

RESTRICTED

WHAT IS PRESS FREEDOM?

31 March 1950

CONTENTS

	<u>Page</u>
INTRODUCTION--Colonel H. R. McKenzie, QMC, Member of the Faculty, ICAF	1
SPEAKER--Mr. Benjamin M. McKelway, President of the American Society of Newspaper Editors	1
GENERAL DISCUSSION	13

Publication No. L50-120

INDUSTRIAL COLLEGE OF THE ARMED FORCES

Washington, D. C.

RESTRICTED

Mr. Benjamin M. McKelway was born 2 October 1895 in Fayetteville, North Carolina. He became a reporter for the "Washington Times" in 1916. During World War I he was commissioned a first lieutenant and served as Aide-de-Camp to General L. M. Brett from 1917 to 1918. He became an editorial writer and news editor of the "New Britain Herald" in Connecticut during 1919. From 1921 to 1946 he was successively reporter, city editor, news editor, managing editor and associate editor, and is now the editor of the "Evening Star." He is president of the American Society of Newspaper Editors, a director of the Associated Press, director of the Evening Star Newspaper Company, vice president of the Evening Star Broadcasting Company, trustee of George Washington University and the District of Columbia Public Library.

RESTRICTED

WHAT IS PRESS FREEDOM?

31 March 1950

COLONEL MCKENZIE: In our academic work here at the College I think we have progressed to the point that it is a safe assumption to go on the theory we are well acquainted with the force of public opinion and the power of the press.

When we start talking about the press, however, many questions come to our minds as to its responsibilities and the part it can play in aiding us in our problems in both peace and war. It is our good fortune this morning to have this subject discussed by the editor of "The Evening Star." Mr. Benjamin McKelway, our speaker, has honored the College by his presence on many occasions in the past. It is a great pleasure to welcome him back to this platform.

Mr. McKelway, we are glad to have you back with us.

MR. MCKELWAY: Thank you, Colonel. General Vanaman and gentlemen: This is the third time I have been honored by an invitation to visit this institution. I enjoy these annual visits. The season in which the invitations are extended begins to make me think of myself as a sort of harbinger of spring, like the robin, the Crocus, and Forsythia.

I must also confess that when I get up on this platform I begin to fancy myself as something of an expert. But I assure you that in my sober moments, and when I am free from this intoxicating atmosphere, I realize I am not an expert on anything. I come before you in all humility.

I would like to discuss with you some of our conflicting points of view in the world today toward the theory of a free press. It should be mentioned at the outset that there is no clearly discernible conflict over the idea that a free press is eminently desirable in any form of society. Everybody champions the idea of a free press. Everybody defends it. The argument is not over the freedom of the press. The argument lies in what we mean by "freedom of the press"; in other words, freedom from what?

The Constitution of the Union of Soviet Socialist Republics and the Constitution of the United States each guarantees freedom of speech and freedom of the press.

The Russian Constitution, after setting forth such guarantees, injects a condition to the effect that this freedom is contingent upon, and I quote the words, "conformity with the interests of the working people, and in order to strengthen the Socialist system."

RESTRICTED

Our guarantee of press freedom, as you know, is contained in these words from the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press;..."

The essential difference, then, between the Russian Constitution's guarantee of freedom of the press and that which is contained in our own Constitution is that Russian freedom is contingent upon its use in behalf of the working people and the Socialist system.

In our own Constitution, this freedom is guaranteed without qualification. In Russia, freedom of the press means freedom from private control; in our country it means freedom from government control. Thus, the Russian might argue as follows in defense of his brand of freedom of the press: In Russia we have a free press. It is free to publish; it is free to use a printing plant. It is free to obtain paper and ink; it is free to use the labor and the skill of the men who produce it. It is free from private control. And it is free to print the news of what is going on and to interpret the meaning of that news--provided that which is printed serves the interests of the working people and is used to strengthen the system under which they live.

But here we interrupt to ask; Who decides whether that which is printed happens to be in the interests of the people of Russia and the system under which they live? The answer, of course, is government. And who is government? The government is the group of men and women who happen to control it. We shall not go into the matter of how they came to be in power, or how they retain that power.

It is enough to say that the decision of that which is fit to print in the interests of the people in Russia is left with the people who control the Russian Government. They ban the publication of information they believe is not in the interests of the people. They control the emphasis that is placed on what is printed. They regard the press as an important instrument of government--as much a part of government as the army, the police, and the utilization of nationalized labor.

If the men in control of the Russian Government believe it is in the interests of the people to be told only one side of a story, only that side is told. If they believe it is in the interests of the Russian people to receive a distorted version of how the people in other parts of the world conduct their affairs, that is the version they receive. If they believe it is in the interests of the Russian people to be told nothing, then the people are told nothing. And if they believe it is in the interests of the Russian people to be protected from the curiosity of the people of the outside world about how they live and what they do, then an iron curtain is lowered, which denies access to such information by the people on the other side of the iron curtain.

Freedom of the press in Russia, then, means freedom from all control of the press, except that which is exercised by government.

I have described this theory with respect to Russia. But the same idea prevails, in greater or less degree, in an increasing part of the world today. It is found in all the countries that come under the Russian sphere of influence. It is associated with every form of dictatorship, regardless of the name that may popularly describe the dictatorship, whether it is Communist or Fascist, or whether the dictatorship sits in Moscow, Belgrade, Madrid, or Buenos Aires.

That is true because no totalitarian form of government can function efficiently unless it uses the press as an agency of government and controls what is printed. We correctly associate this government control of the press with totalitarianism. And because totalitarianism, as we know it today, is regarded by us as something new, there is a disposition sometimes to regard the totalitarian concept of press freedom also as something new under the sun, and its apparent newness or novelty attracts a following.

As a matter of fact, that concept of press freedom--freedom from all controls save that of government--is about as old as the device of printing words on paper. The really revolutionary idea of the free press is that which is written into our own Constitution--a press that is free of all government control.

This concept, relatively new in the world and still under trial, emerged from the struggles and the experience of men who lived under a government-controlled press. They came to know it, to feel its tyranny. The invention of the printing press placed a powerful instrument in the hands of the sovereign power. And the sovereign powers of a few centuries ago--whether church or state, or a combination of the two--recognized and used it as an instrument of their own, just as current dictatorships use it (and much more skilfully) today.

The power to license the printing press gave this sovereign the power to control what was printed--therefore, the power to suppress new ideas. Men were imprisoned and sentenced to fearful forms of torture for the use of unlicensed presses which turned out material disapproved by the sovereign. There is little doubt that such disapproval has always been rationalized by the sovereign on the ground that publication of the prohibited information was opposed to the best interests of the people.

As an example of such rationalization, let me read to you a proclamation issued in 1680 by King Charles II of Britain. The First King Charles, you will remember, had lost his head. The Second King Charles in this case gave evidence, as men so often do in public life, that he had also lost his head. Here is what he said:

RESTRICTED

"Whereas it is of great Importance to the State, That all News Printed and Published to the People, as well concerning foreign, as Domestic Affairs, should be agreeable to Truth, or at least warranted by Good Intelligence, that the minds of his Majesty's Subjects may not be disturbed, or amused by Lies or vain Reports, which are many times raised on purpose to Scandalize the Government, or for other indirect Ends; And whereas of late many Evil-disposed Persons have made it a common Practice to Print and Publish Pamphlets of News, Without License or Authority, and therein have vended to His Majesty's People, all the idle and malicious Reports that they could Collect or Invent, contrary to Law; The continuance whereof would in a short time endanger the Peace of the Kingdom, the same manifestly tending thereto, as has been declared by all his Majesty's Judges unanimously: His Majesty therefore considering the great Mischief that may ensue upon such Licencious and Illegal Practices, if not timely prevented, hath thought fit by this his Royal Proclamation (with the Advice of his Privy Council) strictly to Prohibit and Forbid all Persons whatsoever to Print or Publish any NewsBooks, or Pamphlets of News not Licensed by His Majesty's Authority. And to the intent all Offenders may know their Danger, and desist from any further Proceedings of this kind, His Majesty is Graciously pleased hereby to Declare, That they shall be proceeded against according to the utmost Severity of the Law: And for that purpose, His Majesty doth hereby Will and Command all his Judges, Justices of Peace, and all his Officers and Ministers of Justice whatsoever, That they take effectual Care that all such as shall Offend in the Premises, be proceeded against, and punished according to their Demerits."

What the king was saying almost three centuries ago is substantially what the Russians say today, namely, that the people must know the truth, but the sovereign must determine what is the truth in the interests of the people.

Thirty years or so before the proclamation from King Charles II, John Milton gave wings to the words with which he described the revolutionary idea of a press free of government control. In a speech to Parliament he said:

"And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter."

We believe in a free press in this country. But our idea of a free press is a press free from the control of government. We believe that our press serves the people. But we do not condition this freedom upon

RESTRICTED

the decision by government as to whether what is printed is in the public interest. That decision is left to the people themselves.

Our press is controlled, but it is controlled by men of every conceivable doctrine--in politics, in economics, and in religion. The man who runs a newspaper may be a reactionary, or he may be a liberal. He may be one who opposes any change in our form of government and uses his newspaper to resist such change. Or he may believe our form of government should be changed to something modeled on the Russian plan, and he uses his newspaper to advocate that change.

"He", who controls a newspaper, may be a labor union, or a religious sect, or the owner of a copper mine, or a chain of grocery stores. "He" is the owner of one or a combination of several of the 1,850 daily and 9,661 weekly newspapers in the United States. The result is that when these newspapers speak, they never speak as one voice. They speak in a multitude of voices--clamorous, argumentative, confusing. But from this Babel there is apt to emerge the truth. We leave to the people, rather than to any one man or any one government, the recognition of where the truth may lie. That, at least, is the theory of our own free press.

It is argued sometimes that a theory designed to protect the pamphleteers of a century and more ago, struggling against the oppression of censorship imposed by tyrants, never contemplated the growth or power of the modern daily newspaper, a private business run for the profit of its owner.

One of the outstanding critics of the press, Mr. Harold L. Ickes, has put it this way: "Except the press, no other private institution is specifically mentioned in the Bill of Rights. This places the press and its problems in a special suspension file."

Suppose we accept this figure of speech and agree that the freedom of the press, as we know it today in America, is in a special suspension file, future disposition of which awaits determination at the hands of the people, for this freedom of the press is something that belongs to the people. It is their property, to have and to hold, or to discard. It is not the property of the owners of newspapers. It is the people, not the owners of the press, who will in the end determine the future disposition of this freedom.

Suppose we examine some of the historical characteristics of the American press. We know something of the origin of the idea of a press free from government control; that it was born in a revolution against such control. We know that the idea was planted in a fertile soil and was cultivated by men who valued freedom above everything else, and had staked their lives and their fortunes to win it.

RESTRICTED

It was an idea that was given a new legal basis by being written into the Constitution itself. That legal basis placed it beyond the reach of government, in contrast to the constitutions of other governments which placed conditions on press freedom and permitted its curtailment in certain emergencies. As an example, the Constitution of the Weimar Republic, written after the defeat of Germany in the First World War, guaranteed civil rights, including freedom of the press. But it contained an article under which any or all of these civil rights could be suspended by the government in an emergency. Associate Justice Robert Jackson is authority for the statement that various governments of the Weimar Republic suspended civil rights as many as 250 times in the life of that government. That right of suspension gave Hitler's dictatorship, with its suppression of the press, its only claim to legitimacy under the law.

Our freedom of the press is a legal right, enforceable in court. It does not depend upon the views of the government in power, or upon the existence of some real or imaginary emergency.

Freedom of the press as interpreted by our courts has been strengthened rather than weakened since it was made a part of the Constitutional guarantee. A few years after ratification of the Bill of Rights, editors were being sent to jail for criticizing the Government--something that is unthinkable today. Only a few years ago the rules of contempt placed newspapers in frequent jeopardy at the hands of some judges whose ulterior purpose in exercise of the contempt power were evident. The Supreme Court has narrowed the field of contempt and from time to time has stepped in to prevent tax and other discriminations against the press by State governments.

The American press is free, with rare and narrow exceptions, to obtain and to print any news that it can secure of what is going on in government or anywhere else. Its freedom of comment, even to the extent of ridiculing the Government and its officials in the harshest of terms, is restrained only by the laws of libel, and these are rarely invoked. This freedom has been encouraged by what might be called a characteristic-ally American, or perhaps I should say Anglo-Saxon, attitude toward constituted authority. Americans do not like to be pushed around by government. We are inherently suspicious of any governmental action which suggests the prospect of being pushed around.

For example, treason, a crime for which thousands of men have been imprisoned and executed in other lands, and for which they are being tried and executed today in the iron curtain countries, is so tightly defined by our laws that our Government is rarely able to prove it. The Federal Government has never executed a citizen for treason in the 160 years of its existence--years which included a Civil War.

RESTRICTED

The American press has been able to identify its own interests with those of the public which it serves, and to a degree that is found in no other country of the world. Newspapers thrive on the exposure of wrongs from which the people might suffer. Our newspapers are often the first to challenge the exercise by any official of government of anything savoring of dictatorial power. They ridicule the idiosyncrasies of the rich, and they love to take a fall out of the high and the mighty--the stuffed shirts of the world. They more often take up the cudgel for the underdog than for the top dog, on the theory that the function of the press, as Mr. Dooley once described it, is "to comfort the afflicted and to afflict the comfortable." This approach means circulation. And advertising revenue, on which the papers depend for existence, follows circulation and approval by the people of the paper they read.

We have partisan newspapers. But political partisanship by the press is not nearly so strong as it once was, for newspapers realize that a policy of calling the cards as they are dealt--regardless of the political party in power--is a policy that begets more reader confidence than subservient allegiance to any political party line.

The important thing, however, is that the partisan newspapers in American support the Party; the Party does not support the newspapers. Publishers realize, if only from the experience of newspapers now dead, that a newspaper depending upon a political party goes out of existence with the Party. Publishers know that survival depends on independence from any form of subsidy.

We have three independent branches of the Federal Government--the Legislative, the Executive, and the Judicial. They were set up with checks and balances, one against the other. And riding herd, so to speak on each and all of them, free from their control or interference, is the press, a sort of monitor of government; a referee, reporting to the people on what it regards as the shortcomings of government. Its role in respect to government was never more eloquently described than by the great Irish writer and orator, Richard B. Sheridan, in these words:

"Give me but the liberty of the press and I will give to the minister a venal House of Peers--I will give him a corrupt and surville House of Commons--I will give him the full sway of the patronage of office--I will give him the whole host of Ministerial influence--I will give him all the power that place can confer upon him to purchase up submission and overawe resistance, and yet, armed with the liberty of the press I will go forth to meet him undismayed; I will attack the mighty fabric he has reared with that mightier engine; I will shake down from its height corruption and bury it amidst the ruins of the abuses it was meant to shelter."

RESTRICTED

RESTRICTED

In this capacity of monitor of government, responsible not to the Government but to the people whom the Government serves, the press has won a public confidence in America that probably is unique. And it is this role of the press, as critic and monitor of government in a free society, that is the very antithesis of the role of the press as found in any dictatorship.

Performance of the press, however, has always invited criticism. Thomas Jefferson, who might be called the patron saint of the free press--and who once wrote that "were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate to prefer the latter"--was bitter in his own criticism of the press. In his second Inaugural Address he spoke of the fact that, "The artillery of the press has been leveled against us, charged with whatsoever its licentiousness could devise or dare."

But Mr. Jefferson looked on his re-election, despite the criticism of the press, as vindication of his own theory of a free press. And in worlds reminiscent of later politicians who have won an election in the face of press opposition, Mr. Jefferson told the people that

"Since truth and reason have maintained their ground against false opinions in league with false facts, the press, confined to truth, needs no other legal restraint; the public judgment will correct false reasonings and opinions on a full hearing of all parties; and no other definite line can be drawn between the inestimable liberty of the press and its demoralizing licentiousness. If there still be improprieties which this rule would not restrain, its supplement must be sought in the censorship of public opinion."

Current criticism of the American press comes mainly from two sources. One source I have mentioned; it follows an ideological line. Those who believe in a press that is free of private control, emphasize its failings as an argument for government control.

Another source of criticism is the people themselves. A recent example of such criticism was the inquiry on the performance of the press, undertaken by a privately financed Commission on Freedom of the Press, under the chairmanship of Robert M. Hutchins, Chancellor of the University of Chicago. A somewhat comparable inquiry, emerging from the atmosphere of socialism in Great Britain, was made by a Royal Commission on the Press, appointed by the Crown under legislation approved by the House of Commons.

These inquiries reached conclusions as to the faults of the press which might be generalized as follows: One is that control of the great power exercised by newspapers rests in the hands of men whose ability to render valuable public service is to a large degree dependent upon a successful business operation. The critics are fearful that the newspaper's status as a commercial business or operation places in jeopardy its status as a public servant.

Another is the abuse of power, by the owners of some newspapers, for partisan or selfish aims, or the lack of responsibility in the exercise of that power. This irresponsibility takes form in the inadequacy or the inaccuracy in presenting a true picture of the news of the day; excessive partisanship, sensationalism, and use of power for purposes that are described by the critics as opposed to the best interests of society.

To such findings of shortcomings on the part of the press may be added the criticism by politicians. For politicians who are opposed by the press, or a segment of the press, naturally retaliate by seeking to discredit the source of their opposition.

As for remedies for what ails the press, the Hutchins Commission in this country and the Royal Commission in Great Britain reached independent conclusions to the effect that reforms in the performance of the press will be initiated either by the press itself or by government; but that if they come from government it will be at the cost of endangering the freedom from governmental control that must be preserved if the press serves its usefulness in a free society.

The Hutchins Commission, therefore, recommended an agency, independent both of government and the press, financed by privately contributed funds. This agency would report upon and appraise annually the performance of the press, singling out the errors of omission or commission and bringing them to public attention.

The Royal Commission proposed a General Council of the Press, composed of 25 members. This council would also watch and report upon the performance of the press, pointing out errors and praising good work. Nothing yet has come from either of these proposals.

Newspapermen generally, I believe, are skeptical of any such methods to police the press. Their skepticism is not the result of any blindness to the faults of the press. It flows from a disbelief that the improvement of the press can ever be brought about by the policeman method. For freedom of the press means freedom for the worst as well as for the best of its practitioners; freedom for the thought we hate as well as for the thought that we approve. And once the private policeman-- in the form of some privately conducted commission, exercising the duties

RESTRICTED

of monitor over the performance of the press--is recognized and accepted as a cure for the ailments of the press, it is only a matter of time and evolution before the private policeman is put on the government pay roll. In other words, the problem of press regulation--a regulation that is self-imposed by a feeling of responsibility--is whether the remedy for the ills we suffer might not be more unbearable than the ills themselves.

Once the Government begins policing the press, its freedom, as we have known it, would come to an end. That, in itself, might be regarded by some critics of the press as something less than a catastrophe. For many critics of the press believe that the press is too free and that restraints by government upon that freedom would not be contrary to the public interest.

But here we must always bear in mind that the freedom of the press is not an isolated right that stands by itself. Our various freedoms--freedom of speech, freedom of religion, the academic freedom that is the heart and soul of education, the right of public trial by jury--all these rights and freedoms are interdependent. The fall of one can bring down others with it. For that reason the newspapers, and the public they serve, must fight as vigorously to protect all freedoms as to protect the freedom of the press.

There is one particular field in which the interests of press freedom seem at times to conflict with the interests of the Nation--and these troubled times in which we live today occasionally bring that conflict of interest into sharp focus.

I refer to the field of security--specifically, the preservation of necessary secrecy in the development of methods and instruments of scientific warfare. One value that military men naturally attach to such development is the value of surprise. But surprise is lost if the development of every new weapon becomes a matter of public knowledge. Sometimes we appear at a distinct disadvantage, as a free society, in preserving such secrets. Something leaks out into print and we tell the whole world what we are doing. In Soviet Russia, of course, there is no such problem at all.

Two years ago the late Secretary Forrestal gave evidence of his own concern and that of his associates over certain leaks that had led to publication of facts that the military people wished concealed, particularly in the development of supersonic aircraft. Mr. Forrestal called a conference of information media representatives--the press, the radio, moving pictures, magazines, book publishers, and so on--and asked them for advice.

RESTRICTED

There was a discussion of some sort of peacetime voluntary censorship; but that proposition was quickly abandoned because it would not work. Ninety-five percent of the people in the publications field might agree to print nothing about subjects specifically designated by the military authorities as secret; but, through accident or design, a minority could always break down such voluntary censorship by refusing to be bound by it. The inevitable next step would be consideration of enforced censorship, which would stir up more snakes than it could kill.

Newspaper representatives posed one of their frequent problems: if any editor ran across a story that he considered might be dangerous to the national interest if it were published, from whom should he seek trustworthy advice? Who in the Military Establishment was equipped to give it? And suppose such advice were given and accepted, and the story killed? What would be done if another editor relied on his own judgment, reached a different conclusion, and instead of appealing to some authority in the Pentagon went ahead and printed the story?

Some sort of machinery might be devised to meet such problems, provided it could command the united support of all domestic publications. But suppose the correspondent of a foreign news service came across the information which was suppressed and he sent the story abroad? What would happen then to voluntary censorship in the United States?

The advice finally given to Secretary Forrestal was that he must police his own establishment and prevent the leaks, for the leaks were coming from the military people, not from the press. The most effective place to stop a leak, of course, is at the source. There was some pretty thorough housecleaning within the Military Establishment, and so far as I know there has not been a repetition of leaks in the recent past-- certainly none of them that attained the notoriety of some of those that occurred two years ago.

The Atomic Energy Commission dilemma in protecting certain fields of information is a good example of difficulties faced by other authorities in preventing undesirable publication, from the point of view of security. In the case of atomic energy, we have a law that prohibits the publication of certain classified information. This law is backed up by harsh penalties, including death in certain circumstances.

Suppose a writer runs across information on atomic energy that he believes to be true. He submits it to the Atomic Energy Commission for clearance. Now, if the Atomic Energy Commission finds that the writer has struck very close to facts which it wishes to conceal, the mere act of telling the writer to suppress those facts can be considered as official confirmation that the facts are true.

RESTRICTED

RESTRICTED

Thus, the AEC must be as careful not to prohibit as it is to prohibit. Its prohibitions are sometimes more effectively enforced by persuading a writer that he is apt to injure the public interest by any discussion in certain fields than by strict application of the law. The AEC is more anxious to preserve restricted information than it is to punish a writer who reveals the information.

We had, as you know, what was called voluntary censorship during the war. It worked very well. But the reason it worked was due to the fact that the censor had in his possession a powerful weapon in the form of public opinion. No publication dared print material banned by the censor that might endanger the lives of sons of his neighbors. The neighbors, for one thing, wouldn't stand for it.

The censor possessed another weapon in his arbitrary control of the communications that left or entered the United States. A news service, for example, that violated censorship regulations at home could be penalized by being cut off from its correspondents abroad. I know of one incident during the war when a national magazine threatened to violate one of the censorship regulations. But it did not carry out its threat, for its export editions would have been impounded if it had done so. There were weapons of wartime, voluntary censorship that are not available even in peacetime.

I suppose that among the war plans there are plans for censorship, for censorship of some sort is necessary in war. I hope that the plans will follow pretty closely the so-called voluntary plan used in the past war. An important part of that plan was to make the censor, a civilian, independent of the military--except in the actual theaters of war--and responsible only to the President of the United States.

As skillful as our military men may be in fighting a war, they are not experts in the area of public opinion. The censor should be a civilian who knows news and the value of news, and who knows the difference between legitimate secrecy and the arbitrary suppression of facts because somebody doesn't want those facts printed. Many sins were committed in the war by military censors who were often too apt to confuse legitimate news with military secrecy.

The censor should be a man who detests all censorship; who has a passion for the right of people to know, while understanding that the suppression of information which would be helpful to an enemy is a vital part of the war effort; and one who is able to distinguish between information that could help an enemy and information which should become the common property of free men in a free society.

Thank you, gentlemen, for your attention.

RESTRICTED

QUESTION: Sir, occasionally in the American press we read very unrestrained and outrageous statements about an individual or individuals. Yet, very rarely do we hear of a counteraction by the individual concerned.

I wonder, to what extent do the laws of libel apply in freedom of the press? There seems to be a lot more liberty here than in the press of some countries.

MR. McKELWAY: The laws of libel differ greatly in the different states. Here in Washington, perhaps much to your surprise, we do have pretty strict laws of libel. The papers usually report the important libel cases but do not report many of the nuisance libel cases, the reporting of which encourages more of them. That may be one reason why you do not see very much about libel suits.

We do not have as strict libel laws as they have in Britain, for example. Nor do we have the strict laws of contempt of court which in Britain prevent the publication of an article regarding a man's possible guilt before he has had a trial. I think eventually that may become more general in this country, as a matter of evolution and experience. I think the laws in Britain prohibiting the publication of information that might prejudice a man's trial are very excellent. We could use more of that in this country.

COMMANDER LEVERTON: I might point out to the officer that to some people any kind of publicity is good publicity.

QUESTION: We have in this country criminal laws which will bring a man up for trial, even though the person offended does not necessarily take offense. So, carrying this thing one step further, you may have a situation--and do have regularly in certain newspapers among the columnists--where things are printed that a person could take offense at, but doesn't. So, wouldn't it be possible, where deliberate lies and falsehoods are printed knowingly and willfully, that they could be subject to punishment for printing that?

MR. McKELWAY: Yes; they frequently do.

QUESTION: What should be the penalty for violation of voluntary censorship in wartime? That has happened; it did happen in the past war. So far as I know, there was no penalty imposed for a person violating voluntary censorship.

MR. McKELWAY: It depends, of course, on the offense.

You may be familiar with the "Chicago Tribune's" publication of the battle-order of the Japanese fleet. There were people who wanted very seriously, very earnestly, to prosecute that case. But there you were faced with the fact that, if you brought the case into court, there

RESTRICTED

would be a public trial, which probably would inform many more people that the offense was really a very serious one.

I do not remember any punishment during the war for infringement of voluntary censorship. There were many accidental violations, which which were not considered particularly serious. They always brought a very stern warning. But I can't think of any other serious infringement of censorship regulations except that "Chicago Tribune" one, which became very famous in newspaper offices.

QUESTION: Mr. McKelway, I think everyone in the service is in thorough agreement that the principal offender in that case was the officer who gave that correspondent the information. Incidentally, he didn't fare so well thereafter.

But now, let us consider a question of ethics in another field. We have had recently a case of voluntary censorship here in Washington, until it was broken by a broadcast on Sunday evening, Senator McCarthy, it seems, had lowered his voice and named Mr. Lattimore off the record. But according to Doris Fleeson in your paper it was a very poorly kept secret. She said that anybody who was curious to know could take a taxi down to the Capitol and find out about it. So, obviously, almost everybody knew who it was except the general public.

Now, was Pearson, in broadcasting that, unethical, or was he simply taking cognizance of the inadequacy or lack of ethics among Senators who passed the word around, in letting the American people in general in on what the people in Washington knew?

MR. MCKELWAY: I think the newspapers found themselves in a very foolish position in that situation. Every newspaperman, every newspaper office, knew, of course, the individual mentioned by Senator McCarthy. But he had told the representatives that this information was off the record. In the first place, it would have been libelous unless the newspaper which published it could prove that it was true.

I suppose Mr. Pearson did not get it directly from Senator McCarthy, and he felt he was privileged to make it public.

It is a rather ridiculous situation, but it is one in which newspapers sometimes find themselves involved. There has been a great amount of discussion over that in newspaper offices, I can assure you.

QUESTION: We are often told that a right automatically imposes a responsibility. In your talk I can easily see that the newspaper profession is accepting the right. I am not so sure, however, they understand they have accepted the responsibility. For example, in your illustration of the Forrestal incident, in effect they said to him, "we accept no responsibility. You accept the responsibility of keeping your people quiet."

RESTRICTED

It seems to me the press itself--and I certainly agree with you that it must be kept from government policemen--should consider some form of self-policemanship, such as the baseball organization has done, or the moving picture industry. What comments can you give us as to what consideration has been given to that sort of thing, along with an application of the discussion of the responsibilities of the newspaper profession?

MR. MCKELWAY: I think that is a very fine question.

You see, as Mr. Ickes says, the press is the only private institution which is mentioned in the Bill of Rights. Now, the analogy is sometimes shown between the self-policing activities of, let us say, the American Medical Association, or the American Bar Association, or the association of undertakers, barbers, or almost anything.

That power of self-discipline springs from the authority to license. You cannot be a doctor unless you are licensed to practice. And the American Medical Association can proceed against a doctor in a way that could make him lose his license. You cannot, of course, apply that theory to the press because it involves the power to license, which is the very antithesis of the idea of press freedom; that is, so far as the mechanics of the thing are concerned.

I think we sometimes generalize too hastily on the lack of responsibility by the press that accompanies this right of freedom. There are papers which, in my opinion, do not assume responsibility. But I believe you have to depend on a growing comprehension among newspapermen; and I think it is growing with age. After all, freedom of the press is a pretty new institution, as institutions go. I think that if you do not depend on the growing sense of self-imposed responsibility, you immediately get into the field of regulation, which depends on license.

QUESTION: May I carry that thought one step further? You do have, though, in your press associations an organization which does provide a vehicle, should you wish to assume the responsibility; for example, the Associated Press' control over its member organizations and the U. P.'s control over its member organizations.

Now, in so far as the licensing is concerned, while I realize that this does apply to the organizations you mentioned, does it apply likewise to the movie organization? Or did you refer there to the control of bookings, which would be their method of control?

MR. MCKELWAY: Well, in the movie industry, of course, you have these state boards of censorship. The Associated Press at one time was able to hold over its members the threat of suspending or canceling their membership. But by the recent decision which held, in effect, that the Associated Press was a monopoly, the A. P. cannot withhold membership from a subscriber unless he refuses to pay his dues, or something of the sort.

RESTRICTED

I happen to be president of the American Society of Newspaper Editors. That society has wrestled with that problem for many years; but no solution has been found.

I remember the glaring example was in the "Teapot Dome" exposure, when they found a couple of publishers who were involved in some pretty dirty business. It was moved in the society that the society proceed to expel and to publicly condemn their conduct.

Well, a committee was appointed to go into the matter. Each member of the committee was threatened with a law suit should he say things about these publishers that he could not prove. You see, the publishers had not been convicted of anything. The members of the committee would be sued as individuals. On the advice of counsel they just found they could not do anything about it as an organization. In their own columns, they can do anything they want. All over the United States there was tremendous condemnation of the conduct of these publishers. But as an organization of individual newspapermen it just didn't work out to be practicable, despite the prevailing sentiment, which was all for it.

QUESTION: Will you discuss, in my opinion, the most interesting part of your paper--the editorial page. I am interested in the motivation of the editorial staff--how it is selected. Are these people chosen because a newspaper selects them for their advancing of or fighting for some sort of cause? It seems when they tackle any issue they always end up with a high moral or ethical tone. They are usually selling somebody something. They are not just reporting the facts. They labor the facts, but they normally have some kind of platform.

I just wondered what motivates an editorial writer. How is he selected? How do you get this collective standard you referred to on paper? Do they select them on the basis of ethics, or how do they do that?

MR. MCKELWAY: I would rather leave ethics out of it. Ethics is pretty hard to define.

A newspaper usually has something that it believes in and, in its editorial opinion, attempts to present that opinion from its interpretation of facts. The editorial writers are chosen from all sorts of fields. Some of them are college professors; some of them are newspapermen who seem to be equipped for that sort of thing.

I agree with you about the annoyance sometimes of the high moral tone they seek to achieve. Personally, I think the editorials should be an attempt to present the facts as accurately as possible, and then discuss the conclusion from them as the newspaper sees it. Some newspapers, we think, come nearer meeting that ideal than others.

COLONEL MCKENZIE: Mr. McKelway, I believe there is a growing concern over the opportunity within a given area to have competition among newspapers because of financial difficulties of staying in business these days. But isn't that fear somewhat exaggerated because of the opportunity a newspaper reader has today of checking that particular newspaper against weekly news magazines of national circulation, daily radio broadcasts, and things of that kind? Would you say that, if that is so, then that is, in some sense, controlling this matter of responsibility of one newspaper, as a self-policing affair, where you cannot be wrong too many times or people are going to catch up with it?

MR. MCKELWAY: The whole trouble with that argument, Colonel--and one that is used frequently--is that in too many cities of this country now the people have no choice. They may know that the newspaper is habitually inaccurate and guilty of other things. But most people like to read a daily newspaper, and they have no alternative. It is a very serious matter and one that is of great concern.

I saw the other day, as you may have, that the two Atlanta papers combined. That removed the only city in Georgia where a competitive situation existed. There is no city in South Carolina where there are competitive newspapers. There are, I think, three in North Carolina; none in Virginia; in Maryland, one in Baltimore; in Delaware, none; in Pennsylvania, outside of Philadelphia I do not know that there are any left.

The cause of these combinations, which result in one-newspaper towns, is the increasing cost of production which the newspapers cannot meet. Their expenses have increased--I am speaking now of cost of production--enormously since 1937. If there should be a fall-off in advertising volume, many more papers may fold up. It is a very serious situation and one that everybody ought to be concerned with. I do not know what the answer is.

There is one thing to be said in this connection, however. It is a mistake to generalize about the influence of monopoly on the excellence of newspapers. I could name a number of cities in this country where I think the monopoly newspapers are excellent and could not be improved upon by competition. The existence of their monopoly increases their sense of responsibility. They know they are in a very sensitive situation.

On the other hand, I can name cities where they have highly competitive situation and where all the newspapers are pretty terrible. So you cannot generalize about the effect of monopoly and whether it makes for good or bad newspapers.

Now, some people say that with the radio a newspaper cannot enjoy a monopoly any longer. The same thing applies with the magazines, as you said. But it is a bad situation and I am inclined to think that.

RESTRICTED

the ultimate remedy may be the development of new printing and reproduction processes, which is the subject now for organized research. I might add they are making remarkable progress. Perhaps in a few years you may find that the costs are so reduced by new processes that other people can start newspapers, which, of course, is the situation that should prevail.

QUESTION: I would like to pursue, if I may, the opposite side of the question that was raised a little while ago concerning the high moral character of editorials, and think, for a moment, about the commentators who write their comments on the other side of the editorial page in your particular paper.

To what extent do the papers control these commentators with their defamatory remarks in many cases in pursuit of comments against individuals who eventually are either washed out of the picture or else break under the strain of it? Do the papers, in some way or other, have some control over that? Do they have to take the individual comments, week after week, of the particular commentators on a contract basis?

MR. MCKELWAY: I would say no; they do not. I do not want to appear virtuous, but in our newspaper I do not think we have any of the columnists who go in for this personal attack that some columnists have capitalized. We do have a range of opinion which is deliberately adopted in our paper because we seek to present various shades of opinion.

We have the perfect right--and so does every other newspaper--to edit the columns. I have never edited any column in so far as the opinion expressed is concerned. I have in the cases where I knew the facts were wrong or where I thought that attacks on some individual went beyond the limits. I do not want to get started on the subject of columnists, though.

QUESTION: I want to project your statement on voluntary censorship into the field of industrial planning, for this reason: We all believe and feel we get the most out of American industry and the people by the same type of voluntary controls. There are many things that come up during peacetime mobilization planning which would be very good to go through with but which are rejected simply because they are politically unwise or the public is not ready for them.

How would you recommend this question be put to the public so that it would be in a proper frame of mind--specifically, how do you create favorable public opinion? I know that many people have no opinion on the subject until they are forced to formulate one. The press plays a big part in this formulation.

RESTRICTED

I would appreciate your comment on those things that are good for the public and yet the public is in theory not ready for them.

MR. MCKELWAY: I suppose there we get into the field of propaganda; that is what it is. I do not pretend to know much about it. It is a matter of great surprise to newspapermen that some programs which would appear to be attractive when they are announced in the most favorable circumstances, seem to fall flat. That is because the people just will not react.

I remember during the war there was a great deal of Civilian Defense, for example, which was constantly in hot water. Any number of approaches were tried. Beyond organizing these wardens, and so forth, to go around to see if your lights were out, and that sort of thing, you could never get people to take the thing seriously enough to get behind it. That, of course, is a very large subject, about how the Government might go about selling a program of that type.

COMMANDER LIVERTON: We thank you very much, Mr. McKelway, for your excellent presentation, for the time you have given us, and for your frankness.

(18 May 1950--350)S.

RESTRICTED