What You Don’t Know Will Hurt You

Address by

John E. Moss
THE JOHN PETER ZENGER AWARD
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The John Peter Zenger Freedom of the Press Award was inaugurated by the University of Arizona through its Department of Journalism in Tucson, Arizona, November 21, 1954. The award was named for the Colonial American editor whose trial for libel established the foundations of journalistic freedom in this country.

The 1958 Zenger Award for "leadership in the endless battle to protect the freedom of the press and the people's right to know" was presented to John E. Moss, Chairman of the House Government Information Subcommittee.

Former recipients include: Palmer Hoyt, Editor and Publisher of the Denver Post, 1954; Basil L. Walters, Executive Editor, Chicago Daily News and Knight Newspapers, 1955; James S. Pope, Executive Editor, Louisville Courier Journal, 1956; and James Russell Wiggins, Vice-President and Executive Editor of the Washington (D.C.) Post and Times Herald, 1957.

Each year the John Peter Zenger Award is presented by the University at the Annual Meeting of the Arizona Newspapers Association.

The award to Congressman Moss—the first to be made to someone outside the field of journalism—is in recognition of his work as Chairman of the Special Subcommittee on Government Information of the Government Operations Committee.

In directing the work of the subcommittee, Congressman Moss has vigorously investigated charges of news suppression by the Executive Branch of the Federal Government. In 1958 Congress passed the Hennings-Moss bill, which he helped draft, curbing improper use of a 1789 law to interfere with the public's right to know.

As U. S. Representative from the Sacramento district of California, now serving his fourth consecutive term, Congressman Moss has won wide national recognition and acclaim both for his searching investigation of questionable informa-
tion practices by executive departments of government, and for his successful leadership in other fields.

A tribute to Congressman Moss's endeavors on behalf of freedom of the press was made by James S. Pope who received the 1956 Zenger Award. A past president of the American Society of Newspaper Editors and former chairman of its Committee on Freedom of Information, Mr. Pope endorsed this year's Zenger nominee with these words: "While we knock little holes in news barriers, one at a time, John Moss is trying to remove any excuse for their existence."

The address delivered by Congressman Moss upon receiving the University of Arizona's 1958 Zenger Award at the meeting of the Arizona Newspapers Association in Tucson on January 10, 1959, is presented herein. It is a clear indication of dedication in a man, not himself a journalist, who carries on the struggle for our freedoms in the aggressive spirit demonstrated by John Peter Zenger.

RICHARD A. HARVILL

Office of the President
University of Arizona
Tucson
I deeply appreciate the honor which the University of Arizona has conferred upon me through its John Peter Zenger Freedom of the Press Award. It is a recognition of the achievements of the Special Subcommittee on Government Information and the achievements would not have been possible without the dedicated interest of Congressman William L. Dawson of Illinois, the Chairman of our parent House Committee on Government Operations. Nor would the Subcommittee's accomplishments have been possible without the support of my colleagues on the Committee or without the work of a competent staff.

Just as important has been the increasing support by the nation's newspapers and radio and television broadcasters and the assistance of men like Palmer Hoyt, Basil Walters, Jim Pope, and Russ Wiggins, the previous recipients of the John Peter Zenger Award. I am doubly grateful to accept the award because, in going outside the field of able, professional newsmen who have dedicated so much time and effort to the fight for a free press, the selection committee is telling the public that this is not a battle waged solely for the Press. The fight for free access to information—a freedom which is the cornerstone of the free press, free speech, free assembly, freedom of
religion and the other democratic rights—is the fight of all free men who wish to preserve our rich American heritage. Freedom of information goes beyond the newspaper profession. It goes beyond Government and beyond partisan politics.

In the three and one-half years during which I have been Chairman of the Special Subcommittee on Government Information, I have many times been asked the question: "But why must we give all this information to the press, for the newspapers will just twist the facts and use them for their own advantage?" The same thing has been asked about politicians, both in Congress and in local governments. I believe the question provides its own answer. If some newspapers do twist the facts for their own advantage, if some politicians do manufacture issues to gain re-election, then there is even greater reason for complete, unfettered access to the facts of Government. If the facts are twisted, or if the information is colored, it is even more necessary that the public have access to information at its source. Only thus can people collect the facts to prove that certain political programs are wrong or that a newspaper has twisted the truth to satisfy its own editorial views.

The trial of John Peter Zenger nearly 224 years ago, and his eloquent defense by Andrew Hamilton, is a case in point. Zenger established the first partisan newspaper on the American continent. His New York Weekly Journal was an organ of the colonial party which opposed the deeds and ideas of Governor Cosby. In the words of Zenger's Editor-in-Chief, the newspaper was designed "to be continued weekly and chiefly to expose" Governor Cosby. The trial and acquittal of John Peter Zenger not only was an effective argument for truth as a defense against libel and for the principle that juries have the right to determine both the fact and the law in a libel case, but it also highlighted the first attempt by a political faction to use a newspaper to carry on a political controversy.

The trial of John Peter Zenger was a major signpost on the road to the Declaration of Independence and the First Amendment in the Bill of Rights. It was part of the fight for English justice which resulted in the Fox Libel Act of 1792.
Possibly as important, the Zenger trial led to the success of such newspapers as Fenno's *Gazette of the United States* and Freneau's *National Gazette*, the publications which were platforms for Thomas Jefferson and Alexander Hamilton in their political controversy which established many of the governmental policies for our American democracy.

It was an important principle which the John Peter Zenger trial helped to establish—the principle that those clothed in the brief authority of government can be criticized, even castigated, by the press in opposition.

Today, proof of the truth may be a defense in libel cases. Today, a newspaper man accused of libel goes before a jury of his peers who can determine whether the publication was, in fact, libelous.

But today we have virtually lost the other principle developed by the John Peter Zenger trial and his defense by Andrew Hamilton—the idea of valid criticism of the government in power.

Because valid criticism depends upon accurate information, criticism by the press, the public, and even the Congress elected to represent the public, is rarely possible as it was in the days of John Peter Zenger, of Thomas Jefferson, of Elijah Lovejoy before the Civil War, or even the *Chicago Tribune* in the period before the Second World War. Modern-day government censors have discovered a technique based upon the truism that criticism of a government program is invalid unless the critic knows what the program is, knows its basis and its probable effect. And this information often is not available to the press, not available to the public, and not even available to the elected representatives in the Congress of the United States.

This is what I mean when I say that what you don't know *will* hurt you.

* * *

The intensive study by the House Government Information Subcommittee has uncovered some shocking examples of restrictions on your right to know. The Subcommittee has
looked only at restrictions imposed by Federal executive agencies. We have no idea how bad the situation is at other levels of government, but there is some hope that a nationwide picture of the status of the right to know may be painted by the new Freedom of Information Center which has been established at the University of Missouri.

When the people learn just how much information is hidden from them by state, county and city governments, they will be able to determine what should be done to remove those restrictions. As we have uncovered restriction piled upon restriction in Washington, we have been able to convince some of the secrecy-minded bureaucrats that their activities are the public's business. There has been some improvement in the situation as reported to you by previous recipients of the John Peter Zenger Award. Jim Pope told you two years ago that the government still nursed its Office of Strategic Information, an agency trying to control non-security information which might be of some potential use to an enemy—information such as road maps, telephone books and high school scientific texts. Last year, this censorship office was abolished when the Congress refused to appropriate money for its operations.

He also reported that the Treasury Department refused to let the taxpayers see the record of groups claiming tax-exemption, and the Congress moved in here, passing a new law to make this information public.

I understand that Bill Mathews and his Arizona Star refused to accept the Governor's contention that the public had no right to read a report by the Attorney General which was the basis for the Governor's dismissal of a land commissioner. Bill Mathews took his case to court and proved that such reports are state business. But similar instances happen again and again throughout the nation. Last year, the Governor of Pennsylvania fired three officials of a local housing project because of facts uncovered by a Federal investigation. But the Federal Public Housing Administration refused to give the report of its investigation to the public. No citizen has yet taken this case to court, but it is one of a series of examples which may result in Congressional action to wipe out the broad
Federal claim of a right to determine what the public should know about public business.

Last year, Russ Wiggins gave an extremely effective report on the status of your right to know. Since then there has been some improvement in the laws guaranteeing that right. On August 12, 1958, the President signed into law the simple, 19-word amendment to the ancient “housekeeping” law. This law was enacted to permit General Washington’s department heads to adopt regulations governing the conduct of employees and the custody, use, and preservation of official government documents. Over the years, the old statute was twisted into a convenient excuse to hide these government documents from the public. The new amendment—the first law devoted solely to freedom of information ever passed by the Congress and passed, at that, over the objection of every single cabinet agency—says merely that the old “housekeeping” law does not authorize withholding information from the public.

I have written every government official who cited this law as authority for secrecy, asking what steps have been taken to put the new freedom of information amendment into effect. I am not optimistic about the result of the new freedom of information amendment, for even without it there are dozens of specific statutes permitting government bureaucrats to keep Federal records from public view. Without doubt, many of these laws are necessary for they protect military information, privacy in income tax matters and confidentiality of raw investigative files. Until we find out just how many secrecy laws there are and how extensive is their effect, we will not know the status of the people’s right to know. This is a project on which the Government Information Subcommittee is now working. We are also working on amendments to laws of broad applicability, similar to the old “housekeeping” statute. These include the public information section of the twelve-year old Administrative Procedure Act. This law, designed to open the records of administrative actions to public view, is repeatedly held up as a claim of authority to refuse public records “for good cause found” and “in the public interest.”

We have been able to cut away part of the dense tangle restricting the people’s access to public information, but the
removal has exposed a veritable forest of other restrictions with little or no basis in law.

Possibly the most absurd of the restrictions on public information is the repeated statement that the facts will be made available only to a "responsible" person who wants the information for a "reasonable" purpose. We heard this claim in our first hearing more than three years ago when the Chairman of the Civil Service Commission said he would give the names and salaries of Federal employees only to a "responsible" reporter who would use them for a "reasonable" purpose. Only the adjectives were changed a short while later when an Assistant Secretary of Defense refused to make public the list of military installations where liquor was sold. He contended he should give the information only to those who would use it for a "legitimate" purpose. That Defense Department official left the Government when an investigation disclosed that his wife was involved in a thriving business selling uniforms and sports equipment to military installations. But his replacement was sent over from the White House where he had learned the publicity business at the knee of Jim Hagerty. Just last month the replacement expressed a similar, shocking attitude.

Speaking at the Freedom of Information Conference at the University of Missouri, Assistant Secretary of Defense Murray Snyder castigated the press of the nation because, he said, a potential enemy "can learn much of what we are doing or planning militarily by some selective shopping at the corner newsstand." When Jim Pope took issue with this blanket indictment of the American press and asked a specific example of publication of security information, Mr. Snyder backed down. But he added that he was willing to discuss this grave information problem with a group which was "reasonable" and "responsible."

Even the most reasonable and responsible person sometimes finds it impossible to learn the facts of government. When reasonableness and responsibility have been shown, the secrecy-minded bureaucrats fall back on a claim of "executive privilege"—a sort of Executive Fifth Amendment which is increasingly used to hide inefficiency, mismanagement and, as
we have learned from bitter experience with instances such as the Hodge case in Illinois, even dishonesty. Such was the case with the Federal Public Housing Administration when it refused to make available its report on the operations of the Pennsylvania housing project. Just the other day, the Department of Justice threw the cloak of executive privilege around a report of the Attorney General's Committee on Administrative Procedure. It made no difference to the Department that the report was in the history files of the National Archives and that it was issued in 1941. This item of history, the Department stated, was clothed in the sanctity of "executive privilege."

The bureaucrats even claim the "executive privilege" of secrecy applies to the Congress and they cite it in the face of a clear law directing that information be made available. The most recent example was the refusal by the Secretary of the Air Force to give a report on the management of the ballistic missile program to the General Accounting Office—the agency established by law to audit the tax funds appropriated by Congress. The few facts which the Air Force allowed to leak out about its ballistic missile program indicated violations of regulations, delays and—to use the Air Force's own term—"deficiencies." The Air Force summary of carefully selected facts from the report showed that two business-minded scientists started a company with an investment of 179,000 dollars and a 14% cost-plus Air Force contract. They parlayed their money into stock holdings of 6,000,000 dollars in the short period of five years.

The General Accounting Office wanted to know more about the new company's management of the ballistic missile program under the cost-plus Air Force contract. The GAO pointed to a law granting it access to any documents necessary to its auditing. But the Secretary of the Air Force, backed up by the Department of Defense, claimed that the right of "executive privilege" was above the law. Thus, the Congress and its financial investigators in the General Accounting Office cannot find out what happened to a large share of the nation's defense dollars.
This is not a new situation, for the "papa-knows-best" attitude in the executive agencies is, in large part, a product of the very bigness of Government. The trend toward excessive secrecy was speeded up by two world wars and it has become a matter of executive habit in the current cold war.

The Congress is charged with the constitutional duty of providing for the common defense, but the executive agency budget-makers ask the Congress to vote appropriations without knowing why the money is necessary or what will be done with it. Too often, the civilian budget experts are nearly as close-mouthed with their military advisers as they are with the Congress, according to the latest study of civilian-military relations. Walter Millis, in his book "Arms and the State," points out that the 1950 attempt to reorganize military and foreign policy in the light of the Soviet's explosion of a nuclear weapon was carried out in secrecy which kept the facts even from some military experts. One objection to publishing an expurgated version of the policy proposal was that it might constitute firm commitments which could not be met for budgetary reasons and the consequences would be "embarrassing." Major policy shifts can never be successful unless they are accompanied by public understanding and acceptance, but policy decisions made by the present Administration are carried out more and more often in the strictest, most oppressive, secrecy. This, according to Walter Millis, was the situation when massive retaliation became the military and international policy of the Administration. Mr. Millis states:

Quote — What is striking is that, although a civilian decision, it was never exposed in any meaningful way to Congressional, much less to public, debate. There was never any great discussion in the press or on the public platform to reveal all the complicated implications which might lie behind it—not all of which were by any means apparent even to the President and his appointed civilian administrators who made it. — Unquote.

The intensifed trend toward secrecy was pointed up when the Administration dropped its plan for "Operation Candor," designed to tell the American people the awful truth behind H-bomb warfare. "Candor" was replaced by "Operation Wheat-
ies." The new title came from the breakfast meeting in which the atoms-for-peace program was first discussed, a title which frankly shows the application of slick Madison Avenue advertising techniques to the problems affecting the nation's very survival.

The advertising man's approach to Government information has become more and more apparent in the Pentagon's handling of information about the nation's missile and satellite efforts. When Defense officials found that their highly-publicized satellite attempts from a Cape Canaveral sand bar in full public view were not as successful as they had hoped, they tried their own brand of peacetime censorship. Newsmen were forced to agree not to report preparations for satellite launchings—launchings of non-military space vehicles as part of the scientific International Geophysical Year. Unfortunately, some newsmen agreed to this sort of censorship after the first satellite attempt ended in failure. The Pentagon criticized the "publicity build-up" which let the world know of the failure, but the Pentagon's publicity men failed to point out that the White House was responsible for the publicity build-up.

In its report presented to the House of Representatives last June, the 30-Member House Government Operations Committee concluded:

Quote — The handling of missile and satellite information is an outstanding example of 'management of the news.' Security has been perverted as a tool for the manipulation of information. Nonsecurity information has been withheld solely on grounds that it could be embarrassing. The Department of Defense has attempted to govern and control the reporting of news in a nonsecurity area in order to produce a desired propaganda effect. This is a dangerous precedent which must not be allowed to continue unchallenged by the public, the press, and the Congress. — Unquote.

Far from halting attempts to manage the news about non-military missile and satellite activities, the Pentagon has gone to new lengths to promote its successes and play down its failures. The promotion merely gives the American people a false sense of security and a false sense of achievement.
The same news management established at Cape Canaveral, Florida, has been set up at the new missile test center in California. Dates and plans for missile shoots are classified under a military security stamp, but military security is breached on a "Hold for Release" basis when the Pentagon's public relations experts believe there is publicity value in a pending launching.

Possibly the most blatant management of the news about satellite activities occurred when the Pentagon announced the launching of the four-and-one-half ton talking satellite last month. The satellite, sent into orbit with a highly-developed guidance system, was a great technical achievement, but the Pentagon's promotion of the achievement put it in the light of a publicity stunt.

As J. Russell Wiggins editorialized in the Washington Post and Times Herald, the Administration helped create the impression that the Atlas was the biggest satellite yet launched. The newspaper reported:

Quote — This is untrue except in one narrow sense: the second stage rocket and the payload were designed to remain together. The last Soviet sputnik had instrumentation of greater weight than the Atlas carried and the rocket used to propel it had considerably more thrust. Inflated claims for the American vehicle thus are subject to serious deflation in world opinion. — Unquote.

I know there are great pressures on the Pentagon's public information men to withhold the facts about satellite launchings until they are certain they will be successful. Repeatedly, people point out that the Soviets do not publicize each of their satellite attempts.

Maybe this is a valid argument, but the Soviet government does not depend upon the informed support of the people, for the Russians are not their own governors. It is relatively unimportant, under their system of government, for the people to be well enough informed to analyze the course of government.

Under our system, we must have a well-informed populace to participate in an effective government. We cannot deny
important facts to the people and expect them to render sound
decisions as franchised electors. We should not adopt the Soviet
system of information control any more than we should adopt
the Soviet political or economic systems.

The government should not hide the facts from the Amer-
ican public, nor should the government twist the facts for
publicity purposes, for we have a right to know the truth
about our capabilities in both war and peace. It cannot be
said better than Thomas Jefferson put it when he declared:

"Your fellow citizens think they have a right to full in-
formation in a case of such great concernment to them. It is
their sweat which is to earn all the expenses of the war, and
their blood which is to flow in expiation of the causes of it."

I fear that we are losing what John Peter Zenger won. We
are losing an effective, informed criticism of our national gov-
ernment. The right to criticize is useless unless the criticism
is based on full and factual information, but the Federal Gov-
ernment is substituting Madison Avenue fiction for the neces-
sary facts. What you, the American people, don't know already
has hurt you and the hurt will go deeper and deeper until the
people act to reaffirm their right to know.