, made it impossible for each newspaper to reach its own decision about publication of a possible rebuttal to the Angle-

Walters column. NEA and other editorial services should volunteer, as a matter of principle, to forward all significant rebuttals to their subscribers.

Statement on 'The Progressive' H-bomb issue

Prior restraint represents the most dangerous form of judicial interference with the right to publish. By shutting off communication before it occurs, prior restraint nullifies the role of the press as a conveyor of information and ideas and as a stimulator of debate on public issues. So repugnant is such censorship that the Supreme Court has held consistently, since *Near v. Minnesota* in 1931, that any prior restraint on publication comes into court under a heavy presumption against its constitutional validity.

In criminal cases this presumption has gained such standing that the trial standards promulgated by the American Bar Association now prohibit the issuance by judges of any order barring the news media from broadcasting or publishing any information in their possession relating to a case. Except for those who believe that the right to publish ought to be absolute under any and all circumstances, the issue becomes more complex where claims are made that national security would be injured by publication. It is plain that, even in such cases, the asserted risk must be so clear-cut and immediate as to invite irreparable damage if the material is printed or broadcast. It is also plain that the very act of suppression makes impossible intelligent debate on the merits of the prior restraint.

The National News Council, in common with most other outside commentators, finds itself hampered by lack of knowledge of the contents of the article *The Progressive* wanted to run on "The H-Bomb Secret: How We Got It, Why We're Telling It." The Department of Justice rejected a request for access by a Council staff member who had "top secret" clearance.

Every development in the case has heightened public concern about the quixotic nature of the rules governing classification and the degree to which those rules can be perverted to serve political purposes or to protect the government against embarrassing disclosure of its own errors of misfeasance. The

officials in charge of security were themselves so confused that they appear to have been genuinely unaware that they were insisting on the need to suppress data already placed in the public domain with their imprimatur in facilities under their own direct control.

The *Progressive's* editors have proved the point that, by their own statement, was among their chief objectives in wanting to publish the article: a demonstration that the "secret" involved in making the most devastating of thermonuclear weapons is not much of a secret. To this end, an article was written by a freelance writer who said he inspected no classified documents and relied primarily on interviews arranged for him by the administrators of the nuclear arms program.

The vehemence of the subsequent outcry from these same officials that the fruits of the magazine's research would simplify the task of manufacture for nations that do not now know how to make the H-bomb must be taken as dismaying evidence of the inadequacy of the classification rules or of the mythical character of the secrets they are supposed to shield. Anxiety on both counts is made stronger still by the clumsiness of the government's reaction to the discovery that a researcher for the American Civil Liberties Union, preparing a defense against the prior-restraint order in the *Progressive* case, had found on the public shelves at the Los Alamos Scientific Library a document that for nearly four years had put within reach of anyone interested enough to inquire information comparable to that in the suppressed article. The discovery led the government to declare the declassification of the document erroneous and to close the library's public shelves pending a more extensive review of their contents, but the authorities made no immediate attempt to learn the names of the half-dozen persons to whom the researcher had mailed photocopies of the document, much less to repossess them or place them under embargo.

In fairness to Judge Robert W. Warren, who signed the original restraining order, the tenuousness of some of the underpinnings of the government's case was not then a matter of record. He was concerned, as all of us must be, by the reality that the survival of this nation and of mankind has been placed in constant peril by the fantastic destructiveness of thermonuclear weapons and that their containment is imperative.

Even in the light of such concern, however, there is basis for question that

the test of serious and irreparable danger laid down as a prerequisite for prior restraint in Supreme Court cases is adequately met by a government allegation that publication might reduce the time nations outside the nuclear club would need to develop a production capacity.

The danger that even a judge who grappled as conscientiously as Judge Warren did with the weighty implications of any exercise of prior restraint may stray beyond security considerations into unintended trespass on the right of purely editorial judgment is indicated by statements like this one from the Warren order: "... this Court can find no plausible reason why the public needs to know the technical details about hydrogen bomb construction to carry on an informed debate on this issue. Furthermore, the Court believes that the de-

'The case has heightened concern about the quixotic nature of classification rules'

fendants' position in favor of nuclear nonproliferation would be harmed, not aided, by the publication of this article."

Whether the judge is right or wrong in his belief is irrelevant to the appropriateness of a suppression order. That must be predicated exclusively on a finding that a threat of irreparable damage to national security would be created by publication in advance of any assessment on the merits. In this case, the possibility that the article might disclose material of too sensitive a nature apparently concerned the editors of the *Progressive* sufficiently to induce them to circulate advance copies among scientists familiar with the intricacies of nuclear weaponry. It was this process of informal clearance that resulted in calling the article to the government's attention and bringing the order not to publish without certain deletions. Even though the magazine says it had not intended to submit the article for direct official review, the alternate procedure the editors initiated represented an implicit acknowledgment that judgment is required in deciding what to publish in the area of national security.

When the attorney general sought a prior-restraint order after the magazine had refused to delete information the government wanted to classify, Judge Warren got sharply conflicting opinions from experts in the scientific community on whether the article did or did not contain previously unpublished material that

would imperil national security if revealed. In the hope of sidestepping confrontation on whether to clear the article or suppress it, the judge proposed non-binding mediation between the government and the magazine by a panel made up of two senior weapons scientists, two representatives of the media, and a lawyer or former judge. Had the *Progressive* joined the government in accepting that approach, it is conceivable that voluntary agreement might have been reached on the deletion of a modicum of technical data without detracting from the central purpose the editors hoped the article would serve.

The editors chose, instead, to dig in on the proposition that the decision on what to publish had to be theirs under the First Amendment, with the government free to proceed afterward to whatever damages or criminal penalties might be invocable under the Atomic Energy Act and other statutes. We are left with a prior-restraint order of necessary concern to all elements in the press. Subsequent disclosures about the shallowness of the government's case may result in speedy termination of that restraint, but the precedent will remain an ominous one.

The whole case serves as an urgent warning of the need for establishing consistent and credible standards for the government's security system so that sound yardsticks will exist for the responsible exercise of editorial judgment by a free press.

Concurring: Cooney, Ghiglione, Huston, Isaacs, McKay, Otwell, Renick, and Scott.

Dissenting: Rusher.

Dissenting opinion by Mr. Rusher: If the Council had confined its comments on the *Progressive's* article to the present last three paragraphs thereof (beginning "When the attorney general"), I would have no difficulty concurring. But the long, disjointed, and obscure preamble to those paragraphs wanders into areas of dubious relevance where this Council is, in any case, quite unqualified to go. I decline to associate myself with that preamble.

For one thing, it is by no means clear to me that the fact that our national security was breached accidentally in one or more places justifies the *Progressive* in breaching it deliberately in another. Still less do I think this Council has any business pontificating on "the inadequacy of the classification rules" or "the mythical character of the secrets," whatever the truth of these difficult matters may be.

View of Hispanics in '60 Minutes' is reconsidered

Background: In March, the Council issued a decision that a CBS News *60 Minutes* report on police training in Riverside, California, contained factual errors not adequately addressed in a correction on a later broadcast. The Council said the report did "create an impression of lawlessness among Hispanics in general." CBS promptly asked for reconsideration.

Reconsideration and conclusion of the Council: The Council reaffirms its belief that CBS's corrections, which were addressed to specific errors of fact, were inadequate without acknowledgment that the errors had occurred in those portions of the broadcast on Casa Blanca, an area described as "a tough Chicano neighborhood."

On reconsideration, the Council concludes that it was in error in saying that the *60 Minutes* report created an impression of lawlessness among Hispanics. The original broadcast contained no such implication and the Council withdraws that portion of its findings.

Concurring: Brady, Cooney, Isaacs, Otwell, Pulitzer, Renick, and Rusher.

Dissenting: Ghiglione, Huston, McKay, Roberts, and Scott.

On Electric Boat: 'The Day' is in the dark

Issue: Can a defense contractor, dominant in the local economy, enforce a discriminatory news blackout against the leading local newspaper?

Complaint: *The Day*, a daily newspaper published in New London, Connecticut, accused the Electric Boat Division of General Dynamics Corporation of discriminating against the paper by imposing a news blackout. Wholly engaged in building submarines for the United States Navy, the company has its principal shipyard in Groton, just across the Thames River from the *Day's* newsroom

and plant, and is the largest employer in southeastern Connecticut. The bulk of its 18,500 Groton employees live in the *Day's* circulation area.

The newspaper alleged that for over a year the company has excluded it from access to any information about its activities, contending that the *Day* has been unfair in its news coverage of Electric Boat. This exclusion, according to the complaint, has taken the form of refusal to send to the *Day* news releases which are sent to other papers and broadcasters. The paper further accused the company of shutting it out of news conferences open to other publications, of refusing to return phone calls or answer questions posed by *Day* reporters, and of halting all advertising while continuing to run frequent help-wanted ads and occasional large institutional ads in other area newspapers.

The only deviation from this keep-out policy, the *Day* said, has been the company's issuance of press credentials to *Day* representatives to cover four submarine launchings. The first two of these invitations, the paper added, came the day before the actual launchings and only after intercession in the *Day's* behalf by members of Congress. The paper noted that Electric Boat dominates the area's economy and that what happens there is "of vital concern" to residents. "Although the *Day* has continued to cover Electric Boat in great detail for the past year using outside sources, its readers are being denied the company's views in most cases," complained Deane C. Avery, the paper's co-publisher and editor. He added that this exclusionist policy has made it impossible to do feature stories on engineering accomplishments at the yard—stories that would have reflected credit on management.

Mr. Avery charged that the company and its corporate parent in St. Louis have rebuffed or ignored repeated requests by the paper for conferences aimed at exploring management's grievances against the *Day* and at resolving the controversy. The end effect, Mr. Avery contended, is that a newspaper that goes into almost 80 percent of the occupied households in the nine-town primary area around the shipyard has been unable to give full coverage of an enterprise whose product is paid for exclusively with tax dollars.

Neither David S. Lewis, chairman of General Dynamics, nor P. Takis Veliotis, general manager of the Electric Boat Division, responded to the complaint. Telephone calls to Mr. Veliotis's office brought notice from a public relations

spokesman that Electric Boat and General Dynamics would not reply formally to the Council, nor would they enter into informal communication of any kind, even for the purpose of supplying background information. The embargo on any communications with the Council extended to a refusal to send copies of two 1978 issues of *EB Topics*, the company's house organ, in which it had discussed its unhappiness with coverage by the *Day*. A suggestion that the Council attempt to serve as mediator was rejected by the Electric Boat spokesman.

The Council staff then enlisted Michael Pulitzer, the Council-member resident in St. Louis, in the hope that his intercession with General Dynamics executives would open the way to mediation. Fred J. Bettinger, director of public affairs and advertising for the parent corporation, told Mr. Pulitzer that the company was irked at what it considered the *Day's* pattern of taking "cheap shots" at Electric Boat on the basis of irresponsible statements by disgruntled employees and former employees, in what he

'A suggestion
that the Council serve
as mediator
was rejected'

termed barroom interviews. Irritation was heightened, Mr. Bettinger said, because such stories appeared when a new management team was beginning what has now proved a successful effort to "turn the shipyard around" by straightening out operational, engineering, and labor problems that had resulted in production delays and cost overruns of disturbing magnitude in earlier years. Having come to the conclusion that management's explanatory statements were regularly ignored, misrepresented, or played down by the *Day*, the company finally decided that its interests would be best served by not talking to the paper at all.

In this connection, Mr. Bettinger pointed out that the company was not deeply involved in public relations in general; it rarely put out more than five press releases a year and it did not hold regular press conferences, though company officials did on occasion give interviews to other news organizations and assigned press officers to answer questions from the media. He made special mention of the company's receptivity to business publications, such as *Business Week* and *Forbes*, where it felt its efforts

to increase productivity would get sympathetic treatment. Mr. Bettinger acknowledged that the company had been at fault in dragging its feet about issuance of press credentials to the *Day* for the first two launchings, but he said this would not recur. Mr. Bettinger promised to explore the possibility of arranging a joint meeting, with or without representation by the Council, to seek an adjustment of the dispute. No affirmative response has been relayed to this date.

Though Mr. Bettinger cited no specific stories in his conversation with Mr. Pulitzer, some idea of the kind of coverage the company deemed offensive was contained in *EB Topics*. (The *Day* made copies of the issues available to the Council after the company had declined to do so.)

Electric Boat's initial appraisal of what it termed "biased and unbalanced reporting" by the paper came in a commentary section on January 5, 1978, two months before the cut-off of communication with the *Day*. Three stories were cited as obstacles to building the spirit of teamwork the company felt it needed to maintain production schedules. One was an analysis of "construction errors," gleaned from Navy records obtained under the Freedom of Information Act. The company called the story exaggerated and misleading.

The second story quoted a union spokesman as charging that Electric Boat production was at an all-time low. The company termed this a "sour grapes" charge by an employee discharged two months before and said that the fact that production had increased significantly after his departure was buried in the story. The third story, **NO CHRISTMAS CHEER AT EB THIS YEAR**, reported that the Friday before Christmas, which fell on Sunday that year, would be a full work day with none of the usual Christmas parties inside the yard. The company accused the paper of ignoring its comment that Monday would be a holiday for the entire work force and that the full day's work on Friday was consistent with the union contract.

In a second commentary on January 12, 1978, *EB Topics* focused on two headlines from the *Day* which it termed "speculative at best, misleading at worst." One related to the possibility that Electric Boat might be shut down for inventory for up to thirty days—a possibility the company said never was contemplated on a plant-wide basis. The second headline, four days later, spoke of the possibility of a ten-day inventory layoff for 4,500 Electric Boat workers,

roughly a quarter of the work force. The accompanying story noted, in its fourth paragraph, that for most the layoff would be only five days, not ten.

Council action: The circumstances surrounding this complaint are the reverse of those that would normally be expected to prevail in a case before the National News Council involving the fairness

'How well Electric Boat discharges its obligations is of legitimate public interest'

or accuracy of news coverage. In ordinary course, it would be the company that would appear as complainant, requesting assessment by the Council of its charges of bias and imbalance in coverage by the *Day*. Electric Boat is, of course, under no compulsion to choose this route. It has elected, instead, acting unilaterally, to make a conclusive determination of unfairness against the *Day* and to impose its own sanction—a shut-off to the *Day* of all information within its control on activities in a shipyard engaged solely in the fulfillment of government defense orders.

The scope of legitimate public interest in how well Electric Boat discharges its obligations as one of the country's most important defense contractors is indicated by the fact that at the very time the blackout was imposed by the company it was arguing with the Navy over the merits of a company claim for payment of \$544 million in cost overruns on a \$1.4 billion submarine contract. The claim was eventually settled with an agreement by the Navy to pay \$484 million above the contract price for eighteen submarines, which were an average of three years behind schedule. The company agreed to absorb a \$359 million loss.

When public funds and the public interest are involved to such an extent in a company that employs a quarter of all the workers in southeastern Connecticut, the community is ill-served by an arbitrary decision on the company's part to withhold all information from the chief newspaper directly serving the region. The Navy's own policy, as officially stated to the Council, is to give access to Navy information on an equal basis to all news media representatives.

"Under this policy," said R. deF. Cleverly, director of congressional and public affairs for the Naval Sea Systems Command, "the *Day's* requests to the

Navy for information, interviews, and the like are treated equally with those of all other news media. Therefore, information which the Navy has in its files concerning its contracts with Electric Boat is available to the *Day* on the same basis as it is available to all other members of the news media. Through this procedure, the equal rights of the news media to information about the Government's operations are protected."

However, federal directives specify no procedures requiring defense contractors to adhere to the same nondiscriminatory policy on release of information, even where contractors are employed exclusively on government work.

This absence of official obligation in no way diminishes the arbitrariness of Electric Boat's decision to stop talking to the paper or sending it press releases.

What goes right at Electric Boat and what goes wrong are both matters of legitimate public concern, particularly in the area in which the company exercises such a dominant economic role. It has a right to expect responsible coverage from the media, but not necessarily invariably favorable coverage.

That the *Day* has made occasional errors in its news coverage of the company's activities is conceded by the paper. From the outset, it has expressed eagerness to sit down with management for a frank exploration of the company's grievances. The Council fully endorses that position. It stands ready to serve in any mediatory capacity that might prove helpful in breaking down the barrier that currently impedes communication.

Concurring: Brady, Cooney, Ghiglione, Huston, Isaacs, McKay, Otwell, Pulitzer, Renick, Roberts, Rusher, and Scott.

Article on Eliot Janeway 'overreached'

Issue: *Esquire* magazine profiled economist Eliot Janeway in a cover story. Was the piece flawed by inaccuracies and overstatements?

Complaint: Economist Eliot Janeway complained that an article about him in the November 21, 1978, issue of *Esquire* magazine (with Mr. Janeway featured on the front cover) contained "documentable cases of malicious falsehood, distortion and misrepresentation."

The article, by Chris Welles, and headlined ELIOT 'CALAMITY' JANEWAY: AN OLD BEAR WHO'S LARGELY BULL, dealt with Mr. Janeway's personality, political and professional associations, and his financial standing, and presumed to give inside information on several major investment involvements. Mr. Welles described Mr. Janeway as a "consummate poseur," asserted that "his performance as a private investor has been lackluster and sometimes disastrous"; that "on Wall Street, State Street and La Salle Street, [he] is generally regarded as a somewhat comic figure." Mr. Welles treated Mr. Janeway's associations with such political figures as Bert Lance and Lyndon Johnson, and with such investments as Medserco, Inc., a St. Louis health insurance firm; Florida real estate; and, particularly, Realty Equities Corp., which went bankrupt and about which Mr. Welles asserted that Janeway "did escape being charged by the SEC for helping to engineer the fraud."

Janeway's twenty-one-page complaint cited aspects he termed falsehoods. Much of the complaint took issue with the article's description of Mr. Janeway's professional and personal relationships, with his standing as an economist and an economic forecaster, and his academic credentials.

The Council concluded that these were areas subject to varying interpretations and confined its conclusions to what it felt were serious questions concerning accuracy or overreaching.

Esquire magazine did not respond. However, Mr. Welles provided the Council with point-by-point answers to the complaint, and tendered documentation, including some of his reportorial notes, which the Council did not request.

The points on which the Council based its action follow:

Bert Lance relationship

Esquire article: (After describing Janeway's early relationship, Welles wrote that) Janeway was among Lance's friends who received loans from his banks. "I did Lance a favor," Janeway claims. "At his request, I did business with him." According to federal investigators, Janeway's loans from Calhoun First National Bank at one point totaled \$103,500. The loans were moved to the National Bank of Georgia (NBG) when Lance moved, where they grew to at least \$400,000. Like Lance's other friends, Janeway, say federal investigators, did not bother to make regular payments on the loans. Janeway, meanwhile, bought NBG stock. The new management of NBG has since forced Janeway to repay the loans.

Much later in the article, Mr. Welles

wrote about Mr. Janeway's losses in Realty Equities and referred to "Lance loans and mortgages."

Mr. Janeway asserted that loans from Mr. Lance's banks never totaled \$400,000. Failure to make payments on the loans, Mr. Janeway said, resulted from bank confusion over billing of his personal and corporate accounts. When this was cleared up, he said, payments were made.

Mr. Janeway provided the Council with National Bank of Georgia documents showing that the Lance loans reached a maximum of \$213,869. Correspondence from the bank acknowledged that the confusion over billing practice brought the delay in repayments.

Mr. Welles conceded the "mortgage" reference was wrong. He said *Esquire* had failed to make a correction he had marked.

Realty Equities Corp.

Esquire article: When it was all over, Realty [Equities Corp.] which was [Janeway's] largest business investment, cost [him] his entire investment . . . about \$2-\$3 million before taxes. . . . Realty Equities was founded in 1958 by Morris Karp, an ambitious young home builder. Starting with \$2 million in apartment buildings and other properties, Karp built the company by the end of the 1960's into a . . . conglomerate with \$500 million in assets During the money crunches and laggard economy of the early 1970's, it fell deeply into the red. . . . In 1974, the SEC charged Realty and Republic National Life Insurance Co. of Dallas and several of the concerns' executives, including Morris Karp, with having perpetrated one of the largest real estate frauds in recent history. . . . For nearly all its existence, Eliot Janeway was a member of Realty Equities' board of directors.

The article quoted one former officer as calling Mr. Janeway "the second most important person in the company. . . . He gave it credibility. . . . He opened doors." The article went on to say that "although [Janeway] opposed many of Karp's acquisitions [he] loyally stayed with the company until November 1973." It said:

Whatever the case, Janeway did escape being charged by the SEC for helping to engineer the fraud.

Mr. Janeway claimed that Mr. Welles had omitted any consideration whatsoever of the "clean bill of health" given to him in the various investigations of the Realty Equities matter, including that of the SEC.

SEC sources told the Council staff that while they could not agree with Mr.

Janeway's "clean bill of health" statement, the agency had concluded on the basis of the record that there was no ground for a charge being brought against Mr. Janeway. They also said Mr. Welles was aware of this official record.

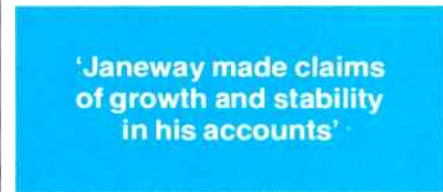
Mr. Welles responded:

Janeway emphasized he was never charged with impropriety. I never said or implied he had been. I specifically said he escaped being charged.

Investment record

Esquire article: His performance as a private investor . . . has been lackluster and sometimes disastrous

He is a major investor in Medserco [a small St. Louis health insurance concern], is a paid



economic adviser to it . . . until recently served on its board of directors, and is a business partner of its president The gold stocks have done well for Janeway and Medserco may also. But the same cannot be said for some of his other investments

Janeway during the mid-1950s organized a group of investors, mainly Wall Street and business friends, to buy a 3,000-acre parcel of land near Tampa. It became Janeway's largest direct investment in real estate. Janeway assured the others that the land was directly in the path of local development and would almost certainly yield a handsome profit. But as the years went by, development . . . moved in other directions. The land remained undeveloped. It rose so slowly in value that much if not all the increase was eaten up by taxes and mortgage payments. . . . By the early 1970s, a number of the investors were so irate that they demanded Janeway have them bought out

Mr. Janeway asserted that Mr. Welles chose to disregard a wealth of material offered to substantiate a "body of positive information he was given about my investment performance." Mr. Janeway provided the Council staff with considerable detail on his investment performance, including lists of his corporate and personal holdings. He said these reports had been offered to Mr. Welles. Mr. Janeway maintained that the documents support claims of both growth and stability in his accounts. The response from Mr. Welles was that Mr. Janeway did not deny the article's evaluation of the investment results of two of the largest Janeway private investments—Florida land and Realty Equities—and

that "He offers no persuasive evidence that his overall investment performance has been anything but lackluster."

Disclosure

Esquire article: Though he does not publicly disclose the fact, he [Janeway] regularly uses his media outlets to promote situations that he and his company are invested in. Over the past year, for instance, he has frequently recommended South African gold stocks in his column, newsletters, speeches, and at seminars

A more specific example is Medserco Incorporated, a small St. Louis health insurance concern. Though Medserco has operated in the red for eight years, Janeway has promoted the company at his seminars and in one of his newsletters. He has not disclosed, though, the details of his personal involvement with the company

Earlier in the article, Mr. Welles wrote:

Despite the image of independence and credibility he projects, Janeway often uses his column to sustain business relationships. For a long time Janeway has had ties with the insurance industry. He has been a paid consultant to a number of insurance companies and is a frequent speaker at industry gatherings Janeway has not disclosed his ties to the insurance industry in his column.

In his complaint, Mr. Janeway said that he had no ties to the insurance industry and that he had never been paid any kind of retainer by any insurance company or association. On this point, Mr. Welles said that while Mr. Janeway disclaimed "ties" with the insurance industry, he did not specifically deny the statement that he had been a paid consultant to a number of insurance companies. This assertion, however, was challenged by T. Lawrence Jones, president of the American Insurance Association. He said he had no record of Mr. Janeway having served as a paid consultant to any insurance company. Mr. Welles provided no information to support the published statement.

Regarding the Medserco matter, Mr. Janeway said that company documents showed him to be an adviser to its board of directors and that this constituted sufficient disclosure. The company's president had offered these documents to Mr. Welles, who, he said, had refused them.

The SEC reported that Mr. Janeway's type of consulting service is not required to register with the SEC as an "investment adviser" and that the investment newsletter, therefore, was not subject to the agency's rules concerning disclosure.

On this point, Mr. Welles said:

Acting as a paid advisor to corporations is a worthy and honorable occupation. It is much less worthy and honorable for an ostensibly disinterested investment analyst to be an investor in a company and on its payroll at the same time that he is promoting the sale of the company's stock to the public. And it is distinctly unworthy and dishonorable to promote the stock without making a public disclosure to those who read his recommendation of this relationship with the company.

Quotes and misquotes

The article quoted many persons concerning various aspects of Mr. Janeway's personal and professional life. Five of these persons either denied that statements attributed to them were made or declared that facts regarding their relationships to Mr. Janeway were inaccurate or taken out of context.

Council action: Eliot Janeway is clearly a public figure with complex business and personal relationships, and he and his business organization are fit subjects for an investigative journalistic report. It was the prerogative of writer Chris Welles and *Esquire* magazine to seek to describe and assess Mr. Janeway's personality traits and his methods of wielding influence. As Mr. Janeway conceded in his complaint, there is an "editorial right of selectivity."

Selectivity, however, becomes open to challenge where factual material becomes an issue. The article appears to have been seriously in error in regard to the amount of loans Mr. Janeway had from banks controlled by Bert Lance and in referring to a "mortgage." Mr. Welles conceded that the mortgage reference was an error and showed copies of galley proofs from which he had excised the mortgage reference. The correction, however, seems to have been overlooked in the checking process at *Esquire*. The Council believes that a correction on both points is in order.

There also appears to have been an overreaching in the language dealing with Mr. Janeway in his role at Realty Equities, both regarding his association with the company and the extent to which it was detrimental to his financial position.

To assert, as Mr. Welles did, that "Janeway did escape being charged by the SEC for helping to engineer the fraud" would indicate a deliberate effort to discredit Mr. Janeway.

Other instances where overreaching seems to be indicated were in the description of Mr. Janeway as a paid consultant to a number of insurance compa-

nies and in the protest of five individuals who assert that they were either misquoted or that the statements attributed to them were taken out of context.

Confining its finding to what it perceives to be the journalistic flaws in the article, the Council believes that the errors of fact, combined with instances of overreaching, including the cover treatment and the headline for the article, were sufficient to justify a finding that the complaint was warranted.

Concurring: Isaacs, McKay, Otwell, Pulitzer, Roberts, Rusher, and Scott.

Dissenting: Brady and Renick.

Abstaining: Ghiglione and Huston.

Statement on the Herbert case

The decision of the United States Supreme Court in the libel suit brought by Colonel Anthony Herbert against CBS has stirred fresh concern among some journalists that the courts are gravely impairing freedom of the press, as guaranteed by the First Amendment.

These fears of a more restrictive judicial attitude toward press freedom are perhaps understandable when one reads in quick succession the Supreme Court's opinion in the *Herbert* case and the landmark decision from which it derives, *New York Times Co. v. Sullivan*, March 1964. The stress in that decision, written by Justice William J. Brennan, was all on the desirability of fostering unfettered criticism of public officials.

The Court was unanimous in the *Sullivan* case in affirming the nation's commitment to the principle that "debate on public issues should be uninhibited, robust and wide open." Penalizing good-faith critics of government for their criticism "strikes at the very center of the constitutionally protected area of free expression," the decision said. Three of the concurring justices—Hugo Black, William O. Douglas, and Arthur J. Goldberg, all now gone from the Court—felt so strongly on this point that they demurred at the single reservation the decision imposed on critical comment. This was that a statement could be considered defamatory and thus subject to damage suit only when made with "actual malice," a term the Court defined as meaning with "knowledge that it was false or

with reckless disregard of whether it was false or not."

The minority within the majority argued that constitutional requirements would be satisfied by nothing less than an "absolute, unconditional privilege" to the citizen and the press to criticize official conduct, but the full Court's insistence on a rule barring knowing or heedless use of false information in the name of criticism impressed many journalists and the press reaction to the decision was overwhelmingly enthusiastic.

The burden of proof in libel actions had been reversed. No longer was it up to the news organization to prove that its statement was true; now the obligation was on the plaintiff to prove that it was false and knowingly so. The effect was precisely the one the Court had endorsed as imperative to the health of American democracy: confidence by the press that it could vigorously expose or excoriate the aberrations of government officials without the self-censorship imposed by fear of harassing litigation.

The emphasis in the *Herbert* decision is markedly different. Its thrust is to deny editors and reporters any constitutional claim to immunity against the efforts of plaintiffs in libel suits to penetrate the privacy of the editorial process as a means of bolstering their charges of defamation. Taken in conjunction with a lengthening list of adverse rulings recently issued in press cases at various levels of the judiciary, so pronounced a

A change in tone does not necessarily mean a comparable change in substance'

shift in emphasis by the nation's highest tribunal was bound to occasion journalistic apprehension.

But a change in tone does not necessarily mean a comparable change in substance and it is important to examine how far, if at all, the Supreme Court has moved away from the protection supposedly given to news organizations by its 1964 verdict in the *Sullivan* case. In the absence of such an analysis, the press runs the risk of seeming to argue for a limitless right to lie, free of all accountability, whenever it chooses to undermine or destroy the good name of a person in public life.

Careful study of the majority decision in the *Herbert* case, the concurring opinion by Justice Lewis F. Powell, the partial dissent by Justice Brennan, and the

full dissents by Justices Potter Stewart and Thurgood Marshall, provides little warrant for argument that the Court has retreated in any fundamental way from the principles laid down in its ruling fifteen years ago. Even the dissenters acknowledge that the element most troublesome to many in the press—the authorization the *Herbert* decision provides for inquiring into a journalist's state of mind as part of the pre-trial discovery process—was clearly implicit in the *Sullivan* decision. Not one of the justices suggests that the First Amendment provides an automatic shield against such inquiry or that exploration of this kind can be ruled out unless the "actual malice" yardstick is abandoned.

Opening up for virtually inexhaustible questioning the judgmental processes by which reporters and editors decide what information to credit or to reject has disturbing implications for the press, as the National News Council warned more than two years ago when the first-round decision in the *Herbert* case was rendered in New York by Federal Judge Charles S. Haight, Jr.

The most obvious of the potential impediments to robust exercise of the journalistic function are those that flow from the staggering cost in time, money, and talent, both editorial and legal, of the pre-trial discovery process.

Abuses in the taking of depositions before trial have become an open scandal in virtually all branches of civil procedure, despite the clear admonition of the federal court rules that the discovery process be conducted in a manner calculated to secure "the just, speedy and inexpensive determination of every action" and that all the material sought through questioning be relevant. The majority decision in *Herbert v. Lando* is as emphatic as are the dissenting opinions in stressing the duty of trial judges to restrict discovery where the effect is to inflict "annoyance, embarrassment, oppression, or undue burden or expense."

Justice Stewart's dissent, though clearly not controlling as a judicial guidepost, could make a useful contribution toward keeping the discovery process within reasonable bounds if trial judges followed his advice to limit the process to what was published and to recognize that "what was *not* published has nothing to do with the case." A similar effect would be achieved if trial judges take seriously the recommendation of Justice Powell in his separate concurring opinion that they give careful weight to values protected by the First Amendment in

passing on the relevance of questions.

Realism compels recognition, however, that nothing short of total reform in the rules governing civil procedure in every type of case is likely to check the escalation of costs resulting from the latitude currently allowed in pre-trial discovery. The Council urges that the fresh attention focused on this problem by the *Herbert* decision be translated into prompt action within the judiciary or in Congress, if necessary, to rewrite the existing rules in all branches of civil justice

'There are alternatives to the courts in libel cases'

in a manner that will give substance to the promise of "just, speedy and inexpensive determination of every action."

The Council also applauds the efforts presently under way in professional societies of reporters, editors, publishers, and broadcasters to establish a coordinated legal defense program to underwrite the high cost of defense against libel suits in cases where news organizations are too poor to defend themselves adequately.

How mountainous these costs can be in libel actions—including many that may be brought primarily to intimidate the press or to harass it—is well illustrated by the *Herbert* case, which is now being remanded to the district court for more pre-trial questioning of a CBS producer whose deposition already runs to 2,903 pages of transcript, plus 240 exhibits. The original complaint was filed early in 1974 and no one can predict with certainty when the taking of depositions will end and trial on the merits begin, much less how or when a final verdict will be rendered.

That libel actions can involve hazards for plaintiffs as well as news organizations was underscored by a decision issued by Federal District Judge Robert L. Carter in New York on the very day that the Supreme Court was rendering its decision in the *Herbert* case. He ordered an investor and his law firm to pay \$50,000 in legal costs to *Barron's* for having brought a "baseless lawsuit" against it on the strength of unsupported allegations of misinforming the public.

The plain moral of all this painful experience on both sides is that there are advantages to seeking alternatives to the courts in libel cases. The desirability of developing such alternatives to bring

down litigative costs and delays has already been widely recognized in a broad range of civil fields, from tenant-landlord disputes to community relations. The British Press Council, after which this Council is patterned, is often called on by Britons concerned with vindicating their reputations, who would otherwise file damage suits under the more permissive libel laws that prevail in that country. On occasion, similar complaints of alleged mistreatment by the press have been filed with this Council by individuals who have first signed the required waivers of any intention to go to court on the same issue. It is neither our place nor our purpose to put forward the idea that an instrumentality of this kind is necessarily the best or only alternative open to the press and public.

However, the diversity of this organization's membership, divided as it is among members from the media and from broad segments of the body politic, does make it appropriate for the Council to propose that it take the initiative in eliciting the suggestions of representative groups in the press, the bar, and public life on ways to protect the good names of persons against unfair attack without inhibiting the media in its critical function or exposing everyone involved to the torture of libel litigation in the courts.

Concurring: Brady, Cooney, Ghiglione, Huston, Isaacs, McKay, Otwell, Pulitzer, Renick, Roberts, Rusher, and Scott.

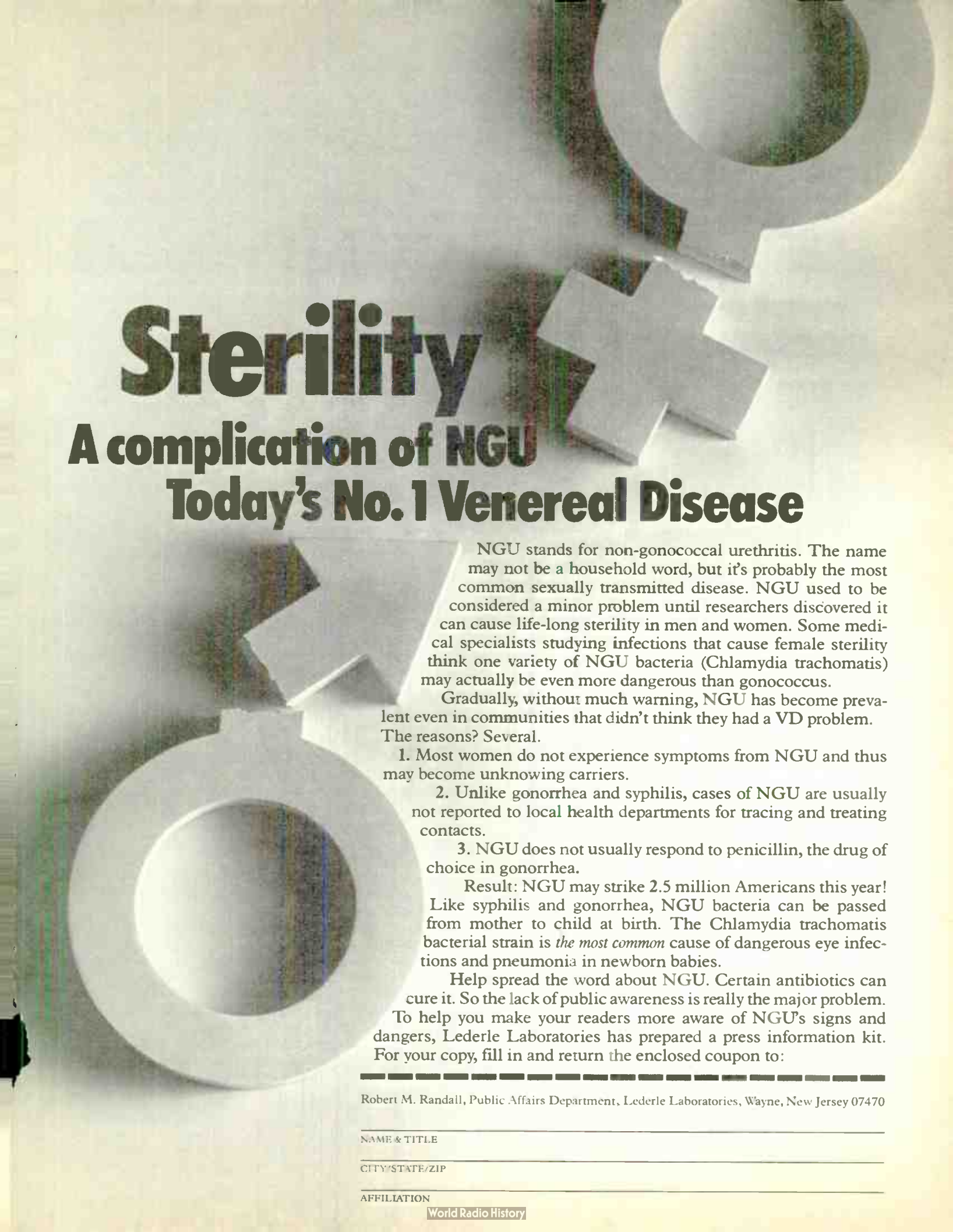
Drug probe found proper, albeit flawed

Issue: How precise was ABC's examination of the prescription drug business?

Complaint: C. Joseph Stetler, president of the Pharmaceutical Manufacturers Association, complained that an ABC News 20/20 segment on prescription drugs, broadcast November 30, 1978, was "unbalanced, misleading and, in parts, inaccurate."

Mr. Stetler contended that the broadcast inadequately represented the industry position; made misleading comparisons between drug products; inaccurately reported on how they are manufactured; quoted incorrect drug prices; and improperly characterized certain drugs as "interchangeable."

The "most specific inaccuracy," he said, occurred in the program's presenta-



Sterility

A complication of NGU

Today's No. 1 Venereal Disease

NGU stands for non-gonococcal urethritis. The name may not be a household word, but it's probably the most common sexually transmitted disease. NGU used to be considered a minor problem until researchers discovered it can cause life-long sterility in men and women. Some medical specialists studying infections that cause female sterility think one variety of NGU bacteria (*Chlamydia trachomatis*) may actually be even more dangerous than gonococcus.

Gradually, without much warning, NGU has become prevalent even in communities that didn't think they had a VD problem. The reasons? Several.

1. Most women do not experience symptoms from NGU and thus may become unknowing carriers.

2. Unlike gonorrhea and syphilis, cases of NGU are usually not reported to local health departments for tracing and treating contacts.

3. NGU does not usually respond to penicillin, the drug of choice in gonorrhea.

Result: NGU may strike 2.5 million Americans this year! Like syphilis and gonorrhea, NGU bacteria can be passed from mother to child at birth. The *Chlamydia trachomatis* bacterial strain is *the most common* cause of dangerous eye infections and pneumonia in newborn babies.

Help spread the word about NGU. Certain antibiotics can cure it. So the lack of public awareness is really the major problem.

To help you make your readers more aware of NGU's signs and dangers, Lederle Laboratories has prepared a press information kit. For your copy, fill in and return the enclosed coupon to:

Robert M. Randall, Public Affairs Department, Lederle Laboratories, Wayne, New Jersey 07470

NAME & TITLE

CITY/STATE/ZIP

AFFILIATION

World Radio History

tion of how Mylan Pharmaceuticals, Inc., produced the antibiotic erythromycin for SmithKline & French, Bristol, and a third unidentified drug firm. ABC reported that although these drugs varied in price when dispensed, "We know for a fact that . . . the only thing that's different is the color coding and logo." Mr. Stetler asserted that according to Mylan, the drugs were made "at different times, using different raw materials, and according to different standards and specifications."

Al Ittleson, ABC News vice-president and executive producer of *20/20*, wrote to the complainant that the segment was "factually accurate" and "fairly covered the controversy concerning prescription drugs."

Drug prices were attributed to and accurately quoted from *The Drug Topic Redbook* for 1978, said Mr. Ittleson, and according to Food and Drug Administration sources, the word "interchangeable" was correct in the context in which it was used.

On the Mylan portion of the broadcast, Mr. Ittleson stated:

According to highly reliable FDA sources, the erythromycin Mylan manufactures for SmithKline and for Bristol is therapeutically identical with Mylan's own erythromycin. Mylan's vice-president for marketing, Warren Hartman, confirmed this during our tour of Mylan's plant. Therefore, we believe that our statement, although presented in simpler terms, is accurate.

Council action: It is clear from the contrasting views presented in the program that ABC was attempting to present a fair report on the much-debated issue of brand versus generic drugs.

The Council finds no support for Mr. Stetler's complaint that the prices quoted in the broadcast were outdated or inaccurate. ABC made it plain in the program that it was relying on the 1978 *Drug Topic Redbook*, current at the time of its report.

There were two elements in the program, however, where the Council feels that the *20/20* program slipped from total accuracy.

One had to do with the use of language: The broadcast attributed to the FDA the statement that two versions of the antibiotic erythromycin were "interchangeable." This has been disputed by Gene Knapp, associate director for drug monographs at the FDA. He noted that the drugs cited by ABC perform differently when taken with food and so according to FDA terminology, they cannot accurately be described as "interchangeable" under all conditions.

The Council's second reservation involves Mr. Stetler's argument that the

manufacturing of erythromycin at the Mylan facility was inaccurately portrayed in the program. Council research has determined that according to the Antibiotic Form Six papers filed with the FDA, two of the drugs in question, SmithKline's and Bristol's, have different formulations. ABC contended that the only difference between the drugs was their "color coding and the logo."

Although ABC News claims to have substantiation of this point, it declined to provide it to the Council. An FDA official familiar with the program told



Council staff that while the drugs were "essentially the same," he believed that ABC's explanation in this instance was "oversimplified." The Council agrees.

Similar comparisons concerning other manufacturing plants later in the program included comments of officials at those places and they confirmed for ABC that a specific product was identical. At the Mylan plant, ABC's accompanying narration read: "We know for a fact that these three drugs were manufactured at the same plant and the only thing that's different is the color coding and the logo."

In summary, the Council believes that ABC News presented an investigative report on an important subject. Most of the major points were essentially accurate. However, there appears to have been an overreaching in language involving the Mylan manufacturing operations; and the characterization of certain drugs as interchangeable was technically flawed. The Council does not find that these flaws invalidated the main thrust of the program and the complaint is, therefore, found unwarranted.

Concurring: Cooney, Huston, Isaacs, Otwell, Pulitzer, Renick, and Scott.

Dissenting: Brady, Ghiglione, McKay, and Rusher.

Abstaining: Roberts.

Concurring opinion by Ms. Huston: In finding the Pharmaceutical Manufacturers Association's complaint against ABC unwarranted, I do not want to quibble. If I were to quibble, it only would be with the word "batch"—used in the billboard to this excellent investigative show that depicted in a practical way how people can get more for their money at the drugstore.

Council inquiries were necessarily inconclusive because Mylan Pharmaceuti-

cals, Inc., refused to have followup conversations with our researcher. If the program's billboard, as spoken by Hugh Downs, had said that the differently priced pills came from the same machine, instead of the same batch, I believe it might have been improved.

One point made in the *20/20* segment was that some erythromycin, bearing either the SmithKline & French or the Bristol label, were actually made, not at the drug companies' own plants, but at Mylan Pharmaceuticals, Inc., in Morgantown, West Virginia.

"What we found at Mylan was one machine turning out white erythromycin tablets. . . ." said Geraldo Rivera. Mylan has not informed the Council that different machines were used to make the various companies' versions of erythromycin.

In another part of the show, some detractors point to Rivera's statement: "According to the FDA, these two products are interchangeable; they're chemically equivalent. One is just as safe and effective as the other. The only difference is the price you pay." Some will quibble with the phrase "they're chemically equivalent," preferring ABC to have said, "their active ingredients are equivalent," citing the difference in the dyes and possibly in the inactive ingredients.

To quibble over such phrases that will, most likely, mean the same to the viewer, is to pick away at the kind of television journalism the Council ought to applaud.

Dissenting opinion by Mr. Rusher (Brady, Ghiglione, and McKay concurring): As is too often true in journalism, there was an overreaching in language, and two portions of the program on the Mylan manufacturing operations were technically flawed: In the opener, Hugh Downs spoke of "a single batch" of erythromycin as being sold at three different prices. Later on, Geraldo Rivera said that at Mylan "we found one machine turning out white erythromycin tablets"—duly shown on screen—and then added that they were separately colored, stamped, and labeled for sale to separate brand manufacturers for resale at different prices. Both statements were important, and both, according to Mylan, were false: batches of erythromycin manufactured by Mylan for different companies are manufactured separately—and, in some cases, are manufactured according to different specifications that produce different results in various respects, including bioavailability (which is not necessarily an unimportant consideration).

Accordingly, while reaffirming the Council's approval of ABC's decision to undertake a report on such an important subject, we (would) hold the complaint, to that limited extent, warranted.

REPORTS

"First Amendment Blues: How the Press is Coping After Farber," by Alan Bromley. *Juris Doctor*, Spring 1979

Some use codes. Many use safety deposit boxes. One relies on shipments to distant cities. Others simply destroy. This, according to Bromley's disturbing article, is how reporters are handling confidential notes in the aftermath of the *Farber* and *Stanford Daily* decisions and the current flood of newsroom subpoenas. The author, a freelance writer and a member of the New York bar, bases his report on a survey of some 500 journalists drawn from the membership of Investigative Reporters and Editors, Inc. Almost 56 percent of the ninety-seven respondents, the survey indicates, have changed their methods of storing notes as a direct result of recent decisions. And, Bromley emphasizes, although the Supreme Court refuses to make the tie between journalistic practices and the explicit "free press" language of the First Amendment, the survey demonstrates a clear connection: a full 35 percent report sources or stories lost because of the reporter's inability to offer anonymity or the belief of sources that they will not be adequately protected. Let those who think of "chilling effect" as an editorialist's cliché read Bromley's piece—and shiver.

"Special Issue on Women and Journalism," *Nieman Reports*, Summer 1979

This notable collection of more than a dozen articles on women and journalism is dedicated to Agnes Wahl Nieman, the benefactor who made possible the creation of the Nieman Fellowship program at Harvard in 1938—and who, as a woman, would not have been eligible for appointment during the first seven years of the program. It is a fine and fitting tribute. In "Yes Virginia, There is an Agnes," Jerome Aumente rehearses the remarkable scene in which Harvard's then-president, James B. Conant, yielding at last to the pressures of Nieman curator Louis M. Lyons and professor Arthur Schlesinger, Sr., dubiously agreed to the admission of women ("The blood be on your head"). Peggy A. Simpson's comprehensive report, "Covering the

Women's Movement," traces both the highs and lows of that particular assignment; and Nancy L. Day's no-holds-barred discussion of personal and professional conflicts will be recognized by women journalists everywhere as honest and painfully true. Rounding out the package are pieces on the push for non-sexist language, the use of pseudonyms, the career outlook (strong), the trend in top-level management jobs (weak), and a couple of firsthand accounts by women sportswriters and editors. With its unusual double focus on both the specifics of the Nieman experience and more general matters of professional concern, this special issue adds perspective to the growing literature on the subject that is both comprehensive and fresh.

Conference Recommendations on Child Abuse, Annenberg School of Communications and the Bush Center in Child Development and Social Policy, 1979. "Tips on How to Investigate Child Abuse," by James Garbarino *The IRE Journal*, May-June 1979

Child abuse presents a singular challenge to the communications industry and to the reporter on the street. As an issue it is ambiguous, complicated, and terribly touchy; as a story it is nasty, intrusive, and potentially sensational. These two reports, approaching the problem at different levels, provide both broad guidelines and concrete proposals for constructive action.

The policy recommendations comprise the formal report that emerged from a national conference on child abuse held at the University of Pennsylvania last fall. The two-day program was attended by more than 350 representatives from government, social service and public interest groups, the academic community, and the media.

Along with advancing specific social policy goals, the report devotes considerable attention to the role that the media might play in reducing the extent of child abuse. Primary, if predictable, objectives include more realistic portrayals of family life, an increase in public service announcements (particularly in prime time), and better coverage of children's issues. The report also calls attention to

the paradoxical ways in which the television code, designed to reduce the incidence of violence, prevents the depiction of its consequences—resulting in what many regard as the trivialization of abuse. (The code, the report explains, allows the portrayal of a belt being raised to a child, but not the actual whipping.)

Whereas the conference report is addressed to the makers of policy, Garbarino's piece is aimed at working reporters. Garbarino, a fellow at the Center for the Study of Youth Development at Boys Town, is thoroughly familiar with the child-abuse story—and the reasons why it is so difficult to report. After outlining the major areas that need investigating—the self-interested silence of people in authority, inadequate services, self-serving and cowardly action by lawyers and judges—he describes the kinds of records kept, the ways of getting at them, and what to watch out for. All that seems to be missing from this invaluable tip-sheet are exemplary models of child-abuse stories. It is a void that his article can help to fill.

Newspaper Research Journal, Newspaper Division of the Association for Education in Journalism, April 1979

A prototype of what is planned as a regular quarterly devoted to practical newspaper research, this seventy-two page edition assembles a number of scholarly papers and reviews that will be of interest to working journalists and to students of the industry.

The pieces are brief, informative, and to the point. A study of free, home-delivered suburban shoppers, for example, finds that both as a source of information and as an advertising medium such papers are potential competitors to the nation's paid-circulation newspapers. One especially simple and immediately useful study measures how well readers understand ten commonly used foreign words and phrases (taken primarily from *Newsweek*, *Time*, *Sports Illustrated*, the *San Francisco Chronicle*, and the *Chicago Tribune*). The unsettling findings: the 135 respondents (college students, all) showed little comprehension of such terms as *fait accompli*, *roman à clef*, *quid pro quo*, *faux pas*, *weltanschauung*, and the like. Less than half understood the meaning of *laissez faire*, only a quarter recognized *frères*. For writers and editors who like to think they are communicating with readers, something to think about, *n'est-ce pas?*

G.C.

A word to smokers

(about working together)

Whether you're a billboard painter or just, as you obviously are, a reader of magazines, you've discovered that there's a difference between nonsmokers and *anti-smokers*.

We all work with nonsmokers — and they work with us. Roughly 60% of the people around us are nonsmokers, and 40% of them are smokers — so we *have* to work together. And, like our sign painters, we do.

Anti-smokers are a breed apart. They don't want us to work together with nonsmokers. And they go to some extreme lengths to see that we don't.

Two examples:

1. A nationally known TV and film star was prevented from performing by a band of anti-smokers threatening violence because the star frequently smoked on stage. The occasion was a benefit to raise funds for handicapped children.

2. The executive director of one anti-smoking group announced plans to build an "army" of 2,000,000 anti-smoking militants who would go about "zapping" smokers in the face with spray from aerosol cans.

"You don't know what a rewarding feeling it is," he is quoted as saying, "the first time you spray a smoker in the face. It's hard to work yourself up to the first spray. It takes guts. But once you've broken the ice, it's easy. And you feel exhilarated."

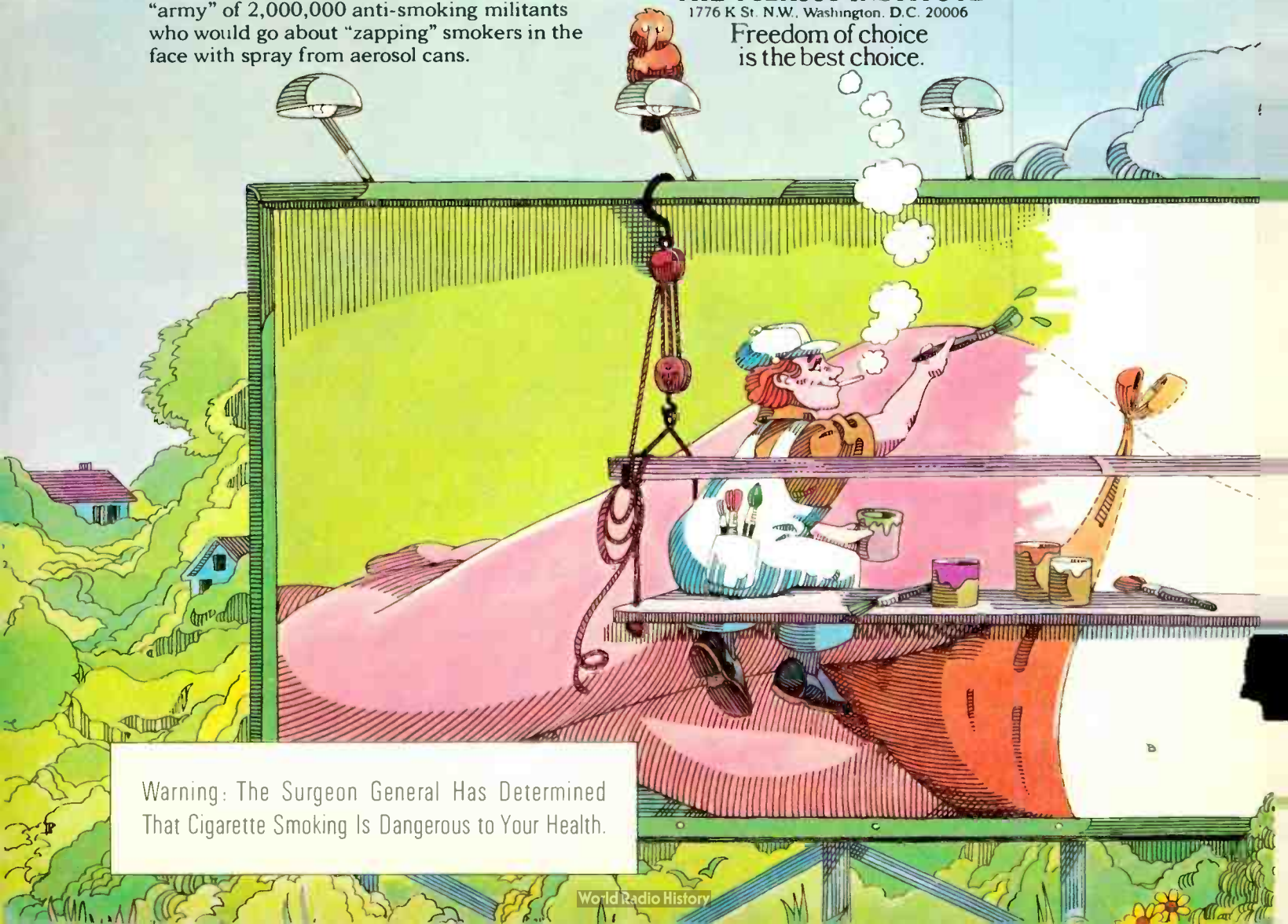
Such people clearly do *not* represent the nonsmokers we all know and work with. They would not last long in any working environment where people must cooperate to get the job done. And we doubt very much that the "zappers" will find 2,000,000 others to go along with them. Americans just don't think that way.

Such anti-smokers are not only anti-smoking. They're giving themselves the reputation of being anti-individualism, anti-freedom of choice, anti-everything that does not agree with their special prejudices. And in that they're as much a threat to nonsmokers as they are to smokers.

THE TOBACCO INSTITUTE

1776 K St. N.W. Washington, D.C. 20006

Freedom of choice
is the best choice.



Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

A word to nonsmokers

(about working together)

Wherever you work — even if you're a billboard painter — you work with smokers, and always have.

There's nothing remarkable about that. Forty percent of the people around you are smokers, and 60% are nonsmokers. Still, we work, live, and enjoy ourselves together.

Lately, however, we've all become super-sensitive to each other and to each other's privileges and obligations. And that's not a bad thing.

We agree on many things. There are places (crowded elevators, to take the simplest example) where smoking is not appropriate. In closed and private places, the ancient courtesy of "Do you mind if I smoke?" is still the best rule. Smokers, we believe, have become more generally conscious of that courtesy. The occasional careless smoker, waving a lighted cigarette or cigar, should, in our opinion, be as quickly reminded of others' preferences by a thoughtful smoker as by a nonsmoker.

Nevertheless there are some people — anti-smokers rather than nonsmokers — who will never be satisfied with our sensible accommodations to each other. They don't want us to work together at all. Instead they want to segregate us by law — literally to

build walls between us — at considerable expense to both smokers and nonsmokers — in places where we work, shop, eat or just go to amuse ourselves.

We know that such anti-smokers do not represent the great majority of nonsmokers. And the anti-smokers know it, too. But there is a danger that others will think they do.

"When I went to the legislature," says one anti-smoking lobbyist, "they thought I had about 10,000 people behind me. That was a laugh. It was just me. I had the law passed by myself."

If it is a "laugh" for the anti-smoker, it is no joke for the rest of us for we must all, smokers and nonsmokers alike, pay the cost of such foolish laws. All of us are losers when any one of us is denied freedom of choice.

We don't think that, over the long run, that's going to happen. We think that, like our billboard painters, we'll go on working together until we get the job done.

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Freedom of choice
is the best choice.



Myth:

Railroads waste a lot of energy.



Fact:

America's freight railroads are in the forefront of energy conservation.

With energy a scarce commodity, America's freight railroads are leaders in tapping new technologies to conserve our dwindling energy resources. A new and innovative throttle control device that matches a train's power to its needs can help reduce railroad fuel consumption by up to 15%.

Sophisticated locomotive fuel injection systems, automatic shutoff valves at fueling stations and improved maintenance practices are significantly trimming energy consumption. This at a time when freight railroads use only 3.27% of the petroleum consumed by the transportation industry while handling 36.2% of the nation's intercity freight.

Today, the railroads' search for energy saving measures is reaching beyond fuel conservation. Maintenance-free solar batteries are being tested to replace power lines to remote grade crossing systems, an energy saving innovation that has far-reaching potential.

Railroads have always been the most energy-efficient way to move bulk cargo overland. Now, with fuel at a premium, America's freight railroads are more important than ever to the nation.

For more information about railroad energy efficiency, write: Energy, Association of American Railroads, American Railroads Building, Washington, D.C. 20036.

Surprise:

Railroads use less than one percent of the nation's energy resources each year.

The Lower case

City May Impose Mandatory Time For Prostitution

The Tampa Tribune 8/7/79

Arthur Fiedler, the jolly, unsnobbish, conductor of the Boston Pops Orchestra, knew just how much tuneful classical music Mr. and Mrs. Average could take. After nearly 50 years of spreading musical joy, he is dead at 84.

The (Toronto) Globe and Mail 7/11/79

Tuna Biting Off Washington Coast

Seattle Post-Intelligencer 8/3/79

One witness told the commissioners that she had seen sexual intercourse taking place between two parked cars in front of her house.

The Press (Atlantic City, N.J.) 6/14/79



UPI Telephoto

FAA Administrator Langhorne Bord announces Friday that he is returning the nation's DC-10 fleet to the air.

Chicago Tribune 7/14/79

President to address nation Thursday on television energy crisis

The Times (San Mateo, Calif.) 7/3/79

Good Evening!

Thurman Munson killed

The Evening Bulletin (Providence, R.I.) 8/3/79

PM-Advisory,
Wire Editors:
The Weather Elsewhere is de-
layed at the source.
The AP

07-27-79 08.24apd

Findings Aired on Vilent Youts

The Salt Lake Tribune 5/17/79

New Orleans To Get Force Of 50 State 'Supersops'

The Cumberland (Md.) News 5/18/79



President Jimmy Carter and Soviet President Leonid Brezhnev are all smiles as they meet for the first time since they boarded the vessel and discovered bails of marijuana.

The San Juan (P.R.) Star 6/16/79

"I think we are having some communications problems," Vogel said. "We are gon tg ivogeiSHRD"

The Washington Post 6/24/79

Kennedy Feels Chappaquiddick No Hind rance

The Tennessean 7/18/79 page 1

Kennedy: Chappaquiddick No Hind rance

The Tennessean 7/18/79 page 5

Kennedy: Chappaquiddick No Hind rance

The Tennessean 7/18/79 page 6

Rugby team's coach set on fire

South Wales Echo 4/7/79

U.S. Government Report:



Box or menthol:

Ten packs of Carlton have less tar than one pack of..

	Tar mg./cig.	Nicotine mg./cig.		Tar mg./cig.	Nicotine mg./cig.
Kent	12	0.9	Parliament Lights	9	0.6
Kool Milds	14	0.9	Salem Lights	10	0.8
Marlboro Lights	12	0.8	Vantage	11	0.8
Merit	8	0.6	Vantage Menthol	11	0.8
Merit Menthol	8	0.6	Winston Lights	13	0.9

Carlton is lowest.

Less than 1 mg. tar,
0.1 mg. nic.

Of all brands, lowest... Carlton Box: less than 0.5 mg. tar and 0.05 mg. nicotine av. per cigarette, FTC Report May '78.

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

Box: Less than 0.5 mg. "tar", 0.05 mg. nicotine;
Soft Pack and Menthol: 1 mg. "tar", 0.1 mg.
nicotine av. per cigarette, FTC Report May '78.