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Traynor in Training Again

YOU'D THINK that Roger J. Traynor, at age seventy-three, would be enjoying his retirement years in the salubrious San Francisco Bay area, looking back on his many years as a law teacher, his almost forty years as justice and chief justice of the Supreme Court of California, fondly remembering his many honors, including in 1967 the American Bar Association Medal. Right? No, wrong. Roger Traynor in fact is undertaking what may prove to be the most difficult and frustrating task of his career—chairman of the newly created Council on Press Responsibility and Press Freedom, popularly known as the Press Council.

The council is the brainchild of a task force of the Twentieth Century Fund. The task force recommended that an "independent and private national news council be established to receive, to examine, and to report on complaints concerning the accuracy and fairness of news reporting . . . as well as to initiate and report on issues involving the freedom of the press." The task force report limits the scope of the council's function to the national wire services, the major supplemental wire services, the national weekly news magazines, the national syndicates and newspapers, and the nationwide broadcasting networks. The task force appointed Justice Traynor as the head of the founding committee and chairman of the council. With foundation financing, the council now has been organized and selected. There are nine public members and six representatives of the news media.

The proposal for the Press Council received a mixed greeting from the news media. Some saw it as a threat to the freedom of the press, although it is a private organization; some thought it should be given a trial. Arthur Ochs Sulzberger, publisher of the *New York Times*, announced that the *Times*, which would be subject to the council's jurisdiction, would not cooperate with the council by furnishing explanations or information to the council or being a party to a council investigation. But John B. Oakes, editorial page editor of the *Times*, served on the task force that recommended creation of the council. However, of other organizations subject to the press council's ambit, the Associated Press, the United Press International, the Columbia Broadcasting System, the *Washington Post*, the *Christian Science Monitor*, and the *Wall Street Journal* have promised co-operation, although some less than enthusiastically and some on the ground that they always answer legitimate complaints in any event.

The task force anticipated criticism of its proposal as a subtle inroad on press freedom by saying: "The core of the media council idea, however, is the effort to make press freedom more secure by providing an independent forum for debate about media responsibility and performance so that such debate need not take place in governmental hearing rooms or on the political campaign trail."

The news media have become increasingly protective and jealous of their First Amendment rights in recent years, possibly as a reaction to their feeling that they have been a target of official governmental harassment, if not repression. The media also have counted the organized bar among their enemies because of positions the bar has taken in support of the right of fair trial free of prejudicial pretrial publicity. The judiciary has not been popular because it has failed to grant the news media a testimonial privilege. So Justice Traynor is bound to find himself the subject of suspicion and some distrust.

His record shows that this won't bother him. Speaking to the American Law Institute in 1970, he said that his experience as a judge had taught him "how hard it is to stand with reason as your only weapon against extremists on all sides." His service to the Press Council will mark another example of public service in which the legal profession can take pride. If the Press Council is a valid idea, one whose time has come in the United States, then no better person than Justice Traynor could have been picked to make it work.