

Management of Public Information (continued)

government telling the police who they should or should not pay a visit upon is a fundamental distinction between a police state and a democratic one. Yet it is a distinction which the Canberra Times chooses to regard as unimportant.

No one in the government seriously questions the right of journalists to protect their sources. However, the notion that this "right" is inviolable and not to be tested by the law of the land is something which, if accepted, could never be in the best interests of a democratic community.

Moreover, there would have to be serious doubt about the benefits to journalism were governments to allow the press substantially greater access to information. This would inevitably lead to something akin to that "partnership" between the media and government in information management which has always characterised a press which is not free of government control or influence.

Only through a mutually respectful, but nonetheless competitive, struggle between government and the media are we likely to strike the right balance between an unlimited freedom of expression and the administrative viability of our democratic institutions.

Only under a system in which elected government alone takes ultimate responsibility for the management of public information are we likely to maintain the best conditions under which a truly free press can flourish.

Police Raids and Press Freedom (continued)

vigorous use of the law, say to punish those who sell confidential government information for personal gain, there is very little evidence of its employment. The law is also devoid of any sort of public interest defence, which experience suggests would temper its enforcement.

Governments, as the Chief Justice Sir Anthony Mason has observed in a number of cases, are not necessarily the best judges of the public interest when it comes to hoarding information. In the Fairfax case a decade ago, he commented that "it is unacceptable in our democratic society that there should be a restraint on the publication of information relating to government when the only vice of that information is that it enables the public to discuss, review and criticise government action". Recently, he added that the supposed detriments of freedom of communication were nearly always outweighed by the manifest benefits of an open society: "All too often attempts to restrict the freedom in the name of some imagined necessity have tended to stifle public discussion and criticism of government. The court should be astute not to accept at face value claims by the legislature and the executive that freedom of communication will, unless curtailed, bring about corruption and distortion of the political process".

It is no part of my claim that a journalist is a better judge of public interest than a minister. All the journalist does, however, is to bring to public attention facts that allow the public to make up its own mind. In the absence of breaches of privacy, sunlight is the best disinfectant for bad ideas, and I would rather run the risks of any detriments that might bring to the rather sinister-sounding duty of "managing public information" that Greg Ellis seems to regard as a sacred trust of ministers.

LETTER TO THE EDITOR

I beg to differ with the Press Council ruling on the dropping of [honorifics] in press reports.

It was offensive recently to see the Hon. Barrie Unsworth referred to as "Unsworth" in the report of a minor traffic matter. It is all part of the denigration of human beings in the criminal courts. A firm ruling by the Council could have ended this. The better judges and magistrates no longer refer to people without their description. And, in any case, journalists should report to the community's standard of respect for fellow citizens and not pick up the bad habits of lawyers of the past. I should be grateful if you would consider this view in case an opportunity presents to revise the ruling. An opportunity was missed to set a more appropriate standard, respectful of human dignity.

The Hon. Justice Michael Kirby
The President,
NSW Court of Appeal,
Supreme Court,
SYDNEY.

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