IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND ETHICS OF THE PRESS

EXHIBIT SJM9 TO THE WITNESS STATEMENT

OF SIR JOHN MAJOR KG, CH, PC

Independent
30th July 1993
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A press gag disguised as public protection

PROPOSALS for a privacy law are published this morning — with the utmost privacy. The Government is clearly keen that its plans should receive slight publicity: it waited until Parliament had risen for the summer before releasing its White Paper, and then chose a day dominated by the Christchurch by-election result. Consultation closes on 15 October, a short time given the parliamentary recess. Cynics may not be alone in feeling suspicious.

Lord Mackay, the Lord Chancellor, couches his plans in general terms. He wants everyone to have a right to privacy, a way to protect their personal lives, particularly involving their health, communications, family and personal relationships. Privacy, argues the White Paper, "encompasses not only seclusion from neighbours or the avoidance of publicity, but freedom from unwarranted interference by the state". This sounds laudable, suggesting protecting the individual not just from prurient paparazzi but the overarching state and any other Peeping Tom. The discussion document raises the question whether noisy neighbours and telephone pests could fall within the ambit of a new law.

However, the weight of the White Paper is preoccupied with the Government's singular concern: the press. Three years after Sir David Calcutt called for a privacy law, and months after he said the newspaper industry had not put its house in order, the Government has set out its plans. In future, the press would have to justify publishing details of confidential documents, rocky marriages, torrid affairs, failing health, private conversations. It would not be enough to say, for example, that the public wanted to know about a politician's peccadilloes; a newspaper would have to prove they had a *legitimate* interest. David Mellor might have slept more easily with Antonia de Sancha under such a regime. More worrying, articles highlighting the foibles of the powerful might never be printed. Newspapers would not be subject to prior restraint, but the fainthearted may be cowed.

The "public interest" would be determined by a voluntary ombudsman established by the press and able to offer compensation. Dissatisfied complainants could seek redress in the courts, a weakness in Lord Mackay's proposals. A litigant should be allowed to choose one or other process, not both.

Lord Mackay is proposing a fairly narrow definition of public interest, which will depend on judicial interpretation. Judges are not generally journalists' friends. His proposals are also focused quite specifically on the media. The state gets off lightly. Nor is this the Government's last word. Another White Paper is due, suggesting additional press controls. Such challenges to freedom of speech are worrying in this the 14th year of government by one party.

Despite the furore created by politicians about the need to control the media, they have yet to show that the current codes of conduct, voluntarily policed, are redundant. Ordinary people deserve protection of their privacy, but want to know the truth. Lord Mackay's White Paper is neither the best nor the only way to strike this balance.

Financial Times, 30th July 1993, Page 19

A right to privacy

THERE ARE fundamental difficulties in defining a right to privacy in English law, as successive inquiries, reports and private members' bills on the subject have discovered. A government considering legislation on privacy should proceed warily and consult on the widest possible basis. Yesterday's green paper on privacy should therefore be welcomed for its comprehensive and scholarly examination of this thorny issue.

Less welcome, however, is its recommendation of a civil remedy in law for people whose privacy is infringed. It is true, as the green paper argues, that "a society which permits individuals to choose how they are to lead their lives is one which will recognise the choice of privacy". But privacy is a complex subject: people need – or want – different amounts of privacy. And the right to privacy cannot be unconditional: people in public life must accept some loss of privacy in return for high office and popular esteem.

For these reasons, the green paper sensibly rejects an absolute right to privacy. But its proposed remedy against conduct which would infringe a person's privacy is scarcely better. Such a remedy must be open to a public interest defence, especially in a country where the media enjoy no constitutional right of free expression. The green paper suggests that matters falling into the public interest category would include "seriously anti-social conduct" and "the discharge of a public function". Would the recent behaviour of some politicians or members of the royal family fit into these definitions?

And, since there would be no access to legal aid in enforcing the proposed tort of privacy, only the rich would be able to use it. Mr Robert Maxwell and Mr Asil Nadir would undoubtedly have had the resources to use such provisions, unlike the widow of an IRA victim hounded by the press.

Public concern over infringements of privacy has abated recently, partly because of increasing suspicion that politicians would like greater protection from public scrutiny. Some of the more notorious allegations about the great and the good have been subsequently justified by events. In any case, the level of complaints to the Press Complaints Commission suggests that intrusion is less common than many suppose: just 109 admissible complaints on privacy were received in the 18-month period to July 1992.

That there have been quite unjustifiable and egregious infringements of the privacy of individuals is undeniable. But many of these might be better dealt with by tightening up on the laws of trespass and telephone tapping. Until those avenues have been fully explored, the case for legislation on privacy has yet to be made.

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Daily Mail COMMENT

Fighting a law based on a lie

ONE of the greatest canards of the past few years has been that 'ordinary' people need privacy laws to protect them from a rapacious Press.

This mantra is chanted incessantly by politicians when in fact what they really want is protection for *themselves*.

To this end, the beleaguered and bruised Government headed by a Prime Minister who — it must be said — is nothing less than paranoiac about the Press, has devoted considerable efforts to finding ways to muzzle it.

Now we have the Lord Chancellor, Lord Mackay, issuing a consultative paper on a new privacy law.

The outstanding, fundamental weakness of this paper is that it takes for granted that wrongs are being committed on a frequent basis.

His paper is not founded on actual cases. It does not start from real people who have been damaged in specific ways. No, it is based on abstract theories of human rights — a kind of law-making which is wholly alien to Britain.

Where are all these people whose lives have been afflicted by Press intrustion? In reality, their numbers are tiny in relation to the massive daily output of television, radio and newspapers.

In contrast, we can point to countless occasions when this newspaper has helped people and taken up worthwhile causes.

Ben Silcock was mauled by a lion. Yes, we invaded his privacy, if you like. We published photographs and told his tragic story. It was on this basis that we were able to bring the problems of schizophrenics into the open and set a national agenda for much-needed reforms to help hundreds of sufferers.

Yes, we reported the case of the 58-year-old woman who is now pregnant after being impregnated with eggs in Italy. We believe that the use of modern science to enable older women to have babies is a major moral issue. Under the sort of laws proposed by Lord Mackay, the public might never have known it was going on.

These individuals are 'ordinary'. But let us cut out the pretence that ordinary people are the real issue here. They frequently thank us for representing their causes and bringing to attention their rightful grievances.

No, privacy legislation starts with politicians who want their personal hypocrisies and misdemeanours to remain secret.

This is the current situation in France where a privacy law as vague as a cloud was introduced in 1970. The result has been a supine Press incapable of exposing corruption.

It has also contributed to the endemic cynicism felt by an increasing number of Frenchmen about their ruling establishment.

In this country, think how Robert Maxwell would have loved a privacy law and would have used it to fend off all inquiries. The defamation laws gave him too much protection as it was.

If people such as him should ever come to know the Press can only flatter and indulge them, they would be far more free to lie, cheat and bully. That is not merely an unattractive prospect. It would be the beginning of the end of a free, democratic country.

The Guardian
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Alone, with a lawyer

SOMETIMES this Government is unfairly blamed for muddling ineptitude. Sometimes: but not this time. The Lord Chancellor's consultation document on possible privacy legislation — designed to be taken in tandem with an infinitely delayed White Paper on press regulation — is a muddle waiting to happen. There are many painful pages of an undergraduate beta-minus essay on the difficulty of defining privacy or the distress it causes. "Sometimes, like Greta Garbo, we want to be alone; sometimes, like Mae West, we do not". But the witterings subside as a proposition has (politically) to be put. That proposition is not the one that the logic of the document, with its frequent invocations of the European Convention of Human Rights, clearly signals: incorporation of the Convention into British law. It is the invention of yet another bit of legal spatchcockery sitting alongside libel law and the tort of harassment (if it exists). The preferred route is civil action through the county courts with a maximum fine of £10,000 and no juries or legal aid. That makes it a pretty useless resort for the ordinary person, since most trials of any complexity would certainly wind up as a net cash loss even in victory. The real client list will obviously be the rich and famous with a reputation to protect. Not surprising, because it was chuntering from MPs (and noises off from the Duchess of York) which got this waggon on the road in the first place.

The true focus of the document is thus the press, with that White Paper awaited. And here the muddle becomes a quagmire. Lord Mackay embraces the notion of a legally-qualified voluntary Ombudsman sitting in line beyond a newspaper's own Ombudsman and the Press Complaints Commission as one transit route to the county courts. Hopeless, because it infects every step of the path with solicitors' letters, delay and costs. The PCC becomes useless: its attempts at commonsense enforcement of a code peripheralised. No solicitor worth his fee will tarry there. The second Ombudsman (presumably with a power to fine up to £5000 as the Heritage select committee recommended) becomes yet another passing link in this complex chain. And what of the cavernous gap (admitted by the Lord Chancellor) between defamation, with a jury and unrestrained damages, and privacy, without a jury and constrained damages, when a potential litigant has, as so often, the choice of actions? That might be more supportable if Lord Mackay had redeemed his general election pledge to reform the libel laws: but this is the legal profession, and the wait stretches into eternity. It's all a mess: and one the more lamentable for the lack of intellectual rigour. It tolls the death knell of voluntary press regulation. It profits only the lawyers. Mae West would have kicked it under the bed.

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We won't be gagged

WHENEVER you hear politicians and lawyers pontificating about how they support freedom of the Press, don't just take it with a pinch of salt. Keep a cellarful handy.

The truth is that the Establishment would like to shackle the Press. Those in positions of power want to withhold and restrict information about them which the public has a right to know.

They justify their cover-ups by bleating about infringements of privacy, and claim to be defending the ordinary man and woman in the street against Press intrusion.

This is the spurious basis of a consultation paper on a possible new civil privacy law, published by the Lord Chancellor, which does not even come up with a clear definition of privacy.

If these proposals were already law, they would have prevented newspapers including TODAY revealing the true state of the marriage of the future King of England.

We would have been stopped from telling you that Johnny Bryan, who had been consistently plying newspapers with off-the-record briefings saying he was trying to patch up the Yorks' marriage and was nothing more than an honest financial broker, was in reality closer to Fergie than her own husband.

And Mr David Mellor, who once warned the Press that it was "drinking in the last chance saloon" would have kept secret the fact that, despite being a Government minister, he accepted a freebie holiday from the daughter of a PLO official in the run-up to the Gulf War. Nor that, while being a member of the Government that espoused family values in public, he was unable to keep his trousers on in private.

Unacceptable

The inability of the ex-Chancellor Norman Lamont to keep his own finances in order, as well as that of the country, would also have remained a well-guarded secret.

It doesn't matter to the Establishment that all these stories were true. It doesn't matter that you are able to make up your own mind about the issues. What they all have in common is that they present the unacceptable private face of power and privilege, not the PR image. Do as I say, not as I do.

TODAY does not pretend newspapers never make mistakes. They do, and under laws which already exist to protect people's rights, they are punished for them.

The consultation paper claims the Press will still be able to justify a supposed invasion of privacy by invoking public interest in its defence. But in many cases the public interest cannot be proved without an infringement of this supposed privacy.

There is another even more glaring deficiency in the paper's claim that any new privacy law would protect ordinary people. Legal aid would not be available, effectively ruling out most people from bringing a case to court in the first place.

Anyone who doubts that the law is a rich man's business should note the £300,000 sum Terry Venables has been ordered to pay into court to continue his action against Tottenham Hotspur chairman Alan Sugar.

Do not be fooled when the Establishment claims it is acting in your interests. It is acting from motives of self-preservation. TODAY serves notice here that we will not be gagged.

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Privacy law is absurd

THE Lord Chancellor's plan to create a new law of privacy is so absurd that it is difficult to believe it came from him.

Lord Mackay has proved to be a radical and bold leader of the legal profession who has not been scared to take on the lawyers' vested interests.

Yet now he suggests creating a convoluted, unnecessary and unworkable law that will only benefit one group of people. Lawyers.

MIRROR COMMENT

There is no need to have a privacy law to protect ordinary citizens because the press do not report their private business. What interest would there be in it?

But we do reveal secrets about public figures to expose their shameless, two-faced hypocrisy. And we must be free to go on doing so.

As Lord Mackay says, it would be ridiculous to provide legal aid to support privacy cases. But that means only the very rich could afford to go to court anyway.

The whole thing is a nonsense and unworthy of a respected Lord Chancellor.