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Freedom of the Presss Committee Meeting

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FREEDOM OF THE PRESS COMMITTEE

Meeting

January 28, 1974.

The Freedom of the Press Committee meeting was called to order by Chairman, Justice Roger J. Traynor at 9:30 A.M.

Present were: Council members - Joan Ganz Cooney
Loren F. Ghiglione
Ralph M. Otwell
R. Peter Straus
Advisers - Eleanor Holmes Norton
Mario Obledo
Herbert Wechsler
Also present - Benno C. Schmidt, Jr.
William B. Arthur

Committee members were given a report of research Professor Schmidt has done to date, including a discussion of the current status of the Miami Herald case. Professor Schmidt then elaborated on additional work he has done regarding the overall access study. He stated his growing belief that the basic questions concerning access to the media are theoretical and turn on the values which underlie the First Amendment. He discussed various avenues of access currently available, including the right to expression in public places; the right to advertising in public instrumentalities, and letters to the editor.

Regarding letters to the editor, Ralph Otwell said that his paper (the Chicago Sun-Times) had done a study on this particular subject and found that letters to the editor

are probably the most widely read portion of the newspaper. He said he would send Professor Schmidt a copy of the results of that study.

Professor Schmidt then stated that in the electronic media there are fairly well developed rules of access. He discussed Section 315 of the Communications Act which grants "equal time" in certain circumstances. He also discussed the Fairness Doctrine, particularly the "personal attack" rules of the FCC whereby a person is to be notified and given the opportunity to appear on the air for rebuttal. In other respects, he reported, the Fairness Doctrine is not an access requirement. It simply means that broadcasters can, and must, present different and all sides of a controversial issue.

Professor Schmidt said a basic question is whether access rights, intended to provide for the dissemination of certain ideas which might not otherwise get out to the public, would in practice operate to chill the initial statements which give rise to the right of access, thus actually reducing the range of public expression. He suggested that this concern for the chilling effect of access rights probably accounts for the imprecision of the FCC and the courts in the implementation of the Fairness Doctrine.

These and other ideas were discussed relating to the question of access to the media.

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It was determined by the committee and Professor Schmidt that a draft of the study will be mailed to committee members the week of Monday, March 18. The draft will be discussed at the March 24-25 Council meeting. Professor Schmidt will then revise the study based on committee members' comments. He contemplates that a final report will be ready on Monday, April 15.

The meeting was adjourned at 11:25 A.M.