



Press Council News

VOL. 5, NO. 1, FEBRUARY 1993

ISSN 1033-470X

NO PRESS REGULATION IN U.K.

A review of the British Press Complaints Commission has recommended statutory regulation of the press but the government appears to have decided against it.

A recommendation from Sir David Calcutt, QC that would have seen the end of self-regulation of the British press has apparently been ruled out by the British government.

At the same time, a Private Member's Bill which would have created an Independent Press Authority appears unlikely to be approved by the House of Commons.

Calcutt, who was Chairman of the 1990 Committee on Privacy and Related Matters, had recommended, in 1990, the abolition of the Press Council and its replacement by a Press Complaints Commission. He had also recommended that the Commission, established in January 1991, be reviewed after eighteen months. The British government asked Calcutt himself to conduct that review.

The Australian Press Council made a detailed submission to Calcutt's review in which it argued against statutory regulation and against a tort of privacy both because of the lack of constitutional guarantee of freedom of speech in the UK and because of the precedential effect such a recommendation could have on other nations including those with less tradition for freedom of speech. This submission was supported by delegates at the 3rd International Conference of Press Councils held in New Delhi in October 1992. Other bodies, including the London-based human rights organisation, Article 19, also pointed out the danger of statutory regulation.

Calcutt's report, presented to the government in early 1993, was substantially leaked to the press. He made two major recommendations:

- the creation of a statutory body which would regulate newspapers

and have the power to fine them and to order the publication of corrections;

- the enactment of privacy law, including prevention of electronic intrusion into privacy, by bugging, interception or listening devices.

A major reason given for the recommendations was the behaviour of the tabloid press in its coverage of the increasingly public rows between members of the Royal Family and its coverage of scandals involving Cabinet Ministers and other senior politicians.

The recommendation for a statutory Press Complaints Tribunal to consist of a judge and two government appointed assessors was the focus of much criticism from the press and interested observers.

However, a second leak, this time of a letter to Calcutt from Lord McGregor of Durris, the Chairman of the Press Complaints Commission, stymied calls for press regulation.

Lord McGregor's letter had been sent to Sir David Calcutt before his report had been compiled and offered grounds to believe that the stories of the marriage problems of the Prince and Princess of Wales were largely given to the press by at least one of the protagonists or their friends and had not been the result of a press invasion of their privacy.

By the time the government presented Calcutt's report to the House of Commons, the National Heritage Secretary, Peter Brooke, was pledging support for portion of the second recommendation - laws to prevent electronic invasion of privacy and to provide a remedy against undue invasion of privacy - but he stopped short of supporting the call for statutory regulation of the press.

"The Government would be extremely

reluctant to pursue that route," he said.

Labour MP Clive Soley's Freedom and Responsibility of the Press Bill has reached a second reading but, without the support of the government, it is unlikely to be approved.

The effect that more recent stories concerning the Prime Minister and a caterer might have on the government's attitude to press regulation is yet to be seen. Both parties have issued writs for defamation over the stories.

In his response to Calcutt's recommendations, the Australian Press Council Chairman observed, "the Inquiry had clear evidence before it concluded its report that the case for statutory regulation was fundamentally flawed. It was aware that the assumption that the press had invaded the privacy of the Royal family in its reporting on the state of the marriage between the Prince and Princess of Wales had been invalidated. In spite of this, the Inquiry still recommended the establishment of a statutory tribunal".

Professor Flint further observed, with regard to the proposals on privacy that "without genuine libel law reform, without generous freedom of information legislation at all levels, and, above all, without a guarantee of freedom of speech, further constraints on the media would serve only private and not the public interest".

In other Australian reactions to the Calcutt review, a NSW MP, Brad Hazzard, has called for the introduction of privacy legislation similar to that proposed by Sir David Calcutt, and Federal Labor MP, Neil O'Keefe, who was a member of the Parliamentary Print Media Inquiry, has

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Lange also welcomes the Council's increasingly active promotion of public debate about questions of press freedom. "In the last few years, the Council has made submissions to governments on a host of legislative proposals which could affect the press. I think this work has enhanced the organisation's credibility, and it has certainly changed my views about the importance of our stand on freedom of the press issues. I used to think that side of the Council's work had an element of tilting at windmills. It seemed like a strong reaction to a fairly remote threat of restricted press freedom.

"I still think an unqualified reliance on market forces to guarantee the diversity and quality of the Australian press poses a greater threat than governments or the legal system, but their track record in recent years has not been unblemished.

"The Council's efforts to secure a harder political commitment to a free press are well-spent."

ADVISING THE NEWS

During his time on the Council, Lange has also been involved in a significant experiment in press-community relations: as chairman of the Standards Advisory Group, formed by Roger Holden, who with other management bought the (Adelaide) News from Rupert Murdoch. The Group was designed both to deal with complaints and to advise the paper on community reaction to its style and editorial priorities.

"Roger's aim was significantly to upgrade the quality of the paper and improve its community standing. I

drafted the Group's procedures (based largely on those of the Press Council) and, with the deputy chairman, appointed its first members.

"Roger backed his original concept to the hilt. The Group appreciated his commitment and shared the widespread disappointment in South Australia at the paper's closure in March 1992," Lange says.

Despite his interest in The News experiment, Lange sees unique benefit in a national body like the Press Council handling complaints, and is optimistic about its future.

"From a public point of view, the Press Council has three great advantages: its easy accessibility; the relative simplicity and inexpensiveness of its procedures; and, in particular, the absence of any legal involvement in its adjudication process.

"I can understand concerns about its limited powers but I do not think they are entirely justified. I think the public gets good value from the Press Council."

REASONS FOR CAUTION

But Lange sees two reasons for caution.

"One of the key questions about the Press Council remains the extent to which editors are willing to accept its criticism in the manner the Council expects. There are some worrying signs, especially in the letters from newspapers to the Council after adverse adjudications.

"I think these letters often completely miss the point: complaints are subject to careful analysis by a body that represents industry and community opinion. If a complaint is found to have merit, the paper might as well wear the

criticism and redouble its efforts to avoid others in the future, instead of persistently challenging the finding, or negating it in some other way.

"I think many Australians have become wary, if not outright cynical, about self-regulation as a means of preserving standards in a great variety of industries and professions. The press is right in the firing line of these doubts, and cannot afford to give the cynics any cause to pursue radical alternatives to self-regulation."

His second concern is to ensure the Council maintains its resistance to any pressures for a more legalistic approach to complaints. "I think there is a growing trend in the wider community to rely on legal or quasi-legal processes to resolve disputes, and to insist on rigid standards of proof when looking at possible breaches of ethics. The press, though, devotes a lot of energy to exposing human or corporate actions which are not necessarily illegal, but which are certainly clearly unfair, unethical or unreasonable.

"I believe newspapers should recognise that their own behaviours sometimes fall into those grey areas and that they should admit as much without insisting that the basis of complaints about them be proved beyond reasonable doubt.

"The Council usually preserves the right balance between the interests of complainants and the press, thanks largely to its having embraced principles of alternative dispute resolution. In a social climate that seems likely to become increasingly litigious, those principles are worth fighting for."

BRITISH PRESS REGULATION

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suggested that the government might need to look more closely at the possibility of statutory press regulation in Australia.

In a further related development, the Press Complaints Commission has written to the Prince of Wales and to Camilla Parker-Bowles to ascertain if

either wants to take up a complaint against the British newspapers that published the transcript of a tape purporting to be a conversation between them in 1989. The Commission had received a complaint from a third party but has said that it will normally only deal with complaints about invasions of privacy if they come from one of those whose privacy has been invaded. The

Prince of Wales and Mrs Parker-Bowles have declined to take up the complaint. The Commission has issued a condemnation of the publication but will not investigate further.

The Australian Press Council has not yet received a complaint about the publication of the transcript in a local magazine, although it has had phone inquiries on the matter.