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THE PRESS: ITS SINS AND GRACE*

Anthony Lewis†

Under the First Amendment,¹ as it has come to be understood, the American press has more freedom than the press of any other country. I want to explore the question of what our press does with that great freedom. Does it show a matching responsibility? How well does it perform the role that the framers of the Constitution thought justified the protection they were giving us, the role of holding government accountable to the people? James Madison put it that in the United States “the people, not the government, possess the absolute sovereignty.”² That was “altogether different” from Britain, he said, and it followed that the press must have “a different degree of freedom” in order to inform the people what the government was doing.³ And so, Madison concluded, the American press must be free when “canvassing the merits and measures of public men.”⁴

I begin with an editor who died 160 years ago this month: murdered by a mob. His name was Elijah Parish Lovejoy. He was a preacher who published a religious newspaper in St. Louis, starting in 1835, and he used the paper to advocate the abolition of slavery. He saw a black man burned at the stake a free man, as it happened—and that made his editorials even stronger. A mob in the slave state of Missouri wrecked his press, and he moved to Alton, across the river in the free state of Illinois.

It turned out that the people of Alton, or many of them, were no more tolerant of speech against slavery. Lovejoy wrote and published the *Alton Observer*. Three times a mob threw his press into the Mississippi River. He bought a fourth press and paid for his determination with his life. A

* Speech given at the Rembe Endowed Lecture Series, University of Washington, Seattle, Washington, on November 24, 1997.

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1. U.S. Const. amend. I.

2. *The Virginia Report of 1799–1800: Touching the Alien and Sedition Laws* 220 (De Capo Press 1970) (1850).

3. *Id.* at 221.

4. *Id.*

mob attacked the warehouse where the new press was stored and killed Elijah Parish Lovejoy.

The Lovejoy story has a profound meaning not just for the press but for American attitudes toward freedom of speech. That was made clear to me by a recent study of the episode by Professor Michael Kent Curtis of the Wake Forest Law School.⁵

Three weeks after Elijah Lovejoy's death a leading Unitarian minister in Boston, William Ellery Channing, planned a protest meeting in Faneuil Hall, the building where American patriots had spoken against British tyranny before the Revolution. But the city authorities refused permission for the meeting, saying it would be "inexpedient" for Faneuil Hall to be used by "any party who have taken a side upon a highly exciting and warmly contested question."⁶ So much for Sam Adams and the other Boston patriots! The Massachusetts Attorney General, James Austin, went so far as to defend the mob's suppression of Lovejoy's paper. "Here was an abolition paper," he said, "in their judgment, violating the principles of religion, morality and order . . . The people of Alton considered this an extreme case, and they put the paper down. . . . Satisfy a people that their lives are in danger . . . by the instrumentality of the press," and "a mob was inevitable."⁷

There you have the classic justification for silencing expression: that a speech or publication has a dangerous tendency—that it may threaten the existing order. It is exactly the argument used by authoritarian regimes around the world today when they suppress critics. In our country, where freedom of expression is a revered value, the notion that something should be suppressed because it may have a dangerous tendency will strike most of us as outrageous. But, we should not puff ourselves up with pride too quickly. For that notion prevailed in the United States for much of our history—until quite recently, in fact.

When President Woodrow Wilson sent American forces to Russia after the Bolshevik Revolution, a small group of anarchists and socialists dropped protest leaflets from the roofs of buildings in New York City.⁸

5. See Michael Kent Curtis, *The 1837 Killing of Elijah Lovejoy by an Anti-Abolition Mob: Free Speech, Mobs, Republican Government, and the Privileges of American Citizens*, 44 UCLA L. Rev. 1109 (1997).

6. *Id.* at 1164.

7. *Id.* at 1166–67 (quoting James Austin's speech given at Faneuil Hall, Dec. 8, 1837, as reported in *Boston Daily Atlas*, Dec. 12, 1837, at 2).

8. *Abrams v. United States*, 250 U.S. 616, 618 (1919).

They were prosecuted for sedition, convicted and sentenced to twenty years in prison.⁹ They objected to a policy decision of the President: expression of a kind that we would think absolutely protected from suppression. And of course they had not the slightest chance of changing the policy. But the Supreme Court upheld their convictions and the savage sentences, rejecting the argument that they had a right under the First Amendment to say what they did.¹⁰ Justice Holmes, in an opinion joined by Justice Brandeis, dissented.¹¹ I want to read a few sentences of that dissent.

“Persecution for the expression of opinions seems to me perfectly logical,” Holmes said. “If you have no doubt of your premises or your power . . . you naturally . . . sweep away all opposition. . . . But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment. . . . While that experiment is part of our system I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death”¹²

I like to think that Justice Holmes, an extraordinary product of the New England intellectual tradition, reflected in those words the response of his Boston forbears to the murder of Elijah Lovejoy. For what the mob in Alton did, and the Attorney General of Massachusetts defended, was precisely to suppress the expression of opinions that it loathed and believed to be fraught with death. And as Professor Curtis has shown, public outrage in New England and elsewhere around the country at what had happened in Alton made more and more Americans understand the importance of allowing—of protecting—expression that offended dominant groups in society.

For decades after that Holmes dissent, we continued to punish unpopular speech. There were the excesses of the Red Scare in the

9. *Id.* at 629 (Holmes, J., dissenting).

10. *Id.* at 624.

11. *Id.* (Holmes, J., dissenting).

12. *Id.* at 630 (Holmes, J., dissenting).

1920s, or in my own experience the McCarthy outrages of the 1950s and 1960s. But finally the Holmes and Brandeis ideal of freedom did prevail. We are as free to think and say and print what we will in this country today as, I believe, any society has ever been.

That brings me to the press, for whom Elijah Lovejoy is a hero. We have the protected freedom that he did not. How well do we use it? How effectively? How honorably? Those are questions very much in the minds of journalists these days. The death of the Princess of Wales brought an eruption of public disgust—with the paparazzi who chased her, the tabloids that used their photographs and, really, the press as a whole. British editors performed mea culpas and promised to be more respectable in the future. And in this country, too, there was a sense of the press being on trial. Even before the tragic accident in Paris, we in the business were in a mood of self-examination, of soul-searching. The American Society of Newspaper Editors had set up a study to try to find out why we had lost credibility, as surveys showed.¹³ A Committee of Concerned Journalists had been formed to look at what had gone wrong in the profession.¹⁴

Along with what could be called breast-beating today, you hear press spokesmen say that much for which they are criticized they do to please their readers or viewers. The reality was no different in Lovejoy's time. The Reverend Mr. Channing, who tried to hold the protest meeting in Faneuil Hall, wrote at the time: "The newspaper press is fettered among us by its dependence on subscribers, among whom there are not a few intolerant enough to withdraw their patronage, if an editor give publicity to articles which contradict their cherished opinions . . ." ¹⁵

Now it is true that the press is inescapably part of the society in which it functions. If local television news dwells on the criminal and the gory, it is because such degraded programming attracts audiences. If the press intrudes on privacy more than ever before, it is no doubt because prurient interest sells papers. But it is too easy to blame our faults on the public. If we take our cue from those who put the First Amendment in the Constitution—James Madison and the rest—the press has a higher

13. See Iver Peterson, *The Newspaper Industry is Thriving, but Several Projects are Exploring Danger Signs*, N.Y. Times, July 21, 1997, at D9.

14. See Felicity Barringer, *Testing of a President: The Press; Study Finds More Views Than Facts*, N.Y. Times, Feb. 19, 1998, at A14.

15. Curtis, *supra* note 5, at 1181 (quoting Letter of Dr. W. E. Channing to James G. Birney, Boston, Nov. 1, 1836, *Philanthropist*, Dec. 9, 1836, at 2, reprinted in 2 William Ellery Channing, *The Works of William E. Channing 177–78* (1980)).

calling than to play to the public attitudes of the day. And after all, that was the meaning of Elijah Lovejoy's life. It was his duty as an editor, he believed, to challenge public attitudes—to challenge power—in the pursuit of truth.

Madison advanced his idea of the press's function in a democracy—to publicize and criticize the doings of those who hold power—as his reason for opposing the Sedition Act¹⁶ put through Congress in 1798 by the Federalist Party and President John Adams.¹⁷ The Act made it a crime to publish false, malicious criticism of the President or Congress.¹⁸ It was aimed, Madison said, “against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.”¹⁹ And it was used, in the Adams-Jefferson election of the year 1800, against editors who had been critical of the Adams administration.

The grand vision Madison had of the press's role in a democracy did not depend on a press of noble character. In his day newspapers were small, transient and highly partisan; some of the editors were paid by political parties. Those were the papers that Jefferson knew when he said, famously: “[W]ere it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.”²⁰ But after he had been President for six years he wrote to a friend: “Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle.”²¹

It was only in this century that the idea of reporting the news objectively came to dominate the thinking of the press, or at least of the serious press. And it did dominate. We reporters were told to be detached from the conflicts in Congress, the state house or whatever we covered. In a world of clashing beliefs, we were to be dispassionate. Of course there was always a bit of humbug in that posture. No intelligent person

16. Sedition Act of 1798, 1 Stat. 596 (1798) (expired 1801).

17. *The Virginia Report*, *supra* note 2, at 210.

18. 1 Stat. 596.

19. *The Virginia Report*, *supra* note 2, at 224.

20. Letter from Thomas Jefferson to Colonel Edward Carrington (Jan. 16, 1787), in *The Life and Selected Writings of Thomas Jefferson* 411, 411–12 (1944).

21. Letter from Thomas Jefferson to John Norvell (June 11, 1807), in *The Life and Selected Writings of Thomas Jefferson*, *supra* note 20, at 581.

assigned to cover, say, Congress could fail to notice that some members were wiser than others. But those perceptions were meant to stay out of what we wrote. "We just tell the news" was what we said. It was the image of the journalist as recording machine.

But objectivity turned out to be a flawed ethic. We learned that when Senator Joseph McCarthy made his inflammatory charges that Communists had infiltrated the government, the arts, even the army. Day after day Senator McCarthy would make a new charge against the State Department or a writer or a dentist. Journalists wrote down what he said and reported it—like a recording machine, as I said. But eventually people came to realize how unfair that was. Even after he had proven himself a liar and a demagogue, we were repeating Senator McCarthy's damaging charges without alerting the reader to his dubious credibility.

Isolated facts were not enough, we learned. A thoughtful report needed context, so newspapers began publishing more interpretive stories, trying to show the larger meaning of events, and they are now a standard part of every serious American paper.

The trend toward interpretation fit in with a demographic change in American journalism. I use the word loosely. What I mean is that, in the post-war years, there was a change in the kind of young people who became reporters. In the old days reporters tended to be street-wise men with little formal education, toughened by experience. They were memorably portrayed in the 1930s book and play "The Front Page," hiding the escaped criminal in a roll-top desk and drinking whiskey between wisecracks. Today virtually every journalist—that's what we're called now—has a college degree, and some have graduate degrees. We drink white wine. In short, the profession has been gentrified. I have to say that we know less about the real life of Americans than our predecessors did. But we have lots of opinions, and we want to write interpretive articles.

One other changing phenomenon should be noted. In Washington, the top columnists and correspondents got to be on intimate terms with officials. After World War II they, and the rest of us in Washington bureaus, very much identified with officials when it came to foreign policy. We assumed their good faith and respected their superior knowledge. Sharing their premises in the cold war, we hardly ever challenged their policies.

At the time when I joined the Washington bureau of *The New York Times* in the mid-1950s, the press was a long way from the bold model of Elijah Lovejoy. It did not challenge the lions of power; it lay down with

them. In foreign policy the newspapers were a conveyor belt for official views. Until late in the day they did little to examine the ugliness that underlay the flag-waving of McCarthyism. They hardly looked at other aspects of the Red Scare: the blacklists in Hollywood and broadcasting, the purging of so many thoughtful civil servants from government employment, and so on. It was a press that seldom probed beneath the surface of events.

But a change did come. It began in the very area that dominated the life and death of Elijah Lovejoy: race. After the Supreme Court held that state-imposed segregation in public schools was unconstitutional,²² in 1954, the national newspapers, magazines and broadcast networks slowly began to look into the racial system in the South. As the Southern states increasingly resisted the end of segregation, reporting became more intense. That inescapably meant challenging the power of racist forces over much of the South, which did not want the true story told. Reporters like Claude Sitton, the great Southern regional correspondent of *The New York Times*, took dangerous risks to get the story. There was no martyrdom like Lovejoy's, but there were serious threats to the lives of reporters.

The symbolic event for the press and the civil rights movement began when supporters of Dr. Martin Luther King, Jr. placed a full-page advertisement in *The New York Times*, under the headline "Heed Their Rising Voices," on March 29, 1960. The ad described brutal tactics used by Southern authorities against those seeking to vindicate their rights. It named no names, but Alabama officials sued *The Times* for libel, asserting that they were inferentially targeted and their reputations injured. In the first case, brought by L.B. Sullivan, a commissioner of the city of Montgomery, Alabama, an all-white jury awarded him all the damages he sought: \$500,000, the largest libel judgment in Alabama history.²³ Other officials began bringing libel suits over reports as well as the advertisement. They believed they had a device to discourage the national press from reporting on the civil rights movement. But the Supreme Court upset the judgment for Commissioner Sullivan in the great 1964 case of *New York Times Co. v. Sullivan*, holding that a public official may not win damages for a supposedly defamatory publication about him unless it was deliberately or recklessly false.²⁴ Writing the

22. *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

23. *New York Times Co. v. Sullivan*, 376 U.S. 254, 256 (1964).

24. *Id.* at 280.

views of Holmes and Brandeis permanently into our law, Justice Brennan said the First Amendment embodied "a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."²⁵

It was a great victory for James Madison, embodying as it did his vision of the press as the instrument that would inform the sovereign public in a democracy of what its governors were doing. And in fact the decision in *New York Times Co. v. Sullivan* enabled the American political process to work exactly as Madison had hoped it would. Most Americans in the North had had no real idea how cruelly blacks were treated in parts of the South: prevented from voting, segregated, humiliated. Newspaper, magazine, and television coverage of the civil rights struggle showed these realities, and the public reaction led Congress to pass civil rights laws that transformed political life in the American South.²⁶

Seven years after the *Sullivan* decision, there was a great symbolic break in the symbiotic relationship between the press and the government over foreign policy. The basis of that relationship—journalists' belief in the good faith and superior knowledge of officials—had been undermined by the Vietnam War. After all the false promises—the light at the end of the tunnel—no thinking journalist could accept official assurances on faith. Far from having superior knowledge, officials had repeatedly shown themselves to be less informed than the young correspondents: David Halberstam, Neil Sheehan, and the rest. Their refusal to toe the official line deeply angered the government. President Kennedy suggested to the publisher of *The New York Times* that Halberstam be called home.²⁷ The publisher's reaction was to see that Halberstam stayed in Vietnam longer than the usual tour.

In 1971, *The Times* acquired a copy of the secret official history of the Vietnam War that became known as the Pentagon Papers. The question was: Should we publish partial texts of the documents? Despite all the disillusion about Vietnam, it was not an easy question. The war was still on, and American soldiers were coming home in body bags. Our

25. *Id.* at 270.

26. *See, e.g.*, Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended in scattered sections of 28 U.S.C. and 42 U.S.C.).

27. U.S. Sen. Ernest Gruening & Herbert Wilton Beaser, *Vietnam Folly* 223 (1968).

publisher, Arthur Ochs Sulzberger, was a former U.S. Marine, intensely patriotic. The documents were highly classified, and the law firm that had served *The Times* for years advised that it would be a crime to publish them.

By 1971, journalistic attitudes had changed so sharply that all the editors involved at *The Times* wanted to publish the documents. And in the end, after much reflection, Mr. Sulzberger said yes. When we began printing stories and excerpts, the Government—the Nixon Administration—went to court to stop publication, arguing that material menacing to the national security might be disclosed.²⁸ After two weeks of an intense legal battle, the Supreme Court decided that the First Amendment and other legal doctrines protected the right of the press to tell the story.²⁹ It was a victory for the press, if a qualified one—a Supreme Court divided six to three, with two members of the majority expressing concern about the possible disclosure of dangerous secrets.³⁰ But the Court's strongest voice for freedom of expression, Justice Hugo Black, spoke in Madisonian terms.³¹

Those who wrote the First Amendment, Justice Black said, protected the press “so that it could bare the secrets of government and inform the people.”³² “In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do.”³³ As Madison put it, the press was “canvassing the merits and measures of public men” on the gravest issue of the times—one in which the real grounds of policy had been largely secluded from public scrutiny, and the absence of accountability had allowed mistakes to grow into disaster.³⁴

The *Sullivan* libel case and the Vietnam experience encouraged the press to take a bolder, less deferential attitude toward public officials. That shift was dramatized when the press took on the President in Watergate. Between 1972 and 1974, *The Washington Post* and then other papers brought out the facts of President Nixon's involvement in

28. *New York Times Co. v. United States*, 403 U.S. 713 (1971).

29. *Id.*

30. *Id.* at 727 (Stewart, J., concurring); *id.* at 730 (White, J., concurring).

31. *Id.* at 714 (Black, J., concurring).

32. *Id.* at 717 (Black, J., concurring).

33. *Id.*

34. *The Virginia Report*, *supra* note 2, at 221.

criminal activities.³⁵ In the end he was forced to resign. It was often said then that the press had dethroned a President. In fact it was official institutions that brought down President Nixon: Congress, special prosecutors, and the courts.³⁶ But the press started the process.

In light of those transforming events, how well does the American press today meet Elijah Lovejoy's tests of independence and courage? It certainly is free, extraordinarily free by world standards. The greater legal protection it has gained, the trend toward more interpretive writing without the constraints of a mechanical objectivity, the cutting of the entente between journalists and officials on foreign policy: all these enable us to play the role that Madison envisaged as the examiner of public characters and measures.

And yet, ladies and gentlemen, the public is not very happy about the press these days. Poll after poll shows journalists down there with Congressmen and real estate agents in terms of public esteem.³⁷ And the press is not very happy about itself. I mentioned earlier the self-examination that is going on. Some of the harshest criticism of our performance comes from journalists. A notable example is a recent book by James Fallows. He called it *Breaking the News: How the Media Undermine American Democracy*.³⁸ That is a rather devastating charge: undermining democracy. What has gone wrong? I think a number of things have, and I shall mention them briefly.

First, the press has overdone its aggressive posture toward politicians. Professor Thomas E. Patterson of Harvard, a particularly astute press-watcher, puts it: "Journalists had been silent skeptics; they became vocal cynics."³⁹ In Vietnam and Watergate, he says, reporters worked hard and were careful. But the press was "unable . . . to sustain this exacting type of scrutiny. Top-notch investigative journalism requires a level of time and knowledge which journalists do not routinely possess."⁴⁰ And so, Professor Patterson says, investigative journalism has given way to

35. See, e.g., Carl Bernstein & Bob Woodward, *All the President's Men* (1974).

36. *United States v. Nixon*, 418 U.S. 683 (1974).

37. See, e.g., Bradley Inman, *Real Estate Agents Get Little Respect*, *Sacramento Bee*, Nov. 26, 1995, at H1.

38. James Fallows, *Breaking the News: How the Media Undermine American Democracy* (1997).

39. Thomas E. Patterson, *Out of Order* 79 (1994).

40. *Id.* at 245.

“attack journalism,” which appears to be watchdog reporting but is really not.⁴¹ “It exalts controversy rather than accuracy.”⁴²

A special aspect of attack journalism is the end of respect for privacy. Not so long ago the press took the view that even politicians were entitled to private lives. It went so far that reporters and photographers hid from the public the fact that President Roosevelt spent most of his time in a wheelchair. When a photographer newly assigned to the White House took a picture of the President in the wheelchair, others removed the film from his camera. Today anything that might show a President in a bad light is fair game, especially a sexual peccadillo.

Another contemporary press failing is a kind of corruption, brought about by television. Journalists who appear regularly on the screen have celebrity status, and that means money. So Washington reporters and columnists are eager to be talking heads. The panel shows on which they appear are mostly interested not in information or careful reflection, but in combat. Good television requires clashes, so you have journalists with instant opinions on every subject shouting and sniping at each other. The programs, James Fallows says, are exercises in “competitive glibness,”⁴³ “polarization and overstatement.”⁴⁴

Related to that is a hubris, a self-importance that I find particularly troubling in journalists. We take ourselves terribly seriously. We speak in oracular tones. We purport to be providing not merely news but Truth. The great columnist of this century, Walter Lippmann, who was as much a philosopher as a journalist, spoke of journalism as a flickering flashlight that illuminated something for a brief moment and then moved on. For today’s editors and reporters and columnists to have higher ambitions is fine, but a little modesty is in order. If we have wisdom, we know how little we know. The fact that television makes your face recognizable does not make you a philosopher king.

The press has real power in our political system now, more than James Madison could have expected, or, I believe, would have wanted. That is because of what has happened to the process for choosing Presidential candidates. In the past that was the business of the political parties. The choice was made either by the delegates on the floor of the national

41. *Id.*

42. *Id.*

43. Fallows, *supra* note 38, at 118.

44. *Id.* at 117.

political conventions or by party leaders meeting in what used to be called a smoke-filled room. We think of Franklin Roosevelt as commanding great popular support, as indeed he came to do. But he was nominated at the Democratic Convention of 1932 by his aides' wheeling and dealing with delegates, state by state. As late as 1960, John F. Kennedy and his agents were dealing right into the first ballot. All that is history. The nominees are chosen in state primaries long before the conventions. The primaries are popularity contests in which the voters know little if anything about the candidates except what they see on television or read in newspapers. So the press can make and unmake candidates, and it is not an ideal instrument for that role. It focuses too much on passing phenomena, like the great flap over whether Senator Edmund Muskie did or did not shed tears at a campaign appearance in New Hampshire in 1972.⁴⁵ It often prefers scandal to substance. It is hardly equipped to make a campaign a real test of ability and ideas. Journalists well know all this, which is why we are constantly reinventing our campaign coverage.

The fact that the press has power is one reason for its unpopularity. Distrusting power is a profound American tradition, and a healthy one. The perception of press power in Watergate led to a backlash. That seems to me all the more reason for us to recognize the limits of our wisdom: to avoid arrogance.

There you have some of the faults: cynicism, attack journalism, disrespect for privacy, hubris. Add to that the tendency, dominant in television and infecting the print press as well, to cheapen the product so as to appeal to the lowest common denominator of public taste.

Then I have to say for myself that I long for explanation, or at least meaningful exploration, of some puzzling characteristics of modern American society; and we get little of either from the press. I have in mind such things as our growing use of capital punishment, which has been abandoned by every other Western democracy. Last summer, the Pope, the Italian government, and Mother Teresa all pleaded for the life of a Virginia convict on death row; the governor was unmoved, and the execution went ahead.⁴⁶ Why are we so different from societies that in most respects are like ours? And beyond capital punishment there is just punishment: the longest prison sentences, the largest number of prisoners

45. See, e.g., Bart Barnes, *Edmund S. Muskie Dies at 81; Senator and Secretary of State*, Wash. Post, Mar. 27, 1996, at A1.

46. See, e.g., *Man Executed Despite Protest from the Pope*, N.Y. Times, July 24, 1997, at A18.

per capita outside of Russia.⁴⁷ Why do we have mandatory minimum sentences that operate with cruel injustice in imposing rigid terms on different human beings? Why are we seemingly immune to reason in thinking about our failed war on drugs?

Well, the questions are profoundly difficult, and it is no doubt unfair to expect answers from the press. And in truth our serious newspapers and magazines do, nowadays, explore large social issues like the rights and wrongs of welfare reform, the gains in health care and the new threats from diseases spread by the booming world trade in food products. We have even, in a gingerly way, begun to address the American obsession with sexual behavior. A *New York Times* reporter, Elaine Sciolino, had a wonderful lead last summer on a story about an Air Force lieutenant and his wife, a former airman. After describing a home filled with love, Ms. Sciolino wrote: "The two of them—and the civilian world—call the arrangement a marriage. But the Air Force calls it a crime worthy of court martial and a potential prison sentence of up to 14 years."⁴⁸

The press of today, for all its faults, has given some fine examples of performing its Madisonian function. The war in Bosnia is a notable case. Successive Presidents, George Bush and Bill Clinton, wanted to duck responsibility for stopping the genocide—wanted Americans to pay no attention to it. The press made that impossible. Correspondents lived under the gun, in great danger, and brought home to Americans the meaning of the "ethnic cleansing" carried out by Bosnian Serbs: concentration camps and mass murder.

"Bosnia was saved by journalists," its Prime Minister, Haris Silajdzic, said on a recent visit to Washington.⁴⁹ And he meant American journalists: Roy Gutman of *Newsday*, Peter Jennings of ABC News, Christiane Amanpour of CNN and John Burns of *The New York Times*. "They were our artillery," Silajdzic said. "They couldn't impose an embargo on the media, and they spoke for us."⁵⁰ That is, they reported what was happening. I think the press's unrelenting attention to the war finally forced the Clinton Administration to do what it did at Dayton:

47. See Marc Mauer, *Americans Behind Bars: The International Use of Incarceration, 1992-1993*, The Sentencing Project 5-6 (Sept. 1994).

48. Elaine Sciolino, *Courtship Leads to Marriage and Maybe Officer's Ouster*, N.Y. Times, July 3, 1997, at A1.

49. Mary McGrory, *From Bosnia, with Gratitude*, Wash. Post, Oct. 23, 1997, at A2.

50. *Id.*

bring about an agreement that stopped the fighting if not, so far, much more.

Of course there is much in the American press that is frivolous, vulgar, demeaning. We live in a celebrity culture, and we have celebrity journals. But the newspapers and other media with a serious national reputation understand that their job is to inform, not to yield to the laziest instincts of the audience. We may be distracted too often by passing fashions and political sideshows, but we also do jobs of serious reporting that I think are better today than they ever were in the past.

The daunting question now is whether the economic organization of our press will allow it to continue performing its highest function. The reality is that most local newspapers are now parts of chains, where they tend to lose their independent flavor and local community roots. The newspapers that stand out are owned by families, like the Grahams of *The Washington Post* and the Sulzbergers of *The New York Times*.

Against the trend toward chains and one-newspaper towns and blandness we can set one important current phenomenon. When the Gannett chain started *USA Today* as a national newspaper, it was derided as a thing of shreds and patches, of two-paragraph bits and weather maps: McPaper, it was called. But more recently *USA Today* has added a lot of serious content, longer stories, analytical articles. And as it has done that, the paper has begun to make money for the first time. Is profit the result of a better, more searching product? That cannot be proved. But we can hope.

The truth is that democracy cannot function in this vast country without a press committed to its highest purpose—nor, today, without a powerful press. The penny papers of Jefferson's day could not do the job. The great aggregations of power in industry and government demand a weightier press to hold them accountable. The pace of events, the shrinking world, the dangers and opportunities of new technology all demand more from our profession. A frivolous, mercenary press could do terrible damage to the political understanding—the relationship between citizen and government—that has kept this country free and made it prosperous.

In my lifetime the American press has had great moments of speaking truth to power, and we have not lost the sense of that responsibility. We still have it in our hearts to justify the freedom of the press, as Madison said, by informing the sovereign public.