

JOURNALIST RELATIONS WITH POLITICIANS

Classically, the relationship of the politicians and the media is defined as one of mutual antagonism moderated by mutual dependency. The press wants access to information controlled by political authority; the authority wants access to the audience the press variously commands.

Both parties acknowledge, up to a point, Lord Copper, that a democracy depends on a free press. Editors and journalists place their emphasis on ‘securing the first intelligence of the events of the time and instantly, by disclosing them, to make them the common property of the nation’^[1]. Politicians in office place their emphasis on disclosure at a time and manner of their choosing - which may be never. The press, in any event, has the ‘bikini belief’ that what is disclosed by politicians may be suggestive but what is concealed is vital.

A political party is free to respond to negativity by denying the offending newspaper access and favoring its competitors. It may pass laws inimical to the journalistic and commercial imperatives of the press, or choose not to enforce them in grey areas. The *Guardian* newspaper would not exist today if the Labour Chancellor Denis Healey had not agreed to reject a Treasury tax law that would have penalized the

¹ John Thadeus Delane, Editor of The Times 1841-1877

2

Guardian's Scott trust.² How far was that decision influenced by the friendly attitude of the *Guardian* in the editing years of Mr. Alastair Hetherington? Would BSkyB exist in its present form had Mrs. Thatcher not overruled her Home Secretary, so enabling Mr. Rupert Murdoch to gain a foothold in broadcasting and compete with the BBC for sports licenses? How far did the campaigns against the BBC of Mr. Murdoch, father and son, influence the new Prime Minister David Cameron in cutting the BBC revenues?

As an editor, my own conflicts with political authority were not sought out of any hostility to government, business or the civil service, but stemmed from the conviction that the public interest was rarely well served by the general bureaucratic tendency to discretion rather than disclosure. As we have all been made aware by the hacking scandal, the defensive crouch is a posture not unknown in journalism either.

The skeptical habit of mind is a characteristic of both the so-called quality press (*Times, Sunday Times, Financial Times, Telegraph, Guardian, Economist, Observer, Sunday Times*), broadcasting (BBC and Sky), and the tabloids (*Sun, Express, News of the World* that was, *Star*), with the *Daily Mail* somewhere in between. By and large, the day to day relationships of reporter and politician are good. Journalists who betray confidences and politicians who deceive pay dearly. Bargains are struck

² P359 *Guardian Years* by Alastair Hetherington, Chatto and Windus, London (1981)

3

all the time. Journalists are often willing to delay the first intimation of a news break in return for an understanding that the restraint will be rewarded by a fuller briefing that is denied competitors, or an exclusive television interview. From the politicians' side, the understanding, typically implicit, is that news will be presented in a fair, even favorable, context. Reporters are not normally able to offer any further inducements. Editors, on the other hand, have been known to change a newspaper's editorial line overnight in deference to a political leader's sense of national priorities.^[3] Complicating these generalizations is the influence of the proprietor, the relationship of the proprietor with politicians, and the working out of different perspectives between proprietor, editor and senior staff engaged in political discourse.

The discrepant attitudes of journalism and authority have been frequently tested in the law courts. In the documents I cite instances of how exposures of financial fraud, business corruption and political scandal have been handicapped and even suppressed by libel, contempt, confidence, and, for a time, the Official Secrets Act. In the lecture *The Half Free Press* I argued that British political and legal authorities don't seek to suppress opinions; it's the facts on which the opinions are based that alarm authority and invite censorship. How absurd that the Greek government was able to bribe a British MP and keep the secret because a

³ Hetherington op cit p.117

4

court ruled that this was a commercial confidence! And how could it be that for a period during the litigation of the Crossman Diaries it became illegal to report any politics at all, or that the origins of the thalidomide disaster were held not to be sufficiently “iniquitous” to break a duty of confidence owed to the negligent manufacturers?

One has constantly to remember that for all the talk of “the press”, newspapers, broadcasters and bloggers, can claim no greater right than the right of any other citizen, though sometimes they sound as though they do - particularly on the Internet. Cyber communication has as much a duty to refrain from malicious libel, hate speech, and the like, as the regular press and should be treated accordingly. While the rights of the press are no more or less than those of the private citizen, the press is equipped to exercise the rights of collection and dissemination on wide scale. In the selection (or suppression) of information it is free to emphasize the negative or the positive, free to comment and to investigate. Great public benefit may accrue from a newspaper’s persistence in an investigation. Obvious examples in our time are the hacking scandal (*The Guardian*), the revelations of MPs expenses (*Daily Telegraph*), the thalidomide disaster (*The Sunday Times*), and from the popular press I’d single out *The Daily Mail*’s determination that the killers of Stephen Lawrence would not get away with murder

5

Among the documents, I include observations I made in *Spokesman Quarterly* (Policy through Media, Number 007) on the development of investigations from the moribund post wars to the investigative work emerging in the mid-sixties. Investigations I instigated from 1961-1981 at *The Northern Echo*, *The Sunday Times* and *The Times* were by the normal procedures of asking questions and seeking documentation. There was no email and no mobile phones. In the context of hacking scandal, however, it is worth noting two occasions when surreptitious wireless recordings were approved. This was a very rare occurrence.

We told the Younger committee on privacy that the consent of the editor or very senior executive was required for any such activity and approved only where it was considered proper. Approval was given for wire recording to prove illegal deal-rigging in the antiques industry. The paper had good reason to believe dealers conspired not to bid up prices in the public auction, and then carried out a private auction among them, thereby robbing vendors of the full market value of their antiques.

The Times in 1967 [under Mr. William Rees-Mogg] had prima facie evidence of corruption in the Metropolitan police force but the person who was willing to give direct oral evidence was a petty criminal. The editor judged it ethically questionable and legally risky to rely on him. The only way the allegations could be tested was by having corroborative evidence. It was impossible to place a reporter in a

6

position to hear the relevant discussions. A wire recording of the corrupt policeman in action was the only way of obtaining admissible evidence. I would have approved, as Mr. Rees-Mogg did.

In my own editing, my rule of thumb in deciding the ethics of any such activity was always that we must openly declare how we got the information. No such principle was observed by the hackers employed by News International. The very thought that they had to conceal what they were doing ought to have given pause to someone in the long series of crimes that became routine. That ethical atmosphere was conducive to more wrong doing. A culture of corruption prevailed. That is not necessarily a consequence of a concentration of ownership I question. Media groups may be more scrupulously conducted than News International. And I well know there are economic benefits in sharing resources and revenues, especially during these difficult days when newspaper audiences and revenues face such competition from the Internet.

Privacy

It has always struck me as bizarre that while exposure of truths undeniably in the public interest have faced many hurdles, exposure of hurtful truths about private lives have had a free run though they rarely have any redeeming social value. The dynamics of political authority and the press are well illustrated by the fate of the report by Sir David

7

Calcutt on privacy in 1990. In Paragraph 14.38 he said the press should be given “one final chance” to demonstrate that self-regulation could work – adopting the phrase of the harried Home Secretary David Mellor that the press was drinking at the last chance saloon. Well, it got drunk again and again, but political authority was as benevolent as the country bobby helping a familiar tippler to find his way home. Para 16.1 advised that if self regulation was not effective a statutory system should be crafted. It wasn't so crafted because the government of the day feared to antagonize the tabloids.

Privacy is admittedly a difficult issue. Privacy for me, but not for you if you prey on public trust. The requirement for the press is to honor the individual but maintain the freedom and independence to monitor the conduct of public affairs which means having freedom from laws misapplied to protect government from embarrassment, freedom from corrupt alliances with politicians with vested interests, freedom against the pressures of powerful corporations, national and foreign, freedom against the abuse of freedom by semi-monopolistic controllers of the press. It was frankly alarming when members of the Younger committee exhibited no understanding of the nature of real investigative journalism. They didn't realize that many inquiries would be stopped dead in their tracks before publication. Some on the committee felt that things could leave to the police and official departments. Of the scores of examples we could have given, we cited fraud by operators of

8

franchises. The fraudsters claimed their privacy had been invaded by our asking questions. The police were as aware as we were that the best way to stop the rackets was to publicize them before the crooks got away with the money. But the police told us they could not act without a specific complaint and few were forthcoming though the rackets were widespread. Simple reason: Victims did not wish to admit publicly that they had been had. Secondly, there were simply not enough policemen to monitor the franchise jungle – and there was nobody coordinating operations country side. Sometimes a Fraud Squad man would actually steer our reporters to a case, partly to gain information and partly (though he knew it stank) because the operation was either within the letter of the law or any “fraudulent inducements” are made verbally and never put in writing. The privacy committee did not realize that a newspaper could act as a megaphone caveat emptor warning thousands and millions of people who could not be protected by a single prosecution of a single individual.

In our outrage over hacking and other offenses, it is important not to rush to legislation that might impede legitimate journalism. Imagine if there had been a loosely-worded statute that impeded or killed *The Guardian* or the bloggers. I have seen no reason yet to disavow the doubt about a statute that I expressed in a broadcast⁴ on October 2011:

⁴ BBC Radio Steve Hewlett Media Show

“I’d much sooner see a really strong Press Commission of some kind, with the power to summon journalists, with the power to issue subpoenas, with the power to fine, with the power to publicize the offenders, with the power to insist on correction. In that situation I am describing, whoever’s the head of it, whether it’s a judge or a very distinguished ombudsman journalist, you’ve got the flexibility case by case which you can’t get when you lay down the law in cold print.”

Elections

The performance of the tabloids is generally distinct from what we call “the qualities” – the “elitist” press is another term – which exhibit more restraint and a more consistent concern with policy. In the tabloids, at elections, ingenuity is all too often expended to ensure that information favorable to a party the paper opposes is distorted in content and presentation so as to become an emotionally charged negative. In the tabloids, attacks on persons, rather than policies, are often propagated without much regard for privacy, or truth, and all too often with ingenious malice.

The arguments for pluralism seem to me to have become irresistible in the light of how Mr. Murdoch has for thirty years deployed all the newspapers in News International to hammer home his personal preferences. All the politicians run scared. It isn’t that these newspapers uncover serious abuses of power by diligent fact-based investigation so much as their capacity to present personalities in an unfavorable light. The editors of *The Sun*, *The News-of-the-World-as-was*, and the editors of *The Times* and *Sunday Times* may have substantive or subtle

10

differences of opinion, but in general elections they march to the same drum, and the drummer is Mr. Murdoch.⁵

My personal relations with politicians

As an editor, I generally valued opportunities to discuss policy with MPs, civil servants, Ministers of all parties, including Prime Ministers Wilson, Heath, Callaghan, and Thatcher, and leaders of the Opposition. These encounters were variously private, off-the-record conversations, one on one, and other meetings where I was accompanied by a few senior editorial colleagues. In *Good Times, Bad Times* I have described my principal encounters. The most important were those were with Mrs. Thatcher. Despite some differences in policy, expressed in the editorials, we had good personal relations, but these came to an end when *The Times* published a news report on the intervention of Mr. Denis Thatcher in a planning appeal, and mildly admonished the indiscretion in a short leading article.⁶

Foreign office communiqués on meetings of heads of state are apt to fall back on the bromide there had been ‘a frank and cordial exchange of views’, wording that I might have applied to the *Sunday Times* and *Times* editorial conferences with politicians, but a better insight into the tone and nature of discussions such as these is afforded the Inquiry in

⁵ Newspaper references in documents

⁶ *Good Times, Bad Times*, page 378; pdf edition supplied to the Inquiry

*The Hugo Young Papers*⁷. [I appointed the late Mr. Young as a political commentator and am one of the trustees of his literary estate.] Much of his book records interview entries for the years from 1969-2003; they were all cleared for the 2008 posthumous publication by the individuals named, whether in meetings with Mr. Young alone or with his colleagues in group meetings, usually over lunch. As we all did after such meetings, we did not name anyone in subsequent reporting or commentary, but took the views expressed into account in our editorial opinions, and hoped that this attitude was reciprocated. I regarded these meetings as valuable for testing the validity of the convictions on both sides. Ministers could explain their reasoning without fear of a “Gotcha!” headline, and quite often the Ministers gained valuable insights from journalists closer to happenings.

This was of critical importance during the agonies of Northern Ireland, where staffers on the ground in the province and the Republic, like John Whale, Chris Ryder, John Barry, Peter Pringle, Phil Jacobson, and David Blundy, had contacts not available to officials and MPs, out of which we produced the book *Perspectives on Ulster*. It was this hard reporting from the streets that informed editorial opinion, and I claim in The “Divided Loyalties” chapter in *My Paper Chase*⁸ that it was a surer guide to the gritty realities than the abstract opinions in newspapers that

⁷ The Hugo Young Papers, Penguin, 2008. A few pages are appended, but the book as a whole affords a remarkable portrait of political journalism

⁸ Page 470 Little Brown, New York

12

did not make such a reporting effort from the streets. Our conviction that internment would fuel the insurgency, rather than contain it, was not popular in Westminster, but it proved prescient.

At the same time, I did not seek particularly close personal relations with politicians of the intimate nature Alastair Hetherington did at *The Guardian* during the Wilson government, nor as a number of editors at *The Times* had done. I worried that too close a personal relationship might be unpredictably compromising in fulfilling my responsibilities for opinion and oversight of the political reporting. I was thus very surprised to be telephoned at home by Prime Minister Mr. Edward Heath during the three day week caused by a mining dispute. He'd invited me to lunch once at his chambers in the Albany; we shared a passion for music and European Union, but neither of us made a habit of communion. This time he wanted my assessment of public opinion on the miners' claims and I gave a summary (without names) of the drift of our discussions at *The Sunday Times*. How the editorial policy of *The Sunday Times* and later *The Times* was formed is the subject of a chapter in *Good Times and Bad Times* (The Blackfriars) and also in *My Paper Chase*. I recall, however, two episodes where I used access to lobby MPs. One was during *The Sunday Times*' investigation of the thalidomide disaster and the ensuing campaign for the causes to be exposed and proper compensation afforded the victims and their

families.⁹ The other was to oppose the Labour government's intent to impose a closed shop in journalism – meaning that contributors as well as staffers would have to join the National Union of Journalists (rather than remain independent or join the Institute of Journalists) and without any right of access to the courts if the union behaved irresponsibly or oppressively towards him. I criticized the measure in public¹⁰, but also raised it as a freedom-of-the-press issue with three Ministers (Mr. Denis Healey, Anthony Crosland, and Albert Booth, Michael Foot's deputy at the Labour Ministry). Alastair Hetherington has recorded our efforts in his book *Guardian Years*¹¹. We were not alone in these efforts.

Trade union reform was an issue in my meetings with Mrs. Thatcher, beginning when she was in opposition. On one occasion, she embarrassed me in a dinner speech by saying “Harold is one of us”, meaning on trade union reform, when I'd thought I'd always made it clear I was not one of anybody's group. When she became Prime Minister, following the winter of discontent, I shared the impatience of my colleagues that the reform she'd promised seemed to have been put on the back burner. In a few private meetings, I reiterated the case we'd made in the editorial columns for enforcing responsibility. These were not simply personal opinions, but one reached in conjunction with my

⁹ Described page 372 -375 *My Paper Chase*, (2009, Back Bay edition, Little Brown)

¹⁰ Annual Livery Lecture, London, February 13, 1979

¹¹ Hetherington *opt cit.* 349-50

14

colleagues on the editorial boards of *The Sunday Times* and, later, *The Times*. Generally, I'd say we were more supportive than critical.

A note on defining “the public interest”¹²

What interests the public is not necessarily in the public interest. The mass is undoubtedly interested in the sex lives of the rich and famous and if they are not available, then, the sex lives of anyone will do.

Judges wielding wide ranging super injunctions have clearly not been impressed by the public interest argument that free expression in a democratic society (Article 10 of the human rights law) overrides everyone's right to his private and family life, his home and his correspondence (Article 8).

The commonest excuse for intrusion, of course, is that the purveyor is exposing hypocrisy – typically a self-appointed moral arbiter conducting a contradictory private life. Normally that defense for exposure is itself no more than hypocrisy on stilts, but I can imagine cases where the public interest would not only justify an invasion of privacy but even demand it. For instance, in the bitter battles in the US over legalizing gay marriage, it would matter if the virulent homophobia of a legislator was just a cover for his own sexual preference...

The most agile public interest argument I've heard in Britain to justify intrusions is that the sex gossip helps to keep the red tops in business.

¹² Harold Evans published article 2010 The Times

15

The economic vitality of the tabloids, it is said, is in the public interest since along with the sleaze which produces circulation and revenues; they quite often expose wrongdoing.

So what kind of wrongdoing is against the public interest? Article 8 concedes that intrusion might be justified when in the interests of national security (a concealed jihadist, say) or the economic well-being of the country (a speculative scheme to weaken sterling), or for “the protection of health or morals, or for the protection of the rights and freedoms of others.”

These are fairly wide ranging exclusions. They would certainly seem to justify a breach of private trust if the press were revealing negligence in, say, the manufacture of a dangerous drug. But look at the history of the thalidomide disaster. Two laws were invoked to justify suppression: The law of confidence to keep the manufacturers’ documents secret, and the law of contempt.

It is, of course, easier to say what is not in the public interest as what is. In editing contentious stories, my test was: Is this information on balance likely to advance human well being? Perhaps Lord Leveson will achieve something more precise during the enquiry. But one has to be ultra cautious, in my view, in the way an accumulation of cases congeals against a clear public interest, as it has done, I think, in the rash of super injunctions banning information for all time. Again, by the

16

seventies, so many more cases in Britain had been decided on arguments about property than about personal rights that there was a bias in the precedents against human rights and in favor of commercial rights - in basically in favor of power against individuals.

Notoriously, in 1975, the courts sought to stop *The Sunday Times* continuing serialization of the diaries of Richard Crossman on the grounds that it was not in the public interest for the public to know too much about how they were governed. The judge in the first instance asserted the power of the Cabinet Secretary to scrutinize and censor the reporting of any discussion where this reporting revealed how policy was being formed or executed. Even when the courts finally allowed publication, it was not on grounds of the people's right to know, but because diaries of a decade before had become "history".

What intrusions might an investigative press justify in the public interest? Circumstances must decide an editor. The public damage expected to be revealed ought ideally to be proportionate to the intrusion. For instance, I thought our reporter on the trail of the car insurance swindler Dr. Emil Savundra was justified in ringing a doorbell at 10 pm in Zurich. The Swiss authorities thought not.

In editing contentious stories, I always asked myself a simple question. Are we ready, on publication, to describe the steps we took to make our revelations? If we cannot, we should not take them. Had the public been

17

told, in the phone hacking scandal, how the information was obtained,
would it have festered so long?

End