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DOCUMENT THREE
(as indicated in the
text of the Witness
Statement, the
markings derive
from 1993, not
from 2012)
Brooke Witness Statement

PRIME MINISTER

I appreciate the response to Calcutt is something in which you take a personal interest, and therefore I am addressing to you this cover minute accompanying a note on Press Regulation and Privacy prepared for consideration by EDH.

Our posture in January had been that we would act on one of Calcutt's key recommendations (criminal offences) and follow up on four other areas where he recommended further consideration and study but that, though we would require a very powerful case to persuade us, we would defer a final decision on his main recommendation about a statutory body until after we had listened to the Soley Bill debate and after the National Heritage Select Committee had reported. The latter was of course the more important, and the EDH meeting relates to our response. Unusually (prior to the response) we had a full day's debate last week, and its climate, though dominated by members of the Select Committee, who had written a strong report, was very much of looking to the Government for further action beyond the concessions the Press have already made since January.

The critical problem in the Select Committee's attitude is that their liking for a Statutory Ombudsman is effectively for a Statutory Tribunal by another name. Certainly the Press see them as effectively equivalent. If we are not going down the statutory route, then our objective must be the strongest self-regulation we can achieve. I am myself encouraged by what they have offered so far, but it is well short of rectifying the omissions Calcutt identified. The question therefore is what further concessions we can achieve, against a backdrop where the Press do not believe we would impose a statutory solution.

They are in the business of reaching a concordat within their own limits - their principal limit being that, beyond a certain point, they would throw in the towel, save themselves the expense, and subject us to the odium which statutory control would engender.

Such leverage as we have includes:

- i) whether the proposed criminal offences would apply to journalists or, as I would prefer in any case, to mankind; and
- ii) agreeing that this is the last time this issue will be addressed in this Parliament.

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But it requires Press goodwill for those to be decisive.

As to further concessions by Pressbof, there are in my mind various options:

- i) the power for the PCC to dictate where, and with what prominence, corrections should appear when complaints have been upheld;
- ii) an ombudsman with no greater powers than the Press Complaints Commission (and thus no power to fine) but as a court of appeal;
- iii) conceivably (despite an unwillingness to fine) a Press-funded compensation fund. This would presumably be an *ex gratia* resource, but it is difficult to see exactly how it would work.

I have in the past used Sir Frank Rogers, whom I have known for twenty-five years, as a private conduit for discussion with Pressbof. I am proposing to have a session with him (not least in order to explore where they are) in advance of any discussion with colleagues, though I recognise time is not on our side. I am also seeing the Lord Chancellor privately because the Select Committee's pursuit of the Ombudsman derives from his evidence to them.

If these concessions can be secured, they fall short of the Select Committee's desires, but the Select Committee's central stance is founded on an intellectual fallacy. If they cannot be secured or if they are felt not to be sufficiently conclusive, we are thrown back on having to consider statutory measures with all the implications that has for taking us into unknown territory.

I am copying this minute to the Lord Chancellor, Douglas Hurd, Ken Clarke, Michael Howard, Michael Heseltine, John Wakeham, Tony Newton and William Waldegrave, and to Sir Robin Butler.

P.B.

PETER BROOKE

15 June 1993

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