

## The Truth About Westminster

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*No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time.'* Winston Churchill (1874-1965)

*'Now they are avid for office or they've failed. They're much, much more ambitious - increasingly so and I find it almost nauseating.'* Lord Weatherill (1920-)

*'Freedom of the press in Britain is freedom to print such of the proprietor's prejudices as the advertisers don't object to.'* Hannen Swaffer (1879-1962)

*'Thou god of our idolatry, the press ... Thou fountain, at which we drink the good and wise; Thou ever-bubbling spring of endless lies.'* William Cowper 1731- 1800)

It is clear from all we have seen in previous chapters that there has been a fundamental

change in parliamentary life. Attitudes have altered while standards have fallen. Before we look at proposals for reform, we need to probe further into the way in which the culture of both Westminster and the media has shifted.

The old 'Club' culture may still be a dominating influence on the lives of new MPs entering the House but that influence is no longer what it was. To some extent the reshaping of expectations and practices in Westminster is a reflection of changes in the nation as a whole.

One of the first changes that struck me on talking to many older politicians has been the acceleration of the pace of life. Forty years ago, MPs spent far more time hanging around the precincts of Westminster. Few had secretaries or offices, and people like Lord Healey recall that they did most of their correspondence by hand on their laps. Now each MP receives so much mail that more than one secretary may be needed to deal with it all.

Lord Whitelaw says, 'I became a Member of Parliament in 1955. The difference now from then is quite simple: it was a much more friendly place. You got to know people. I don't think the people in the House of Commons today do know each other. They don't see each other.'

'When I was Chief Whip in '64, I used to go along to the smoking room every single evening at six o'clock, if I could possibly make the time, and from six to seven-thirty I sat and talked to members. And at half-past seven I had a table of my own and I used to ask three people to come to dinner with me.'

'Now nobody goes in any of these places. It's because everyone sits in their offices. It's very odd. They spend all their time in their hutches, with all the equipment they have now. It's a much less friendly place at every level. In the earliest days after the war the two parties had a coalition and the senior members of the parties knew each other very well indeed. Parliament was a place where people used to talk, people used to argue and you got to know generally what people were thinking. It was a community.'

Older 'Club' members passed on the great traditions and ways of doing things. The unwritten 'gentleman's code' lived on, reinforced through informal conversations.

Now, Lord Whitelaw feels, 'They are completely hooked into their own thoughts and their own ideas and they don't really listen. That is a really major change in the whole way that Parliament works.' In contrast, 'the House of Lords was a far more friendly place, maintaining the old patterns of life, welcoming new faces with hospitality and courtesy. 206

The second change has been the advent of the career politician who drifts perhaps from school or university to a research job in Westminster, and never leaves. Lord Weatherill says that this is a serious weakness and many MPs are motivated by ambition, rather than by a desire to serve their country. politics should be a calling, not a career.

'What has happened in recent years is increasingly a tendency to become professionals and there's hardly anyone I here who's actually done a job outside. I'm not a politician. I describe myself as a businessman in politics. I didn't even get here until I was forty-three. I'm a tailor by

trade. But what has Mr Portillo actually done? It's not his fault, he's Young.

'We're trying to redress this. In the Industry and Parliamentary Trust of which I am Chairman, we have today twenty Chief Executives or former Chairmen of companies, between fifty and sixty who have indicated to us that they would like to enter Parliament, who would do so as a service and not for the money, for the Conservative Party and for the Labour Party, and the Liberal Democrats, but we can't get them past the selection committees. The members ask, ---What canvassing have you done? How many doors have you knocked on?" Today [the younger generation] are avid for office or they've failed. The whole culture has changed. They're much, much more ambitious - increasingly so and I find it almost nauseating. 207

There is less class division than there was. Lord Healey remarks that he can hardly tell these days who is Labour and who is Conservative by the way they dress or how they talk, whereas it was very obvious when he was first an MP. Despite the mixing of backgrounds across the parties, and the fading of class distinctions, MPs are often far more polarised and dogmatic than they were, and more prone to point-scoring for the sake of it.

The Second World War had a great impact on the generation that entered Parliament in the 1950s, and it affected the way they saw politics. 'Those who were in the services, who were interested in politics, were determined to create a better world,' Lord Healey explained. 'We had all learned from experience that we depended on one another, that we sink or swim together, and also the better off people had a great natural sympathy for the worse off. Idealism or a sense of purpose was a prime motivation for the wartime generation to go into politics and a lot of them made big financial sacrifices. He recalls that just after the war he earned less than his wife did as a teacher, and teachers were poorly paid.

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There was general agreement after the war that a social revolution was needed, with such measures as the introduction of the National Health Service, and the nationalisation of such industries as coal, gas and electricity. Consensus ruled Parliament and there was a consistency of policy regardless of who was in government.

Sir Edward Heath sees a greater intolerance of other views today: 'Looking back we were a very tolerant party. In fact, both parties were tolerant. Sometimes this is missing today. Let us not try to hide this fact. It is true very often in the House of Commons. 209

Another shift has been created by the growth of parliamentary lobbying through the 1980s, which many politicians see as a dominant and distressing feature of parliamentary life today, although still affecting mainly the Conservative Party. Many practices which have been widely accepted recently, would have been regarded as unthinkable just twenty years ago.

The functioning of Parliament has also been profoundly affected by the relatively large size of government majorities over the last few years, apart from the 1992 election. Landslide victories can create arrogance and complacency, while tiny majorities tend to keep governments far more sensitised to public concerns.

It can be unhealthy for the same party to remain in power too long. A government can become blind to its own defects, believing itself 'immortal'. A government can also run out of quality people with losses after every Cabinet reshuffle, so that the team becomes more lightweight. The power of patronage is wielded by one party, so that many power structures such as quangos become unbalanced. A government continuously in power also has no time or space to think, or to develop fresh vision. It is possible that there would have been less of a credibility crisis over lack of integrity in Westminster if different parties had been alternating in government over the last sixteen years.

There is another factor which has had a huge effect on Parliament and that is the introduction of television, which only began in November 1989. The suggestion had first been made thirty years earlier. 'It's killed debate,' said one Peer. Many MPs are greatly influenced by the possibility of getting a twenty-second 'sound-bite' on to the airwaves. There are two different images imprinted on the public mind as a result of television. The first is a Chamber that looks empty despite the fact that a Minister is giving what is supposed to be an important speech. The second is a Chamber during Question Time that is crowded, noisy and full of rude interruptions. Neither of these images is positive.

However, Lord Weatherill is relaxed about accusations of disorder. 'Behaviour is infinitely, infinitely better than it has ever been. Read the history books. Take Disraeli's maiden speech when he was shouted down. It would be unthinkable today. He made the famous comment, "The time will come when you will hear me," but they wouldn't hear him. On another occasion, in 1883, the Hansard editor gave up and wrote across four pages in Victorian scrawl, "The house proceeded in indescribable disorder!"

'During the course of this indescribable disorder, Speaker Brand just had time to lean forward and whisper to his learned clerk: "What do I do next?" The clerk just had time to give him some very wise advice. "Sir," he said, "I should be very cautious." 210

Disorder can detract from debate. Tony Blair feels that Prime Minister's Question Time is an occasion where the House of Commons needs reform.

'The atmosphere is so charged in there. I am physically more nervous before that than anything else I do. Harold Wilson used to be physically sick beforehand. It's partly because you have one minute to put across a point and that place is like Romans and the gladiators and the lion. You hesitate for a moment and you die in there. It's a real pantomime in many ways.' 211

How new MPs find their feet

If the culture is changing, and new rules are being proposed, then it is even more important that new MPs have a proper induction. How else will they discover how they are supposed to

behave? Simon Hughes is an interesting character: widely respected, minority party front bench, younger generation, fresh and radical in thinking, yet not a Liberal Democrat Party hack by any means. I asked him what kind of training or induction there was for new MPs.

'In short, none. None at all,' he replied. 'There is never a proper induction programme. All that happens - and it happened to me, I suppose in 1983 - is that for a day the Chief Whip at the time takes you to the most important places of, well; you are shown your pigeon hole; you are rehearsed for taking your seat; you are given a little bit of information about a couple of things.'

'What about a copy of Erskine May's book of procedures?'

'No,' he replied. 'Nothing really. I don't think I was given it single piece of paper. The fees office now sends new MPs an envelope in which they say, "This is the position regarding your salary and your pension rights and the office costs allowance. There wasn't even a compulsory meeting with Slim.'

'What about information on declaring Members' Interests?'

'No. Nothing at all. I wasn't even given a book saying ---Rules for new boys and girls.--

'Or procedures about addressing other Members of the House?'

'No. You were told to go in and sit and watch like good apprentices, like a pupil barrister who has no rules either. You just followed someone around and picked it up by watching. So you went into the House and watched what other people did. I took my seat on 1 March and made my maiden speech on 21 March and by then I was meant to have worked out what to do.

'It is an extraordinary place, and even today it may be better but I am still very conscious of the fact that it is more a matter of chance and luck and hazard as to how much support a new MP gets. It may depend on whether they have friends already in the House. It is very much a case of, "Come in and see how it goes - we've all learnt it that way." There is no training.'

I asked him what he thought about Lord Whitelaw's comment that MPs now live in their 'rabbit hutches' and hardly know each other.

'Certainly it has changed a lot. I think that there is increased pressure to be constituency MPs. Coming from your constituency, living in your constituency, doing your surgeries. MPs prefer that as well in a way because in a constituency you are an MP, whereas in Westminster you are just one of 651 MPs who may get a chance to say something or may not. And so apart from big "set piece" occasions you can probably be perceived as doing more out there on the ground. The media are more demanding so the number of requests for radio and TV is growing all the time.'

A number of those I have talked to describe a Debating Chamber that is in serious decline, emptied by the growth of Select Committees and other office work, the lack of competent speakers, and general apathy. Many MPs certainly have very poor communication skills and are boring to listen to. Set piece debates, with powerful charismatic speakers, used to be an exhilarating and entertaining experience, but the Commons is bereft of many such characters today.

There are few people who can draw a crowd when their name comes up on the screens around Westminster. Some MPs already watch debates from their offices so there is less need to go rushing back to hear a debate. In fact there is little point in being there unless an MP wishes to contribute, or a vote is called. Hughes again: 'People don't have a worldview in the

same way as they used to. The Whips are much more tough on people so the chance to develop your own thinking, free thinking ideas, seems to me to be limited. Nowadays the assumption is that when you come here, you come to do a full-time job. Increasing numbers of people don't find it appealing and some of the great public figures of our day wouldn't consider it financially remunerative, or wouldn't consider that the balance of work, the grind of constituency work as against shaping the policies of the nation is something that inspires them. So people of vision and insight, worldview or national perspectives probably say "I would be better being the editor of the Economist, or being the director general of the CBI," and therefore we don't attract the same range of people as we probably once did. 212

I asked one MP what words of wisdom she would give to someone interested in going into politics. She thought for a moment and smiled: 'Don't bother,' she exclaimed. 'If you want to join one of the best clubs in the world, as they say, which is what a lot of the chaps want to do, then come, but don't think you're going to change anything.'

Low morale, poor self-image and a critical public are all symptoms of the general malaise, yet some manage to remain seasonably cheerful. Lord Weatherill does not think there is much wrong with the Commons, looking back on his time there. 'Parliament has been brought into disrepute and we must deal with public perception of these matters, [but] I'm passionately against rules. I think we should operate by self discipline, and that MPs should always conduct themselves 41% Honourable Members.' 213 He has seen many so-called reforms and says that each was meant to solve a problem but seated another.

David Alton strongly disagrees with the supposed merits of self-regulation, based on his experience as part of the Privileges Committee: 'Parliament is incapable of self regulation. It's obvious from the way that the Privileges Committee has operated over the last year that although many of its members are highly conscientious and estimable individuals, Parliament itself cannot satisfactorily deal with excesses which are committed by other parliamentarians. The watchdog is too closely identified with the process. It would be far better if there was an independent Standing Committee. Impartial people, perhaps a couple of High Court Judges. Ultimately we would still sit in our own court in judgement on our own colleagues, but I don't think the investigative process should be conducted inside the House.' 214

We have seen that there have been dramatic cultural changes within Westminster, but what about the world outside? As far as many parliamentarians are concerned there is one factor above all which has more than anything created the crisis of confidence within Westminster today, and that is a change in the culture of the media.

It is true that without a free press, most of what you have read would have remained secret for a generation. However, we have also seen many cases recently where the press have invaded privacy and libeled people who have sometimes been powerless to defend their reputations. The media may well be operating in a more hostile way towards politicians than thirty years ago, but is that such a bad thing?

The media war with Westminster

Sir George Young is a mildly spoken Minister compared to many others, yet even he says that what the media are doing now is 'evil'. 'A lot of Ministers and MPs have seen what a media witch hunt can do to a colleague. There are no saints, in politics; there are no saints anywhere. And everybody makes mistakes, small ones and big ones. And when you see an error of judgement or a relatively small mistake magnified, distorted and a witch hunt to find out what other mistake may have been made a long time ago, you can see it destroy a chap. I think that's evil.

"There are all too many examples of colleagues who have been hounded out of government, many of whom were very good Ministers. I think it's what the media have done to the wives and the family rather than what they have done to the individual. Quite often the wife and the family are totally innocent bystanders who loyally stand by the chap. I think that does put good people off politics. I believe in the freedom of the press but they have a responsibility. 215

Another Minister pointed out that the result of media aggression is that 'politicians will simply play safe, they will simply parrot the line to take, clam up, because the game is "spot (lie gaff); and instead of people honestly answering a question as to what their view is, they have to remember what so and so said yesterday about this. As a result politicians are becoming more defensive, less honest. They tend to shelter behind what the line is. In the long term that is bad for democracy.'

Lord Whitelaw also slams the press. 'I think the press have things up far too much ... after all, Parliament and party political leaders are just the same as other people. I don't think it is that much worse. I think it is worse because the press are hunting after people. I think probably there were many very big figures in the twenties who were up to all sorts of activities Nobody knew. None of us are absolutely sure figures and therefore I dislike the hunting of politicians, particularly the sex hunting, which I think is very unattractive.'

Lord Whitelaw is depressed that issues are often over shadowed by personality conflict, and rarely reported. 'Every day The Times, The Guardian, the Mail, always had a column on what was happening in Parliament. Today you won't find a word on anything that happened in Parliament. Only if there is a row. The press are now determined to hunt things out. All their people aren't writing about issues, they are writing about people.'

However, he is against controls. 'I have never been in favour of forcing things on the press. I think the press have gone wrong. I think they have wrong values and I think they are going to have to find their own values back again. I don't think it is for Parliament to force them into it. I thought one of the worst hunts was David Mellor. It was a monstrous thing. I mean, he was very silly. He went far too far but I do think in spite of that he really was victimised. I think the press hounded him to an extreme.' 216

There is no doubt that media now set the agenda. News of dogs biting children led to the Dangerous Dogs Act; the Hungerford massacre led to the Firearms Amendment legislation, and the Dunblane school massacre led to further calls for firearms controls; salmonella in eggs led to the Food Safety Act; live animal transport to new EC regulations and Greenpeace campaigns led to reversing a government backed decision to dump an old oil rig at sea.

However, those in the media would say that they are simply a mouthpiece for the views of the nation.

One MP complained that when it comes to leaders in the nation, even those with integrity are vilified. 'The private lives of everybody are torn to pieces, however exemplary they may be. They will find an angle on it which they can turn into three pages of copy which of course they hope will sell more copies. It's a scandalous state. On the bright side they do scrutinise, they do scan the small print, so there is an enormous public debate on the issues in the media as well as the House.'

Peter Lilley believes that the 'hysteria' will probably subside. He too is very cautious about new controls. 'The chances are that they won't work because it would be seen that politicians were trying to protect themselves from the press. Protecting ordinary people from the press would be fine [but] the first journalist that falls foul of a Privacy Law, because he exposes some infidelities [of an MP] and pleads national interest, will become a hero, go to gaol for a little while. and the law will be changed again. 217

However David Amess sees the current situation as crazy', intolerable and one that must be regulated. 'And now the media say---Who shall we bring down next?" They say "Boo!" and we jump It's crazy ... They're destroying politicians. They're destroying the monarchy, they're destroying the church, they're destroying the judiciary. They will eventually destroy themselves. I would legislate, because all this code of practice is a cop out. I'm not a lawyer but I think it is wrong to print in newspapers allegations which are not substantiated by an action through the courts. Most Members of Parliament do not have money to fight one of these actions. 218

Robert Key is also 'appalled' by low journalistic standards. 'Many journalists are quite happy to lie and are regularly peddling lies in what they write - and there is no redress.' 219

Some Conservatives are convinced that there is a Labour-inspired plot behind the anti-sleaze crusade. Jeremy Hanley told me. 'This campaign that Labour is playing on so-called sleaze is all part of a destabilising campaign which they have learned from the Democrats in America. They have studied dirty tricks in America. They have studied very hard indeed.' As an example, he cited a broadcast by the Labour Party in May 1995) where the Prime Minister was called a liar no fewer than fifteen times. 'The attacks on individuals are all part of American political theory.' 220

Unfortunately it is far too easy to dismiss media pressure as part of a vindictive campaign. We have already seen that the public are utterly fed up with the sleazy reputation of politicians in general and want higher standards. The reality is that both press and politicians are populist driven: they have to respond to the mood of the nation or perish. The difference is that the media do seem far more in touch with public opinion on these matters than those at Westminster.

Harry Greenway is another of the growing number who have felt the pain of false allegations in the press. 'It is extremely important for the press to be obliged to stick to established facts, to be prepared to

defend what they say

under law and to face really severe penalties if convicted of half-truth, malevolence, unfairness and so on. An apology in the paper one inch by ten inches long is not enough. Newspapers can pressurise the authorities into bringing actions which are baseless or for which they have the flimsiest of evidence - in spite of established rules of at least 50 per cent chance of a successful prosecution.

'I believe these rules can go right out of the window as hysteria builds up against an individual. There is then a "no win" situation: if the "revelations" are ignored, then Ministers are accused of taking no action. If the case goes ahead but is lost, or dismissed for lack of evidence, there is a suspicion of cover up, so a situation can be reached where the only way the public will be satisfied following trial by media, is with a successful prosecution.'

In Harry Greenway's case, allegations were made which led to a court case that hung over him for three-and-a-half years, during which he had to fight an election. The case was eventually dismissed. 'All charges were withdrawn and I was awarded expedited costs by a distinguished High Court judge. The law could be tightened up. The media should only be able to print if a criminal charge is made - not the gossip before. It is better surely to bend over backwards in fairness. It isn't for the press to be judge and jury in these matters. We would then be more in line with the Continent. 221

Jeremy Hanley described the very personal nature of press attacks. 'I have got a thicker skin [now] than I ever thought I possessed. The insults completely wash over me now. Last September [1994] I think actually I was very deeply affected by the press. For instance my son, because he was my son, was dragged through the News of the World, and as a result lost his job. Then I certainly did feel the press were getting at me. But I don't react now. [However] my wife does find it difficult to pick up newspapers now.' Jeremy Hanley is convinced that Labour will find the media hunting about in their own private lives when they are in government.

In the meantime he feels that the aggression of the press is putting people off entering public life. 'You ought to see what hits happened to our candidates list. There was a time when being a Member of Parliament was actually respected. We used to have more than a hundred people willing to stand for Parliament, [for a by-election]. Now we're lucky if we have twenty and the quality [is less]. There are fewer with experience, willing to lend that experience to the nation. It's a tremendous cost. 222

Tony Blair also feels this acutely. Asked if his wife Cherie was pleased that he had become Leader of the Labour Party,

'She was tom. She felt pleased because she thought it was the right thing. But you wouldn't be human if you didn't fear what it would do to your family. It's the thing that worries me more than anything else.' 223

There are several ethical issues which the media face other than merely reporting accurately and fairly, or confining inquiries to legitimate means. One such issue is the Lobby System. This is a code of practice which allows someone like the Prime Minister to be as rude or indiscreet as he or she likes to a bunch of journalists, with the absolute guarantee that the remarks will be reported anonymously.

For example when you read that 'a source close to the Prime Minister' has said something insulting about another politician, the truth may be that the interview was with the Prime Minister himself. It could be argued therefore that by definition the Lobby encourages lack of integrity at best and deception at worst. It allows people to speak opposites out of both sides of their mouths at the same time; to be loyal and damning with flattery and flannel.

### Media 'interests'

Another ethical issue is whether or not journalists should have to declare their own interests in some way, or be governed by a code of conduct which forbids accepting favour that may influence what they write. These questions were highlighted following revelations about press hospitality from Mohammed Al-Fayed. The Al-Fayed family gave elaborate and generous hospitality to many journalists during the 1985 battle for the takeover of the House of Fraser. One reason was to convince the British press that they were a long established family of established and respectable wealth. 224

The former deputy editor of the Sunday Times, Ivan Fallon, who strongly supported the Al-Fayed bid and wrote a book about it, freely admitted that he had stayed twice at the Paris Ritz free of charge, although he denied that it had compromised his journalism. He said he went strictly for work and did not stay at weekends. 225

Brian Vine of the Mail on Sunday also admitted that he had spent a night in the £6,000 Windsor suite at the Paris Ritz and wrote about it for the travel page. 'I did not expect to receive a bill for reviewing a hotel suite. 226

Jeremy Warner, later business editor of The Independent said he had been sent a 'card' but had not used it. 227 We also need to look at the issue of so-called 'justifiable subterfuge'. Was it right for The Guardian to send a forged fax on House of Commons letterhead to try to establish the truth about a hotel bill relating to a stay at the Paris Ritz by Jonathan Aitken? A majority of 275 MPs voted in favour of referring the editor to the Commons Privileges Committee. Edwina Currie remarked: 'Scrutiny by the press is one thing but subterfuge is another, and that's the issue at the heart of /he Guardian's bad behaviour.

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Similarly, should the Sunday Times have been disciplined in some way for entrapping MPs with cash offers for questions?

Peter Bottomley urged caution: 'Criticise them, get involved in arguments by all means, but don't try to use the Committee of Privileges for trying to control what journalists do in their legitimate role of acting as vacuum cleaners, picking up all the dirt, sifting it out and making mistakes and often getting it right in what they decide to put out to the public. 229

He told me recently of the appalling way in which he had been libeled in the late 1980s over malicious allegations entirely without foundation, and of other libel and harassment. Despite

these things he is not bitter, and believes things may change as the public begins to react against it all.

Despite the technological revolution in publishing, over the last fifteen years there has been a significant decline in the circulation of many newspapers generally, and the tabloids have suffered along with the rest. The so-called 'circulation wars' have heightened the media frenzy over 'scandals' as well as narrowing profit margins.

If you are libelled you can take court action - in theory. In practice, it is very expensive because you have to pay heavy costs as you go, and legal aid is not available, however poor you are. Even if you had a guarantee of winning damages and costs (and it is never certain), you could run out of money very quickly before getting anywhere near a court hearing. Thus libel actions are really only for the rich; the rest are in most cases unable to defend their reputations.

But even if the legal costs are no problem, many would argue that you are very unlikely to clear your own name even if you win. There are many reasons for this. First, far less media coverage is given to successful court actions than to the original allegations. An example of this was the libel action against the Independent on Sunday won by Said Mohammed Ayas, after settling out of court. The action was summarised in fourteen lines hidden at the end of a larger article about Jonathan Aitken on the bottom of page two. 230

The only way to get more coverage is to refuse to settle out of court and go for a bloody public battle. This can be very unpleasant and time-consuming. Every possible excuse will be given for the libel, which may well include restating the original allegations and a host of other negative comments. What is more, every word said in court can be freely reported under British law without the risk of another libel action.

The aim of the press defendants will be to throw so much mud in the air that the jury will lose patience and decide the story was justified. What started out as a single article on the inside pages could become a front page in many national papers, every day for two weeks. A libel read by fewer than a million people and readily forgotten, may now become a major concern in the minds of 11 million. These are the reasons why most people who are libelled take no action. Too many people have left court having lost their actions and their wealth as well as their reputations, despite the fact that they may well have had a genuine case of grievance.

Simon Jenkins wrote in The Times: 'If you are innocent, never sue. If all the hobgoblins of Fleet Street chase you down the road to hell, never sue. If they libel you, defame you, pester your children, call your wife a whore, never sue. If they goad you beyond the bounds of decency and tolerance, still do not sue. If learned friends assure you of unlimited riches, do not sue. If bewigged judges swear they can imbue your name with the sweetest odors of the Orient, do not sue. Never sue for money, fame, status, reputation. Just never sue.

'But if you are brazen and a gambler sue. Sue the newspapers to the skies. You will almost certainly win. You may not clear your name, that is asking too much, but the odds are that you will make a lot of money. Remember that in law a newspaper is guilty unless it can prove itself innocent . . . I know of almost no big defamation case during my professional career in which

that court yielded anything like a just verdict ... Indeed so terrified are most parties of the waywardness of libel law that they settle out of court on terms that are usually a travesty of truth. 231

It could be said that Simon Jenkins, as a veteran of the press, is hardly likely to write comment pieces encouraging the libelled to take newspapers to court, but his points are well made.

The Conservative Party has shown itself extremely wary about new press controls. The government hoped that self regulation by the Press Complaints Commission would be seen to work. Its Chairman, Lord Wakeham, also warned against further regulation, while the then Conservative Party Chairman, Jeremy Hanley, declared that no government can win' on legislation against the press. Who wanted such a massive issue to flare up in a pre-election year?

The White Paper was expected to recommend new measures to protect individuals from damaging comments, new measures against bugging and telephoto lenses for 'spying on people and a civil remedy for invasion of privacy'. One official was quoted as saying: 'The work has all been done.

Major knocked it back and didn't want to risk taking on the press.' Legislation against 'kiss and tell' or entrapment was ruled out because it would wipe out 'many books which are on the bookshelves and in public libraries. 232

Chris Moncreiff, Lobby Correspondent of the Press Association told the Nolan Inquiry: 'In recent years the Press, including television, has become far more aggressive in its approach to MPs, to seek out what they consider wrongdoing. Indeed in some cases as we know, the Press has resorted to acting as an agent provocateur, perhaps even as an imposter to find out what they consider to be the truth. They say that the end justifies the means. It is something that thirty years ago would never have happened - a move by a newspaper or any part of the media to try to entrap an MP into doing something which he should not do.' 233

There is another side to the arguments over libel and privacy. While libel laws are there to protect people from unjustified character assassination, there is no doubt that they restrict public access to the truth. Many may say that is a small price to pay for protecting civil liberties, but it can be disturbing if it means the corrupt or incompetent are unfettered by criticism.

Writing in The Independent recently on the publication of a 'revealing' biography of Mark Thatcher, Peter Koenig wrote: 'Something happens. A large number of people know it happened. But no one can say it has happened, explore how it happened and what it means and stay on the right side of Britain's libel laws. So the pursuit of telling what happens deteriorates into a game that preoccupies politicians and reporters but bores the public. Years later, when it no longer makes a difference, the facts dribble out, by which time they serve as little more than cheap entertainment, and in so doing, confirm the public's deep seated cynicism about politics and the media. 234

As I have discovered myself, in practice libel lawyers are extremely nervous about any comments which may be considered in any way harmful to the reputation of wealthy and powerful people, and book publishers are even more so.

Newspapers tend to be seen as here today and thrown away tomorrow, so those who are upset by an article may decide to let matters rest. However, books hang around on bookshelves for a decade or more. Newspapers make an instant return on a sensational story with added circulation, whereas a book publisher could be faced with a court injunction before a single copy has been sold. The result is that newspapers publish material you will never find in books.

While there have been many media abuses of press freedom, there have been many excellent examples where revelations have been a service to the nation. The question remains as to whether the end always justifies the means., especially when it comes to invasion of privacy.

There is evidence that journalists have sometimes had more power than even the police in pursuing an investigation yet they are far less accountable. An example is over entrapment, where police evidence obtained would never be heard by a jury, but the same method can be used by a journalist and information broadcast to the nation, even though it may destroy an individual's reputation.

I have studied carefully the Press Complaints Commission Code of Conduct. This was drawn up as a last ditch attempt to head off strict media regulations by trying for one last time to show that self-regulation can work. It followed the Committee on Privacy and Related Matters chaired by David Calcutt QC, and the abolition of the Press Council.

It is full of reassuring phrases but they may be worse than useless in practice for a very important reason. Here are a few of them: intrusions and inquiries into an individual's private life are not generally acceptable; journalists should not obtain or publish material obtained by using clandestine listening devices or by intercepting private telephone conversations; journalists should not generally obtain or seek to obtain information or pictures through misrepresentation or subterfuge; documents or photographs should be removed only with the express consent of the owner; journalists should neither obtain nor seek to obtain information or pictures through intimidation or harassment.

However, every single one of these noble principles is all but destroyed by an exception clause allowing all the above to be forgotten if it is deemed to be 'in the public interest'. So if the public interest needs to be satisfied, then a journalist, or anyone else connected with the media, can go ahead to bug people's bedrooms, their cars or their offices, burgle their homes and places of work, steal or copy papers, letters, photographs and computers; they can intimidate people and harass them, deceive and bully, with full immunity from censure.

The central and urgent question therefore is defining where the public interest lies. But this too is defined in the Code of Conduct. 'Detecting or exposing crime or a serious misdemeanour', or 'protecting public safety' seem clear enough, but there is a third category which is vague and is a passport for media intrusiveness. The third definition of the 'public interest' is 'preventing the

public from being misled by some statement or action of an individual or organisation'.

This final category could be interpreted very widely - and has been in the past. Presumably it could be used to justify bugging an entire government Cabinet's homes and offices if it were suspected that some Ministers were not always saying in public exactly the same as they were saying in private on any matter of 'public interest'.

Listening devices are cheap and widely available from shops in the centre of London. For a few hundred pounds you can acquire a highly miniaturised bugging system or a phone tap. It has never been so easy to probe into people's personal lives, and there has never been so much money available to snap up stories of 'scandal'. There is thus a lucrative market for any private investigator who wants to make a living out of invading the privacy of those in public life. If he or she is caught with nothing to show for the effort, then they will be 'on their own' without a friend in the world, but if they find something out, the press will beat a path to their door.

The current Code of Practice would seem to permit breaking into the homes of many of the people mentioned in this book, and stealing diaries, notebooks, telephone books, financial records and personal correspondence. But where does it stop? Presumably prominent back-benchers are fair game too, and those who run quangos - and so the list goes on.

If we define the 'public interest' as what interests the public, whatever sells newspapers will be a good guide. But what if the public interest is instead equated with the national interest? Harry Greenway suggested recently that the definition of the public interest should be the public good, but that leads us to a very different place.<sup>235</sup>

If it were shown that the country is in danger of being starved of quality leadership because many potential MPs are not prepared to see their spouses, their children or themselves aggressively pursued by the press, then we might conclude that the current hounding of those in public life is very much against the national interest and should cease.

Both France and Germany are around a hundred years ahead of us on these matters. While we argue over press controls, we forget that France has had a legal right of reply since 1881. If a newspaper writes something about you, even by implication, and you object, you can ask for a correction or insist that your own views are published. Replies of up to 200 words must be printed uncut, unless the words are libellous or likely to incite racial hatred. In Germany a similar right of reply has existed since 1874. Both countries have healthy democracies and few would be able to argue convincingly that the public interest has been greatly harmed in any way.

Newspaper editors may point to the many other restrictions on journalists: the Official Secrets Act, the Draconian 'D notice' banning unauthorised disclosure on receipt of official information, stricter libel laws than elsewhere, the Criminal Rehabilitation of Offenders Act of 1974, and Contempt of Court to name but a few. Nevertheless, it is hard to argue for external regulation of the conduct of MPs without some similar measures for the media as well.

As we have seen, many politicians I have spoken to despair of ever taming the media, particularly now that ownership is dominated by a few very powerful players. For them the answer lies in pressure from the public, from advertisers and from proprietors. Public reaction can have a sobering effect, as the Sun newspaper found after an offensive article attacking Liverpool supporters after the tragic Hillsborough disaster in Sheffield, at their match against Nottingham Forest.

The Press Council 'condemned' the article which appeared on 19 April 1989. just four days after the deaths, and up to 300,000 people in or near Liverpool refused to buy the paper. For a time it was hard even to buy a copy as many newsagents refused to order it. I have talked to people in Liverpool recently who tell me the paper has still not been forgiven fully.

In conclusion, then, we have seen that the culture of both Westminster and the media has changed, and that there are arguments for changes in the way both operate. We now need to look at measures that can be taken in the light of the many concerns raised by this book.

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