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Parameters for Journalism

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A task force put together by the Twentieth Century Fund, a perceptive research foundation, prepared a blueprint for a national press council and a successor "founding committee" is building it, with completion set for early next year.

Judging The Law

Chairman of both the committee and the Council on Press Responsibility and Press Freedom is Roger Traynor, the sagacious retired chief justice of the California Supreme Court, one of the nation's best jurists and a lucid writer with a compatible grasp of how working journalists operate.

For that reason alone the council is bound to have an intellectual impact on journalism. But because of doubt and division within journalism the council, notwithstanding Traynor's legal talents, may have less impact as an adjudicatory body.

And yet while this nongovernmental body will lack the power to summon or compel, it will investigate, hear and judge complaints with publicity and moral suasion as its primary sanction.

But that's not all. Because complainants will be required to waive "the right to legal proceedings in court," it will be a kind of arbitration panel, a substitute for a court, in certain cases.

On the other hand the council will try to require, as a first step, that the parties resolve their grievances on their own. "Out of court," so to speak.

In the long run, the council's most important function may be to "initiate studies and report on issues involving the freedom of the press." In other words, it will be an advocate as well as a judge. For example, it is likely to provide stout weapons for the defense of the confidentiality of news sources in the context of a comprehensive crusade for First Amendment liberties.

Thus, if the council lives up to the advance rhetoric, it could produce not only "case law" but free-standing critiques and basic research focused on threats to press freedom. In its various roles it could develop debating points, concepts of possibly profound import, plus statistics. All that would be not only grist for editorial writers' mills, but "precedents" and other material that lawmakers and judges would cite. With luck, on the side of free expression.

In its "adjudicatory" aspect the new council is familiar to Minnesotans. Indeed, the project has special significance for this state because the Minnesota Press Council was in essence the model.

press. There will be nine "public" and six media members serving three-year terms.

The council's jurisdiction will be the nationwide wire services (AP and UPI), the major supplementary wire services (such as the New York Times'), the national weekly news-magazines, national newspaper syndicates, national daily newspapers, and nationwide commercial and noncommercial broadcasting networks.

None of the media council persons will be affiliated with "the principal nationwide suppliers of news."

The type of media rather than geography determines the jurisdiction. It was assumed, correctly, that a truly national council for the entire press, like that in compact Britain, was simply impossible.

The founders hope to inspire local, regional and state councils. If that happens, the work of the national body is likely to influence, without dictating, the course of the smaller bodies. And vice versa, Minnesota being a case in point.

A grievance subcommittee (an idea borrowed from Minnesota) will screen public complaints. If need be, the council staff and the committee will send teams of experts to investigate. The council will make disclosure (hopefully, full) of its findings and decisions.

Individuals and organizations will be able to bring complaints, and the council itself will look into "any situation where governmental action threatens freedom of the press." Whenever for any reason extensive investigation is needed, the council will set up special task forces.

It seems inevitable that the council's product will be used in legislative and congressional debate and by lawyers and judges.

Nevertheless, the task force said:

"The council's processes, findings, and conclusions should not be employed by government agencies, specifically the Federal Communications Commission, in its decisions on broadcast license renewals. Failure to observe this recommendation would discourage broadcasters from supporting or cooperating with the council."

Perhaps so. Minnesota does not include broadcast media, and ABC and NBC reject the national council already. But it would be impossible to enforce the pious hope that governmental agencies would ignore the council's findings. This may be a fatal flaw, for the council will work only with the voluntary cooperation of unintimidated news organizations. And newspapers, though not regulated, are under official pressure, too.

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That was no accident. The inherent and persuasive merits of the Minnesota council apart, the added reason for the Minnesota influence is that the progenitor task force's co-chairperson (with Lucy Wilson Benson, League of Women Voters national president) was Justice C. Donald Peterson of the Minnesota Supreme Court.

Peterson, of course, is chairman of the Minnesota council; he is also on the founding committee for the national body, headed by Traynor in anticipation of his position as national council chairman.

Minnesota has the only statewide council. There have been experiments with local councils, and half a dozen European countries, with Britain in the vanguard, have national bodies.

That does not placate American opponents of the concept that the performance of the news media, print and broadcast, should be monitored on a systematic scale. One objection is that it isn't necessary. Another is that no "outside body should dictate to us."

Consequently, despite the soothing assurances that a council can be a protector (in Britain the media win 75 percent of the grievance cases), influential media leaders worry that a council would be a prosecutor compounding rather than combating attacks from the government.

In short, the opponents see the council as regulation in another form. Even proponents tend to accept it primarily as an experiment that deserves a chance. In the welter of exhortation and counter rhetoric, the actual machinery has been overlooked.

What, exactly, is proposed?

It will be a self-perpetuating body of 15 members including Traynor, who now, as he was at the start of his career, is a law professor and who as a judge was pro

Is there a danger that the helping hand could become a fist in the face?

The Romans asked, "Who will guard the guardians?" That question has arisen in many other self-policing situations: for example with doctors, lawyers, merchant chiefs and judges themselves.

Often self-policing was a defensive measure to head off governmental action, and in Britain the motivating force for the British Press Council came through Parliament. The examples may not be directly transferrable, in part because the press, armed with a constitutional guarantee, also represents the public.

And yet, experience teaches that the press is not only under unconscionable attack from government, but that the public it protects is often cynical at best and hostile at worst. And within the journalistic family harsh, often bitter, questions are asked.

Helping hand or a fist in the face? Compared with the forces outside the news business, a press council's admonition might well be a tap on the wrist.

As Al Balk suggested, a press council is no cure-all, and can at least be a useful forum for discussion and a demonstration of good faith. Balk, editor of the Columbia Journalism Review, concluded the original task force's working papers with this passage:

"The social upheavals which shook the sixties are far from over. Rapid change, with its disorienting and sometimes violent manifestations, will persist. The news media, as portrayers of that change and interpreters of its consequences, cannot escape the storm. If they do not recognize the forces at work to humanize institutions, expand consumer participation in the marketplace and allow individuals in our mass society to preserve a personal franchise, then the consequences may be serious indeed."