

A Text of Harold MacMillan Memorial Lecture, 23rd
October 1995

The Harold Macmillan Lecture

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Away from Damocles

Placing the regulation of the press beyond the
boundaries of political controversy

The Nottingham Trent University

Monday 23 October 1995

cannot be right for a relationship so fundamental to democracy to be conducted in the brawling atmosphere of the last chance saloon.

I am a democrat - and I have been a politician. I understand well both sides of the equation; perhaps - as a former Chief Whip and Leader of both Houses of Parliament - I understand it better than many others.

And as a result, I now have but one central aim as Chairman of the Press Complaints Commission: to remove the sword of Damocles - that is, the threat of statutory controls and privacy legislation suspended over the head of the fourth estate - which has been souring the crucial relationship between politicians and press over the last ten years; and to put the regulation of the press beyond the bounds of day to day political debate. For me, the first of Roosevelt's 'four essential human freedoms'¹ - that of speech and expression - is too important to be left to chance.

I want, therefore, to explain today how we arrived at the position that exists and where we are going from here.

At first sight, it might seem ironic that I should be delivering the Harold Macmillan lecture on such an issue.

As Prime Minister, Macmillan had a strong aversion to the press and to the

1. Message to Congress, 6 January 1941, in Public Papers (1941), vol. 9, p. 672

'mean and paltry things'² written about him - an aversion which mounted steadily during his Premiership. Of particular note was his prickly relationship with the editor of *The Times* - Sir William Haley, whom Macmillan dubbed 'Halier than Thou'. He once told Haley that the thing he admired most about *The Times* was that 'every twenty five years you publish a book to show how on every great public issue you have been wrong.'³

In 1961 - at the height of his administration's difficulties - he wrote enviously that 'what an immense advantage de Gaulle has over me. No Parliament - and a Press that carries little influence!'⁴

In later life, of course, Macmillan's relationship with the press improved - as it in turn rekindled the nation's affection for one of its great political figures. One commentator in *The Times* (in sharp contrast to earlier exchanges) described Macmillan as the last of an 'extinct species'⁵ - a statesman. In turn, Macmillan took to charming the press, which came to love what Alistair Horne in his monumental biography described as his fund of 'acrid replies to idiot questions'.⁶ As my favourite, he was once asked why he thought the Russians had invaded Afghanistan: 'I don't suppose they're going there for winter sports',⁷ flashed back the 86 year old. Long gone were the lampoons and the satire: the press was doing one of the things it can often do so well - putting perspective on a distinguished career.

2. Quoted in Alistair Horne, *Macmillan*, Volume II (1989), p. 262

3. Quoted in Sir Harold Evans, *Downing Street Diary* (1981), p. 2

4. Harold Macmillan's unpublished diaries, 19 May 1961, quoted in Horne, Volume II, p. 264

5. Sir John Colville in *The Times*, 22 November 1978, quoted in Horne, Volume II, p. 613

6. Horne, Volume II, p. 614

7. Interview on BBC1, 14 October 1980, quoted in Horne, Volume II, p. 615

As I said, it might therefore seem a little ironic that I am here to deliver a lecture on the freedom of what Macmillan described as a 'lousy'⁸ press.

But at second sight, I believe the history of Macmillan's relationship with the press well illustrates two of the central points I want to make this evening.

The first, as I have already said, is that tension always arises between press and politicians. Macmillan disliked the press because it was unfavourable; the press scrutinised Macmillan - on behalf of their readers - because they whiffed what they perceived as a scent of decay and corruption at points during his administration.

And who now could sensibly argue that the press was wrong not to have ignored many of those incidents which - like a thunderflash - etched themselves onto the retina of the post war generation? Vassall, Philby and Burgess, Profumo, Night of the Long Knives, and his humiliation at the hands of de Gaulle: each of them hurt Macmillan; each of them was rightly subjected to scrutiny by the press and brought to the attention of the public through the headlights of newspaper headlines.

But that leads me on to the second central point which his relationship with the press illustrates so well. And it is that however vituperative press comment became, however insidious investigative reporters became at burrowing their

8. Harold Macmillan's unpublished diaries, 21 December 1960, quoted in Home, Volume II, p. 626

way into the most famous scandals of the 50s and 60s, it never occurred to anyone to undermine their freedom to do so with statutory controls or privacy laws.

The greater part of British Parliamentary opinion took its cue from that greatest of American democrats - Thomas Jefferson. In 1787, when American Minister in Paris, Jefferson provided generations of speakers at newspaper gatherings with a favourite text:

'Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.'⁹

Never mentioned is his melancholy conclusion towards the end of his second term in 1807 that:

'Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle.'¹⁰

Even so, that great democrat never faltered in his conviction that abuses by the press are better kept to public judgement than to the Courts. 'I shall protect newspapers', he wrote, 'in the right of lying and calumniating'.¹¹

9. Thomas Jefferson to Edward Carrington, 16 January 1787, quoted in Frank L. Mott, Jefferson and the Press (1943), pp. 5-6

10. Thomas Jefferson to John Nowell, 1807, The Writings of Thomas Jefferson, Paul L. Ford, ed. (1892-99), vol. 9, p. 73

11. *ibid*

As I said, Parliament and politicians in the post-war generations followed the lead of Jefferson. To be sure, every ten years or so Royal Commissions - such as that under Lord Shawcross in 1962 - would revisit the general subject of the press; but there was never at any time raucous Parliamentary clamour for statutory press controls. Of far greater concern were fears about the establishment of monopolies, and of political bias in reporting.

From the start of the nineteenth century when *The Thunderer* was the scourge of what it viewed as a corrupt Monarchy; through the middle of that century when the press was blistering in its condemnation of Queen Victoria and the future Edward VII - the 'reclusive widow and the unemployed youth';¹² to the early years of this century when Baldwin famously flagellated Lords Beaverbrook and Rothermere as fulfilling the role of 'the harlot throughout the ages'; to more recent years when reporting by newspapers has left no concentration of power unscathed, the press has always earned the odium of British institutions.

But in two centuries in which Britain spread Parliamentary democracy across the globe, the sword of Damocles was never seriously suspended to threaten the freedom of the press on which every democracy depends.

Raised it was in the late 1980s - and, if truth be told, I do not believe that there

12. Walter Bagehot, "The Monarchy and the People", *The Economist*, 22 July 1871, quoted in *The Invention of Tradition*, ed. Hobsbawn and Ranger (1983)

was any other politically tenable option at the time for the Government but to do so. For a number of different reasons, the relationship between press and Parliament had changed.

First of all, the British newspaper industry was undergoing a technological and commercial revolution. In the heat of that transformation - which turned the industry into the most competitive and dynamic in the world - it was respect for privacy and the age old ethics of journalism which lost out in the battle for circulation. Explicable, even understandable, it was; forgiveable it was not.

As a result of that, a small number of publications in the late 1980s were held consistently to have flouted some of the basic ethics of journalism. Serious allegations about invasions of privacy, harassment of ordinary members of the public in their homes or even in their hospital beds and the publication of information about the private lives of individuals that could in no circumstances be defended in the public interest became all too commonplace.

Secondly, this transformation in the industry was taking place at a time of rapid upheaval in British politics. Old norms were being challenged. The Conservatives were enjoying a string of electoral successes unparalleled this century. The Labour Party was beset by internal divisions which took a decade to settle. In the SDP, and its alliance with the Liberals, a new Party was born which tried to smash the electoral system - but which of course ultimately

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failed (as Macmillan, the proponent of a centre party in the 1930s, had predicted shortly before his death).

Thirdly, on the back of that transformation in the structure of politics, there was a parallel transformation in the operation of politics. As news became a twenty four hour operation, a new generation came into being: the 'spin doctors' and the ad men in both parties whose rivalry for the headlines became increasingly bitter. And in that bitterness, an intolerance was born: intolerance of newspapers that did not always do what they were supposed to do; and intolerance of those who sought to ask too many questions about uncomfortable issues.

Finally, and I believe most importantly, we lost sight during this dramatic conjunction of events of the most important group of all: the people who read newspapers - the ordinary members of the public. It was they who were losing out, they whose privacy was being invaded. And they had no means of redress. The Press Council - once so distinguished and valuable a body - was not dealing effectively with complaints and rapidly became discredited both among the public and the press. And at a time when an increasingly affluent society was becoming more and more used to complaining about things, there was no one to listen to them. The clamour was there; but, as with Hamlet, 'the rest was silence'.

In this great conjunction of revolutions, Government had - as I said earlier - no option but to act. And so it did, in appointing an eminent Committee under the distinguished chairmanship of Sir David Calcutt to examine privacy and media intrusion in the late 1980s.

It has become fashionable in recent years to knock Sir David - undoubtedly because his second report on media intrusion, which he conducted alone and published in 1993, recommended a draconian legal regime for the press which was as repulsive to me as it was to any democrat. But Sir David's original Committee deserves great credit for the report it published in 1990 - which recommended the closure of the Press Council and provided a model for a new Press Complaints Commission.

Sir David was, at that point, quite clear that the PCC task should 'concentrate on providing, on a non statutory basis, an effective means of redress against the press'.¹³ And, in a conclusion with which I profoundly agree his Committee noted that 'if it performed this task effectively, the PCC would in fact be serving press freedom better than it would by acting as an overtly campaigning body'.¹⁴

In other words, redress for ordinary members of the public must be the prerequisite for the protection of press freedom. That is what I believe the Calcutt Committee intended, and what I continue to champion. As someone

13. Report of the Committee on Privacy and Related Matters, (Cm 1102, 1990), para 15.3

14. *ibid*

might have said: tough on protecting the public; tough on upholding the public's right to know.

The Press Complaints Commission will shortly arrive at its fifth birthday. I do not intend there to be much time for celebration. We still have a good deal of work to do. Damocles' sword hangs in the background and although the debate about press regulation - which if not yet dying, is looking increasingly sickly - there is still some way for the PCC to go.

But I do want to take the opportunity of our impending fifth birthday to look back at the last few years; and then to look forward - to how we can help return British politics to those Elysian fields where press and Parliamentarians maintain a robust rather than sullen regard for each other, where their relationship is one of mutual respect rather than mutual threats. In other words, to put the maintenance of democratic press self regulation where it should be: beyond the bounds of controversial political debate.

The PCC was established at the start of 1991 - and the press was given a short probationary period in which to prove that it had taken the serious concerns of Parliament to heart. And indeed it had: Calcutt was the tonic that the press needed to persuade it that only instant and effective action could prevent direct Government intervention. As with Henry V, they were aware that 'when the blast of war blows in the ears, then imitate the action of the tiger, stiffen the

sinews, summon up the blood, and disguise fair nature with hard favoured rage.'

In those early years there was a profound change in the press. The industry instantly recognised the need to establish a new and effective body to handle complaints. As a result, within three months a Press Standards Board of Finance was established and charged with raising a levy on the press to finance the PCC; and a Committee of national, regional and magazine editors produced a sixteen clause Code of Practice to be upheld by the Commission. For an industry more diverse and competitive than virtually any other, the speed and nature of this response was a logistical triumph. In short, the building blocks of effective self regulation were in place - and have remained there.

As with any self regulatory system, it is the commitment of the industry itself that has been crucial; and it has manifested itself in two ways. First of all, there has been the impressive financial commitment. The industry contributes about a million pounds each year to our running costs. And it means that we can offer a service which is open literally to fifty million customers every week of the year without any cost to the taxpayer. At a time of increasing demands on the public purse, that is no small achievement of which the industry should justly be proud.

But support for the system has also manifested itself in the industry's commitment to the Code of Practice which it itself framed, and which we are

responsible for upholding. Approaching our fifth birthday, we can say with a degree of satisfaction that no publication has failed to publish any adverse adjudication on a complaint made against it.

The Code of Practice has been central to our work. It gives the industry a clear set of principles to guide it through the minefield of legal, moral and ethical principles which face it every day; and it gives the Commission itself a tight framework within which it can sensibly address complaints from members of the public. And importantly, the Code itself is not set in stone: it develops as the industry, and perceptions of it, develop; and it develops as our own 'case law' drives it along.

Much good was therefore achieved in the first few years of the PCC. A Code was in place; the industry was committed to it - because they framed it; they gave us the cash to run the system; and in turn we put in place procedures to assist members of the public in achieving redress when newspapers overstepped the mark.

But that was not enough. Amid this great good, there were some things which were not going so well. That in turn, brought about Sir David Calcutt's second review of self regulation - and his draconian blueprint for the sort of special legal regime for the press which has never existed before in peacetime in this country.

The PCC had two problems, which I think it is right to recognise. The first was that it was not perceived to be acting with sufficient independence from the press; and the second was that its deliberations and adjudications did not always possess the clarity, consistency and ruthless application of principle, common sense and case law which should be the pedestals supporting any complaints handling body. To Emerson, I know, consistency was 'the hobgoblin of little minds ... adored by philosophers and divines.' But to us it should have been crucial.

Action had to be taken on both these fronts before it became common - but profoundly wrong - currency that the PCC was merely a public relations exercise by the industry to stave off statutory regulation; and so it has been.

To begin with, we now have a clear majority of independent members not just on the Commission itself but on the Appointments Commission which is responsible for appointing the members of the PCC. In the last few months the press has from time to time discovered exactly what that independence means - most notably when the proprietor of one of our more notorious tabloids rebuked its editor in public for publishing a story which clearly invaded the privacy of an individual without a shred of public interest defence. It is a great tribute to the press that it has responded maturely to these changes: its commitment to us has deepened as our teeth have become ever sharper.

Secondly, we have become much more consistent in our application of the Code of Practice. We have steadfastly refused to comment in the absence of facts - even when there has been great pressure to do so; we have examined every complaint before us with an unflinching application of principle; and we are increasingly seeking to draw out case law from our decisions and transmit that case law as clearly as we can to those who have from day to day to make difficult editorial decisions.

I delivered a speech recently about Prince William and his right to privacy during his time at Eton. It was not a speech intended simply for headlines. It was a speech designed to inform those who must uphold the Code - which, to our great satisfaction, is increasingly being written into their contracts of employment - what the Code of Practice means in practice. In this case, a complaint which we had upheld about the harassment of a school boy in Accrington acted as a precedent which I expect to be followed scrupulously.

So, much has happened in recent months to refine the operation of the system, to renew its independence and to buttress the credibility which the Commission had been in danger of squandering.

And the dividends are being paid. The Secretary of State for National Heritage's decision in the summer not to introduce privacy laws or statutory regulation was a watershed for the PCC. It signalled that we were beginning

to emerge from the troubles of recent years - to regain that neutral ground that had existed for generations before hand, and about which I spoke earlier.

Furthermore, most significant for me has been the growing public confidence in the system. It is a hallmark of the politician's mentality that complaints mean trouble. But for me complaints are my business - and the more complaints the better: the public won't waste time complaining to a toothless and bureaucratic body; they will complain if they know they can achieve redress without cost. And that is why I am so pleased that the rate of complaints to us has been increasing: it means that we are not just winning the confidence of the politicians - but of our customers as well.

My apologies for the speed of that tour d'horizon. I wanted to explain as swiftly as I could how the industry embroiled itself in controversy in the first place, and how we are steadily moving 'away from Damocles'.

But the story is not over yet. A series of unwise stories from the newspapers could blow us off course; the pressures of an impending election could again make politicians more nervous about their relationship with the fourth estate. Because of the progress we have made in the last five years, I think the chances of either are increasingly remote; but there are areas of our service that I want to develop. I want to deal with just two of these areas today.

The first concerns the development of the Code of Practice; the second concerns our service to the public.

In both areas, I will shortly be bringing forward proposals to increase the transparency of our procedures, and to make them more intelligible, accessible and responsive to the concerns of the public.

One of the strengths of the Code of Practice is its flexibility. The Code is framed in the first instance by a committee of editors, and its ability to react to changed circumstances over the last few years has shown how responsive self-regulation can be. Nevertheless, I am not satisfied that the voice of the public - as represented by the Commission - has in the past been sufficiently loud in this process. I will shortly be announcing plans to build on the PCC's role as supervisor of the entire self-regulatory system by giving more substance and transparency to its supervision of the Code.

This will not detract from the entirely professional basis of the Code but it will ensure that the experience and authority of the PCC is brought to bear on the process of reviewing the Code in a manner which secures maximum independent input. We will then have a true partnership between the press and the public to ensure that the Code's authors are genuinely held to account by the PCC, as well as by the press.

The Commission's procedures have from the outset been designed to be simple and straightforward for the public to use. Nevertheless, having reviewed all the Commission's procedures over the last ten months I think there is further progress we need to make on this front. Moreover, I believe all public institutions have a duty to pay close attention to the criteria set out in the Citizen's Charter - both to ensure transparency of the body's work and to set out clear performance indicators against which the public can judge the organisation's efficiency.

On procedures, I will therefore be bringing forward proposals for Citizen's Charter-style performance indicators to help the public measure our work: our literature and procedures will be reviewed to ensure that they are - in the jargon - as 'user friendly' as possible; and I will look carefully at setting targets for standards of service - painfully aware, though, that in our areas of work, speed and fairness often conflict. We are of course assisted greatly by the speed with which most editors deal with complaints put to them by the Commission. But we must nevertheless look further at how our procedures might be improved and streamlined, with a particular eye on the pace of the overall process.

I said earlier that the establishment of an effective complaints handling body is the essential prerequisite for the maintenance of press freedom. I am quite clear that my responsibility is to the public: it is to the Commission they look for their protection, and I do not intend to let them down.

We have done a great deal in five years to put effective mechanisms in place. In the next five we will do even more - because only then will we earn our reprieve from the sword of Damocles.

Protection for the public; effective procedures; maintenance of centuries of press freedom. All these go hand in hand; all of these are essential to the tolerant, decent and liberal society which reached its summit in the politics of Harold Macmillan - and which still inspires more than a generation after he left office.

Just over sixteen years ago, Macmillan made in September 1979 what he described to Alistair Horne as his 'Declaration'. In summing up he said 'and so that's my philosophy of life - there are neither successes or failures, you do your best, and that's my life...'.¹⁵ Few who take part in public life should disagree: duty and service - 'doing your best' - should be the lynchpins of any public career, for politicians at Westminster, as much for doctors and nurses, and for those who in their teaching at this great University seek to pass their wisdom on to future generations.

For that reason alone - because Harold Macmillan so obviously stood for all that is best about duty to one's fellows - it is a greater honour than I can express to have been asked today to deliver this lecture.

15. Conversations between Harold Macmillan and Alistair Horne, September 1979, quoted in Horne, Volume 11, p. xiii

Politics is in the past for me. But in so many ways, I think the duty I owe to my fellows is just beginning.

The relationship between press, people and Parliament is one of the most difficult in a democratic society. I do not pretend that the Press Complaints Commission can solve the tension that is a crucial part of that relationship. Perhaps it is insoluble; perhaps no solution is desirable. But what we are seeking to put in place is a stable, enduring and fair framework within which public, politicians and press can resolve their differences tolerantly, effectively, without burden on the public purse and without undermining in any way the freedoms of speech and expression which have been our precious birthright since Magna Carta.

That is our great aim; one which will consume all my energies in coming years; and it is one of which Harold Macmillan would, I think, approve.