

Why did one news council fail and the other succeed?

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This is the story of two news councils. One of them failed. The other seems to be succeeding. Today I will compare those two councils in hopes that their histories may provide guidance for future councils.

I think we will find the word "voluntary" to be a critical one in any discussion of such councils.

First, some background:

The press in the United States was conceived and born in the Enlightenment. The colonists had risen in revolution against England and determined to put together a government under which men and women could live by the values of their time -- rationalism, freedom and a fierce independence.

They wrote as the first -- not the second or the third -- commandment in their Bill of Rights that Congress should make no law...abridging the freedom of the press.

The only ethical obligation our early journalists accepted was the obligation to keep the press free, for they believed as Milton did that if the marketplace of ideas was open to competition among all opinions, the truth would win out.

As we shall see, many of today's American journalists have not recovered from the Enlightenment.

But beside that fierce independence, there is a strain of concern or some broader obligation that runs through American journalists.

I call it the Golden Thread, and I characterize it as a sense of honor.

Marion Tuttle Marzolf traces that sense of obligation back into the 19th century. Thoughtful critics said journalists ought to have the same obligation to their communities that teachers do. Some said they should be examined and licensed like lawyers and doctors.

Yellow journalism -- unbounded sensationalism -- became immensely profitable for some newspapers at the turn of the century. Some journalists thought the "ideal newspaper" ought to be somehow endowed with adequate funds that it need not stoop to compete with the "yellows."

In 1923 the American Society of Newspaper Editors adopted an ethics code -- the Canons of Journalism -- and in the same decade an ethics code was established by the Society of Professional Journalists (whose very name suggests growth among journalists beyond the fierce independence of our early years.)

But the idea of a board or a council that would examine the ethical state of journalism and report

publicly on it, did not come seriously forward until 1947. In that year the so-called Hutchins Commission published its report called "A Free and Responsible Press."

The commission was established in 1942 with financing from Henry Luce of Time Inc. It was put under the chairmanship of Robert M. Hutchins, chancellor of the University of Chicago. Hutchins called in 11 members: professors of law, philosophy, religion and economics. None were journalists.

The first sentence in the commission's report is, "The commission set out to answer the question: Is the freedom of the press in danger? Its answer to that question is, "Yes."

It was in danger, the commission said, because the press had not "provided a service adequate to the needs of the society." It had also engaged in practices which the society condemns. Inevitably, unless the press improved, society would take steps to regulate it.

The commission laid out five requirements that the press should meet in order to meet its social responsibility. One, it should produce a truthful, comprehensive and intelligent account of the day's events in a context which gives them meaning. Two, it must provide a forum for the exchange of comment and criticism. Three, it must project a representative picture of the constituent groups in the society. Four, it must present and clarify the goals and values of the society. And, five, it must provide full access, i.e. for all members of the society, to the day's intelligence, i.e. "the currents of information, thought, and feeling which the press supplies."

And to move toward meeting those requirements the commission recommended "the establishment of a new and independent agency to appraise and report annually upon the performance of the press." The commission suggested that such a body be independent of government and of the press; that it be created by gifts; and that it be given a 10-year trial, at the end of which an audit of its achievement "could determine anew the institutional form best adapted to its purposes."

The commission laid out 10 activities for the agency. Among them was, "through conference with practitioners and analysis by its staff, [to] help the press define workable standards of performance."

Another recommended activity was to point out the inadequacies of press service in some areas including those where minorities are denied reasonable access to the channels of communication. Another was to investigate "instances of press lying, with particular reference to persistent misrepresentation of the data required for judging public issues."

Another: "Periodic appraisal of the tendencies and characteristics of the various branches of the communication industry."

And the 10th activity recommended was to obtain "the widest possible publicity and public discussion of all the foregoing."

Hold this recommendation in mind as we talk about the failure of the National News Council and the success of the Minnesota News Council.

The Hutchins Report was important for two things: One, it contained this first substantive proposal for a press oversight body, a news council, and second, because in its listing of five requirements of the press, it set out for the first time what came to be called the social responsibility theory of the press, the idea that in return for its constitutional guarantee of freedom -- a guarantee accorded to no other business -- the press owed a debt to the community.

On both counts the commission's report was rejected out of hand by American editors. They were furious that there were no journalists on the commission. They were frightened that despite the commission's repeated concern that government interference with the press was the first step toward

tyranny, the report also repeatedly warned that if the press did not take steps to improve its performance, society might insist on some degree of governmental regulation.

After an initial roar of rejection from journalists the Hutchins report was ignored in the good times of the post World War II period.

And then society began to change. In the sixties our children began to offer their bodies as sacrifices in the cause of racial justice. They saw other bodies coming home from an undeclared war they couldn't understand. They smoked dope, their music was intolerable and, worst of all, they wore their hair too long.

Something was going wrong. And the body politic, particularly the right wing, came to blame the press. Incidentally, virtually all the national magazines like The Saturday Evening Post, Colliers, Life, Look -- the magazines that tended to reassure us that our values were right and that right would triumph -- all went broke during this period and deprived us of their comfort.

The attackers were led by President Nixon and his cohorts. Vice President Spiro Agnew attacked "nattering nabobs of negativism," words supplied by William Safire, a Nixon speech writer who later learned that his White House colleagues had tapped his telephone.

Patrick Brogan, who wrote "The Short Life of the National News Council," wrote, "The National News Council came into existence partly because of the intensity of Nixon's attacks."

In 1971 the 20th Century Fund -- a foundation devoted to social research -- named a task force "to examine the feasibility of setting up a press council -- or councils -- in the United States." The task force studied for more than a year and came back with a recommendation that a council be established. That recommendation came despite this warning in the task force report: "No media council can succeed without the cooperation of a majority or a 'critical mass' of major organizations within the council's jurisdiction. This need not mean participation of all the media in an area; once a council has established an operating norm, some previously reticent organizations can be expected to cooperate, or at least not to oppose it actively."

It is hard to believe that the task force really believed it had the support of a "critical mass" of the suppliers of national news in the United States. Alfred Balk insists that the members did so believe but among the handful of suppliers of national news, the New York Times publisher, Arthur Ochs Sulzberger, was and remained vigorously opposed to the council and Ben Bradlee, editor of The Washington Post, considered the council dangerous to freedom of the press. That left the three wire services and the three network news organizations, only one of which, CBS, actually pledged its support and later donated funds. Despite this weakness, the council was established in 1973 with funding from two foundations guaranteed for three years, in which time it was expected to attract funding from other sources.

It is my opinion that the task force made a major mistake by establishing a national council in the face of such opposition. It would have been better to seek out progressive editors and publishers and to support, then fund in the formation of state or regional councils. Then both journalists and the public would have had a chance to become accustomed to the work of news councils -- as the journalists and the public of Minnesota have -- and a more accepting attitude might have been created for the later establishment of a national news council.

However, the task force did go ahead with a national council. It said: "The Council's function shall be to receive, to examine and to report on complaints concerning the accuracy and the fairness of news coverage in the United States as well as to study and to report on issues involving freedom of the press."

The very first action of the council involved Nixon. On Oct. 26, 1973, the president commented on the television coverage of the Watergate investigations, "I have never heard or seen such outrageous, vicious, distorted reporting in 17 years of public life."

The director of the News Council fired off a telegram to the White House offering to review whatever specific broadcasts the president referred to and render a judgment on their fairness and accuracy. The White House did not reply. The director of the News Council, William B. Arthur, former editor of Look magazine, went to Washington three times and met with press secretary Ron Zeigler asking for specifics. In each case the answer was that the White House staff did not have the time to prepare a list of specifics. After three months the council abandoned the chase with a note to the effect that it was blocked from further analysis of the charge by the White House refusal to be specific.

In Brogan's review of the council he calls the first case a missed opportunity. A right-wing organization was at that time engaged in an analysis of television reporting to see if CBS News was "anti military." The council might have made a similar analysis of broadcasts based on Nixon's complaint, and whether it found the president to be right or wrong, it would have found itself on page one of significant American newspapers.

The opportunity was missed, Brogan says, because the council's original chairman did not understand the press or the need of the council to become visible. The founding committee of the council had followed the example of the British Press Council and appointed a judge chairman, and when he retired, they appointed another one. Neither understood the need for visibility. And they led the council to a position where an evaluation committee three years after the council's founding reported that there was indeed a need for a news council but that the present council fell far short of meeting that need. Richard Salant, then president of CBS News and later the last chairman of the News Council, wrote to Rossant that he had been disappointed with the shallow and careless work of the staff. Another evaluator told Rossant the council needed a new staff and better-known council members.

Up to then, the council had found itself handcuffed by its rule that it would only handle complaints against the suppliers of national news. To attract better cases after the 1976 evaluation, the rules were changed so that the council could take complaints against any news medium so long as the complaint exposed an issue of national journalistic significance.

That change augured for better days, and so did the appointment of a new chairman. Norman Isaacs, former editor of the Louisville Courier Journal and one-time president of the American Society of Newspaper Editors, had kept himself informed of all the planning for the news council. He had established the nation's first contemporary ombudsman at his newspaper, and he had tried to establish a community news council in Louisville.

As president of the ASNE, he tried to persuade the organization to establish a grievance committee to hear complaints against the press, and he took key editors to London to see the British Press Council in action and perhaps overcome their fear of an oversight body. He was unsuccessful.

But at the News Council, Isaacs was successful. A man of immense vigor at 70, he moved into the office and worked at a secretary's desk until his own office was ready.

In pursuit of visibility, he arranged for the council's findings to be published in a paid-for section of the Columbia Journalism Review. And he found cases.

An example of Isaacs' pursuit of cases came days after I started as associate director of the council. A Washington Post reporter named Janet Cooke had fabricated a story about a drug addict who was only 8 years old, and she had won a prestigious Pulitzer Prize for her story. When the Associated

Press sought details on Cooke's education and first jobs, the information they found did not match Cooke's resume. She was confronted at The Post and ultimately admitted that there was no 8-year-old addict; the story was a lie.

The Post had returned the Pulitzer and its then ombudsman, Bill Green, offered to investigate how the hoax had happened. His report, printed four days after the Pulitzer was returned, covered three and a half pages in the front section of the newspaper -- a truly remarkable document.

Nevertheless, chairman Isaacs learned that the journalism faculty at Howard, a black university, had complaints about how Ms. Cooke, who was black, had been treated during the investigation. It was thin stuff, and the standing of the faculty member who was leading the complaint was suspect; he had been fired as incompetent by Newsweek, a sister publication of The Post, and had lost in a lawsuit charging racial discrimination.

Despite those weaknesses, Isaacs encouraged the complaint, and he set us to work reinvestigating how the hoax had occurred while he contacted his editor friends from all over the United States and asked them what they would do to avoid being duped as The Post was by Ms. Cooke. We pulled it all together in a small book that was distributed to editors and academic journalists all over the country. It was the kind of activity the News Council should have been involved with to survive. Instead, staff time was too often being taken up with less-vibrant cases.

One thing that came out of the News Council investigation of the Janet Cooke case involved the ombudsman. My colleague on the council staff was Abe Raskin, former labor columnist and editorial board member of the New York Times. Raskin had floated the idea of an ombudsman in an article in the Times magazine in 1967, and it was on the basis of that suggestion that Norman Isaacs had appointed the first ombudsman in contemporary times at the Louisville Courier Journal. One of the key responsibilities of the ombudsman's job was that he or she must represent the reader. And a key element of representing the reader is to listen and hear complaints. Bill Green did not do that.

There were plenty of complaints -- from the police department which was looking for the non-existent child, from the mayor's office, from community leaders and from people demanding that someone find the child and help him. Green did not listen and act on those complaints. When we confronted Green with this failure it seemed to me that it was excusable on the basis of the fact that Green had been at the newspaper only a few days before the story broke and was not yet accustomed to the job. Green, an honorable man, declined to take that excuse and acknowledged that there been complaints to hear if he had been listening.

It was exciting work for Isaacs. He arranged to have council findings published in the Columbia Journalism Review. A brilliant reporter and editor, he pitched in himself in the investigation of cases. He made brilliant decisions and awful ones. In a case against Life magazine Isaacs failed to ask the reporter for her side of the story -- not unusual at the council; we tended to take complaints to editors and broadcast executives on the theory that they, in the end, are responsible for the product. But in this case, the reporter was furious and the error derailed negotiations with Time Inc. for a much-needed financial contribution to the council.

And by the early 1980s financial infusions were desperately needed. The foundation funding had run out. Too late the council had lifted its own ban on seeking money from news organizations, although it continued to put a ceiling of \$5,000 on contributions from any source lest it appeared to be owned. Isaacs retired. There was one more unsuccessful chairman for some months after him. Then Salant, former president of CBS News and a member of the original Council Task Force, accepted the job. He would have been another Isaacs, but he became ill. He fired off from his hospital bed and from his recuperation abroad brilliant statements reacting to what he perceived as threats to press freedom, but it was all over: The press had made up its mind that the News Council didn't matter, and as my

colleague Joann Byrd has written recently, it is difficult to change a journalist's mind. Heroic efforts were made to come up with a reorganization of the council that would allay the press' fears by -- among other things -- asking news organizations to lend their best-known reporters to the council to investigate major cases.

But it was too late. A committee was formed to contact six of the absolutely most powerful voices in American journalism to see if they would support a reorganized council with their money and their cooperation. They turned us down flat, and in 1983 the council gave up.

It had done useful work. In judging complaints from Mobil Oil against ABC and of Shell against NBC, the council came up with a colorful but useful measure for the amount of bias or point of view that was permissible in a news documentary: If it's enough "to make a vulture retch," wrote council member William Rusher, it's too much.

The council took constructive stands against docudrama, the use of news-like techniques to give authority to essentially fictional programs.

It went up against the New York Times again and again on the issue that it attached the label Roman Catholic to abortion opponents without reporting the religion of others in the abortion controversy. In one of its last cases it found the Times guilty of careless reporting in a story saying that dioxin was found in farm fields in Mississippi and represented a health threat.

The Times did not report any of those cases despite Sulzberger's promise at the beginning that the newspaper would report any significant news generated by the council. Incidentally, it is simplistic to credit the Times for killing the council. The Times never did cooperate with council investigators -- just as Sulzberger and editor Abe Rosenthal had promised at the beginning, but its reporters always did cooperate; they wanted, out of the sense of honor that exists in most reporters, to explain why they had reported a particular story as they had.

What the Times did do, with its opposition to the council, was to give intellectual dignity to the knee-jerk reaction of our editors still infected with the Enlightenment: "Who the hell are you to tell me how to run my newspaper or television network?"

And that question is the fundamental one that the Minnesota News Council -- and any other news council -- has had and will have to face.

In the case of Minnesota, the answer is clearer than it was in the case of the National News Council. The Minnesota Newspaper Association -- the association of publishers and top editors -- was from the beginning in 1971 and continues to be a steady supporter of the council. The publishers had decided to support a news council in order to take the moral high ground from the Newspaper Guild, the labor union representing reporters and editors. Two Guild members were themselves working on the idea of a press grievance committee to give Minnesota journalists some cloaking of professionalism short of a government-sponsored oversight body.

One of the other plusses for the Minnesota News Council was academic, and another was geographical. The academic resource was Prof. J. Edward Gerald of the University of Minnesota school of journalism, whose field of study was press accountability and who was an expert in the functions of the Press Council in Great Britain. Gerald guided the council founders in creating a council similar to the British body.

The geographical advantage that the Minnesota council had over the national council was that its jurisdiction was centered on one state. That meant that the distances were not so great that it was too costly to hold hearings on complaints. The National News Council did not hold hearings because it

would have been too expensive to bring in witnesses to New York. Instead, we tried as staff members to lay out for council members as objective a description of the case as possible so that council members themselves could look at the evidence and make up their minds.

That was a bone of contention. Some council members, busy with other commitments, would have preferred the staff to present them with its findings, and allow the council members to escape with a more cursory review of the facts.

Despite the geographical advantage the Minnesota council had difficult days. Dedicated staff people on shamefully low salaries visited editor after editor and news director after news director to sell the council as a device to encourage public trust in their openness to criticism. The council held hearings in different locations in the state, and gradually achieved a place in which virtually all the news organizations in the state but one independent TV station would answer council complaints and, in most cases, publish or broadcast its findings. The recalcitrant broadcaster in Minnesota was not blest with the intellectual prestige of the New York Times, and so was not so great a threat to the council.

Money has been the problem for the Minnesota News Council. The fact that it has survived for 13 years is in itself important. But for two and a half of those years it limped along without a director, with a young staffer alone trying to arrange for hearings and findings.

A year and a half ago the council conducted a search for an executive and was lucky enough to find a leader like Isaacs in Gary Gilson. Gilson, a native, returned to the Twin Cities in 1981 after 17 years of television news experience in New York and Los Angeles. He worked for public television, and then he freelanced until he was selected for the council job.

The first thing he did was to go to the major supporters of the council and ask them to give more. The Minneapolis Star Tribune and the St. Paul Pioneer Press tripled their contributions. Others gave more; so that this year the council is operating on a budget of \$142,000. (The National News Council annual budget was \$3000,000) and the council has an endowment fund of nearly \$100,000 to which journalists are contributing as they sell their newspapers or retire. Again, the Golden Thread of honor.

Gilson believes about the success of the news council that: "The whole thing comes down to one word, 'visibility.'"

"We are going to die with this desultory flow of trivial complaints," he said.

His responses:

- To hold public forums on ethical problems, privacy, conflict of interest.
- To establish a publication called "Newsworthy," filled with quick, lively reports on his interviews with editors and broadcasters.

The problem is that papers don't like to write for the public about media issues, Gilson says. Yet they pour out their fears in the trade press about the loss of public trust.

Gilson suggests to them that support of the News Council is "a way to let the public know they are open to inquiries."

He tells editors if they cannot solve a dispute with a reader, a council hearing offers them an opportunity to argue publicly that what they did was in the public interest.

He tells them the goal ought to be to get people talking about media issues.

Like Isaacs, Gilson buzzes with excitement about what he and an associate director and a half-time staffer have been able to do. Sexual abuse, for example. Papers don't usually identify the victims of

sexual abuse, but in a small town things can go wrong. One Minnesota newspaper inadvertently gave away the (changed) identity of a 17-year-old victimized daughter in the overly graphic description of what her father was charged with. Immediately, Gilson, without a complaint before him, was on the phone to the state's editors and news directors asking them how they handled similar situations. And in three days there was a helpful, two-page "white paper" in the mail to 380 newspaper editors and 300 broadcasters.

Gilson is proud of the effects of a News Council hearing in a compelling case with racial overtones. The Minneapolis Star Tribune did a series on teen-age pregnancy. In connection with one installment it published a picture of a 16-year-old black girl lifting up her blouse to show her swollen abdomen. Some black leaders complained that the picture reinforced the idea of teen-age pregnancy being a black problem.

The council rejected that idea. It not only found in favor of the newspaper, but it congratulated it for penetrating journalism. However, Joel Kramer, publisher, and Tim McGuire, editor, went home from the hearing having heard things of a racial nature that were new to them. They ordered that a series be prepared on the theme "Issues of Race."

The result was a frank and compelling series in which one editor was quoted as saying he had never had a conversation with a black person. A black reporter was quoted as saying she hid when her white colleagues went out to lunch. She feared they would invite her, but only out of a sense of duty.

Gilson's council has 24 members, 12 public and 12 connected with the media. The media members have never coddled their colleagues. If anything, they are tougher on them. (The same thing was true at the National News Council; the council never divided along media-public lines in its vote on a case.)

The Minnesota council, like the national council, imitated the British and has appointed judges at its chairman, with completely satisfactory results. The judge conducts the meetings and does not vote. Incidentally, the Minnesota News Council not only requires complainants to relinquish any right to sue, as did the National News Council, but it has a rule that lawyers may not talk. A complainant may bring a lawyer to a hearing, but he or she may not speak.

In conclusion, the issues of geography, a critical mass of support, dynamic leaders, competent staff, adequate funds and visibility, visibility, visibility are important elements in the success of a news council.

And there is one more issue that may be important in the United States. Some writers have detected a trend in the society toward a communitarian ethic in which the social unit is more important than the individual. Many newspapers are experimenting with efforts to "build communities." They are acting partly out of market considerations -- they want to sell newspapers to the community -- but also in some cases out of a sincere desire to find a new and appropriate posture beyond rugged individualism.

To the extent to which this trend is real and to the extent to which it affects journalists, it may be true what a Minnesota News Council member said at a recent meeting: "The time may have come and gone and come again for news councils."

The late Richard P. Cunningham, former readers' representative for the Minneapolis Tribune and associate director of the late National News Council, was a teacher of journalism at New York University.