

MEDIA COUNCIL TESTED IN PRESS FREEDOM FIRES

There is no doubt that the Press Council was a defensive response to National Party government threats to control and discipline the English language press whom it regarded as "South Africa's greatest enemy".

At one time or another, the English language press was blamed for everything from economic recession to South Africa's departure from the Commonwealth, suspension from the United Nations, its polecat status in the world and international sanctions.

From 1948, when the Nationalists came to power, the English language press provided outspoken opposition and it was not long before the government decided to do something about it.

The first step was to appoint the Press Commission headed by Mr Justice J W van Zyl in 1950, to look into:

Concentration of newspaper control and its effect on editorial opinion and news presentation;

The accuracy of news reporting here and abroad; and

The adequacy of existing means of self-control and discipline by the press.

This threatening move prompted D H Ollemans, chairman of the Argus company, to propose in March 1951 a voluntary press council, but at first the idea received little support.

That changed abruptly when the Van Zyl commission's first report came out 11 years later. It took the press only one month to put the idea into practice, in the form of the Press Board of Reference and a code of conduct for journalists. The circumstances suggest strongly that the decision was taken under duress.

Any hope that this step had appeased the crocodile's appetite was dashed by the Van Zyl commission's second report, in 1964. It said bluntly that the Board was inadequate and should be replaced by a statutory Press Council. A more sinister proposal was that every newspaper and every journalist be required to register annually with the statutory council, and pay a registration fee.

The Van Zyl commission's objections were that only owners were represented on the Board; it had no disciplinary power; the code was not comprehensive enough, and the Board had no power to deal with individual journalists. John Vorster warned the press directors and editors that unless they "put their house in order" by January 1974, he would intervene.

In July that year, the SASJ held a symposium on press freedom in Cape Town. Leyton Slater, chairman of the Argus group and NPU president at the time, said the NPU would fight any form of control by the government.

But the NPU held talks with government and delivered to Vorster a revised constitution and a more

restrictive code of conduct. The new proposal would give the Press Board of Reference, to be known as the Press Council, power to impose fines up to R10 000, and require all NPU members to accept its jurisdiction.

Slater urged journalists to accept the amendments as an attempt to keep the contents of newspapers out of the hands of bureaucrats and politicians. Argus and Afrikaans editors supported the move but not Morning Group editors and the SASJ who said it was a capitulation to threats and smears.

Vorster didn't respond to the NPU's plans until December 1975 when he suggested some changes. Then June 16 1976 erupted and the government responded with the Internal Security Act giving the Minister of Justice wide powers to ban organisations, people and publications.

The next intimidatory step by the government came in February 1977 when the Newspaper Press Bill was handed to the NPU and then introduced in parliament. It contained all that the National Party government had ever said it needed to control the press, including a statutory Press Council which would administer a severely restrictive code of conduct.

All sections of the press reacted critically and the chairmen of the four newspaper groups of the time (Argus, SAAN, Nasionale and Perskor) went to see Vorster. On March 23, Vorster announced he was withdrawing the bill but would give the NPU a year in which to test its own amended code of conduct.

The new council and code differed in important aspects from the press council proposed in the Newspaper Bill: the council could not suspend individual publications nor fine individual journalists, and it did not include a provision preventing newspapers from prejudicing relations between different groups or from damaging the country's name abroad.

The Press Council survived until 1983 when it was replaced by the Media Council. The pressure for the change came in evidence by government officials to the Steyn Commission on the press that there was a need for new measures against the press, including a statutory council.

When the Steyn Commission reported in 1982, the English press and also the Afrikaans press were united

in opposing, even outrightly condemnatory of, its proposals.

Nevertheless, Heunis pushed through parliament the Registration of Newspapers Amendment Act, first claiming NPU support and, in the face of rebuttals, blaming it on a misunderstanding.

It was some misunderstanding! The key provision in this little bombshell was that the minister could cancel the registration of a newspaper if it did not subject itself to a statutory Media Council. The Act was never brought into effect by promulgation, but remained a sword of Damocles for the press for many years.

When the NPU approached the Conference of Editors to produce a plan for a new media council, a committee of editors (Ton Vosloo of Beeld, Harvey Tyson of The Star, Harald Pakendorf of Vaderland, and Tertius Myburgh of the Sunday Times, with myself as convener) decided on a new approach. It was that we should adopt and adapt the British Press Council to local needs, rather than reflect the demands of the government and its Registration of Newspapers Amendment Act of 1982.

The formality of the Press Council and the fact that its decisions were taken by one person, albeit a distinguished judge, had long disturbed editors. The new media council was to be representative of both press and public, have much less formal procedures, have its decisions made by majority vote, and most significantly, put a conciliator in place.

But elements among the public members pressed hard for the Media Council to take on the role of censor by monitoring on a daily basis what all the newspapers published and initiating disciplinary action against what it perceived to be possible contraventions of the code of conduct.

Although the Media Council was intended to provide a forum for complaints against broadcasters, only one such was heard. In 1992, the council, on the initiative of the Conference of Editors, shed its claim to jurisdiction over the broadcast media.

It became, once more, the Press Council of South Africa, but with an amended constitution to reduce its size and cost, and streamlined rules of procedure. A few months later, the Broadcast Complaints Commission of

South Africa was formed to take over the handling of complaints against broadcasters.

The reconstituted Press Council retained its general function of maintaining the freedom of the press and achieved some success in that role. The most notable was persuading the government to amend the controversial section 205 of the Criminal Procedure Act which had for years been used to try and force journalists to reveal information to the state under threat of imprisonment.

The harsh sentence in the Cornelissen case of 1993 provided the lever needed to prise open the iron grip of section 205. Although the government would not agree to the demand for journalists to be totally exempted from its provisions, amendments were accepted that significantly improved the position of journalists.

A full assessment of the role of the Press Council in its various forms over the years has yet to be done. The question has to be asked: Was it a worthwhile defence of the freedom of speech and the press or was it self-censorship through intimidation as W A Hachten and C A Giffard put it in "Total Onslaught: the South African press under attack"? Did it keep the press out of the hands of bureaucrats and politicians, or was it a surrender by instalment?

The answer at this early stage, for me, is yes, it did keep the bureaucrats and politicians at bay, it did help to preserve what press freedom remained after the draconian legislation of the apartheid era restricted reporting in almost every field.

Its code was a collection of ethics that could be described as apple pie and motherhood, ethics that are standard in journalism. It might have looked to outsiders as though it was there to discipline the press and get it to impose self-censorship; in reality it did nothing of the sort.

The Council, sometimes alone and sometimes in concert with the NPU and the Conference of Editors, took on the government on issues of freedom of speech and the press, defended journalists and their rights.

It helped to bring home to the whole press the fact that freedom is indivisible, that whatever was done to curb the English press also curbed the Afrikaans press.

What of the future? Well, the newspapers in many countries recognise the need for their readers to have someone to complain to. That need is also recognised in South Africa. There are various forms of self-disciplinary bodies appointed by the press in most Western countries which apply generally accepted ethical standards. Some newspapers appoint their own ombudsman to resolve complaints from readers, especially in the United States where press councils are not highly regarded.

South Africa should have its own solution.