

## **LEVESON INQUIRY**

I should like to contribute three thoughts to the Inquiry.

Firstly, on the future handling of complaints about the press; secondly, some evidence about my own experiences both as a Minister with responsibility for media issues, and as a subject of tabloid scrutiny; thirdly a personal view about the importance of press freedom as a force for good in society, which outweighs the threat even an amoral red-top press poses to a free society.

## **REGULATION.**

Leveson LJ has already made clear the status quo is not an option. I respectfully agree.

A new regulatory Commission (new RC) needs to be free from press ownership. It has to be obviously independent, properly resourced, able to investigate complaints as well as adjudicate upon them, and possess powers to impose financial penalties as well as requirements to publish corrections etc. And, its jurisdiction must be compulsory for all newspaper publishers. It is surely unacceptable that one major newspaper group has absented itself entirely from the jurisdiction of the PCC for two years. There is a reluctance on many peoples part to embrace statutory regulation, but of course, in the immortal words of Professor Joad, "It all depends what you mean".

I am strongly opposed to the idea of statutory regulation purporting to direct what the press can or cannot publish. I think a privacy law would be nigh on impossible to draft, even were parliamentary draftsmen better than we know them to be.

Having spent many months in the 80s as a Home Office Minister at the behest of a trying combination of Margaret Thatcher and Mary Whitehouse exploring a statutory definition of obscenity, I consider a privacy law to be a non starter.

I also think advocating statutory regulation of that kind would give some of the red-tops a spurious legitimacy to campaign against the common sense regulation that their own excesses have made inevitable.

But there is another kind of statutory regulation, which merely establishes the framework for a new RC, and I think is perhaps more reasonable.

If, as is now commonly agreed, a new RC has to be removed from the "ownership" of the newspaper publishers, a statutory framework is surely the best (the only?) way of doing that. Especially if the new body is given powers to levy fines, as I believe it must. Given that, there will have to be appellate arrangements, and a proper system of appointments, and this maybe makes a statutory framework inevitable.

The newspapers can no longer be left to appoint the membership of a new RC, and given its quasi-judicial role (to recall a happy phrase) the appointments should surely be made as part of the judicial appointment process in recognition of the significance of the role to be assigned to members of the new RC, and thereby taking them out of political influence. The impression that politicians are regulating the press must be avoided at all costs.

I take the view the composition of this Inquiry is a good starting point for a new RC. I think it is inevitable that judges should be on the panel, with the same sort of experienced lay members as are sitting as assessors on this Inquiry. The new RC should be paid for by a levy on the industry, and a much more substantial one. It is surely impossible to continue with the old PCC arrangements where a chairman, five case officers, a total staff of fourteen, and a budget of £1.9 million were thought to be enough to manage a vital area of regulation.

A new RC should be able properly to investigate complaints the way the ICC and Ofcom do, and offer a speedy resolution, with the wider range of sanctions I have already advocated. The PCC's role in mediation, and trying to effect informal settlements through mediation remains important, and should be expanded.

Besides, a better resourced new RC will almost certainly be to the benefit of the industry, who, understandably, don't like the present state of our libel jurisdiction. If a new RC, by acting more effectively than its predecessor, commands more public confidence, there will be a greater inclination on the part of complainants to use its services, rather than take the libel route.

As I have already intimated, the advantage of a statutory framework is that newspaper publishers can be compelled to opt in, and not permitted to opt out. That is not to say, though, I cannot see attractions in the ingenious alternative proposal of Lord Hunt that compliance could be contractually based.

Finally, the code itself. It should be a living thing, capable of being changed in the face of experience, and changing circumstances. That surely rules out a statutory code, where changes would require a parliamentary process.

I hope that the Inquiry will make a new draft, (not that there is anything particularly wrong with the current one), to give the new RC a starting point based on the unprecedented range of evidence from newspaper executives, those who think of themselves as their victims, and those of us somewhere in-between, which the Inquiry has received.

It's easy to define the problem of privacy, not so easy to find an effective solution. Most of us would agree with Princess Grace, that there's nothing wrong with freedom of the press, provided it leaves some freedom for everybody else. Most of us also accept there

ought to be a distinction between what is in the public interest, and what is merely of interest to the public. We are all aware that the public's enthusiasm for putting their eye to the bedroom key holes of celebrities courtesy of the tabloids lies at the root of all this. And newspapers will continue to be tempted by such stuff, as their market is further eroded by the new media.

Which is why a common sense code rigorously enforced is so important. For reasons I shall address in my third section, I don't think disputes over privacy where public figures are involved can readily be resolved in their favour. I do however think that the methods whereby such information is obtained must be very tightly controlled. The widespread use of phone hacking and other forms of immoral, undesirable, and often plainly illegal intrusion, recreates the atmosphere of Ceausescu's Romania, and no public interest justifies it. We need to remember that newspapers were not hacking away in pursuit of a moral imperative. They were hacking away in order to publish stuff that would boost their ailing circulation.

#### **PERSONAL EXPERIENCE**

I was responsible for media policy, including press regulation, for much of the period from 1983-1992, at the Home Office and at the Department of National Heritage.

I was a close witness to the arrangements whereby Rupert Murdoch became the most powerful press baron in the history of the United Kingdom.

Murdoch's undeniable love for newspapers made him a buyer when others weren't, while his straightforward right wing populist opinions made him a soulmate for Mrs Thatcher, who at that time, the early 80s, didn't have that many.

She was therefore ready to bend the rules to allow him to establish a commanding position over the UK print media, and to take on a position of political influence which was to remain unbroken for more than a quarter of a century.

Murdoch further endeared himself to Mrs Thatcher for breaking the power of the print unions by his actions at Wapping.

By the time Murdoch came to establish Sky, a brave entrepreneurial investment that deserved to succeed, and a process I was happy to help along in the Broadcasting Act 1990, he was used to Ministers doing his bidding, rather than the other way around. He was personally charming to deal with, but he was one of the few people, apart from Heads of State, I, as a minister, had to visit at his premises rather than him having to schlepp over to the Home Office.

Whatever benefits Murdoch brought to Mrs Thatcher personally, the Tory party generally, or the UK national interest, he had a huge downside. There's no doubt that he coarsened British newspapers, especially his two red-tops, and dragged other red-

tops down with him. He has no real stake in the UK as old style proprietors used to do, so anything goes, to promote the commercial well being of what used to be, but is no longer, a great cash cow for his global ambitions. Britain as an entity really doesn't matter to him, which is why the amount of power he had for so long is so regrettable, and the way that he and his minions have chosen to exercise it, often so deplorable.

The downside of Murdoch soon became apparent, but there was never any serious prospect of any Government doing anything about the excesses of the tabloids. I spoke of the tabloid press "drinking in the last chance saloon", but it was more bravado than anything else. And as soon as they had my head on a pole, the chance of anything being done, always minimal, became non-existent.

The pusillanimity of politicians in the face of press excesses continues to this day. I suspect there are plenty of people in the present government who now regret letting this Inquiry loose, rather than employing the time honoured tactics of trying to sweep everything under the carpet.

This is of course the main reason why this Inquiry must not fail to advocate clear, commonsense solutions, that politicians can not slither away from.

I decided not to apply to join the parade of victims at the beginning of this Inquiry, but the events of 1992 are relevant, in that they show the ruthlessness of the tabloids in pursuit of their self appointed role as exposers of sexual shenanigans, the extent to which the facts were never allowed to get in the way of a good story, and the unacceptable methods they used to obtain their material.

My story included, on the part of The People, a recourse to phone tapping that was wholly disproportionate to any public interest in the story.

The Sun went one better, with a lot of cynically invented trash about Chelsea shirts, that exposed the moral bankruptcy of the whole kiss and tell industry.

The story was cooked up for cash by Max Clifford and Sun executives, and given front page publicity, even though they all knew it to be totally false.

The cynicism was breathtaking, as was the arrogance. What they did to me in 1992 led inexorably to phone hacking etc, because these were people who considered themselves above and beyond the law, overmighty subjects, unencumbered by any requirement for responsibility. It is surely the plain duty of this Inquiry to cut them down to size.

### **PRESS FREEDOM**

That process of cutting out excess like, but not confined to, phone hacking, needs to be done with a scalpel rather than a bludgeon, because there is so much that a free press does that is invaluable, and if the press were not around to do it, no one else would.

Take hacking. Why is this Inquiry here? One reason, and one reason only; because a section of the press, led by the Guardian, determined to expose the excesses of the News of the World, and by implication other red-tops. They opened a Pandora's Box the politicians and the police had been determined to keep shut.

With a few honourable exceptions, politicians in and out of government were too frightened to expose what many of them well knew was going on.

As for the police, their failure was abject. For years bin bags lay around in the basement of Scotland Yard containing all the evidence that so shocked the public when the Guardian finally printed it.

Some Scotland Yard officers steadfastly refused properly to investigate hacking, accepting nonsensical assurances from News Corp that these were isolated incidents, involving a few rogue reporters.

In one case, DAC Andy Hayman, it's hard to conclude other than that his concerns about his own private life, then of interest to certain tabloids, lay behind his reluctance to take action. In the case of DAC John Yates, it's equally hard not to conclude that he was much more concerned with maintaining the cosy relationship with the Murdoch empire enjoyed, it would appear, by most senior officers at Scotland Yard, than doing his duty to a wider public.

Of the many extraordinary things to have emerged about police turpitude, the most breathtaking is the allegation that on two separate occasions, Commissioner Stephenson, and subsequently Yates himself, went to the editor of the Guardian, and told him to desist printing hacking stories because he'd got it all wrong.

It's impossible not to conclude that if it weren't for a free press, which must at all costs be preserved, none of this would have come to light.

May I finally turn to France. It's extraordinary to think that but for an ill judged lunge at a maid in a New York Hotel, which was impossible to hush up, Dominique Strauss Kahn might now be president of France. Strauss Kahn's manifest unsuitability for office is now obvious, but for years was concealed from the French public because of the laws and culture of privacy in France.

Tempting though it is to think that minor sexual peccadillos should always remain private, the existence of that rule in France has manifestly not been to the public

benefit. As the conviction of President Chirac for corruption shows - and he's just one of rather a long line – a culture of secrecy encourages other misbehaviour, and in France at least, the line between sexual and financial impropriety has been a fine one.

I therefore contend there can be no blanket right to privacy without potentially disproportionate cost to the public good. There can however be rules that prevent Ceausescu-like excesses being employed in pursuit of stories that have no real public interest or benefit.

This should not be an impossible ask. And it's important that it happens, not least because, right now, it's a major disincentive to gifted people to seek a political career, that their privacy might be violated by illegal methods merely to boost the circulation of certain newspapers.

The consequences of a diminution of truly first class people in politics nowadays is too obvious to need further pointing up.

Bonne chance, Lord Justice Leveson.