

NOTES ON MEETING OF SOCIETY OF LABOUR LAWYERS

4p.m. Sun. 27 September 1998

in the Ruskin Hotel, Albert Road, Blackpool

The meeting was chaired by James Goudie QC. who introduced the two speakers; Chris Smith and Maurice Frankel.

Chris Smith spoke first on the proposed Freedom of Information Bill. He paid tribute to Maurice Frankel and David Clark through whose efforts government was now at the stage of arguing whether it should be introduced next year or the year after. He hoped that the government would not lose its nerve. He believed that those who have access to information have access to power. He was sure we would get the Bill in the next year or two and asked for continued support from the SLL.

His main subject was on freedom of the press. His view was that it was essential for democracy and included the freedom to be trivial and even outrageous. Society had come to accept that and the moment you moved away from that you go down the road towards censorship.

He asked "Does this mean that it is OK to barge into Russell Harty's bedroom" to film him dying or to use a long lens to film private lives of people.

There were two questions to be considered:

- a) Who is a public figure and should they be treated differently?
- b) What is "the public interest".

The answers to these questions depended on the circumstances of the case at the time.

He was convinced that this was not an area where law should be introduced therefore the solution lay in self-regulation but it should be better than the present system.

He asked whether the Press Complaints Commission (PCC) was working O.K.

He said it was better than it was but it had some way to go. The industry had already agreed to stronger reforms e.g. in relation to paparazzi and protection of children.

Most of the press have adhered to the voluntary code but not all was perfect. Some improvements to the code were needed e.g.

- 1) Who can bring a complaint? Third parties who can be affected should also be able to bring complaints.
- 2) There was a role for pre-emptive action by the PCC.
- 3) More effective sanctions should be considered - at present, an apology was given and that was just about it.

He turned to the Human Rights Bill which requires "public authorities" to observe the Convention. The question had arisen whether the PCC was a public authority or not. Finally, it was accepted that it was exercising a public function and therefore was a public authority and must observe the Convention.

On the balance between privacy and freedom of information he had been concerned about the possibility of an injunction under the privacy aspect intended to stop genuine investigative journalism.

The solution adopted was that at the injunction stage the burden of proof would change. It would be necessary to prove that it is not in the public interest to disclose, not that it is in the public interest to disclose.

In summary, freedom of the press was important, abuses do occur but self-regulation was the best option.

The Chair then introduced Maurice Frankel.

Mr Frankel said that Chris Smith had been involved in the campaign for a Freedom of Information Bill for many years. He had said in the past that freedom of information was sometimes inconvenient but that you have to accept that.

Lack of freedom of information could be dangerous. For example, in the case of BSE, information was available in 1989 but researchers could not obtain it from MAFF. It was now evident that had it been made available, the risk of disease to the public would have been reduced and the economic effects averted.

He gave examples of information having been withheld for no good reason. One instance was a refusal of information about the total number of NHS prescriptions on the grounds that it would infringe patients' confidentiality.

They had instituted awards for good practice in providing access to information but he was interested in some of the bodies which had refused the awards. One Television company had an excellent policy on employees access to their personnel records. But his request for a copy of the policy had been refused.

He recalled that Roy Hattersley, when Deputy Leader, had promised that a Freedom of Information Act would be in the first year of a Labour Government.

He welcomed the White Paper which included some very bold proposals but he regretted that the proposal to include the privatised utilities had been dropped.

He went through some of the main points of the proposals but he had some reservations. In particular, the exclusion of the law enforcement functions of the police - an issue which had been included in Freedom of Information Acts in other countries.

He also had some concerns about charging for information but accepted that some level of fees was inevitable.

He emphasised how common freedom of information was among other countries. He was worried that the government was dragging its feet. He understood there was a lot of competition for parliamentary time but feared that it was not just lack of time, but that some ministers seemed to be unhappy with the proposals. He pointed out that if the Bill is not in the Queen's Speech this year it could not come into effect until 2001 at the earliest. If in a later Speech, it would not come into effect until after the General Election. He reminded the meeting of the speed with which the Terrorism Act was brought in after the Omagh bombing.

The Chairman then asked for questions and took about four or five. One appeared to want a law to make newspapers "tell the truth". Another referred Chris Smith to some obscure international ruling of which he had never heard. Another referred to the question of judges consulting Hansard when construing the intention behind legislation

I got the last question. I referred to the proscription of Eurotia Rendez-Vous and quoted a section of the letter from Janet Anderson "Chris Smith took the view that the risk would be in the public interest" I said that Britain was the only country to have taken such action and reminded him that access was not a matter of merely pressing a button. I also said that most parents, if asked, would say they were better at looking after their children's welfare than he was "with respect".

Chris Smith said that he was under a duty to ensure that what is broadcast takes account properly of the needs of children. He can't take action against the broadcaster but can take action against advertisers etc. He took advice from the ITC; from his officials and lawyers and thirdly having had a look at the material. He felt that it would be damaging to the interests of children if this material were to be broadcast which is why I made the order I did.

At this point the Chair closed the first part of the meeting and Chris Smith prepared to leave.

I managed to have a very quick word with Chris Smith and explained that I was from the CAC and had been a Labour Councillor and asked if he would be prepared to meet with a delegation from the CAC to discuss censorship of the media. He said he would "at some stage" but thought Janet Anderson might be the best person to see but certainly one or other would meet with us. He said that the approach would be to write to him at his Department.

ENDS