

# Press freedom in New Zealand

**P. J. Scherer examines recent developments and concludes that, while there have been gains, press freedom remains at threat in New Zealand and the South Pacific**

In April the Commonwealth Law Conference in Auckland was told by our Chief Justice, Sir Robin Cooke, that in defamation the courts had achieved some results that could be described only as "grotesque... without the slightest exaggeration."

A visiting British lawyer, Geoffrey Robertson QC, in commenting on the substitution of rights of reply in various forms for more conventional defamation torts, thought that the Soviet Union and Czechoslovakia would soon have greater press freedom than New Zealand in some areas.

## Defamation Laws in Need of Reform

While New Zealand undoubtedly enjoys a greater and much more comfortable degree of press freedom than in most Commonwealth jurisdictions, an unnecessarily oppressive defamation code remains our primary concern.

The present statute on defamation dates from 1954. In 1975 the Attorney-General commissioned a committee to recommend reform. On that panel, lawyers, practising and academic, outnumbered journalists, practising and proprietorial. Nevertheless, it found the present balance between protection of reputation and freedom of speech tilted too far towards the former.

Its 1977 report proposed specific remedies. Fiqued by one newspaper's political criticisms, the Prime Minister of the day announced that the reforms had been put in a cupboard and the door locked.

Some five years ago, a new Administration revived the proposals but diluted them. A bill has been languishing before Parliament for two years now. The Attorney-General and, more recently, Prime Minister, Mr Palmer (who as a law professor had helped to draft the legislation) was unable to persuade sufficient of his colleagues of its virtues.

Meanwhile, chilling claims continue to mount. Some NZ\$10 million or more is being sought by sundry politicians and others arising from one recent television program.

My paper and I are joined with civic officials in defending another claim for amounts aggregating \$13 million - a record until this year topped by a suit against another paper and other municipal leaders for amounts aggregating \$28 million and \$33 million respectively.

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## The gains

There have, however, been gains on other fronts in recent seasons:

- We recently convinced the legislature to repeal section 9A of the *Race Relations Act* which contained sanctions against publication of material deemed likely to offend ethnic groups.
- Just three years ago, we succeeded in persuading Parliament to withdraw oppressive direct censorship provisions in an International Terrorism (Emergency Powers) Bill. For the first time in 55 years, the Government abandoned such reserve powers, originally taken to deal with labour and civil unrest, and later sustained as a wartime measure.
- Today, under the latest version of the criminal code, sedition is no longer an offence.
- The *Official Secrets Act* has now gone - replaced by an *Official Information Act*, a freedom of information Act. While imperfect it is certainly useful. It embraces not only the central government but also local government and, indeed, most of the trading agencies at either level of public administration.

## *The Soviet Union... would soon have greater press freedom than New Zealand'*

Despite such gains, we do find it a constant battle to counter a veritable stream of potential regulatory restrictions on press freedom, all of them earnest and well intentioned but often for vague social motives.

## Threats on the horizon

In the past six months alone, the New Zealand Section of the Commonwealth Press Union has been dealing with:

- The defamation bill.
- Providing a member for a task-force revising and enhancing accountability and access under the Local Government Official Information and Meetings Act.
- Vainly opposing an invasion of commercial free speech under anti-

tobacco-advertising measures.

- Protesting at deception apparently practised by police and military authorities over a major alpine tragedy.
  - Helping to persuade the Government largely to abandon a scheme to appropriate broadcasting time for party political broadcasts.
  - Successfully campaigning to preserve the application of not only the *Official Information Act* but also the *Ombudsman's Act* to state-owned enterprises.
- In the previous year, the Press Union made representations on numerous other pieces of legislation, including bills or acts dealing with crown copyright, statutory publications, coroners, ombudsmen and criminal records.

## Other areas of concern

Our concerns also extend offshore. In the past year, we have twice sent representatives to conferences in the nearer Pacific to monitor and resist calls for controls on journalists, particularly visiting journalists.

News coverage of the South Pacific has upset several nations, notably Fiji, Papua New Guinea and Vanuatu, because of alleged "cultural insensitivities" and "distortions". Much of the cause of the distress originates with television journalists. But it has produced talk of "a Pacific Press Council" and of "codes of conduct", with penalties for breaches of the "rules".

It was observed at the Executive Committee meeting of the Press Union in London this month that training and staff development still lay at the heart of Commonwealth Press Union's interest and concern. In New Zealand, we do not neglect that function; indeed, we have had our own annual scholarship bringing Pacific island students to New Zealand for training.

But, of our three committees:

- Training and education of journalists,
- Communications, and
- Editors;

The latter, known formerly as the press freedom committee, is the most important and most active.

*This is an edited version of an address by P.J. Scherer, Editor of the New Zealand Herald, to the Commonwealth Press Union*