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THE NEWS MEDIA
AND
CRIMINAL JUSTICE

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As a result of attending the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in September 1975, I am convinced that there is need for us to establish more clearly the role of the news media in relation to questions of criminal justice. However, we must first of all discuss its role generally and this necessarily takes us into the realm of concept and involves us in a study of relevant thought.

For the sake of perspective there is profit to be derived if we begin with the views of C.P. Scott, editor of the Manchester Guardian, as it was then called, from 1917 to 1929. Scott became a leader of great stature in the press world and even today his basic thinking still commands respect. Let me quote his views, expressed in 1926, on journalism and the conduct of a newspaper:

"Fundamentally it implies honesty, cleanliness, courage, fairness, a sense of duty to the reader and the community. The newspaper is of necessity something of a monopoly, and its first duty is to shun the temptations of monopoly. Its primary office is the gathering of News. At the peril of its soul it must see that the supply is not tainted. Neither in what it gives, nor in what it does not give, nor in the mode of presentation, must the unclouded face of Truth suffer wrong. Comment is free, but facts are sacred. Propaganda, so called, by this means is hateful. The voice of opponents, no less than that of friends, has a right to be heard. Comment is also justly subject to a self-imposed restraint. It is well to be frank; it is even better to be fair." (1)

Perhaps his standard is too high but at least it can be used as a guiding star.

It was said of David Astor, a distinguished editor of the Observer who recently retired, that he wanted his paper to be a vehicle for facts and ideas that would serve society. Astor also made plain that they were not in journalism to get rich, they must not use their leverage as journalists to get favoured treatment as citizens, and that the reader had rights to answer back that had to be respected. (2)

The late George Burns, a respected leader in the New Zealand press world for a long period, was insistent that in matters of legal status a newspaper ought to be equated with the ordinary citizen. In his eyes it was fundamental that a newspaper had no more rights in respect to the obtaining, or the publication, of news than has any other person in the community. As he put it, the journalist is the ordinary citizen placed in the position where he can reach a large public. (3)
2.

Mr J. Clement Jones, an English editor, addressed the Commonwealth Press Union in October 1974 on the subject of 'Press Freedom throughout the Commonwealth - with especial reference to the Role of the Press in Developing Countries'. His address is of value for its contribution to some fundamental questions in the field of press freedom. In his view freedom of the press is really a cluster of three freedoms - the first is freedom to exist, the second to publish and the third is to have access to public information. When all three are present, there is a really liberated press.

Freedom of Information

In the years following World War II there was a good deal of discussion on the subject of freedom of information. In 1948 the Universal Declaration of Human Rights, Article 19, declared our right to seek, receive and import information and ideas through any media and regardless of frontiers. Attempts have since been made to determine what this general statement really means and involves. Lord Radcliffe, in an illuminating lecture delivered in 1953, traced the attempts that had been made at international levels to give substance to this statement but in the end he could find no more than a string of limitations and exceptions of various kinds. Radcliffe also said that he did not think that freedom of information was usefully described as a natural right or a fundamental right nor did he think that freedom of information was a phrase that, taken by itself, meant very much except to a limited class of person and for a limited purpose. In his view freedom of information was of importance. But against that he thought that a very great many people in Great Britain and outside it had got into a bemused state about the word freedom and that they were doing no good to their own future by an excessive reverence whenever its name was invoked unless they went on to ask themselves, first, from what did they want freedom and what rule would they put in the place of the constraint that they wished to reject.

Some words of J. Clement Jones in respect of developing countries also help us to see more clearly what the basic elements are. He says that in the struggle for survival, developing countries must as an early priority evolve adequate means of two-way communication between their governments and their people. The latter must be convinced that their nation's governmental policies are worthy of their support and approval. Then he mentions that there are many obstacles in the way such as low standards of literacy and the strength of small elite groups within traditional society. In his view, only a strong, free, and responsible newspaper industry in any developing country will effectively serve the mass information requirements of functional literacy. However, he points out that there are countries within the Commonwealth which are sincerely striving for the greater well-being of their people and for a strong sense of national unity but they cannot afford an irresponsible press which from time to time undermines their efforts. He adds that the role, so common in the western industrialised countries, of being a permanent adversary to the Government may not be a desirable one during early stages of a country's development.
The News Media and Politicians

The relationship between the news media and politicians can best be described as an almost constant edging for position with periods of tension and the occasional battle. C.P. Scott was a professed liberal but his relations with Asquith and Lloyd George passed through many vicissitudes. For sustained abuse there is scarce need to go beyond recent events in Australia involving Mr Whitlam and the press.

Lord Shawcross argues that the press should be powerful, independent and courageous but as he is the present Chairman of the British Press Council, he, of course, is well aware of the need for the press to accept and follow a set of ethical standards. Sir Geoffrey Cox, a distinguished New Zealand journalist and formerly editor of Britain's Independent Television News, takes the view that journalists should stand over against authority — existing authority, would-be authority, and even the accidental authority which technology sometimes yields. Cox describes broadcasting as a social force of the first magnitude. In his view the power to select issues for probing and for debate is the broadcaster's greatest power and his greatest responsibility.

The Crossman Diaries

The case of the Crossman Diaries illustrates the manoeuvring for position that takes place between press and politician. This concerned the publication of the earliest volume of diaries kept by a British Cabinet Minister, Richard Crossman, and which dealt for the most part with politics and public administration, including deliberations within Cabinet and advice given by civil servants. The volume covered a period, 1964-1966, during which he was Minister of Housing. In substance the question was — for how long should material of this nature remain confidential? The Sunday Times was one of the defendants and its editor, Mr Harold Evans, said in written evidence:

"I do not claim any special privileges for the press in breaking these habits of secrecy and in particular in being enabled to illuminate our contemporary history.

I recognise that the press has no greater rights than the ordinary citizen but inevitably the press is the vehicle of disclosure and accepts this as a duty.

This certainly requires that the press accepts responsibility for what it publishes, but the duty cannot properly be fulfilled if the press is subject to restraint at the instance of the Secretary of the Cabinet or any other official."

The Attorney-General argued that details of Cabinet discussions could, and should, be protected by the Courts where the public interest required it. The Lord Chief Justice, Lord Widgery, upheld this argument in a judgment.
delivered in October, 1975, and said that the maintenance of the doctrine of joint responsibility within the Cabinet was in the public interest, and the application of that doctrine might be prejudiced by premature disclosure of the views of individuals. But he said that there must be a limit on the time after which the confidential character of the information, and the duty of the Court to restrain publication would lapse. He emphasized that this particular case was dealing with a disclosure of information nearly ten years and three General Elections later. He could not believe that publication at that interval of anything in the volume would inhibit free discussion in the Cabinet of today even though the individuals involved were often the same and dealing with similar problems. Lord Widgery rejected the Attorney-General's contention that an injunction could lie to restrain publication of details of advice to Ministers by senior civil servants, or regarding appointments in the public sector. He ruled that there was no ground in law which would enable the Court to restrain publication of such matters.

The Crown failed, therefore, in its proceedings to prevent publication at this stage of the first volume of the diaries. (11)

Of no great consequence but amusing is Crossman's account of an occasion when he called at breakfast time to see the then Prime Minister, Harold Wilson:

"I found Harold lying in bed eating kippers, with one kipper skeleton thrown on the carpet for his Siamese cat to finish." (12)

It may be indelicate, even unfriendly, to write in this strain, but we gain a view of Wilson different from his studied presentation on T.V. as a pipe-smoking character deeply concerned for the state of the nation.

Ministerial Memoirs

A committee of Privy Councillors, with Viscount Radcliffe as chairman, was appointed in April 1975 "To consider the principles which should govern the publication by former Ministers and the arrangements which should be made to give effect to those principles; to consider whether and to what extent rules can effectively be imposed; to examine the implications of these arrangements for the rules governing the publication of similar works by former members of the public services; and to make recommendations."

In the committee's view the need for Cabinet secrecy was founded upon the argument that those who are to act together in pursuance of a policy agreed in common do require and expect the observance of confidence as to what they say to each other; and unless they can be assured of the maintenance of that confidence they will not speak easily or frankly among themselves. The basic purpose of meeting was to settle the terms of a Government policy to which each member would subscribe, both in his Parliamentary utterances and in his contacts with the public outside Parliament.
After reviewing a wide range of considerations the committee laid out three working rules as to the reticence due from an ex-Minister:

(a) In dealing with the experience that he has acquired by virtue of his official position, he should not reveal the opinions or attitudes of colleagues as to the Government business with which they have been concerned. That belongs to their stewardship, not to his. He may, on the other hand, describe and account for his own.

(b) He should not reveal the advice given to him by individuals whose duty it has been to tender him their advice or opinions in confidence. If he wishes to mention the burden or weight of such advice, it must be done without attributing individual attitudes to identifiable persons. Again, he will need to exercise a continuing discretion in any references that he makes to communications received by him in confidence from outside members of the public.

(c) He should not make public assessments or criticisms, favourable or unfavourable, of those who have served under him or those whose competence or suitability for particular posts he has had to measure as part of his official duties.

The committee considered various methods of enforcing these rules. They had before them the judgment of Lord Widgery in the Crossman Diaries case. In their view the Common Law did not go far enough for the purpose, nor did legislation seem to be appropriate – the relevant considerations were political and administrative. Eventually the committee decided that reliance should be placed upon rules of conduct to be observed as voluntary obligations, known in advance, and dependent for their observance upon no more than the decency and honour of those concerned.

In dealing with confidential relationships the committee came down in favour of the principle of a time limit. This seemed to be the only satisfactory way of reconciling the interests of the State, the needs of the author, and the demands of the interested public. They were guided by the sentiment that government is not to be conducted in the interests of history. Their proposal for the time limit was a period of fifteen years.

The committee pointed out that there was one principle which they had outlined earlier which could not be adequately covered by the observance of a simple time limit. That was the rule that an ex-Minister should not reveal the advice given to him in confidence by those in the Service whose duty it had been to advise him. The committee thought that the rule should be adhered to during the whole period of the Service life of the adviser. It was quite possible that the expiry of fifteen years would find some such advisers still in the Service and in those cases the period of restriction should be regarded as fifteen years or the remainder of the Service life of
the adviser, whichever be the longer.

The committee considered the question of publications by former members of the Public Services and took the view that in the matter of confidential relationships the principles which it had enunciated concerning publications by ex-Ministers should be reflected in the rules governing the publication of memoirs and other works relating to their official experience by former members of the Public Services. This applied to the obligations which the committee had suggested should rest upon them and the periods for which those obligations should be maintained. (13)

The British Government announced in January 1976 that it had accepted all the recommendations of this committee. (14)

Open Government

At the time of the Crossman controversy there was a good deal of discussion about the advantages and disadvantages of open government. No doubt the process of government could be made still more open in England, Australia and New Zealand but it is as well to remember that there are human limits to this process. Those who are engaged in politics and political administration will continue to consult in secrecy when they think fit and all that formal prohibition would achieve would be to drive them into processes still more clandestine.

The Radcliffe Committee referred to the recent report of the Franks Committee which had examined in some detail the relevant law and practice in France, Sweden, Canada and the United States of America. (15) The finding of the Franks Committee was that governmental representatives in those four countries took it for granted that a Government could not function completely in the open, but must be able to preserve the confidential nature of its internal processes, especially at the higher levels of policy-making. This incidentally exploded the fond notion that many people have had in recent years about the degree of openness prevailing within Sweden. The Radcliffe Committee for its part, said that it had not found anyone who seriously maintained that every instant of the processes of Government ought properly to be conducted in open conclave.

British Press Council

The British Press Council was voluntarily constituted in 1953 and then reconstituted in 1963 to provide for an independent chairman and for lay participation. The practice then began of appointing a retired judge of distinction to be the chairman. Including the chairman, the numerical strength of the Council is now 25, of which five represent the public and the remainder are nominated by various bodies within the newspaper industry including proprietors, editors, and journalists.
The objects of the Council are:-

(i) To preserve the established freedom of the British press.

(ii) To maintain the character of the British press in accordance with the highest professional and commercial standards.

(iii) To consider complaints about the conduct of the press or the conduct of persons and organisations towards the press; to deal with these complaints in whatever manner might seem practical and appropriate and record resultant action.

(iv) To keep under review developments likely to restrict the supply of information of public interest and importance.

(v) To report publicly on developments that may tend towards greater concentration or monopoly in the press (including changes in ownership, control and growth of press undertakings) and to publish statistical information relating thereto.

(vi) To make representations on appropriate occasions to the Government, organs of the United Nations and to press organisations abroad.

(vii) To publish periodical reports recording the Council's work and to review, from time to time, developments in the press and the factors affecting them.

There are no sanctions and the Council relies upon its moral authority. A newspaper which has offended in the eyes of the Council is morally obliged to publish details of the case against it along with the Council's adjudication.

New Zealand Press Council

The New Zealand Press Council was established in 1972 - it was constructed in the light of the British precedent but numerically it is a much smaller body. There is an independent chairman who is a retired judge of distinction. One person, an editor, represents the Newspaper Publishers Association and another, a senior journalist, represents unions of journalists. The public is represented by one person who is unconnected with the press. There is a system for the appointment of alternates.

The objects of the Council are similar to those set out for the British Council except that there is no provision for reporting publicly on developments that may tend towards greater concentration or monopoly in the press.
Australian Press Council

A plan for the establishment of an Australian Press Council was announced in November 1975. News of the appointment of a chairman, also a retired judge of distinction, was released in January 1976. It is expected that initially there will be thirteen members of the Council including the chairman. The other members are expected to be:

a. Four representatives of metropolitan daily newspapers.
b. One representative of provincial daily newspapers.
c. One representative of other country newspapers.
d. Three representatives of the Australian Journalists' Association.
e. Three representatives of the public.

The objects of the Council will be similar to those for the British one.

Broadcasting - Complaint Procedure

For the British Broadcasting Corporation there exists an independent Programmes Complaints Commission to consider complaints from people or organisations who believe themselves to have been treated unjustly or unfairly in connection with a programme or a related series of programmes as broadcast. Unjust or unfair treatment includes unwarranted invasion of privacy and misrepresentation. However, the Commission has no power to deal with general complaints about the nature or quality of programmes. The Commission consists of three distinguished citizens drawn from other walks of life. The first chairman was a former Lord Chief Justice, Lord Parker.

For the Independent Broadcasting Authority there is a Complaints Review Board which deals with all complaints about programmes and about the making of programmes. The deputy chairman of the Authority is ex officio chairman of the Board, which is, in effect, a committee reporting to the Authority.

The Broadcasting Council of New Zealand has set up a body known as the Complaints Review Committee to investigate complaints relating to programmes or alleged breaches of the Rules of the Council. The Committee consists of the deputy chairman of the Council, an appointed member of the Council, together with two persons drawn from outside the broadcasting system.

As far as I can ascertain, Australia has no comparable procedure for dealing with complaints. Apparently complaints are handled administratively within the broadcasting system.
The British Press Council - The Murdoch Criticism

In November 1972 Mr Rupert Murdoch delivered a lecture at the University of Melbourne and made several statements which demand scrutiny. Describing the British Press Council he said:-

"The Press Council was invented as a fig leaf by a frightened British press establishment at a time of genuine concern. Surely we do not need such hypocrisy in Australia.

To the criticism that it (the British Press Council) includes lay members, that the British press therefore sets others to sit in judgement of its conduct, it has to be said that this is no more than what we often ask of the police forces and many of us would ask of medicine and the bar.

The Press Council is a relatively innocuous body whose adjudications were published voluntarily by the newspapers. If it were ever to acquire real power to interfere with the press it would be a most frightening development - that is not at all likely, of course.

When my organisation paid money into a trust fund for the children of the escaped great train robber, Ronald Biggs, in return for Biggs' exclusive story, the Press Council ruled it was wrong to reward criminals for their crimes.

But other newspapers published memoirs of other participants in the crime - or their wives - and went uncriticised.

The Press Council had gone far beyond its brief and had also found that the offence was aggravated by the sensational nature of the display, headlines and text.

If ever there was an example of the dangers of intervention in the way the press does its job, this is it.

It is not the Press Council's role, or anyone else's role, to tell newspapers how to lay out their pages.

In the case of the Christine Keeler memoirs, it had been alleged that my organisation was hounding the former Minister involved (John Profumo) who was working his way back.

But were certain forces in British society coming together to try and stop us because they did not want the public reminded of the events of 1963?

In these cases there is always pressure not to do something, not to make life difficult.
10.

A council of the established forces of the press and society automatically reacts against anyone likely to rock the boat. There is nothing sinister in this. It is just a fact of life.

Rather than a Press Council would it not be better to allow the press to find its own rapport with public taste and public criticism?

The fact is that a Press Council is not a deterrent to the initiatives and risk-taking which newspapers must execute each day.

Very little time is spent in a British newspaper office worrying about whether a story might result in the editor being brought before the Press Council.

On the other hand, a great deal of time is spent in worrying whether a story might bring a newspaper into court. (16)

In November 1966, following the Moors Murder trial and after consultation with newspaper editors, the British Press Council issued this Declaration of Principle:

1. No payment or offer of payment should be made by a newspaper to any person known or reasonably expected to be a witness in criminal proceedings already begun in exchange for any story or information in connection with the proceedings until they have been concluded.

2. No witness in committal proceedings should be questioned on behalf of any newspaper about the subject matter of his evidence until the trial has been concluded.

3. No payment should be made for feature articles to persons engaged in crime or other notorious misbehaviour where the public interest does not warrant it; as the Council has previously declared, it deplores publication of personal articles of an unsavoury nature by persons who have been concerned in criminal acts or vicious conduct.

The Council made plain that it did not intend that the principles enunciated should preclude reasonable contemporaneous inquiries in relation to the commission of crime when these were carried out with due regard to the administration of justice. There might be occasions on which the activities of newspapers were affected by over-riding questions of public interest, such as the exposure of wrongdoing. No code could cover every case. Satisfactory observance of the principles must depend upon the discretion and sense of responsibility of editors and newspaper proprietors.

The Press Council acknowledged the wide support given by editors to the broad statements set out in the Declaration of Principle. However, the News of the World did not accept that section of the Declaration which said that no payment should be made for feature articles to persons involved in
crime or other notorious misbehaviour where the public interest did not warrant it.\(^{(17)}\)

The Ronald Biggs Case

The complaint in one case was against the Sun for publishing the memoirs of Ronald Biggs, one of those convicted in the Great Train Robbery case and who was a fugitive from justice. Large payments for the article had been made for the benefit of the children of Biggs. The newspaper argued that the payments did not contravene the Declaration of Principle as no payment was made to Biggs himself and elaborate arrangements had been made to ensure that he was unable to benefit directly. The newspaper further argued that the crime was of a wholly exceptional character arousing a demand for serious information among the public at large. In their view, the real lesson of the memoirs was the futility, rather than the glamour, of crime.

The Press Council distinguished this case from others because the writer, Biggs, was himself a criminal who had successfully evaded recapture by the Police. This, in their view, undoubtedly added undesirable glamour to anything written by him and published while he was still at large. Publication of these articles enabled him to communicate with the public through the press while eluding the Police. The Council strongly condemned the publication of the articles on these grounds and considered that the offence was aggravated by the sensational nature of the presentation. Furthermore, it was particularly harmful for the press to allow itself to be used as a vehicle for criminals who are under sentence but at large and thereby enable them to enrich their dependants or friends. The complaints against the Sun were upheld.\(^{(19)}\)

The Christine Keeler Case

The second case arose in 1969 when the editor of the News of the World announced his intention to publish in serial form the memoirs of Miss Christine Keeler. He said:

"Christine Keeler will tell the full story behind the tragedy of Mr John Profumo, the War Minister, who lied to the House of Commons about his secret relationship with her."

The relationship had been exposed in 1963 and Profumo had eventually resigned from office.

The Press Council pointed out that details had been fully ventilated at the time of the events. There was the Denning Report and Miss Keeler herself wrote what were termed her "confessions" in a series published in the News of the World in 1963. It was reported that the News of the World paid her £23,000 for that series and a figure of £21,000 had been mentioned for the series under complaint.

The Press Council was of the opinion that it must be a question of
degree what events would justify dragging up the past of a man who had been involved in a scandal and submitting him again to the glare of publicity after a lapse of several years. This had no relation to the status of the person concerned. For instance, in a case where the parents of a man who had been convicted of murder some years previously were named as they were about to emigrate, the Council strongly condemned the publication as 'hounding'. A man should not be deprived of similar protection merely because he had been in a higher rank of life unless the public interest justified reference to him. The Council could find no such justification in the News of the World publication.

Accordingly the Press Council found that the publication in these articles of sordid details from Miss Keeler's life story was an exploitation of sex and vice for commercial purposes, and that where the public interest did not warrant it, the offering of financial rewards in payment for such articles was unethical. Furthermore, it found that where the public interest did not justify it, the raking up of unsavoury scandals and the dragging up in his lifetime of any man's past was also unethical.

In the view of the Press Council the action of the News of the World in these respects was contrary to both the spirit and the letter of the Press Council's Declaration of Principle of 1966 which had been generally accepted by the Press.

The Press Council decided to censure the News of the World. (19)

Murdoch's criticism of the way that the British Press Council handled these two cases is less than convincing. As already mentioned he suggested that establishment influences were combining to suppress the recapitulation of the Profumo affair. Doubtless, there were such influences within English society but it is most improbable that the chairman, Lord Pearce, who was a distinguished judge, would have been deflected from his duty by such influences. Furthermore, the decisions were consistent with the 1966 Declaration of Principle which had sprung from a different set of facts.

In May 1963 the House of Commons was debating the Report of the Radcliffe Tribunal, appointed after the conviction of Vassall for espionage, and it is of interest to recall that the Prime Minister of that time, Mr Harold Macmillan, said that apart from security matters, the press had a right and a duty to find out the truth, to publish it and comment on it as it thought fit. The advantages of a free press, he said, far outweighed any of its disadvantages, but as with every right there was a corresponding obligation. Men in public life must expect, whether by the reporter's words or the cartoonist's pencil, to suffer some wounding blows, but they had the right to expect that while they might be wounded they should not be hounded. (20)
Publicity and Rehabilitation of the Criminal

In 1975 the New Zealand Press Council considered the question whether those who were about to be, or had been, released from prison, should be the subject of publicity. This, in particular, arose in respect of the release of persons sentenced to life imprisonment for the crime of murder.

Over a long period the Department of Justice had declined to say whether or not a particular person had been released, or if it became known that he had, in fact, been released, then where he was living and working. The justification for this policy appeared to be that such a person, in serving his sentence, had discharged his debt to society and should be given a reasonable chance to rehabilitate himself. If his path back into society were to be traced by publicity and he was identified in the district where he was living or working, then there was danger that carefully prepared plans for his rehabilitation would be impeded or even wrecked.

The argument in favour of publicity was that a person might offend again and those who lived in his district or worked with him were entitled to be put on their guard. Such an argument could not be lightly dismissed and was generally at its strongest in respect of cases where a person had been convicted of a grave crime involving violence. It had also been argued that in major crimes like murder where the period of a sentence actually served was governed by a considerable discretionary authority, the public was entitled to know just what penalty had, in fact, been exacted.

The Council considered Home Office practice, the constitution and functions of the New Zealand Prisons Parole Board, and the views of the British Press Council in a number of cases dealing with the question of hounding. It was plain that considerations of fairness, humaneness and constructiveness were in the contemplation of the British Press Council when dealing with cases involving the rehabilitation of criminals.

In the Council's view the Department of Justice had made a compelling case for not revealing information that would lead to the identification of a lifer who had been, or was about to be, released from prison. In a country like New Zealand there could be little question that once the name of the released prisoner was known, his whereabouts and other information could quickly be ascertained. The Council said there was force in the argument that a man who had served his sentence should be allowed to dwell in obscurity. Only in exceptional circumstances would there be justification for rejecting such a principle. Dealing with the case of an ex-prisoner who sought publicity for himself, or was not averse to it, the Council said that if he told the story of his life in a way that did not give glamour to crime, if he had a grievance against the prison administration, or if he had criticism of the penal system, there could be no objection to publicity being given within the framework of normal newspaper practice. But if he wanted to involve former prisoners or anyone still in prison, then there could be serious objection to such a step if only because it could impede rehabilitation and
also embarrass those who wanted to be left in obscurity.

As a general consideration the Council believed that exposure merely for the sake of exposure would be an inadequate reason for giving publicity to those who were about to be, or had been, released from prison. In such matters it would be reasonable to apply a presumption against publicity, and exceptions to this presumption would need to be justified, in considered editorial judgment, as being specifically necessary or desirable in the public interest. On this formula, the Council would expect the exceptions to be relatively few. (21)

Name Suppression in New Zealand

The New Zealand Parliament enacted in 1975 a provision put forward by the Labour Government to prohibit the publication of the name of a person accused of any offence or of any particulars likely to lead to identification unless that person is found guilty of the offence and a conviction entered by the Court. These exceptions are made:

(a) The accused may apply for an order permitting publication of his name and the Court shall make such an order.

(b) The Court may permit publication upon its own motion, upon the application of the prosecutor, or upon the application of a member of the public who considers himself prejudiced in some way by non-publication.

(c) The name of an accused person who escapes from custody may be published.

The Labour Government was defeated in elections towards the end of 1975 and National, the new Government, is committed to a policy of repealing this provision.

When the provision was before Parliament in 1975 interested parties had the opportunity to present submissions. I do not propose to cover in detail the various arguments that were used for and against the measure. Perhaps the strongest argument of those supporting the measure was focussed upon a concern for the accused, his spouse and family. The stigma aspect was stressed. The National Party which was then the Opposition in Parliament contested the provision on the central ground that justice should be done openly and in public.

Organisations representing newspaper proprietors, editors, and journalists united to protest against this measure. They maintained that justice should be done openly and in public. They stressed the need to preserve freedom of information. It was said that their response was predictable for they saw that they would be denied the valued opportunity to publish stories about a criminal trial as it moved from stage to stage. There is, of course, some substance in this but to leave it there would be less.
than fair to some genuinely held views.

Early in this paper we quoted views expressed by Radcliffe who plainly saw substantial limits to claims founded upon a notion of freedom of access to information. J. Clement Jones, in surveying the needs of developing countries, has made clear that he does not give pride of place to such claims. (22) It is also significant when a man of the stature of Sir Geoffrey Cox expresses the view that the provision was justified if it helped the process of justice. As he saw it, the principle that justice should prevail was just as important as the concept of freedom of the press. (23)

The important thing to establish is whether or not such confidence as the public may have in the administration of justice will suffer by reason of a provision which, in most cases, prevents newspapers from publishing stories of a criminal trial as it proceeds. Under the provision the press has the right to publish a story at the end of a trial if the accused is found guilty. It is also important to establish how effective was newspaper reporting of trials before the provision became law. If a daily newspaper is to make any contribution to the administration of justice then it is reasonable to expect that the object of newspaper reporting should be to inform the public in an adequate way. Unless the public gets a broad understanding of criminal trials, its confidence in the administration of justice is not likely to rest on a satisfactory footing.

A full investigation is also needed if only to justify a policy which in effect demands that those who are subsequently acquitted must be sacrificed for the public good. Individuals ought not to suffer in this way unless it is plainly established to be for the good of society. It is unfortunate that an issue so closely related to the administration of justice should have become the football of party politics. It is much to be preferred that there be a careful detached examination and investigation along the lines I have mentioned before the new Government commits itself finally to repeal. (24)

Standards

As stated earlier Murdoch, in his address at the University of Melbourne, posed this argument - rather than a Press Council would it not be better to allow the press to find its own rapport with public taste and public criticism? A review of some of the things that have resulted from such an approach during this century might be illuminating.

The late Conrad Bollinger said in 1975 that the discovery of the commercial value of sensation marketed as "news" is commonly attributed to the late Lord Northcliffe, owner of 70 British newspapers. He added that Northcliffe's financially calculated criteria as to what constituted "news" (based entirely on its marketable value) placed war news first, with sex, crime, disaster, and sport following in that order, and adjusted ratings for items that came into more than one of these categories. (25) There is a revealing letter written in 1927 by C.P. Scott on the subject of Northcliffe:
"Will you kindly write us a signed review of this book about Northcliffe. He would be important if only because his rise is the rise of the vast popular press. The tragedy of his life seems to me to lie in the fact that though he knew how to create the instruments not only of profit but of power he had not the least idea what to do with his power when he got it. Only in Ireland does he seem ever to have counted for anything that was not commonplace and flashy.

But what a picturesque career!" (26)

Speaking in 1953 and contemplating the future of our civilisation, Radcliffe was concerned with the standards of quality that should be adopted by those responsible for the media of information. What was wanted, he said, was the assurance of a standard of quality in those who made themselves responsible for these powerful engines of propaganda and persuasion. Knowledge was wanted instead of ignorance, some sense of history and perspective instead of a shallow cult of the passing event, decency of feeling and good taste instead of pettiness and triviality. Above all, we wanted to be allowed to protect ourselves from the pervading vulgarity and cheapness of tone that seemed to be reserved as the especial scourge of the modern mass-produced civilisations.

In 1961 he returned to the attack. The biggest single factor, as he saw it, was that the media of dissemination were now operated upon so large a scale and, if only for that reason, they tended to be uniform, repetitive and nervous - an unhappy combination of qualities. Add to that a financial pressure which came in from two sides, one because large-scale production must direct its catering towards an average taste and the other because newspapers, magazines and, now, television, were increasingly mere channels of advertising; and the prospect was the somewhat menacing one that the way would simply be barred to the adventurous and the heterodox.

Radcliffe pointed out that we create great systems for the production and dissemination of ideas and concentrate in the control of them a power that by inertia could easily defeat the very liberties that were in form beyond attack. It was in this power that there lay a modern and effective censorship; it intervened between the public and those who would communicate with it, and by its tone, by its assessment of comparative values, and by its courage or its fearfulness about men and affairs it could profoundly influence ideas and sentiments and aspirations.

It seemed plain to Radcliffe that if a man wanted to communicate his ideas beyond a small circle he must render them acceptable to the real licensors of thought today, the editors, the publishers, the producers, and the controllers of radio and television. For that reason, the important thing for the future might be to try to make sure that they were within reason enlightened and intelligent men and that they had some coherent idea of the principles upon which they should exercise their enormous responsibility.
Radcliffe also spoke about a society which was increasingly concerned about the apparent indifference of censors of all kinds to the depiction or portrayal of mindless violence and brutality.

The views of Radcliffe cannot be ignored for they come from a man of great stature in fields relevant to this paper. (27)

Lord Shawcross said in 1974 that there were very many thoughtful people who believed that the media, and he specifically referred to television, were insufficiently responsible. (28) He pointed out that the other side of the coin of freedom was responsibility. Then he argued that there should be some serious heart-searching. He was concerned with the world-wide increase in the figures for crime, particularly violent crime and juvenile crime. Even though he conceded there were many factors, he did raise the question whether the media could be entirely absolved. These were further questions in his mind:-

"In attempting to build up circulations, do we not pander to the lower instincts of mankind? Have we not glamourised, if not glorified the criminal, the pimp and the prostitute? Have we not treated manifestation of violence, whether in crime or militant politics such as hi-jacking, in a way calculated not to cause revulsion but interest and even imitation? Have we prostituted ourselves because salacity pays? Have we, on the stage, on the television and in the press sought to compete for audience or circulation by seeing how far we could go in permissiveness? I see the Family Planning Association - hardly a body squeamish about sex - put out a complaint that films, television, advertising and the press were allowed to titillate by showing and distorting almost all aspects of sexual behaviour. Have we, even in the most respectable quality papers or in serious television interviews, tolerated or encouraged a form of journalese which by veiled innuendo, by snide satire, by subtle denigration or derision, by quotations out of context and all the other tendentious devices basically misrepresented the truth or distorted the attitudes or opinions of those we seek to belittle. I would not concede for a moment that even if these evils exist they would justify curtailment of the freedom of the media. But if they do exist - and I'm afraid some of them do - they require exposure and the fearlessly and strongly enforced self disciplines and disapprobations of bodies like the Press Council. Similarly in regard to the fundamental economic and social problems that confront our countries, are we sufficiently careful about accuracy - and admitting errors? They certainly occur. Are our newspapers not often too full of trivia? Are we giving enough information, sufficiently lucidly, for simple minded people to form judgments? Or are we content cynically to say that we should give the people what they want - the justification of the prostitute and the pervert throughout the ages? These are the general considerations which are canvassed
against us - and on which all of us who enjoy the privilege of freedom should examine our consciences."

Cox argues that when we are seeking to have good television and good radio we have always to remember that "good" in this context means of high quality and attractive to viewers, as well as good in the sense of being socially desirable and morally sound. He rejects the view that there is no proof that people who watch a lot of television are influenced by it - as he sees it, commonsense dictates that a medium which can sell goods is likely also to be a medium which can sell ideas. (29)

United Nations Congress

I want now to dwell upon the United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in September 1975. There was strong support running at that Congress for changes in attitudes and policies in the field of crime and the criminal. It was inevitable that the news media should be regarded as an important agency for the enlightenment of the public and for the promotion of desirable changes. The question of the contribution of the news media cropped up in the context of these five themes:

- (a) Violence
- (b) Crime as Business
- (c) Legislation, Procedures, and other forms of Social Control
- (d) Police
- (e) Penal Policy

Comprehensive working papers had been prepared and circulated beforehand and these documents formed the basis for the deliberations of Congress. I propose to quote from the documents and also from reports made by rapporteurs which reflect, of course, the trend of thinking within Congress.

Violence

The relevant working paper (56/3) said that the mass media might act as a conditioning factor with respect to violent behaviour. The media, particularly television, had a strong effect on a broad range of values, norms and patterns of public attitudes and actions. There was even a certain kind of culture shaped to a great extent by the mass media. Sections of the mass media thrived on the depiction of violence in its most sanguine and salacious forms, whether as entertainment or in news presentations.

The working paper also discussed the urban phenomenon of detached bystanders who ignored a victim's pleas for help. It was asserted that messages conveyed by the media have had a "desensitising and disinhibiting"
effect by making violence commonplace and by failing to show its real effects. The dehumanisation process could have differing dynamics but its consequences were highly damaging to the society where it occurred.

It was pointed out that some of the previously held assumptions about the impact of the mass media's depiction of violence on human behaviour were not beyond attack. Thus, the so-called catharsis theory, which was based on the view that aggression was lowered when violence was experienced vicariously through the mass media, can no longer be supported. Nor did exposure to violence depicted in the mass media lead to immediate imitation or acting out. An individual's reaction to such exposure depended on a variety of factors, especially familial and environmental. Positive home and peer-group impacts normally counteracted the negative influences of exposure to violence through the mass media. But it was clear that some persons, especially juveniles, were negatively influenced by the mass media under certain circumstances, and that, especially in the long range, a dulling of sensibilities might occur. This could lead to a greater readiness to accept violence as a means of responding to conflict situations, and to the actual use of violence. Furthermore, by depicting luxurious standards of living, the mass media might also create the desire to reach those standards - if not by legitimate, then by illegitimate means.

If the mass media had the capacity to exert a negative impact on individuals by potentially increasing the likelihood of violence, then it should be possible to reverse this impact by using the mass media for the education of the public towards socially acceptable responses to situations of conflict. To that end, it was deemed important that governments and social institutions should take the initiative in suggesting guidelines, particularly in the area of public education. It seemed desirable to conduct a study of the possible use of public education for purposes of crime prevention and, in particular, of the use of the mass media in portraying programmes fostering the peaceful settlement of conflict situations.

The report of the rapporteur said that there was consensus at Congress that the problem of violent behaviour, because of the damage and anxiety it caused, should receive priority consideration in the formulation and application of national policies of crime prevention. In particular, every effort should be made to prevent social conditions conducive to violence. The family, the education system, community organisations and the mass media should take a more effective part in this work of prevention. The cultural organisations of the United Nations should explore proposals for an international convention providing minimum guidelines for the content of mass media intended for consumption by children or young persons, where needed, to avoid negative impact on behaviour patterns. (31)

Crime as Business

The working paper dealing with crime as business (56/3) stressed that in recent years the world community had been faced with an increase in the
sophistication and organisation of crime, which in many respects paralleled the sophistication, organisation and technological developments within legitimate society. Crime as business included corruption, white-collar crime and organised crime. Organised crime referred to large-scale and complex criminal activity carried on by groups of persons, however loosely or tightly organised, for the enrichment of those participating and at the expense of the community and its members; it is frequently accomplished through ruthless disregard of any law, including offences against the person, and frequently in connection with political corruption.

Transnational crime refers to crime as business which spans the borders of two or more countries either because the economic behaviour concerned involves crime committed concurrently against the law of two or more countries (income tax fraud or financial manipulation that is illegal in two or more countries, for instance), or because the crimes, though planned and directed in one country, may have their economic or social impact in another. There are large global organisations whose operators transcend national boundaries and who regard the social conditions and public policies of a particular country as subordinate to the manipulation of their profit. Organisations of this nature are to be found operating in Latin America.

A realistic approach would be to effect a more extensive international distribution of information about the financial transactions engaged in by trading partners of monopolistic capacity, whether they are individually or corporately owned and whether they are public or private enterprises.

In view of the working paper the strongest sanction against economic criminality was deemed to be an informed and alert citizenry aided by governmental participation on the national level such as that provided by an Ombudsman and commissions of inquiry, as well as the efforts of consumer groups and labour unions.

The working paper stressed that one of the root causes of economic criminality was the prevalence of "get-rich-quick" philosophies, which were fostered especially by the news media and which tended to corrupt the citizenry, youth groups in particular.

The reaction by Congress to the working paper was favourable and, as mentioned in the rapporteur's report, there was agreement that the economic and social consequences of crime as business were typically much greater than the consequences of traditional forms of interpersonal violence and crimes against property - not least because organised and white-collar crime might also lead to interpersonal violence in the form of murder, intimidation, property destruction and the like. Such crimes were of course a serious problem in most non-socialist developed countries, but several representatives of developing countries emphasised that white-collar crime,
organised crime and corruption posed especially severe problems for their
countries - indeed they might be virtual matters of life and death - since
the national welfare and economic development of the whole society might be
drastically affected by such things as bribery, price fixing, smuggling and
currency offences.

The rapporteur stated that the general pattern of economic or
property crime in a society - of which "crime as business" was merely a
part - necessarily depended on the social structure, the economic development
and economic institutions of the country concerned. Several participants
at Congress pointed out that the socialist countries, which had generally
abolished private capitalist industry and replaced it with co-operative or
state-owned enterprises, naturally had no problems of "white-collar" crime,
organized crime and corruption in the sense of collusive price-fixing,
illegal monopoly or violation of regulatory laws by private companies such
as were found in non-socialist economies. But even in the socialist countries,
it was urged by others, there might be other equally damaging forms of
economic crime. (32)

Legislation, Procedures, and other forms of Social Control

The working paper dealing with criminal legislation, judicial
procedures and other forms of social control in the prevention of crime
(56/4) said that most criminal justice systems were equipped, though poorly,
to cope with "ordinary" crime and even with aberrational violent conduct.
But legislation and law enforcement in most countries were as yet neither
adequately designed nor suitably instructed to cope with international crime,
organized crime, corruption, white-collar crime and corporate crime. In
general, it could be said that there was growing recognition, not only among
the public but also among the different branches of the legal profession and
policy makers, that in many instances the administration of justice did not
live up to its task of preventing and controlling crime and protecting
society. This recognition was particularly acute wherever the media had
devoted an inordinate amount of attention to crime, criminals and the
weaknesses of the system. Indeed, such excessive publicity had sometimes
led to conflicts between the media and the administration of justice. In
some Asian countries, for example, concern had been expressed about the
interrelation between the mass media and judicial procedures. Fair trial
and due process might be jeopardized where, because of over-emphasis on
publicity, a trial might become a forum for political protest and exhibitionism.

The need for increased and improved dissemination of information
regarding criminal justice programmes and their effects had been discussed
at nearly every regional or preparatory meeting for the Congress. In many
countries the public was as unaware of the laws as it was of the social
control mechanisms that were operating in the field of crime. The rules of
law and the values underlying them should be expressed in simple language
so that ordinary citizens could understand them and participate in the
process of changing them. Citizens were equally unaware of their rights
and of the extent to which they could participate in the system. Not only
should the public, including school children, be better educated in matters of criminal justice, but all agencies involved should exchange information on this subject. This had been realized in some countries.

The rapporteur said that it was to be regretted that, in at least some countries, the mass media paid more attention to criminal acts, exploiting their sensational character, than to preventive social action. The press, radio and television should strive to alert public opinion to the plight of deviants and offenders and to mobilize opinion so as to secure the cooperation of the entire population in programmes for the prevention and containment of socially dangerous behaviour. (33)

Police

On the theory that effective crime prevention and law enforcement could not be achieved without the support and active co-operation of the majority of the population, many police departments, according to the working paper (56/5), were endeavouring to encourage such co-operation through a variety of community relations programmes. The police-community relationship was desirably one between members of a police force and the community as a whole and included human, race, public and press relations. These relations could be bad, indifferent or good, depending upon the attitude, action and demeanour of every member of the police force, both individually and collectively. In order to build up a significant relationship between the police and the public, police officers should become more involved, formally or informally, in the entire spectrum of community activities. The object of an effective police-community relations programme should be to foster a shared, co-operative approach to the task of crime prevention and law enforcement. To be effective, this aim should be actively supported by all ranks and levels of a police organization and, more importantly, there should be a personal commitment to such a programme on the part of each individual officer.

The working paper said that in a complex and impersonal urban society, mass media such as the press, radio and television, and in particular the latter, were likely to be a critical influence in shaping public conceptions of crime and of the response of law enforcement officials to crime. In recent years, by their almost instantaneous world-wide coverage of criminal events via satellite, the media had become an increasingly important social force in mobilizing public support or opposition to the issues relating to crime. Regrettably, people tended to be more interested in the highly dramatic or violent crimes. At the same time, less dramatic events were often given less publicity and coverage even though they might be equally important. The media could influence public opinion through selective coverage, emphasis and mode of presentation.

The importance of the media in familiarizing the public with the true role of the police was acknowledged by most persons connected with law enforcement. Unfortunately, there was a tendency to depict the police
officer as a crime fighter and law enforcer constantly caught up in danger and intrigue rather than to show him doing the work that occupied the bulk of his time, namely, that of a community social helper carrying out duties that were unconnected with the solving of crime.

While the police in some areas must, on occasion, contend with unfair and perhaps biased reporting of their work by the media, of at least equal concern were the instances where police performance was affected by irresponsible journalism or other media coverage which could hamper or interfere with an ongoing investigation or could prejudice the rights of an accused citizen through excessive pre-trial publicity. On the other hand, there were many examples of good police-media relations, and these had usually resulted from a recognition on the part of both the police and the media of the rights and responsibilities of each group to the other and to the general public. In Europe, North America and elsewhere, there had been outstanding examples of successful collaboration between the police and the media in the presentation through television, radio or the press of the facts relating to major unsolved crimes. As a result, public co-operation had been effectively mobilized and many criminals had been brought to justice.

The police should be prepared to accept criticism when it was warranted, but they should also be entitled to receive credit for duties well performed, often in extreme adversity and sometimes grave danger. Few would deny that the press, radio and television had a serious responsibility for keeping the public informed of all newsworthy events, and the activities of the police in some regions quite frequently occupied a prominent position in current affairs. If the police adopted a hostile attitude towards the media, they were unlikely to achieve success in making clear to the public their true role in crime prevention and law enforcement.

The report of the rapporteur points out that there was mention in Congress that police often tended to be too secretive and did not take the public sufficiently into their confidence. It was clear from the discussions that there was a general awareness of the need for more open policies and a genuine anxiety that these should be implemented. (34)

Penal Policy

Obstacles to reformatory programmes were discussed in the working paper (56/6) which pointed out that the attitude of the public was often indifferent and apathetic, and that its rejection of the offender frequently made it difficult to obtain support for programmes designed to help him. While from time to time the problems of the system might be brought forcefully to public attention by such events as a major institutional disturbance, a mass escape of prisoners, or the commission of violent crimes by persons under supervision in the community, sustained public concern and advocacy of change were all too rare.
What was most needed was the provision of increased opportunities for public participation in practical reformative work through programmes of prison visits or through community volunteer efforts. Such public involvement was but a short step away from public assistance in the shaping of reformative policy through the organization of citizens advisory groups or other methods of public participation. In some instances, the penal system had strongly resisted such efforts and had tended to interpret public concern as meddling interference. It would appear, nevertheless, that the participation of the public in the formulation of penal policy could represent an important point of departure for establishing needed change in penal systems and improved services for the clients of such systems.

The direct participation of citizens in the development of penal policy was not without some risks, however. For example, it might be difficult to maintain a clear line between the advisory role of the citizen and the responsibility of the authority properly to administer and manage the operations of the system. But such problems were not necessarily insurmountable. A skilled administrator, operating freely with citizens groups, could effectively ensure public understanding and acceptance of the need for him to retain the ultimate authority and responsibility for critical decisions regarding the system under his direction, even though he operated that system on behalf of the citizenry. For the administrator of a prison system and of a prison itself, the introduction of needed change often involved elements of considerable risk. If a well-intentioned but inadequately informed public presses for radical change without taking such risks into account, it might contribute to the creation of situations that served to worsen rather than improve the lot of the prisoner.

In the light of experience, one must recognize that the changes or reforms that might be accomplished within a given period of time were limited. The constraints imposed by deeply imbedded tradition, as well as by apathy and indifference, yielded reluctantly to innovation, and the administrator who found himself too far in the vanguard might discover that he had been cut off from his sources of support both within his staff and in the community. Each country had its own tolerance level, but the outstanding administrator would test these levels constantly in his quest for reforms.

The influence of the media in stimulating the interest and concern of the public regarding problems could be expected to call increased attention to critical issues in many countries. Under these circumstances, the administrator faced the requirement of dealing with the mass media more openly than in the past. While the posture of "openness" permitted the administrator to inform the public more fully concerning the needs of the system and of its clients, it might also make him more vulnerable to criticism and attack. It was, nonetheless, important that he should learn to use the resources of the media more effectively to promote necessary change and to create a climate of opinion which was more supportive of efforts in this direction.
The role of administrators as advocates of change has become more important in many parts of the world. The administrator might attempt to help shape social policy with respect to the function of his organization within his country, to promote the enactment of the laws required to implement such policy, to seek with determination the resources to carry it out, and to provide the public with the knowledge and information essential to the understanding of the issues involved. In fulfilling this role, he would recognize his accountability both to the persons in his custody and to society at large.

The rapporteur said that the importance of public understanding of correctional policy was strongly emphasized in Congress. It was noted that in those countries where there was broad-based community involvement both in the formulation of penal policy and in carrying forward the objectives of reformation, there was evidence of high levels of effectiveness of programmes. (35)

What Happens Next?

Amongst the ninety-four countries represented at the recent Congress were to be found wide variations in outlook and political systems. When we study the relationship of the state with the news media, we find a starkness of contrast between socialist and capitalist countries.

By way of illustration, a chairman of the Soviet State Committee for Television and Broadcasting was reported in Pravda as saying:

"Soviet television and radio, like the party press are guided in all things by the policy of the Communist Party. Our television and radio do not and cannot have any other aims than those set before the country and implemented by the Party".

Then again, an editor-in-chief of a leading Bulgarian newspaper has said:

"We reject as profoundly alien to Marxism-Leninism, revisionist theories about some sort of independent role for the mass information media and about a journalistic elite as a special privileged stratum destined to judge party policies." (36)

In countries such as England, Australia and New Zealand, it is plainly untenable for the State to give directions of this kind. But will our media, for instance, take the initiative to disseminate in an effective way the substance of the deliberations of the recent Congress together with its findings and recommendations? Will they also face up to the questions raised by Lord Shawcross? In this context it is relevant to consider recent criticism of the press and also the difficulties that face the newspaper world. Although I propose for the rest of my paper to focus primarily upon the press, there will be things that concern broadcasting as well.
Criticism of the Press

Mr B.A. Williams, formerly managing director of the Adelaide Advertiser, when addressing the Commonwealth Press Union in October 1974, conceded that newspapers in Australia were facing a concerned public which did not like a lot of what it saw in the press and which was concerned to do something about it. He thought that perhaps newspapers should welcome the sort of pressures that made them perform better, raised their standards and did something about the worrying fact that their standing with the public had probably never been lower. He added that if these pressures obliged them to produce better, more honest and more credible papers, then they should be prepared to accept them.

Early in December 1975 Mr Whitlam as leader of the Labour Party launched a vigorous attack upon the press accusing them of a "monolithic gangup" against the former Labour administration. Donald Horne writes about "the unanimous stridency of the newspaper vendetta."[37] Mr Whitlam made a point of attacking the press for its bias but he singled out the Murdoch group for special criticism in this respect.[38] It appears that this group had consistently and strongly criticized the Labour Party during the whole of the campaign leading up to the election held on 13 December 1975. Plainly relations with the press were bad.

In February 1976, the President of the Australian Newspaper Council, Mr Ranald Macdonald, made a significant statement. He said that a code of ethics for proprietors was necessary to help build the credibility of the news media. He thought that the code should relate to disclosure of financial interests in other sections of the media, the labelling of promotional material and the provision of more information about people involved in presenting news. In his view the media had not helped itself gain credibility by its performance over the past few years, and certainly the last six months. He went on to say that the media deserved criticism for its performance in last year's election. "We weren't really effective enough in being able to present the community with what the election was all about". He did not believe there was the required variance or balance of views to help people make up their minds.[39]

From time to time the press within New Zealand is criticised on the alleged ground that not enough investigative reporting is done. The Minister of Broadcasting in the recent Labour Government, Mr Roger Douglas, spoke in this vein, but did not relish the process when a newspaper later undertook a close examination of his own administration.[40] Another Minister in the same Government, Dr A.M. Finlay, said that in matters of opinion views were expressed much more robustly in England than in New Zealand, even though the laws as to fair comment were essentially the same. He thought that in some respects our press had established a level of cautiousness that was quite unwarranted.[41]
In May 1973 a Labour Party conference expressed dissatisfaction with the limited overseas news sources used by New Zealand newspapers, the New Zealand Press Association and the New Zealand Broadcasting Corporation. It was resolved that these news outlets should be persuaded to buy their overseas news from more varied sources. However, there seems little to support the contention that our overseas news should be sought from more varied sources. In an address delivered at Palmerston North on 27 April 1976 Mr J.F.W. Hardingham, Chairman of the New Zealand Press Association and editor of the New Zealand Herald, pointed out that where most newspapers the world over would receive international news through one, or sometimes two news agencies, newspapers in New Zealand draw their news from the full services of no fewer than eight great agencies or organizations. This is achieved through a co-operative New Zealand Press Association arrangement. Then in addition, the New Zealand Press Association has its own bureaux of staff men based in London, Washington, Sydney and Hong Kong. Individual newspapers supplement these sources by a variety of measures. For instance, the New Zealand Herald has its own office in London, a staff of part time correspondents in some twenty countries, and it also regularly sends journalists from its Auckland office on overseas assignments. In addition, the Herald purchases news services from several great newspapers including the Observer. According to Hardingham, the problem is not really to organise a diversity of news but rather to compress a gallon or more of news into an inelastic pint of newspaper space.

The daily newspapers of New Zealand have been criticised in the past for the homogeneity of their subject matter. A sample was taken of eight New Zealand metropolitan daily newspapers published between May 1966 and April 1967 and it was analysed from the angle of item frequency of editorial subject matter. Les Cleveland, in the light of this analysis, found evidence of homogeneous tendencies but had this to say:

"The homogeneity of subject content of New Zealand daily newspapers has frequently been criticised, but the reasons for it have generally been overlooked. In the first place there are tendencies toward the standardisation of content in all newspapers (and, indeed, in all news media systems). What research there is on this subject indicates that in selecting news matter, editors and journalists generally are often influenced by the way other newspapers have been handling the news. It must also be realised that news is a highly repetitive commodity written to conform very closely to the stylistic requirements of newspapers and the general expectations of both staff and readers. The sheer volume and frequency of newspaper production impose a tight discipline on what is written and how it is presented. In this sense, whatever their feelings about freedom, responsibility, and objectivity might be, journalists are process workers geared to the demands of elaborate mechanical structures which exist primarily to publish advertising. It could also be argued that news is a commodity which is used to fill the blank spaces in a newspaper after the disposition of the advertisements has been decided. There may be
no great differences in the style and presentation of news between one daily newspaper and another in New Zealand, and little variation in the structure of the subject content of their news because of basic similarities in the circumstances of production."

It is a source of recurring concern within the Labour Party that there is today no daily newspaper owned by the Labour Party or by groups such as trade unions who would give consistent editorial support to Labour policies. The conference of 1973 declined a remit calling on the party to support the establishment of a publicly owned press on the lines of the New Zealand Broadcasting Corporation. However, the Labour Party conference of May 1975 endorsed a remit that an independent corporation similar to the broadcasting one be established to operate daily newspapers in each of the main centres in competition with existing papers.\(^{45}\)

Conrad Bollinger said that the beamish picture which the New Zealand press paints of itself is rarely sustained by impartial investigation. He quoted one critic as saying that "the press in New Zealand - although its news coverage is good - is depressingly feeble and lacking in variety when it comes to comment and discussion". Furthermore, a Consumer survey had shown, according to Bollinger, that 90 per cent of those responding complained that our daily press suffered from "sameness, timidity of controversy, and a lack of writers with personality". Bollinger contended that there was a strong case for asserting some form of continuous social control over the media.\(^{46}\)

All that need be said at this stage, and not by way of rejection, is that a good deal of the criticism of the New Zealand press seems to come from those who are left of centre in political outlook. But it should be recalled that when Labour gained power in 1972, their leader, the late Mr Norman Kirk, thanked the news media for their election coverage and said "I think we really got good service".\(^{47}\)

Difficulties facing the press

We have traversed views which pass upon deficiencies and the need for higher standards in some respects but there is little to indicate how difficult it is to run a newspaper in the conditions of today.

The difficulties facing the press in Great Britain have recently been reviewed by a Royal Commission in an interim report. The Commission has evolved a scheme under which moneys will be lent on favourable terms to enable newspapers to proceed with re-equipment. The scheme is described in these words:

"Companies of such proven soundness that they need only call their bankers to get a loan are requested to do just that. Finance for Industry, part of the private sector (but Government
supported) will deal with a second tier of newspapers seeking aid. The probably tiny third tier of firms lacking the cash flow or reserves to satisfy FPI can go straight to Whitehall for a loan and they, like the FPI applicants, will get their money at 4 per cent below the normal interest rate for the first two years of the loan's span. That is, a small injection of State aid, a careful inducement to Fleet Street - its managements and its unions - to seize the hour and the mood. Does this raise again the spectre of an unfree Press, beholden to the government of the day? The Commission thinks not, and is earnestly persuasive. Only at the third tier do newspapers have to deal with government direct; and there again the monitoring will be wholly financial, possibly involving a joint approach with the FPI. No one can vouch for pure intentions, but at least every reasonable defence mechanism exists.  

Mr B.A. Williams, in the address referred to earlier, spoke about the difficulties then facing a newspaper within Australia. He mentioned the rising cost of labour and newsprint accompanied by a drop in advertising revenue and circulation. The unions had become more militant - not only were they demanding higher wages but more participation in matters of management. For instance, they were pressing for a policy which would exclude the engagement of the non-journalist. Pressure from consumer organisations was growing and this was directed at standards of advertising. But in the words of Mr Williams, the big and dangerous pressures on the press were coming from governments. One of his illustrations was the setting up of a Media Ministry by the Whitlam Labour Government. Then there was the possibility of that Government establishing a national daily newspaper. Furthermore, federal intervention in radio and television had alarming implications for the press. Another illustration was the passage of privacy legislation in several of the States and Williams thought that this legislation would inhibit investigative reporting and expose them to the threat of vexatious legislation. In his view there could never be a Watergate in Australia.

Mr J.F.W. Hardingham, in his capacity as chairman of the New Zealand Press Association, told members in March 1976 that the costs of news collection and distribution, both within New Zealand and overseas, were increasing. He added that the cost of news, as the newspaper's raw material, had increased in New Zealand by almost 150 per cent in the seven years since 1969. And he pointed out that just to maintain one correspondent in, say, Washington or Hong Kong now costs at least $40,000 a year, plus communication charges.

Speaking generally, newspapers in New Zealand have been engaged for some years in a running battle with costs. It cannot be said that those who have invested in newspaper shares are waxing fat on their dividends.
We must keep constantly in mind that newspapers in our type of society cannot survive unless they pay their way. For this reason alone, they must be allowed flexibility in their approach to questions of content and style. Furthermore, it should be emphasized that if the media are to cater for public information, entertainment and instruction at varying levels, then there will obviously be a demand for a wide variety in approach. But all this must be subject to the limits accepted by enlightened opinion amongst journalists.

Social Leadership

Without pretending to be exhaustive and confining myself to matters within my administrative recollection I can recall certain outstanding illustrations when newspapers within New Zealand have taken the initiative on important social questions. My best illustration is perhaps the debate in 1961 on the subject of capital punishment. On the morning of 14 September 1961 the New Zealand Herald came out with an editorial, "Death Penalty is Best Deferred". In the afternoon of that day the Auckland Star went further with an editorial, "Abolish and be done with it", and the Christchurch Star, also on the same day, had one, "Abolish hanging." These articles constituted a major break-through and had a direct bearing upon the ultimate decision. The crucial division in Parliament took place on 12 October 1961 and abolition was carried. Yet this was against public opinion; a survey conducted at about that time revealed that more than two thirds of New Zealanders did not favour abolition. (50)

For many years now most newspapers within New Zealand have either advocated or supported rational and constructive approaches to questions of penal policy and yet, as is only right, they do not hesitate to criticise the Government when it is seriously at fault. As we have seen already in the case of Australia, it has been said that New Zealand would never see an investigation similar to that undertaken by the Washington Post into the Watergate affair. There may be doubts about the will and keeness of a newspaper to undertake an investigation of that kind and our laws relating to defamation may well be a restraining factor, but the plain answer is that New Zealand newspapers lack the financial resources to undertake investigations of that magnitude. But we ought not to overlook the fact that some good work of this kind has already been done in the past. For instance, during the fifties, New Zealand Truth, under the editorship of E.G. Webber, played a valuable role in exposing the criminal activity of a group of companies, known as the Inter-City group, which were eventually brought to book with prison sentences for those who had offended. (51) It now seems clear that more investigative reporting should be done and one newspaper editor has stated that New Zealand’s newspapers could take a tip from the massive Watergate expose by giving their own standards of investigative journalism a shot in the arm. (52)
The current economic recession has exposed a good deal of business activity of a marginal and dubious nature. In this respect the earlier references to the deliberations of the U.N. Congress on Crime and the Treatment of Offenders are pertinent. In particular these dealt with the subject of crime as business which, of course, includes corruption, white-collar crime and organized crime. To cope with problems of this kind in the future we will need a much more vigilant and probing press.

I said earlier that a good deal of the criticism of the New Zealand press seems to come from those who are left of centre in political outlook. Much of this criticism flows from a misconception of a newspaper's function but the criticism as a whole is significant because it expresses a hunger that should be taken note of by the media. There is also a hunger felt by people who are not greatly interested in politics but who yearn for something that is culturally more satisfying. The English Observer is thrown into the debate as a model for the New Zealand press to emulate. Our newspapers have not got the financial resources to embark upon distinctive programmes which would involve the employment of high quality staff and in any event it should be borne in mind that the future of the Observer itself is endangered by serious economic and industrial problems. For the State to help through a subsidy system is out of the question - politics would inevitably intrude in an undesirable way. For the same reason even a system which provides for loans at low rates of interest is not beyond attack.

Bollinger quoted with approval suggestions made by the late Sir Norman Angell. These included one for the creation within the newspaper industry of a sector owned by the public and managed by an independent "journalistic judiciary" pledged to the impartial presentation of news. Bollinger argued that this would accord well with New Zealand traditions because we have publicly owned sectors in insurance, banking and liquor retailing. He thought that our experience with the various forms of public ownership in broadcasting should be valuable in devising ways in which this concept could be applied to sections of the press. However, broadcasting in New Zealand has been and remains a political football. To take the initiative in broadcasting policy seems to be a vital part of the game of politics in New Zealand and there is nothing to suggest that it will not remain so. This in my view would be the fate of any attempt to apply the suggestion of Sir Norman Angell.

Difficult and complex though the answer undoubtedly is, we cannot ignore the grave challenge to the news media to lift their standards. For at least fifty years, leading figures such as Scott, Radcliffe, Shawcross and others have cried aloud for this action but the response has been inadequate. Too often the news media have been seen as major obstacles lying in the path of those influences which tend to lift the standard of our civilization. Policies such as those espoused by Murdoch have brought us uncomfortably near to the Gadarene slope. It is true that press councils or comparable bodies can make a substantial contribution in matters relating to accuracy,
fairness, taste and decency. We know too that in their work they keep in mind the ethical standards accepted by enlightened opinion within the world of journalism. But it is too much to expect these councils to fulfil the role of Atlas when there is so much to be carried.

The news media themselves must now face up to the demands of the future and one effective way of doing this would be for them to attempt to find satisfying answers to the various questions posed by Lord Shawcross as set out earlier. Although the past is relevant, I am not concerned with anything in the nature of a post-mortem. I am also well aware that there are other institutions within our society which have important roles to fulfil in coping with the problems of our time, but no one can reasonably deny that the role of the news media is a most important one.

I suspect that a large part of the answer lies in the formulation of a wider moral base, something wider than what is commonly embraced by the word taste, and something that comes closer to the standard that was set by Scott in his editorship of the Manchester Guardian. Scott was positive in a constructive sense and he became a great moral leader. Plainly it is now for the news media leaders of today to take the initiative in a major and constructive way. They, of course, will not respond to direction, and rightly so, but the great question is - will they respond more adequately to the needs of society before it is too late?
REFERENCES

7. N.Z. Listener, 15 November 1975
8. Ibid.
9. Ibid., 22 November 1975
13. For report of this committee see Cmdnd. 6386.
15. For report of Franks Committee see Cmdnd. 5104.
19. Ibid. pp 70-3.
22. Here is an extract from his address:-

"If one takes a developing country stage by stage, from the time it achieves independence to its ultimate take-off, and then considers the priority needs of its under-privileged population,
Press Freedom is never a top priority. It does not lead to any list, though it should be found in a reasonably high place among the general needs, both material and psychological, which the country has. However idealistic one may be about Press Freedom in the Third World, it remains a fundamental fact of life, that first priorities are above all else material ones. They are the provision of adequate food, health, and housing. It is only the very small minority who chose of their own free will to starve in a garret in their search for knowledge. Nor do the second priorities, the psychological ones, have individual freedom of expression at the absolute top of the list. Those needs which do head the list are security, contact and appreciation. Self-development and free expression come later."

'Press Freedom throughout the Commonwealth - with especial reference to the Role of the Press in Developing Countries', delivered to Commonwealth Press Union, Hong Kong, October 1974.


24. There is a helpful discussion of various aspects of this question in Jones, Marjorie Justice and Journalism 1974, chap. 9. I am indebted to Mr M.V. Stace for drawing my attention to this book.


29. N.Z. Listener, 15 November 1975

30. Although the term "mass media" is used in the United Nations document under discussion, it calls for dissection if there is to be any suggestion of attributing blame for current ills.

31. A/CONF. 56/L 3 Rev. 1, para. 36 (d).


33. A/CONF. 56/L 4/Rev. 1, para 72


38. *Evening Post*, 4 December 1975


40. *Evening Post*, 31 May 1975

41. Ibid. 13 June 1975.

42. Ibid. 10 May 1973.

43. Based on copy of address supplied by Mr Hardingham.

44. 'The Subject Content of the New Zealand Daily Press' in *Political Science*, vol. 23, no.2, October 1971.


50. *Christchurch Star*, 27 October 1961

51. The Companies Special Investigations Act, 1958, was passed for the investigation and winding up of the companies involved in this particular scandal.


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