

FB's *Daily Telegraph* article on Leveson Report

By Cordon Rayner, Chief Reporter, *Daily Telegraph*

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This press charter deal is not what I wanted, says barrister

THE barrister who first suggested a royal charter as a method of governing a new press regulator has described David Cameron's solution as "neither necessary nor wise".

Francis Bennion, who proposed the idea of a charter in December, said that the document agreed by the three main political parties was "very different from what I had envisaged".

Writing in today's *Daily Telegraph*, he added that the Prime Minister will have "crossed the Rubicon" if he puts the draft royal charter into force, by introducing "interference by outsiders".

Mr Bennion, a former chief executive of the Royal Institution of Chartered Surveyors, suggested in a letter to a newspaper last year that the media should follow the example of other trades and set up a body enshrined by a charter. But he writes today: "Instead of newspaper figures themselves putting together the substance of the royal charter, it has been done on their behalf by the government.

He says the "cobbled together" document was then debated by MPs who had not even read it, and in the process "the idea of the media being regarded as an independent profession has been lost". Mr Bennion, like other opponents of statutory regulation, points out that the media already has to abide by the laws of the land, and phone-hacking, libel and other misdemeanours already have legal mechanisms to hold journalists to account.

He adds: "Other types of misbehaviour by journalists are best dealt with by their fellow professionals - people with accumulated wisdom about their area of work - applying their own well-rehearsed ethical standards."

Mr Cameron had previously promised that he would not "cross the Rubicon" by introducing any element of state control over the media.

Mr Bennion said the proposed royal charter would do just that if it was signed by the Queen,

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This is not what I meant at all, Mr Cameron

The draft royal charter will subject newspapers to unhelpful meddling from outsiders

David Cameron, seeing himself as Julius Caesar, boasted that he would not "cross the Rubicon" over Leveson. His classical Eton education told him what happened when Caesar crossed that river: civil war erupted. What the Prime Minister had in mind is the danger of giving away press freedom. The Americans got there ahead of him, in 1791 to be precise,

when they adopted the First Amendment to their constitution: "Congress shall make no law... abridging the freedom of speech, or of the press."

On December 5 last year, *The Times* published a letter from me suggesting that the best way to implement the Leveson Report, while maintaining press freedom, was for the media to think of themselves as a profession and, like many professional bodies, get themselves a royal charter from the Privy Council. I was once chief executive of the Royal Institution of Chartered Surveyors (RICS), and that was just what they did back in 1881.

The hallmark of a profession is that it has a code of ethical conduct drawn up by its professional body, breach of which is punishable by that body. I have suggested the formation of a professional body called the Chartered Press Institute (CPI). As with the RICS and many similar bodies, the CPI would be set up by a royal charter overseen by the Privy Council, an ancient body descended from the "wise men" who were advisers to the monarch before Britain became a constitutional monarchy. Its website says: "Much of the day-to-day work of the Privy Council Office is concerned with the affairs of Chartered Bodies, the 900 or so institutions, charities and companies who are incorporated by royal charter. The Privy Council also has an important part to play in respect of certain statutory regulatory bodies covering a number of professions and in the world of higher education."

I know from my RICS experience that the Privy Council office has a very light touch and seldom interferes. Its supervision, were that office in place now, could not be said to prejudice press freedom.

The members of the CPI would be trained journalists who had undergone qualifying courses set by the institute. As is the case with surveyors and surveying, non-members would be free to practise journalism, but the charter would make them subject to the CPI code of conduct and its penalties.

What press freedom means is freedom from government or legal interference. I do not mind Mr Cameron borrowing my idea, but I do not care for the way he has done it. Instead of newspaper figures themselves putting together the substance of the royal charter, it has been done on their behalf by the Government. On Monday, having cobbled together a draft royal charter, the Coalition, aided by Labour, staged a three-hour Commons debate on it. Few in the chamber had even seen the draft, which had been produced in the small hours the night before. I am a member of the MCC, and I call this the "MCC" draft, the initials standing for Miliband, Cameron and Clegg.

The MCC draft is a puzzling document, very different from what I had envisaged. It starts: "There shall be a body corporate known as the Recognition Panel." Not, as one might expect, "the Press Recognition Panel" or "the Media Recognition Panel". Just "the Recognition Panel". Very strange.

And it gets worse. The purpose of the Recognition Panel is to deal with the recognition of Regulators. "Regulator" is defined as a body set up by the media for the purpose of vetting their publications. The panel's business is to be carried on by a board. The chairman of the board is to be chosen by an independent appointments committee (editors and publishers are excluded, as are MPs and government ministers, but not the BBC).

The idea of the media being regarded as an independent, self-regulating profession has been lost. In 1969 I published a book called *Professional Ethics*. It described the way free professions used to produce their codes. There was no such thing as a bossy Recognition Panel, or anything like it. Senior members of a profession disciplined their members if they failed to live up to their own code. This method served the public well, and the leading professions were highly respected.

We need to remember, by the way, that we live under the rule of law. It is the law that is the citizen's chief protection. Extreme misbehaviour by journalists, such as phone hacking and harassment, is dealt with by the criminal law. Lesser misconduct, such as trespass or

defamation, constitutes the civil wrong that lawyers call a tort. Both kinds of law are administered by the state. If their remedies prove inadequate, that should be dealt with by law reform measures.

Other types of misbehaviour by journalists are best dealt with by their fellow professionals - people with accumulated wisdom about their area of work - applying their own well-rehearsed ethical standards. If that is not thought sufficient in a particular instance, the solution is to widen the legal remedy. Imposing measures like the MCC draft is neither necessary nor wise. By subjecting the entirety of the media's own code to interference by outsiders it places at risk many of the code's provisions that are harmless to the public as well as the few that might be found objectionable.

If David Cameron pushes the MCC draft to a conclusion, we can indeed say that he will have crossed the Rubicon.

Francis Bennion is a barrister and the author of 'Bennion on Statutory Interpretation'

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Website: www.francisbennion.com

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The following appeared in *The Daily Telegraph* on 25 April 2013:

Self-regulation that is tough but independent

Our draft Royal Charter provides the press safeguards that Parliament seeks, without involving politicians

By Telegraph View

When the veteran jurist Francis Bennion proposed last December that independent press regulation could be enshrined by way of a Royal Charter, the idea was seized upon by the Government. It had been anxious to find a means to implement the recommendations of the Leveson Report for a new regulatory structure without, as David Cameron put it, "crossing the Rubicon" of statutory imposition. The newspaper industry also found this suggestion attractive and began devising a replacement for the discredited Press Complaints Commission that would meet Lord Justice Leveson's central aim – voluntary and independent self-regulation.

Mr Bennion's intention was that newspapers should themselves put together the substance of the Royal Charter, as other chartered organisations have done down the years. However, our politicians – egged on by the pressure group Hacked Off – were not prepared to wait while this exercise took place. Some took to hijacking government Bills in an effort to bring newspapers to heel. Partly to save his legislative programme, Mr David Cameron caved in to demands to bring forward what Nick Clegg conceded was a mixture of Royal Charter and statute. A cross-party deal was struck at a late-night meeting to which no newspapers were invited but members of Hacked Off – a murky organisation that declines to say who funds it – were.

This newspaper, in common with most other national and regional publications, was unwilling to accept that more than 300 years of press freedom should be jettisoned in such a cavalier and huffer-mugger fashion. Yet we also recognised that public trust in the industry had been seriously damaged by the phone hacking scandal and the evidence heard by Lord Justice Leveson. We have sought, therefore, with others in the industry, to devise a system that essentially replicates the robust and independent structure sought by Parliament.

The draft Royal Charter published yesterday by Telegraph Media Group and other organisations will be the toughest form of self-regulation in the West. The new regulatory body can be established quickly, has the backing of most newspapers and will be paid for by the industry. For members of the public, it will provide the same safeguards and opportunities for redress that Parliament seeks, but without involving politicians in its creation. This newspaper has long acknowledged that an effective regulator is needed if public confidence in the press is to be restored. We believe that the proposals we have put forward will bring this about; and it is not in our interests, or those of our rivals, that it should fail. ’

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Website: www.francisbennion.com
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References:

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