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Statement

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Press Self-Regulation (Review)

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§ 4.5 pm

§ *The Secretary of State for National Heritage (Mr. Peter Brooke)*

With permission, I should like to make a statement about press regulation and privacy.

On 9 July last year, my predecessor as Secretary of State for National Heritage, my right hon. and learned Friend the Member for Putney (Mr. Mellor), announced that he had invited Sir David Calcutt QC, the master of Magdalene college, Cambridge, to undertake an assessment of the effectiveness of press self-regulation under the Press Complaints Commission and to give his views on whether the present arrangements for self-regulation should be modified or put on a statutory basis. Sir David was also asked to consider whether further measures might be needed to deal with intrusions into personal privacy by the press.

I have received Sir David's review and am publishing it today. A final response must await the debate that the House will have on the Bill introduced by the hon. Member for Hammersmith (Mr. Soley), and the report of the Select Committee on National Heritage. But the House will wish to have a clear statement of the Government's initial response.

Sir David's overall conclusion is that press self-regulation under the Press Complaints Commission has not been effective and that the press would not now be willing to make the changes that would be needed to make the commission the truly independent body, commanding the confidence of the public as well as the press, that it should be. He therefore recommends that the Government should now introduce a statutory complaints tribunal on the model of that described in the 1990 report of the committee on privacy and related matters—the so-called privacy committee, which Sir David chaired. The tribunal would have wide-ranging powers, including the power to restrain publication of material in breach of its code of practice and the ability to require the printing of apologies, corrections and replies, to award compensation, impose fines and award costs.

As regards intrusions into personal privacy by the press, Sir David makes five further recommendations. The first and most significant recommendation is that the three criminal offences proposed by the privacy committee to deal with specific forms of physical intrusion should, with modifications, now be enacted, together with a civil remedy designed among other things to enable action to be taken to restrain publication. Hon. Members will recall that the offences were designed to cover the obtaining of personal information, with a view to publication, through intrusion on private property, the use of surveillance devices, photographs and recordings. A range of defences would be available, including a new one that the act was done for the purpose of informing the public about matters directly affecting the discharge of any public function of the individual concerned.

Sir David does not recommend the immediate introduction of a tort of infringement of privacy, but he does recommend that the Government should give further consideration to its introduction.

Sir David's other recommendations in relation to privacy are that further consideration should be given by the Government to the extent to which the Data Protection Act 1984 may contain provisions which are 1068 relevant for the purpose of misrepresentation or intrusion into personal privacy by the press; the Government should give effect to the remainder of the reporting restrictions proposed by the privacy committee; the Government should give further consideration to the law relating to the interception of telecommunications with a view to identifying all significant gaps—relating to the protection of private telephone conversations—and to determining whether any further legislation is needed.

The Government are most grateful to Sir David for the careful and thorough review that he has produced of what is an exceptionally difficult and controversial subject. We welcome the review as significantly moving forward the public debate on the future of press self-regulation and on the wider question of safeguarding personal privacy.

I shall deal first with Sir David's recommendations concerning privacy. The Government accept the case for new criminal offences to deal with specified types of physical intrusion and covert surveillance. Measures on those lines are now necessary to signal society's strong condemnation of such behaviour and to deter similar instances in future. Subject to further examination of the details of the proposed offences, and to consultations with practitioners in criminal justice and civil law, the Government will bring forward legislation in due course to give effect to the proposals in England and Wales. My right hon. Friend the Secretary of State for Scotland will consider whether corresponding changes need to be made to Scots law, given the wider scope of the common law of Scotland.

The Government also accept Sir David's recommendation that further consideration should be given to the introduction of a new tort of infringement of privacy. We recognise, as Sir David does, that that cannot sensibly be confined to the press, and will have to take full account of a wide range of human and technological activity. We also accept the need to examine the extent to which the Data Protection Act may contain provisions that are relevant for purposes of misrepresentation or intrusion into personal privacy by the press. We will, in addition, give further consideration to the legislation on the non-identification of minors and others and to the legislation covering interception of telecommunications, as recommended by Sir David.

I turn now to Sir David's recommendation that the Government should introduce a statutory regime for dealing with complaints against the press. That raises separate, and more difficult, issues which need to be carefully weighed. The Government agree with Sir David that the Press Complaints Commission, as at present constituted, is not an effective regulator of the press. It is not truly independent and its procedures are deficient. Sir David's detailed analysis of those shortcomings is compelling. We also recognise the strength of the case that he makes in his report for a statutory tribunal with wide-ranging powers. At the same time, we are conscious that action to make such a body statutory would be a step of some constitutional significance, departing from the traditional approach to press regulation in this country. In the light of those considerations, the Government would be extremely reluctant to pursue that route. A most persuasive case for statutory regulation would need to be made out.

In coming to a final view, we shall want to take account of the debate surrounding the private Member's Bill introduced by the hon. Member for Hammersmith on 1069 freedom and responsibility of the press, which is down for Second Reading on 29 January. On the basis of my statement today, the Government will advise the House that, although we have not announced our final conclusions regarding a statutory regime, we cannot support the Bill.

The Government will also take account of the inquiry into privacy and media intrusion which the Select Committee on National Heritage has set in train, the report of which is, I believe, expected in February. We shall look forward to receiving the report as a further significant contribution to the public debate on those issues. We shall also wish to take into account any response that the press might make to Sir David's detailed criticisms of the Press Complaints Commission. We shall thereafter announce our conclusions.

In the Government's view, for the reasons cogently set out by Sir David Calcutt, self-regulation under the Press Complaints Commission, as at present constituted, is not satisfactory. The Government accept the case for reform. I have announced a number of major steps to tackle the issue of privacy, and, in the light of what I have said about statutory regulation, we invite further public debate on the nature of the reform that needs to be undertaken.

§ *Mrs. Ann Chwyd* (Cynon Valley)

We are pleased that the Government have decided to bring forward the report's publication, although we have grave reservations about a number of its recommendations. The extent of rumour and speculation about its contents during the past few days have served to confuse, not clarify, the debate. Indeed, the report has to be considered against a background of establishment intrigue involving the royal family and their advisers, Ministers, press barons and Lord McGregor, the chairman of the Press Complaints Commission, who have all made fools of themselves and each other. As some of the Ministers' colleagues are involved, will he give us his views on this, since he appears to be somewhat reluctant to refer to it?

The Opposition agree with a number of things that were said in both the report and the Minister's statement about the way in which some sections of the press have conducted themselves in the past few years. The excesses of journalism, especially the callous exploitation of private grief, bring the whole journalistic profession into disrepute. I am sure that no one on either side of the House would wish to condone such excesses, which have little to do with legitimate investigative journalism.

The report in many respects misses the central issues involved in questions of press freedom. It says nothing about access to public information through the introduction of a freedom of information Act. Nor does it say anything about a right of reply for citizens whose lives are wrecked through the publication of gross inaccuracies about their private lives or their business affairs.

The report also has nothing to say about the concentration of press ownership in so few hands. Can the Minister assure the House today that any Government legislation in regard to Calcutt will include proposals for a freedom of information Act and for a right of reply for ordinary citizens to correct factual errors about themselves in the press? What does the Minister intend to do about the 1070 concentration of press ownership? Is he prepared to tell us today that he will refer it to the Monopolies and Mergers Commission?

I note that the Minister said that he will not support the Bill that is to be introduced by my hon. Friend the Member for Hammersmith (Mr. Soley). Does he recognise that his announcement throws grave doubts on the concerns that he has expressed today about the rights of the individual and the need for reform?

Calcutt's recommendation of a statutory tribunal with legal powers to fine offending newspapers and to dictate official versions of the truth for them to publish is clearly not the answer. The press will not be improved by censors appointed by the Government. In no circumstances will the Labour party support legislation that prevents proper scrutiny of the lives of the rich and powerful, including public figures such as politicians, business tycoons and members of the royal family.

The second main area covered in the Calcutt report concerns the enactment of three new criminal offences in England and Wales to prevent invasions of privacy. We are sympathetic to the view that the ordinary citizen should be protected against the more grotesque invasions of privacy. The report has come down hard on the practices of electronic bugging and using long-lens cameras. We will want, however, to study in greater detail the specific privacy measures recommended in the report.

Finally, the central failing of the Calcutt report, in our view, is its attempt to deal with matters of press regulation in isolation from broader questions of press freedom. The Labour party believes that not only the Government but the press, which responds to any attempt to change the law with hysteria, have a lot more thinking to do on this complex issue.

§ Mr. Brooke

I am grateful to the hon. Lady for the welcome that she gave the report's publication. She made a passing and oblique reference to colleagues of mine in the Government. Her language was somewhat delphic. Let me simply say that the events to which I think she referred—as I have said, her language was opaque—occurred before Sir David was invited to conduct the report. He was invited to conduct it in a manner that had been strongly foreshadowed at the beginning of the 18 months of self-regulation.

The hon. Lady was good enough to give us her agenda, as against the agenda that Sir David was set in his terms of reference. Some of the omissions that she mentioned can scarcely be laid at his door, as they did not fall within those terms of reference. Although her question about concentration of ownership, for example, is an entirely proper subject for discussion in the House, I do not think that it falls within the purview of the report, in the particular circumstances. I cannot forecast whether specific legislation will be introduced; nor can I make any commitments in relation to a freedom of information Act.

The hon. Lady asked about the hon. Member for Hammersmith's Bill. That Bill would establish an independent press authority and an absolute right to corrections of factual errors appearing in the press. It certainly covers some of the ground that would be covered by the press complaints tribunal proposed by Sir David, but Sir David's review raised a number of wider issues. The Government believe that it would be better to address 1071 those issues in the round, which was my reason for saying that I could not ask the House to support the hon. Gentleman's Bill.

In regard to the statutory tribunal, the hon. Lady adopted the asseverative technique that she has used on other occasions. She asserted that it was important that the powerful should not be protected. Throughout the report, Sir David made it clear that he did not envisage the protection of the powerful, given the existence of reasons connected with the public interest—which he carefully defined—that would justify alternative action.

The hon. Lady concluded by saying that Sir David had sought to deal with press regulation in isolation from questions concerned with press freedom. She will recall that Sir David said specifically in the report that he thought that it would be a mistake for the Press Complaints Commission to deal with both subjects at the same time: in his view, the issue of self-regulation is separate from that of press freedom. I am sure, however, that the hon. Lady's support for press freedom will be echoed on both sides of the House.

§ *Sir Peter Hordern (Horsham)*

The measures proposed by my right hon. Friend to combat the invasion of privacy are very welcome—and, perhaps, long overdue. Does he agree, however—in regard to the establishment of the press—that, however detestable the conduct of some editors may be, the right to freedom of speech is a precious right which we have upheld for centuries? Surely, however much we may resent what members of the press have to say, we should all defend to the last their right to say it.

§ *Mr. Brooke*

I am grateful to my right hon. Friend for the welcome that he has given the Government's action. Of course I recognise—as I did in the answer that I gave the hon. Member for Cynon Valley (Mrs. Clwyd)—the overriding issue on the right to freedom of speech, but my right hon. Friend himself welcomed the fact that our proposals dealt with questions relating to intrusion into privacy.

§ *Mr. Robert MacLennan (Caithness and Sutherland)*

Does the Secretary of State accept that in most countries the privacy of the citizen and the freedom of the press are protected by fundamental constitutional law? The absence of such arrangements in this country has given rise to the need for a piecemeal approach to the law's amendment that has been adopted by Calcutt.

Does the Secretary of State also accept that, whereas certain measures to tighten up the law on physical intrusion and covert surveillance may be acceptable, many people will regard the freedom of the press to act as at least a point of criticism of an over-mighty, over-centralised and over-secretive Government that we have under our constitutional arrangements in this country should not be checked by a statutory body appointed by the Government?

Will the Secretary of State recognise that if the Government will give the citizens of this country the right to invoke the provisions of the European convention on human rights in our own courts, most of the problems that he and his predecessors have had to deal with will go away?

§ *Mr. Brooke*

I understand the point that the hon. Gentleman makes. Sir David himself makes the point in his report, when referring to legislation that applies in other countries, that the history, culture, tastes and 1072 constitutional arrangements in other lands do not necessarily travel readily and easily across borders and that this must be taken into account when examining particular legislation that one would like to introduce here.

The hon. Gentleman paid an eloquent tribute to the freedom of the press which I am sure many other hon. Members on both sides of the House would echo, but there is a responsibility on the part of the press also to make sure that that freedom can be upheld.

§ Mr. Roger Gale (Thanet, North)

I welcome the measured response of my right hon. Friend to the report and, in particular, to proposals for a press tribunal which I believe would be probably unworkable and certainly undesirable in a free society. Does my right hon. Friend agree that journalists should be neither flattered nor persecuted by being treated differently from any other United Kingdom citizen and that what is needed is a criminal justice Bill that would control electronic eavesdropping, intrusion into private property and intrusion by long-lens cameras in a way that would apply to every citizen in the land?

§ Mr. Brooke

I am grateful to my hon. Friend for his comment. The essence of the proposals that Sir David brings forward is that they are not specifically and uniquely addressed to journalists; they are addressed to anyone who would be engaged in those activities with a view to publication.

§ Mr. Gerald Kaufman (Manchester, Gorton)

May I thank the right hon. Gentleman for his courteous reference to the Select Committee and for his readiness to await the outcome of the inquiry that we are conducting before he arrives at final conclusions?

A free society requires a proper balance between the essential freedom of the press and the freedom of private individuals from harassing intrusion from media whom, in the normal course of events, they would never encounter except as readers, listeners and viewers. Does the right hon. Gentleman agree with me that any reforms ought to be directed principally to the protection not of public figures, whether in the palaces of Westminster or Buckingham, but of innocent people such as the victims of crime and their families and the bereaved families of service men killed in action?

§ Mr. Brooke

I thank the right hon. Gentleman very much for the kind remarks with which he began his question.

In the context of the proper balance that he described, I would not wish to press the right hon. Gentleman, but if that is a trailer for the report that the Select Committee will bring forward, I think that many in the House will welcome the balance that he describes. In the context of the concentration and emphasis to which he made reference, he is right about the concern to make sure that everyone's home is his castle in which they can be secure and where they

should not be interfered with. Sir David makes clear in his report that, where he makes reference to the potential for a defence relating to the public interest, it would need specifically to be related to the particular job that the individual was doing and, therefore, the relevance of the information to the discharge of that job.

§ Sir Anthony Grant (Cambridgeshire, South-West)

I welcome what my right hon. Friend said about measures to prevent intrusion into privacy, especially that most 1073 odious practice of pestering those who are suffering from personal and family grief. On the broader issue, does he recall Sir Winston Churchill's saying that parliamentary democracy was a most incompetent system but every other system was infinitely worse? Will he say, therefore, that no matter how odious or detestable a free press seems, every other system is infinitely worse?

§ Mr. Brooke

I thank my hon. Friend not only for his concentration on those who are in a grief-stricken state but for the tribute that he paid to the freedom of the press and its importance to our constitutional arrangements.

§ Mr. Clive Soley (Hammersmith)

I welcome the report as a part of the continuing, long-overdue debate on press freedom and responsibility and I thank the Minister for his interest in the committee that I set up to inform the progress of my Bill. The argument about the freedom of the press would be stronger if we had an Act protecting freedom of information or freedom of the press. If he introduced a privacy Bill, which, frankly, in the present climate I would not support, he would be introducing a Bill in a country which is almost alone among the western democracies in not having the counterbalance of press freedom legislation. That is why I would not support it in the present climate.

Perhaps we should start from fundamental principles. I hold the view that a citizen in a democracy has a right to expect news to be reported accurately in papers that claim to be newspapers. The Minister will know that the bulk of complaints that have been made to the Press Complaints Commission, to me and to others have been about accuracy. Inaccurate news reporting tends to lead to the further abuses that were brought to my committee's attention. The right hon. Gentleman seems to have had his mind made up for him, but if he listens carefully on 29 January I may be able to persuade him that the balance between press freedom and press responsibility requires a finely drawn Bill that addresses the need for explicit legislation protecting the freedom of the press or freedom of information before we go down the privacy road.

§ Mr. Brooke

I thank the hon. Gentleman for the tone in which he put his question. He has indicated his reservations about supporting legislation that we might introduce, and I have already made my position clear. The right of reply is dealt with in Sir David's recommendations for a statutory tribunal. I have said that the Government welcome continuing debate on reform, and perhaps the right of reply should be considered in that debate, despite my reaction to his Bill.

§ Mr. John Gorst (Hendon, North)

As a member of the Select Committee, I urge my right hon. Friend, in reaching a final conclusion, to be guided by one principle—that the balance between the rights of the individual to privacy and the freedom of the press should be neither prejudiced nor subjugated out of balance? The decisive factor should be the public interest, but neither should be favoured or prejudiced.

§ Mr. Brooke

The terms in which my hon. Friend framed his question suggests that the trailer that I suggested the Chairman of the Select Committee gave us earlier will be reflected in the views of Conservative members of the Committee. I emphasised earlier that Sir David has 1074 identified and added the public interest defence in his report. I should not be surprised, therefore, if it is identified by the Select Committee.

§ Mr. Joe Ashton (Bassetlaw)

Is the Secretary of State aware that one of the problems with the present system is that the Press Complaints Commission gives only an apology? There is nothing between that and going to court for libel and risking incurring costs of £100,000. There must be something in between. Why cannot he introduce a set-up like an unfair dismissal tribunal or the Criminal Injuries Compensation Board, whereby a rape victim or a bereaved person who had been grievously abused by the press could make a complaint and be awarded, say, £5,000 or £10,000?

Why is it that we can have a Police Complaints Authority, which is totally independent, local government ombudsmen and health service ombudsmen—and the legal services ombudsmen, because the Solicitors Complaints Bureau was not doing its job? There are plenty of independent semi-statutory bodies which do a very good informal job and that is what is needed, instead of, on the one hand, a vested interest complaints commission and, on the other, lawyers making fat fees and taking great risks on other people's money in the libel courts.

§ Mr. Brooke

The hon. Gentleman raises an important issue and I am grateful to him for having done so. The criminal offences that Sir David identifies also carry with them the opportunity for civil action. I indicated that the Government would be taking away for examination the proposals for criminal offences, but the hon. Gentleman is quite right in identifying the fact that a central consideration for the Government must be how the private individual can receive efficient and economical redress if it should be available to him.

§ Mr. Tim Renton (Mid-Sussex)

I congratulate my right hon. Friend on his determination to marry a wish to protect the private citizen's right to privacy with the rights of a free but responsible press. My questions follow on very much from the remarks of the hon. Member for Bassetlaw (Mr. Ashton). Does my right hon. Friend envisage legal aid being available for this new civil action for intrusion of

privacy? If not, is there not a real danger that, as with libel, this new tort will be of interest only to the rich and not to the ordinary citizen?

Following from that, before my right hon. Friend reaches his final decision, will he consider going back to the Press Complaints Commission and suggesting that it should reinforce itself, not only with more independent members, but with the power agreed by the industry to fine heavily those proprietors and editors who break their own code of conduct? The aim would still be to make self-regulation work.

§ *Mr. Brooke*

I am grateful for my right hon. Friend's reinforcement of the question of the hon. Member for Bassetlaw (Mr. Ashton). I was saying that we would need to look at a variety of ways in which that objective could be secured. I think that the hon. Member for Bassetlaw was envisaging some form of summary proceedings. It would be wrong for me, when we have not got into the examination of the preparation of any legislation, to be definitive at this stage, but I can reassert the principle and spirit of what we will be seeking to achieve.

1075 As to what my right hon. Friend says about the Press Complaints Commission, Sir David Calcutt enumerates on page 42 of his report what he regards as 12 deficiencies in the working of the commission. I express a personal view, but I should be surprised if, during the debate in advance of the Select Committee's report, the press did not address themselves to those 12 deficiencies which Sir David mentions.

§ *Ms. Clare Short (Birmingham, Ladywood)*

Will the Secretary of State tell us a little more about his thinking? He says that he accepts Sir David Calcutt's conclusion that the Press Complaints Commission is not working properly. My experience is that it makes rulings but creates no precedents and the press just go on misbehaving in exactly the same way. The press do not comply with their own code. That code is constantly breached and nothing is done. In that sense it does not work. The alternative seems to be some kind of tribunal, as my hon. Friend the Member for Bassetlaw (Mr. Ashton) has said, with some capacity to fine or punish so that it can enforce regulations set up by the press themselves, or giving power for the press to complain to the commission themselves.

Will the Secretary of State tell us what he is thinking? He ruled out a statutory tribunal but said that the Press Complaints Commission is not working. What is the position in between that he has in his mind?

§ *Mr. Brooke*

The precise words I used were that the Government would be extremely reluctant and that one would need to have a very persuasive case made out in order to introduce a statutory tribunal. Lord Waddington, who was Home Secretary when the privacy committee originally reported, used the phrase "statutory underpinning" so there is a potential for an instrument that might respond to the concerns of the hon. Member for Bassetlaw. It is too early to be decisive with regard to a report which we received only four or five days ago. It would be sensible for the debate to take place as a whole.

§ Sir Giles Shaw (Pudsey)

We warmly welcome the way in which my right hon. Friend is treating Sir David Calcutt's report, and I fully endorse some of the comments made by the hon. Member for Bassetlaw (Mr. Ashton) and by my right hon. Friend the Member for Mid-Sussex (Mr. Renton). However, does he accept that there are two speeds? Surely, the public expect fairly rapid action to deal with the intrusiveness of bugging devices, telephonic communication and long-lens cameras but, in the longer term, they expect a final solution to what sort of press complaints commission can be established. Will he ensure that the former problem is dealt with urgently?

§ Mr. Brooke

The issue of criminal offences clearly involves Departments other than mine, but I assure my hon. Friend that the Government will proceed with all speed. It would be wrong to disguise the fact that these are complicated matters and we must ensure that they are properly studied before we introduce legislation which may not command respect if it is inadequate for the complexity involved.

§ Mr. Dennis Skinner (Bolsover)

Is the Secretary of State aware that there is no such thing as a free press, as most of it is owned by a clique of millionaires? Does he accept that the Calcutt committee was set up when we had had a Tory Government for 10 years or more and when the press, ironically, were prying into some aspects of the 1076 establishment? As for the royal family, it is now apparent that the press were not doing the prying but that factions at the palace had been giving reports to the press to print. As for bugging and telephoto lenses, it is fairly certain that MI5 and GCHQ have been involved. What protection will there be from MI5 and other institutions? As the statement protects the high and mighty, the privileged and the establishment but not the under-privileged, it wants chucking in the political dustbin.

§ Mr. Brooke

I shall respond to the hon. Gentleman's three questions. He said that there was no such thing as a free press. I say only that the vehemence with which the issue has been examined in every editorial in the land—in every national, regional and local newspaper—in the past five days suggests that the press believes that there is something worth protecting in its present arrangements.

The answer to the hon. Gentleman's second question is that when Sir David was invited to make his one-man report, which the Government have published today, he did so as a follow-on to the earlier privacy report. The timing of any other event is, in a sense, irrelevant because he was merely reporting at the end of the 18-month period.

On the hon. Gentleman's technicolour observations about MI5 and GCHQ, I give the House a categorical assurance that the heads of the agencies involved have said that there is no truth in the rumours whose only—

§ Mr. D. N. Campbell-Savours (Workington)

You are not supposed to say that—you have set a precedent.

§ *Madam Speaker*

Order.

§ *Mr. Brooke*

If I have set a precedent, I have done so inadvertently, but, in the eyes of the hon. Member for Workington (Mr. Campbell-Savours), I appear to have acquired individual excellence. To return to the question asked by the hon. Member for Bolsover (Mr. Skinner), the only evidence as to why those rumours began was that the technical difficulties were beyond any other organisation—but, unfortunately, the technical difficulties are not beyond any other organisation.

§ *Mrs. Teresa Gorman (Billericay)*

Does my right hon. Friend agree that, notwithstanding the very high-minded opinion that the press has of itself as the fourth estate of the realm and as almost untouchable, newspapers are, at root, businesses and interested in making a profit? Although they purvey useful stuff—facts, good comment and even entertainment—they are not above the equivalent of mixing chalk with the flour, which is what they often purvey. In doing so, they are deceiving the public and selling their customers short. It is not true that every other business must run according to rules that protect people from such practices and that the press should not be above such regulation? Therefore, will he not allow himself or the House to be intimidated by the barrage of self-justification and bullying which we have seen in the press in the past five days?

§ *Mr. Brooke*

In response to an earlier question, I said that there were responsibilities on the press and everyone else to ensure that the tradition of the freedom of the press, which we revere in this country, could be maintained.

§ *Mr. Bob Cryer (Bradford, South)*

Does the Secretary of State not understand that, in any system of accountability, the idea of new torts does not exist for the vast majority of people and that the courts are too 1077 expensive for people to obtain redress? Libel action involves costs of thousands of pounds, if not hundreds of thousands of pounds, which automatically place it out of the ambit of ordinary people. Legal aid is not available for libel or slander, in any case. Does the Secretary of State accept that there should be a much better way to provide people with cheap, easy and informal access? Does he also accept that the press will never be properly accountable as long as the present ownership structure is retained? The Calcutt report does not deal with that problem, but the Secretary of State must do so because the press is owned by a tiny group of people, mostly Tory sympathisers, who erode the general standards of conduct in political life by supporting the Tory party with propaganda and money.

§ *Mr. Brooke*

I have already tried to respond to the issue of redress for the ordinary citizen when answering the hon. Member for Bassetlaw and my right hon. Friend the Member for Mid-Sussex (Mr. Renton). I tried to convey the fact that the Government will be considering the issue very seriously. I have already said that, although I agree that ownership is a wholly appropriate matter for debate in the House, it does not arise specifically from the Calcutt report.

§ Mr. David Harris (St. Ives)

As someone with a journalistic background who has been absolutely disgusted by some of the antics of the tabloid press in recent years, I welcome my right hon. Friend's sensible approach. However, will he make it absolutely clear that, in adopting that approach and not accepting—at least straight away—some of the recommendations of the Calcutt report, he has in no way been pressurised by the, at times, crude and hysterical campaign mounted in the past few days by certain sections of the press? Does he agree that the press would be very unwise if it did not set about putting its own house in order on some aspects which are manifestly wrong?

§ Mr. Brooke

We are all aware of debates in the House to which people come with a particular attitude but find that that attitude changes as a result of the nature of the debate. I am sure that some hon. Members will have felt that the manner in which the press has argued its case in the past five days has not necessarily served its best interests.

§ Mr. David Trimble (Upper Bann)

We agree with Calcutt and the Secretary of State that self-regulation of the press has failed. Does the Secretary of State agree that any form of self-regulation cannot be improved and will not work in the future, in view of the highly competitive nature of the press? Does he also agree that the answer is not state regulation? We endorse the Government's general approach of trying to make effective civil and criminal rights and responsibilities. It is important that civil remedies are effective and, in that respect, I endorse what the Secretary of State said about legal aid and other matters.

On the question of privacy, I appreciate what the Secretary of State said about different legal cultures on the continent, but I hope that that does not blind him to the fact that things are done better there and that we might learn from that example.

With regard to obligations—

1078

§ Madam Speaker

Order. In the past 20 minutes hon. Members appear to have felt that we are engaging in a debate rather than in a series of questions arising from a statement. I am very anxious to call all Members who want to be called, but I shall not be able to do so if each Member puts many or long questions. I hope that during the few remaining minutes that I intend to allow for this subject Members will be very brief.

§ Mr. Trimble

I have just one more question to put to the Secretary of State. Does he agree that we should be concerned with regulation not only of the press but of other media and other persons? May I remind him of my Adjournment debate in December, in which I raised matters pertaining to television? Is he in a position to comment on that matter?

§ Madam Speaker

Order. The Secretary of State.

§ Mr. Brooke

I am grateful to the hon. Gentleman for his questions and for the way in which he has supported the general thrust of Government action. We have spent much time talking about freedom of the press and about the length of that tradition in this land. Given the fact that the hon. Gentleman is a lawyer, I remind the House of what Sir Edward Coke said at the beginning of the 17th century: that the house of everybody is, to him, as his castle and fortress. That should be borne in mind in the protection of people's rights.

§ Sir John Wheeler (Westminster, North)

May I assure my right hon. Friend that his cautious and essentially pragmatic statement will be broadly welcomed but also ask him not to hasten to bring forward legislation in respect of what, after all, is a most complicated issue? Instead, he should listen to the debate with great care and consider how a more independent press complaints commission might be established, perhaps with the right to impose penalties, as has been suggested. If there is to be any kind of control, will my right hon. Friend look to the civil courts for the remedy, rather than to the criminal courts, as the lesser burden of proof is acceptable to the former?

§ Mr. Brooke

I am most grateful to my right hon. Friend for his general support for what we are doing. I shall certainly look carefully at the propositions in his final sentence.

§ Mrs. Margaret Ewing (Moray)

As it is of paramount importance that any changes should ensure that all citizens are equal before the law, will the Secretary of State undertake to explore with the Home Office and the Scottish Office the issue of access to legal aid for civil actions? This, I believe, has been denied since time immemorial. Does the Secretary of State have any idea when the public debate will be concluded? Are we to anticipate a White Paper or immediate legislation thereafter?

§ Mr. Brooke

I do not think that I would be doing wrong to my right hon. Friend the Secretary of State for Scotland if I were to say that I think that he will be guided by the same considerations as influenced my answers to certain other questions about legal access. With regard to the timetable, I have indicated that the Government certainly will not respond or reach conclusions until the Select Committee has reported. The normal practice is that, 1079

following publication of a Select Committee report, the Government publish a White Paper and provide the opportunity for a parliamentary debate on it.

§ Mr. Michael Ancram (Devizes)

Does my right hon. Friend agree that, under our unwritten constitution, a healthy democracy depends on a press that is not only free but investigative, challenging and, indeed, disrespectful? While accepting and welcoming the specific proposals to control physical intrusion of privacy, may I ask my right hon. Friend for an assurance that the Government will not pursue measures that might throw out the democratic baby of press freedom with the scurrilous bath water?

§ Mr. Brooke

I think that my hon. Friend will be reassured by the list of defences that would be available in respect of the offences that he is recommending, whose general concept the Government have accepted.

§ Mr. Geoffrey Hoon (Ashfield)

By accepting the overwhelming arguments in favour of the creation of new criminal offences and, indeed, a new tort to protect privacy—though not the tool of a statutory tribunal—the Government are presumably saying that these matters should be dealt with by the regular courts, both civil and criminal. Once those new offences and new tort become part of our law, it will be alleged either that a journalist has committed the criminal offence or that a newspaper had breached the civil tort. Does it not follow that the Government are really saying that it is better to have such matters dealt with in the regular courts, given the sensitive and delicate issues that will arise, rather than by a statutory tribunal? All issues about state regulation arise equally well in relation to the courts as they would in relation to a statutory tribunal, but we would lose the expertise that a statutory tribunal would develop.

§ Mr. Brooke

The hon. Gentleman makes a relevant point. It will be well worth making it in the debates that we shall be having, and to which I look forward, in the next few months.

§ Mr. Alan Howard (Stratford-on-Avon)

As he seeks balanced remedies for the problems that undoubtedly exist, may I ask my right hon. Friend to think deeply before concluding that the resources of self-regulation are exhausted, because I believe that there is scope for strengthening them? Will he also indeed consider extending the protection that the law affords private citizens, possibly by way of a tort of harassment? That might more precisely address the problems with which we should be most concerned, in a manner preferable to a more generalised law of privacy. Will he also think open-mindedly about the possibility of some countervailing strengthening of press freedoms, including freedom of information legislation?

§ Mr. Brooke

In relation to the strengthening of self-regulation, I should perhaps have added when answering my right hon. Friend the Member for Westminster, North (Sir J. Wheeler) that I imagine that the press will have noted the opinion poll by one of its members which showed that there was a significant majority in the country in favour of a statutory tribunal, which suggests that the manner in which the Press Complaints Commission has so far operated does not enjoy public confidence.

1080 The answer to my hon. Friend's question about harassment is that I infer that there is a possibility that the Select Committee will include a reference to that issue when it reports, and I look forward to reading what it says about that.

My hon. Friend will be aware, on the issue of countervailing freedoms, of the commitments that the Conservative party entered into in its election manifesto on the subject of openness of government.

§ Mr. Tam Dalyell (Linlithgow)

As this is the slippery slope to state meddling with the press, may I consign the report, if not to the Bolsover dustbin, at least to the recycling plant to make up for all the trees that it took to print it?

It is not true, in the constituency experience of some of us, that people resent intrusion into grief. Often, grief-stricken families like some interest to be taken in them.

I rise particularly to ask if the common law of Scotland can be left alone. As the right hon. Gentleman said at the outset, the common law of Scotland is a bit different. For heaven's sake, leave us out of it.

§ Mr. Brooke

It would not be right for me to answer on behalf of the Secretary of State for Scotland, whose attention I shall draw to the hon. Gentleman's comments.

I stress—it is in Sir David's report—that large numbers of private individuals—one need only examine the index to the report—have written to complain to Sir David about the manner in which they have been treated. If one confronts a person in one's kitchen and that person says that he is there to represent the public interest, it is a little hard on the individual whose kitchen has been invaded.

§ Mr. David Sumberg (Bury, South)

I warmly welcome what my right hon. Friend said about bugging devices, but I urge him to move with great caution down the statutory route. The job of the free press is the same as our job here, which is to expose what should be exposed. Although we may not like what is sometimes revealed, and although the press may not behave in a proper manner, we do not always behave in a proper manner. To inhibit the freedom of the press would do great damage to the democracy which we all value.

§ Mr. Brooke

Just as I stressed the aspect of Sir David's concern about the private individual, so I should draw the attention of the House to the fact that Sir David specifically ruled out any kind of exclusion zone being built around those in public life.

§ Mr. Bruce Grocott (The Wrekin)

Will the Secretary of State reflect on the simple observation that the criticisms of the media in recent times have almost exclusively been criticisms of the print rather than of the broadcast media? Is he aware that every test of public opinion shows that the public believe the news and current affairs reporting of the broadcasting media far more than they believe what they read in the newspapers?

While newspapers are subject to a self-regulatory system, broadcasters are subject to a democratically controlled regulatory system. Despite that, the broadcasters have proved time and again to have been outstanding in the pursuit of investigative journalism.

Will the right hon. Gentleman reflect again on his attitude to the Freedom and Responsibility of the Press Bill which is to be introduced by my hon. Friend the 1081 Member for Hammersmith (Mr. Soley)? That measure would do no more than any broadcaster or investigative reporter would acknowledge: it would allow people a statutory right to have errors of fact corrected. I see a complete contradiction in the right hon. Gentleman's position.

§ Mr. Brooke

The hon. Gentleman raises the subject of broadcasters, as does Sir David in his report, in terms of whether all the media should be subjected to the same law and controls. As the hon. Gentleman rightly says, at present there is a distinction in the manner in which they are controlled. He makes a valuable point when he says that television news journalists are widely respected and, as he points out, are subject to two statutory controls. That issue should be weighed and measured in the debates that we shall be having.

§ Mr. Stephen Day (Cheadle)

Will my right hon. Friend please steer clear of legislation affecting the press? Does he agree that there is a danger that, in trying to protect the privacy of individuals—in sometimes justifiable circumstances—we could be in danger of restricting the press invading privacy when it should sometimes be invaded, such as in the Maxwell and Barlow Clowes cases? At a time when the establishment is hardly held in high esteem, it would not be easy politically for any Government to sell any control on the press, however justified and well intentioned, to the British public.

§ Mr. Brooke

The problem—it has been identified by several hon. Members—is that, as Sir David says, self-regulation is not satisfactory as at present constituted, so we have an unsatisfactory position. But I assure my 1082 hon. Friend that the issue of the late Robert Maxwell and investigation of him would be a perfectly proper defence in terms of the criminal offences which I described.

§ Mr. David Nicholson (Taunton)

I welcome what my right hon. Friend said about the public interest being the determining factor in conflicts between the rights of individuals' privacy and the freedom of the press. Will he confirm, as I think he just has, that there is no legislation that he would recommend—I think none would pass through the House—that would inhibit the press in inquiring into matters of legitimate public concern such as thalidomide or 'Spycatcher' or arms to Iraq-type matters, and that allegations to that effect by certain editors rather betray the weakness of their case?

§ *Mr. Brooke*

In his report, Sir David has added two further defences to the three already available in the recommendations of the privacy committee.

§ *Mr. Roger Evans (Monmouth)*

Will my right hon. Friend explain why, when breaking the law, a journalist should be entitled to plead the defence of national interest? Surely the tradition of Sir Edward Coke, to which my right hon. Friend referred, means that if one besets Headington hall, trespasses on its lawns or electronically surveys what its occupants do, one should suffer the consequences. We should reject the alien concept of privacy. It is all very well to talk about foreign examples, but the French republic is a classic example of where the law of privacy inhibits the prosecution of corrupt politicians.

§ *Mr. Brooke*

I assure my hon. Friend, as I have sought to assure the House, that the defences that will exist under the criminal offences cover a wide variety of crime if the information was being sought with a view to publication.