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SECTION 31
IS BAD FOR
BROADCASTING

LET
THE PEOPLE
HEAR

The Free Press
and its Enemies

Issue Number Five

For most of the past 20 years concern over freedom of speech, civil liberties and issues surrounding censorship in Ireland have focused almost exclusively on the effects of Section 31 of the Broadcasting Act, with its obvious impact on the free speech of members of certain organisations. There has been an almost self-congratulatory attitude at what some people see as a victory, in that censorship in the arts has almost ceased – though the film censor still watches film after film and orders his cuts to save us from ourselves, and the legislation that once allowed the wholesale banning of books is still there on the statute books, and is used.

Yet a culture of secrecy still pervades Irish society. The time has come to analyse and fight it because, among other reasons, the fight against the specific provisions of Section 31 has been lost. Possibly it lost because the arguments against it were too narrow.

The fight against Section 31 was lost when journalists and broadcasters in the NUJ and SIPTU took a case to the European Court and lost, effectively ending any chance of a legal remedy. If politicians are unwilling to listen to arguments against the continued renewal of Section 31, then it is up to others to generate a debate and create a climate which will make it more difficult for politicians to renew Section 31 every year with nothing more than a nod. Information and news empowers people and allows them to take decisions that affect their lives. In this country, north and south, there exist measures, ranging from the Official Secrets Act, through the two broadcasting bans, to the use of libel, slander and contempt of court to ensure that secrecy and control of information prevail.

To successfully oppose Section 31 and the Hurd Ban in the North and Britain, the debate has to be broadened to take into account women's right to abortion information, the right to public health information, the privatised censorship used by institutions such as the churches and commercial companies, the use of gagging writs and other legal devices to keep information from people, as well as the growing industry devoted to managing and distorting the news.

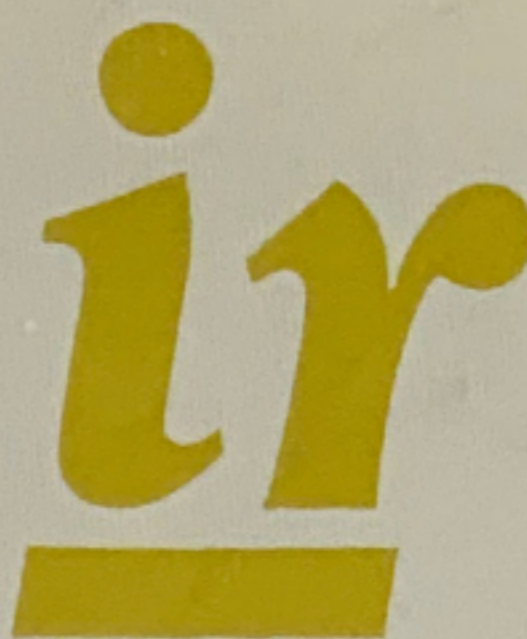
Censorship does not simply affect a few journalists or members of proscribed organisations, but everyone who is denied the information they need to live their lives to the full, from making family-planning decisions to judging how to use a vote in an election. This is the way the debate must proceed. We hope this issue of *Irish Reporter* is a start to this discussion.

The views in articles are those of the authors. Headings and illustrations are added by the *Irish Reporter*.

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Reviews

The News Managers

Journalist *Michael Foley* looks at some of the factors that keep important issues and alternative perspectives out of the news media

WHY ARE marginal groups in society also marginalised in the media? Why are few alternative views on the economy or politics found in the newspapers or on radio and television? Is there a conspiracy to ensure that only the acceptable, the mainstream and the respectable have access to the media?

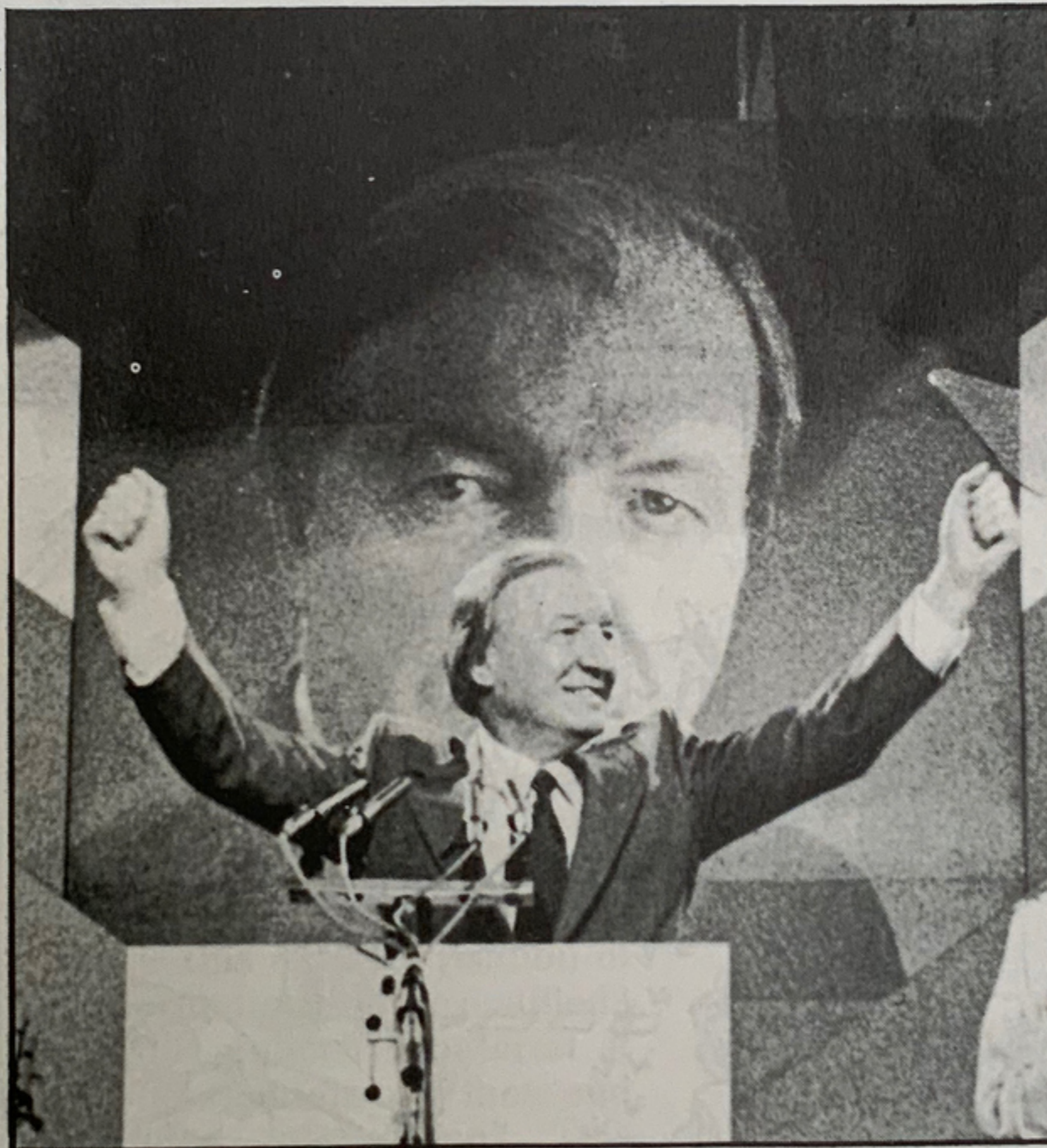
No doubt many on the left believe there is a media conspiracy. This writer can remember reporting a Labour Party conference some years ago when a number of members of the party's Young Socialists doubted whether *The Irish Times* would carry a debate concerning the nationalisation of the banks. I agreed it would not be carried, but the reason was far more prosaic than their conspiracy. It was past the deadline for the page.

The point of this story is that what does and does not make it into the news is decided by a number of factors, including the demands of the production process.

One of the factors that heavily influences what and who gets into the media is the often-misunderstood concept of 'objective journalism'. The paradox is that objective journalism and the attempts to achieve it allow for a huge degree of distortion and news management – while at the same time trying to ensure that this does not take place. It and the journalistic practices and routines it encourages do severely limit access to the media.

Objective reporting has little to do with truth or validity, or the elimination of bias from a story. What it is about is eliminating from news stories the intrusion of the journalist's bias and values. To do this a number of devices are employed: value-laden vocabulary is avoided – though studies in Britain, especially those carried out by the Glasgow Media Group, would question how far this is achieved; the

Picture Derek Speirs



authoritative sources

third person is used; and most importantly of all, stories are attributed to a source, as is interpretation of those stories.

Who are the sources?

Who these sources are tells us much about news and what is news. Studies in the US show that the range of sources used by the media are very narrow and tend to come from the same political, economic and cultural elite. The people who are the source of stories are often the same people who then comment on

often the same people

stories. The same people appear in news stories, jumping on and off the record. Journalists have long worried about the process, and so have developed the concept of 'balance', which simply means pitting one source against a conflicting source.

Journalists are not free spirits wandering the world in search of the truth, but workers expected to produce news to fill newspapers or broadcast time, usually on a daily basis and on time. They go where the sources are, and those sources will then provide information on a regular basis.

It is no accident that journalists tend to congregate together, nor that the political arena is where most journalists are found (media organisations tend to have more reporters covering politics than any other field) because this is where there is a never-ending supply of information. The political system in any country offers a ready made source of information in an easily transmitted form, through briefings and press releases from people with an understanding of deadlines. This also means, given the investment media organisations make in the political system in terms of staff numbers, that stories only become news when they enter the political sphere; unemployment is a major problem in news terms because politicians have deemed it so, but it was 'objectively' a major social problem long before TDs decided to discuss it.

Authoritative

What is most important about sources is that they are authoritative. This is important because in most instances a reporter cannot know if he or she is being told the truth. The way round this is to use the most important sources – the Taoiseach, or his press secretary; the trade union general secretary, rather than rank and file members; the head of a local authority housing department, rather than tenants – because if they are not telling the truth that is no fault of the journalist.

Authoritative sources are themselves placed in positions of great influence, because in return for information on a regular basis they can often control how information is disclosed, through the use of embargoes (deciding the timing of news), by hiding their identities, by offering information in such a way that it can later be denied, if necessary.

This extraordinary reliance on sources can have odd results. In

the US during the 1960s, Students for a Democratic Society (SDS) had no national figures, nor an easily defined leadership. The media covering the movement needed spokespersons and sources with authority. The left within the movement provided sources who were quickly considered the leadership because of their media exposure. In this instance the media forced a movement to the left.

Bizarre coverage

The need for authoritative sources can lead to some bizarre coverage. The Garda Press Office is seen as much more authoritative than a person carrying a banner at the head of a protest march, so demonstrations get covered in terms of the traffic congestion caused, rather than the reason for the march. Stories about local authority tenants protesting about housing conditions are covered by talking to the local authority – often the source of the problem and a major player in the story, rather than an objective source.

The convention of the authoritative source is so strong that reporters will take the word of a senior source above that of someone more junior who might be in a better position to know – making this form of reporting hardly the ideal way to ensure accountability or expose scandals.

The media will at times show signs that it is aware of its shortcomings in covering particular areas – usually connected with society's disadvantaged. But with the best will in the world the journalist is still forced to rely on authoritative sources – politicians, social workers and academics who interpret what is happening. The media will blitz certain problems, with massive feature coverage, which might include a 'colour piece' – actually talking to people who are clearly not authoritative in the accepted sense – and then return to what it knows best, talking and listening to the same handful of sources, with their news management machines and huge output of information already tailored for media use.

Goodwill of Journalists

Disadvantaged groups and other marginalised groups cannot fight this. They have neither the money nor the expertise to compete. They must rely on the good will of journalists who must find time and – that even

more scarce commodity – space in which to write about communities and people who otherwise would not get into the media.

The media must find new ways of covering news. They must take a decision to simply ignore some areas in order to concentrate on others; to find ways of dealing with real opposing forces and

ideas, rather than contrived ideas about balance; to accept that there are people who are authoritative in terms of their own lives, that there are communities and interests who deserve access without having to be legitimised by others who are considered authoritative – by a media trapped within its own routines and procedures.

Picture: Mitch Harris



People who would not otherwise get into the media

tailored for media use



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Selling Northern Ireland

The Strategy of the Northern Ireland Information Service

Where do the media get the dominant views about the conflict in the North? *David Miller*, a research fellow in Glasgow University's Sociology Department, analyses the picture purveyed by the British Government's 'official sources'

JOURNALISTS dealing with Northern Ireland routinely refer to the 'propaganda war' which accompanies the conflict. But the participants in the conflict are often keen to distance themselves from the use of propaganda. One such organisation is the Northern Ireland Information Service. The Northern Ireland Office (NIO), so the argument goes, is automatically disadvantaged in a propaganda war because it has to fight by fair means. The former Director of the Information Service, David Gilliland, argued this point to an American journalist in 1981:

A government cannot win a propaganda war. Terrorists and their spokesmen can say or do anything they like and the perception becomes the fact. We can only hammer away at telling the truth, but the truth gets overwhelmed in the sea of propaganda. [TV Guide, 26.9.81]

The NIO presents its role as the legitimate and rational perspective in opposition to that of the 'extremists' or 'terrorists'. Some sections of the media apparently agree that the Information Service produces information instead of propaganda. On the publication by the NIIS of a booklet to coincide with the 20th anniversary of the redeployment of British troops in

Northern Ireland, the *Belfast Telegraph* reported that:

The book candidly admits and portrays the scale of the terrorist campaign which has gained Ulster such an adverse reputation abroad... This warts and all portrayal... may also be an effective counter to the more insidious propaganda as attention focuses on Northern Ireland during the forthcoming anniversary.[28.7.89]

The distinction is thus drawn between the honest 'warts and all' approach and the more sinister propaganda of 'extremist' groups.

But is this characterisation of the Information Service justified? Does the publicity material it distributes contain only facts and undisputed information? This article examines these questions using the example of the booklet praised by the *Belfast Telegraph* to see whether such distinctions between truth and propaganda hold up, or whether they themselves are an integral part of the propaganda war.

The Men and Women of Peace

Ten thousand copies of the booklet, titled, *The Day of the Men and Women of Peace Must Surely Come...* were produced and, according to the NIO, distributed to "MPs, the media, opinion formers and those interested in

Northern Ireland". It is a large glossy publication full of photographs, and reproductions of press clippings which begins with the juxtaposition of a black and white photo of the bombed-out wreckage of the main street of a small town in Northern Ireland and a colour image of the same street after it has been reconstructed. The accompanying text reads as follows:

This is one of the small towns in Northern Ireland targeted by terrorists during the past twenty years. But townspeople refused to give up. Within hours the windows had been replaced and it was business as usual... Such spirited resolve is the real story of Northern Ireland and its people; a community that is carving out international respect for its resilience, work ethic, enterprise and hospitality.

This 'true face' is then contrasted with that promoted by the media: More and more there is world-wide acceptance that this, not the media image of the masked terrorist, is the true face of Northern Ireland.

It would seem from this that the Northern Ireland Office is not keen on the images of violence which routinely fill television reports on the conflict in the North. These images, showing violence and disruption are blamed on the media and there is an implicit call for more 'responsible' or 'realistic' representations.

Yet such images are not purveyed only by the media. In fact the image of the 'masked terrorist' seen below is taken from a Northern Ireland Office television commercial for the 'Confidential Telephone'. Ironically the IBA refused to pass the ad for broadcast until the NIO increased the length of this shot from four frames to eight to remove its subliminal character.

*honest warts
and all
approach*

So while the Northern Ireland Office is anxious to promote images of a 'return to normality' and play down images of conflict, it is also involved in creating its own images of violence.

The Perceptions and Realities

The Northern Ireland Information Service stresses two basic messages in its publicity material: on the one hand that the problem in Northern Ireland is the terrorist "assault on democracy" [p20] and on the other that the people of 'Ulster' are "a community on the move" in which local "entrepreneurial flair" and "Ulster generosity" are "rendering bigotry irrelevant" [p72].

The booklet is divided into five chapters which address the "perceptions and realities" [p1] of Northern Ireland, starting with a review of the civil rights campaign and the British response. Thus a list of civil rights demands is counterposed to a list of 'reforms' which tend to suggest that civil rights demands have been met. There is no room to mention that the B Specials were replaced by the UDR, that the Special Powers Act was replaced by the Emergency Provisions Act or that the banning of religious discrimination has resulted in Catholic men 20 years later still being twice as likely to be unemployed as Protestant men.

Since then, the argument continues, British governments have "worked to create sufficient cross community consensus to restore an agreed measure of self-government to Northern Ireland" [p7]. Once it has been established that the British are trying to bring the two sides together we can move on to the 'real' problem of Northern Ireland, which is 'Terrorism'.

In chapter two ('Attacking the Community') the message on the 'terrorists' comes to the fore with a series of images of the death and destruction caused by the Provisional IRA. The conflict in Northern Ireland is due, in this version, to the "evil dreams of evil men", who manipulate people so that:

Young men and women with the normal aspirations of marriage and family and the ability to hold down good jobs needlessly spend years in prison as the penalty for listening to the evil dreams of evil men. And some die. That, too, represents part of the tragedy of Northern Ireland. Not only do PIRA kill, they do so with a cynicism which is a total perversion... [NIO, 1989:14]



Illustration from NIIS brochure: image of Northern Ireland

no images of poverty

What is the government doing to combat these 'evil' men? Chapter three, 'Protecting the Community' gives us the answer: "keeping the peace and maintaining law and order" [p32]. The 'wickedness of terrorism' requires that the police and army be portrayed as able to deal adequately with the 'terrorist threat', while at the same time the presentation of the 'security forces' as peacekeepers requires that the police are seen as part of 'the community'. As one commentator noted "The major problem for the authors of chapter three was how to make the RUC appear tough enough to cope with the boys in chapter two and still be friendly local bobbies." [Fortnight, September 1989]

The way the Information Service tries to resolve this tension is to deploy visual images of friendly, helpful-looking police men and women. As well as one photo of policemen carrying a coffin there are four of officers helping children or giving directions, patrolling the streets or chatting with pedestrians

There is only one photograph in the whole booklet in which members of the police appear armed. In a bizarre expression of this tension between the 'antiterrorist' and 'local bobby' images, the officers are seen

wearing plastic red noses and laughing as they point their guns at the camera

Back to Normal

The point of such images as the text makes clear is to reinforce the notion that Northern Ireland is a society getting back to 'normal'. This is why there is such an emphasis on the low crime rate and the repetition of a common official 'normalising' anecdote about deaths on the roads being twice as common as deaths "at the hands of a terrorist" [p36].

By the end of chapter three we have already started to shift to the images of what is called a "community on the move". Chapter four deals with 'Ulster's' achievements in industrial development and employment, agriculture, innovation and culture. It argues that successive British governments have shown a "high degree of commitment" to Northern Ireland by subsidising public expenditure and trying to attract overseas investment [p44]. There are many colour photographs showing some of the developments supported by the Industrial Development Board while the text brings out the "excellent job" done by the Board in attracting investment.

There are no images of poverty or underdevelopment in this section. Ironically for a chapter titled "A Community on the Move" there is no room to mention the problems caused by emigration. Chapter five relays rosy images of the "new spirit" through which "new attitudes and new frameworks for equality and mutual understanding" [p64] will be created with the help of the British Government.

The conclusion sums up the twin approach. After arguing that the public, media induced, perception of Northern Ireland is wrong, it goes on to stress the official version of the role of the government:

In reality, the community, together with Government and the forces of law, order and justice, is determined to succeed. It resists the small band of terrorists with a resilience which is impressive. It is coming to grips with its historic legacies, resolved to break their stranglehold. The economic and sectarian chains which have bound it for too long are slowly but inexorably being loosened. [p72]

Here the 'community' is preyed upon by the 'small band of terrorists'. The government in this construction is on the same side as the 'community' which is coming to grips with 'its historic legacies'. The key proposition here

What is the Northern Ireland Information Service?

The Northern Ireland Information Service (NIIS – the Press and Public Relations division of the Northern Ireland Office) is one of the most prominent sources of information for journalists covering the conflict in the North. Along with the RUC the NIO spends more money and releases more information every day than any other political PR organisation in Northern Ireland. In 1989/90 the NIO itself spent over £12.2 million on press, PR and advertising work. It supplies press releases to newsrooms in Belfast three times a day, arranges briefings and interviews for journalists with press officers, civil servants and politicians and monitors all major British and Irish media outlets in case a response is needed. It can also arrange and pay for the complete itinerary for visiting journalists, business people and academics and its staff of 58 includes a sizeable research department, as well as a features service which produces 'positive' news stories about Northern Ireland for inclusion in newspapers and magazines around the world.

Illustration from NIIS brochure: policemen wearing red noses as part of charity promotion



is that the historic problems of Northern Ireland are nothing to do with the British government or the Northern Ireland Office. The position of the Northern Ireland Office in all this is that of a neutral observer, or at most a facilitator for the Irish to sort out their own problems.

Once this definition of the British role is laid out the argument moves on to the reform strand of NIO strategy, emphasising the 'nice' side of 'Ulster':

The future begins to look brighter. Civic, family and personal pride are still intact. Space is being created to allow Ulster generosity to express itself in an ever increasing number of ways. Mutual respect and a willingness to appreciate the other's point of view are rendering bigotry irrelevant. Faith in the future is stron-

ger than ever. [p72]

In this definition the solution to the conflict is an end to bigoted attitudes which are to be replaced by cross community co-operation. The existence of the Border, the presence of British troops and indeed the overall role of Britain in Ireland are evidently not at issue.

Not Simply Information

The Northern Ireland Information Service is not simply engaged in supplying the media and public with information. It actually takes up and elaborates particular views of the conflict which are not shared by large numbers of people in Britain, never mind in Ireland itself. Powerful voices in the media have also taken issue with the NIO view. The *Daily Mirror* for example, repeated its view in an editorial signed by Robert Maxwell, following the breakdown of the 'Brooke talks' earlier this year:

The Northern Ireland Secretary, Peter Brooke, as so many decent men before him, tried to win from the leaders of the Protestant majority and the Catholic minority an agreement on some measure of power sharing. He was doomed to failure, as were all the other Government Ministers who have tried before him. The Protestant Unionist leadership will never concede an inch to the Catholic republicans as long as they believe they have a Big Brother in Britain to protect and finance them. The nationalists will remain obstinate while they believe the Dublin Government is always in their corner. [*Daily Mirror*, 5.7.91]

The potential value of this approach is that it attempts to set the terms of debate about the kind of problem that exists in Northern Ireland in order to make certain 'solutions' seem inevitable.

The acceptance of these terms focuses attention on the 'irrational Irish' whether Protestant or Catholic, politician, paramilitary or citizen and precludes analysis and discussion of the role of the British government in contributing to the conflict. It is not only 'terrorists' who engage in 'propaganda'.

In a policy statement some years ago the Information Service drew a distinction between "Propaganda" which is the "manipulation of facts and non-facts in such a way as to achieve an objective which is basically to mislead" and "Information" which is the "the dissemination of facts which are designed to inform and educate."



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Section 31

The Strasbourg Decision and Beyond

The joint action against Section 31 by the NUJ and SIPTU was rejected last summer by the European Commission on Human Rights. Here a *Special Correspondent* outlines the main aspects of the Commission's decision, and assesses the outcome.

SINCE THE two broadcast unions, SIPTU and the NUJ, lost their case on Section 31 at the European Commission on Human Rights last April, there has been virtually no public discussion of Section 31. The order, which bans interviews on radio or television with representatives of a number of organisations including Sinn Fein, seems set to be renewed yet again this January, without so much as a whimper of opposition in the Dail.

The refusal of the Commission to allow the case to go before the full Court signalled a failure on its part to recognise the damage being done to democratic debate in this country by the continued application of the order. Worse, the Commission appeared to endorse the particular position of the Irish government. In doing so, the Commission essentially held that the threat of violence transcends all arguments in favour of the free press.

As a respected protector of democratic rights, Strasbourg cannot be said to have had a good day. For while they acknowledge in their written decision that a balance has to be struck, they conclude that "the defeat of terrorism is a public interest of the first importance in a democratic society."

Arguments Not Even Addressed

Leaving aside the question of whether the media should have such a role in the first place,

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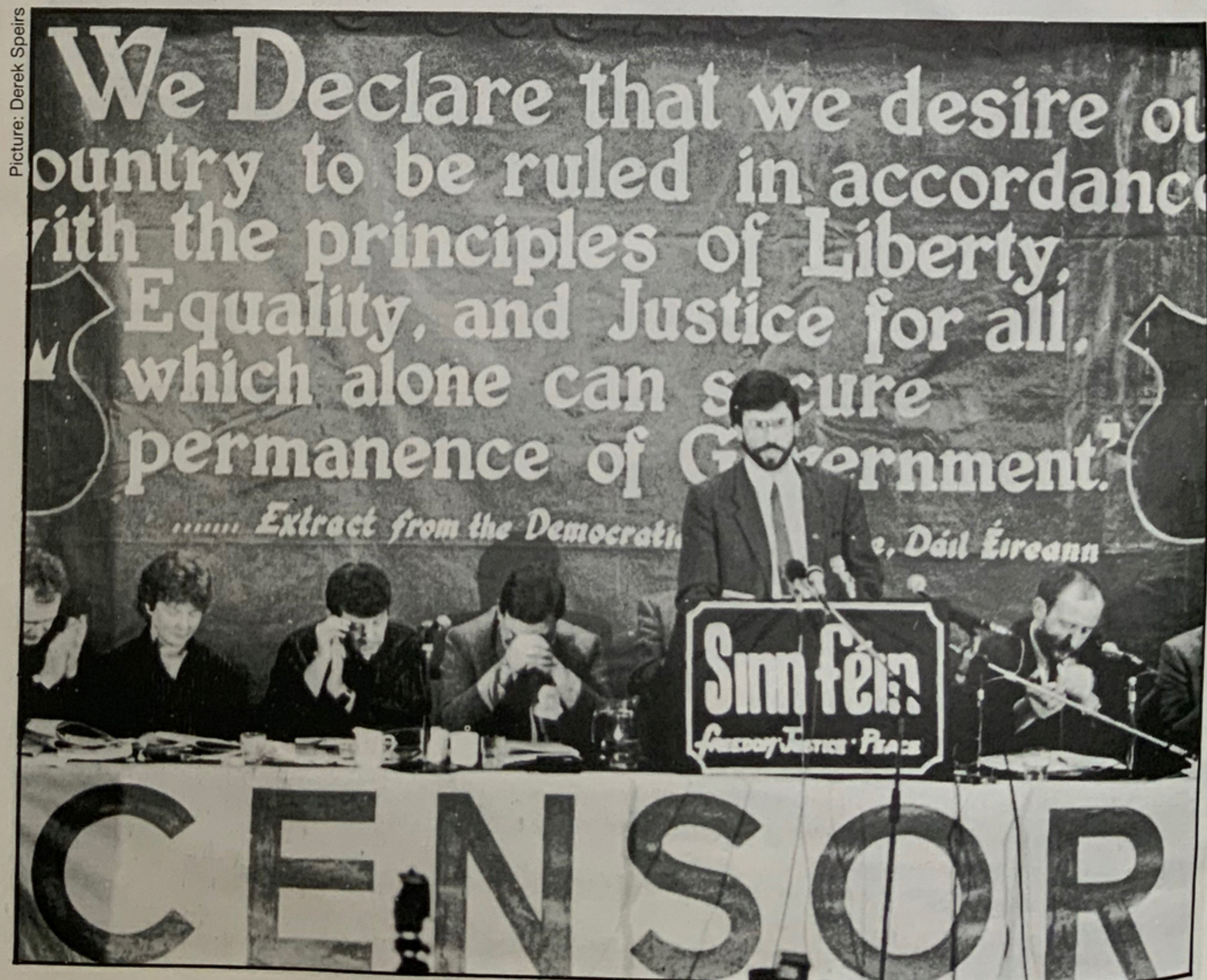
the most disappointing aspect of the outcome of the Strasbourg case was the apparent refusal of the Commission even to address many of the serious and compelling arguments put forward by the applicants. There was, for example, an impressive series of affidavits lodged by working journalists and broadcasters. These detailed the extraordinary effects of Section 31, and the very wide nature of its application in practice.

In addition there were lengthy submissions on how the measure ought to be seen as a breach of the Convention. Few if any of these arguments were dealt with by the Commission. Instead, the decision was made almost entirely in the light of the government's declaration on the continuing terrorist threat, which was described in graphic detail.

Sinn Fein a Legal Political Party

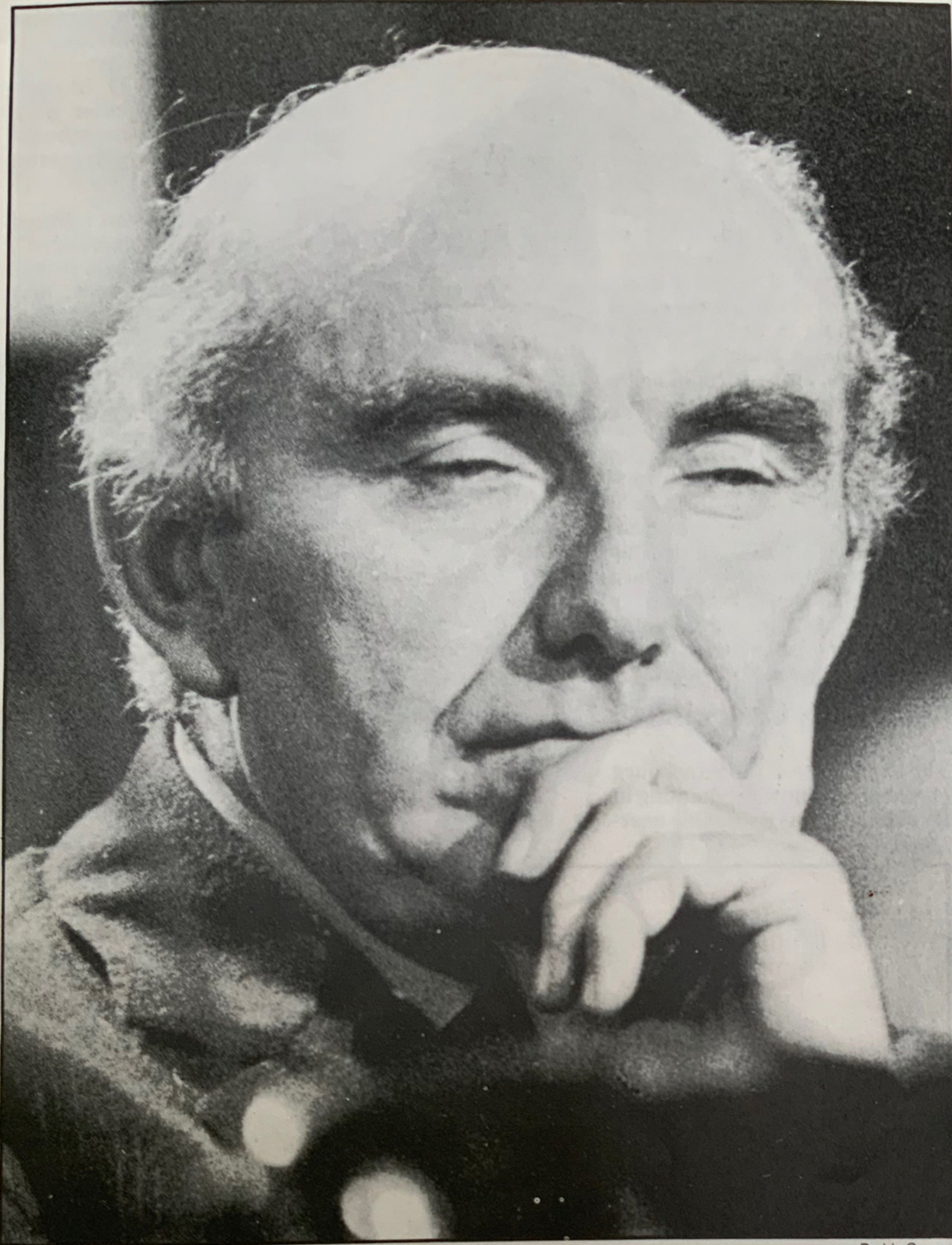
A central plank of the Irish government's case was to argue that Sinn Fein and its leaders support the IRA. The link between Sinn Fein and the IRA was used to draw the conclusion that allowing Sinn Fein members on the air would serve to promote the IRA's campaign. Sinn Fein's status as a registered political party was brushed aside by the Commission:

The fact that Sinn Fein is a registered political party makes



Picture: Derek Speirs

Picture: Derek Speirs



Picture: Derek Speirs

Paddy Cooney

no difference... The registration of a party in Ireland is a mere administrative formality; its only legal effect is that candidates who are members of a registered party may add that party's name to their own on the ballot-paper. Registration is not a licence, nor does it imply a recognition of the party or its activities.

It is a strange view to take, in the light of the fact that Sinn Fein (as the government itself conceded) is allowed all the other privileges of a political party, except broadcasting. It would appear to confirm the view that the measure is based simply on a desire to exclude from the airwaves a particular political party – a party which is opposed to the position of the government, and of a majority of the political parties represented in the Dail. These are parties

demean the media

which gain their legitimacy and recognition by precisely the same process which it is now claimed is irrelevant!

Legitimate Rights

Professor Kevin Boyle of the University of Essex, who along with Senior Counsel Frank Clarke represented the applicants in Strasbourg, believes that the ban remains a completely unjustifiable interference. In relation to the need to have a balance between freedom of information and protecting society from terrorism, he says:

It is precisely in a situation of high emotions and security emergencies that these basic rights of freedom of speech and information are most under

threat, and therefore most in need of protection.

According to Boyle, the key issue continues to be the need for editorial independence in broadcasting, as in the other media. This independence and judgement actually serves the public. It ensures a free flow of information and comment – essential in a democratic society. Therefore the broadcasters should be free to decide on the content of programmes, including the issue of who is interviewed, etc.

The continued interference of government means a censored media – one which simply cannot be said to be independent.

These legitimate rights were “by-passed” by the Strasbourg judgment, according to Boyle: “It was not a decision that could be said to have confirmed a commitment on the part of the Commission to freedom of the press,” he told the *Irish Reporter*.

Impression of Legitimacy

Allied to the argument of the “terrorist threat” was the government’s belief that, without Section 31, members of proscribed organisations would achieve a “legitimacy” by virtue of their appearance on the airwaves. This was a central plank in the Strasbourg case. In their decision the Commission state:

The restrictions are designed to deny representatives of known terrorist organisations and their political supporters the possibility of using the broadcast media as a platform for advocating their cause, encouraging support for their organisations and conveying the impression of their legitimacy.

This approach or philosophy must be deeply worrying for anyone concerned with freedom of the press, or the proper role of the media in a democratic society. It purports to distort the relationship between the broadcast journalist and the viewer or listener, by introducing a concept of “legitimacy”, as a paternalistic, and ultimately undemocratic, interference. The outcome of this can only be to demean and undermine the credibility and basic usefulness of the media.

Shades of Paddy Cooney

All this is remarkably reminiscent of a statement by the controversial Fine Gael Justice Minister Paddy Cooney in the Senate in 1975.

Basically, if the State broadcasting system were in any way to accredit the idea that the IRA is a quasi-legitimate institution or that it is appropriate for citizens to be neutral as between the democratic State and the armed conspiracies which seek to usurp its functions... then that pattern of presentation coming from that source – that is a source closely associated with the State itself – would tend to confuse the citizens, by intensifying the false air of legitimacy with which the IRA has managed to surround itself...

Clearly, little has changed in the Irish government's view. However, we might have expected more from the European Commission of Human Rights! They state:

In contemporary society radio and television are media of considerable power and influence. Their impact is more immediate than that of the print media, and the possibilities for the broadcaster to correct, qualify, interpret or comment on any statement made on radio or television are limited in comparison with those available to journalists in the press. Live statements could also involve a special risk of coded messages being conveyed, a risk which even conscientious journalists cannot control within the exercise of their professional judgment.

The Irish government couldn't have put it better itself. And the final observation on "coded messages" wasn't even introduced by the government itself, so far as can be ascertained. The idea that such a depressingly inaccurate analysis of the power and role of the broadcast media, with little if any basis in logic, could form part of the main intellectual grounding for the Commission's decision is difficult to comprehend.

At no time was it argued by the applicants that the broadcast media should or could be used as a platform for promoting terrorism. What was argued was that the restrictions in Section 31 go way beyond the objective of preventing the use of the media for incitement. In fact, they prevent the media from doing the job required of them: reporting the facts, and facilitating informed public debate. As already stated, Sinn Fein is a registered, legal political party. It is entitled to contest elections and regularly does so. To exclude its representatives from radio and television is to deliberately exclude a particular political position from the organs of public debate and comment. And there could scarcely be any greater "legitimacy" than that conferred on a political party by virtue of its name appearing on the ballot paper at election time.

The applicants' case was about

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the orders issued under Section 31 of the Broadcasting Act. The effect of these orders is to exclude from the airwaves any member of the proscribed organisations – irrespective of the subject-matter being discussed by them. Section 18 of the Broadcasting Act (which was not challenged) already precludes the broadcasting of "anything which may reasonably be regarded as being likely to promote, or incite to, crime or as tending to undermine the authority of the State."

Therefore, the restrictions operate to exclude particular persons, rather than material of a particular kind. This is where the "legitimacy" argument takes over. If the sole objective is to exclude matters which might incite, Section 18 already achieves this. This was argued strongly in Strasbourg by the applicants, but scarcely even addressed by the Commission in their written decision.

Valuable Exercise

The experience of the Strasbourg challenge, while disappointing in its outcome, was a valuable exer-

***matters
which might
incite***

cise. It compiled, for the first time, a very comprehensive set of affidavits on the day-to-day operation of Section 31. In addition, it brought together in a succinct and impressive submission, all of the legal arguments on Section 31.

That the Commission rejected these as "manifestly unfounded", though it did so only by a majority, and not unanimously, may be something of a contradiction. However, the decision does not bode well for the NUJ action in Strasbourg against the British restrictions. And the unavoidable conclusion from any fair reading of the decision is that the Commission swept aside very legitimate arguments on press freedom.

For the future, the only course can be the political arena. Difficult as it has been, those opposed to Section 31 will now need to renew a campaign to convince politicians that the measure is an undemocratic and excessive interference – one which continues to distort coverage of the biggest and most important story in Ireland.

RTE mast

Picture: Derek Speirs



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SECTION 31

START

GETTING THE TRUTH

The Camel in the Koran

Rumour in Irish Politics

Luke Gibbons suggests that rumour, far from being mere 'idle gossip', can serve as a necessary alternative to highly controlled media

OPPRESSION did of force and necessity make the Irish a crafty people... All the common people have a whining tune or accent in their speech, as if they still smart or suffer some oppression. And this idleness, together with fear of imminent mischiefs, which did continually hang over their heads, have been the cause that the Irish were ever the most inquisitive people after news, of any nation in the world... And because these News-carriers did by their false intelligence many times raise troubles and rebellions in the realm, the Statute of Kilkenny doth punish News-tellers (by the name of Skelagher) with Fine and Ransom...

– Sir John Davies, *Discovery of the True Causes why Ireland was never entirely Subdued* (1612)

It's totally rumour and conjecture at the moment. Someone is feeding material to the media and they better come out... – Noel Davern, TD, RTE, "Today at Five", 25 October 1991

Rumour in Irish politics is like the camel in the Koran: though all pervasive, it is seldom noticed, much less commented on. There have been numerous studies of the growing importance of the media in Irish politics, and within this broad category, of the comparative role of the press, radio and television in setting agendas for public debate. But rumour tends to be ignored in such discussions, though in the long run it may be more influential than any other medium in determining how people view public figures, and indeed public life in general, in Ireland.

Political commentators were agreed on RTE Radio the morning after the recent heave against Charles Haughey that part of the 'mystique' derives from the way rumours circulate about him – like myths and legends around the superhuman heroes of old. But

***Irish Reporter* page 12**

*persona of
the hero*

it is mistaken to equate rumour with myth and legend, or, for that matter, with charismatic personalities. The most effective rumour to sweep Irish society in recent times had to do with President Hillery, whose down to earth and reserved manner is hardly consistent with the larger than life persona of the hero.

By the same token the unnamed politician who was the subject of incessant rumours after a visit to an alleged brothel, could not be described as a charismatic individual – though that did not prevent his name spreading like wildfire when the *Evening Press* first broke the story. As Emily O'Reilly wrote soon afterwards, "the speed at which the identity of the unnamed Oireachtas member became known to the wider press and the general public was astonishing... The entire country has giggled over his discomfiture. His political life may well now be in shreds." (*Irish Press*, 12 October 1991).

Transgression

What both of these stories have in common is transgression: more particularly, sexual transgression. It could be argued that one of the reasons sensational journalism of the tabloid variety has had so little impact, historically, on the press in Ireland, is not (heaven knows!) due to lack of raw material, but because 'backstage' gossip about well-known figures already enjoys considerable public circulation. It is striking, for example, how 'news' in local newspapers is



Noel Davern

Picture: Derek Speirs

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always stale and ceremonial (county council meetings, official functions, etc), and pales by comparison with the stories doing the rounds of local pubs or street corner society.

There is even a sense in which the press acts as an *adversary* of rumour, diluting, containing and even controlling its excesses of information. Certainly this was its relation to the stories concerning President Hillery's alleged liaison with a mysterious foreign woman, in 1979. On this occasion, the President was driven to the extreme of calling in the editors of the national daily newspapers to *quash* the rumours: the publication of the denial itself, admittedly, adding a new lease of life to the stories.



Though the media might consider itself as having the same 'inside track' as rumour (perhaps a more dignified and reliable version of it), in fact it operates in an entirely different way to such clandestine means of communication. The media brings knowledge into what Jurgen Habermas has called 'the public sphere' in Western society, a particular conception of social life which restricts public affairs to the exercise and control of *state* authority.

If any one historical episode can be said to demonstrate the contested nature of the 'public sphere' in Irish society, it is the fall of Parnell 100 years ago. One of the perplexing features of Parnell's downfall was that his affair with Katherine O'Shea was already an open secret before the divorce trial. His disgrace followed not so much the affair itself, but its *publication* in the press and in the courts, its ventilation in the public sphere.

A similar process can be seen at a much more mundane level in the reporting of court cases in the provincial newspapers (one of the few areas of the local press to rival the bush telegraph). It is not the illegal act, nor even the judicial sentence which carries social stigma for the offender, but its publication in cold print, 'publish,

and be damned' taking on literal meaning for the moral norms of the local community. It is as if common knowledge is transformed by print (or electronic) culture, and redefined through its appropriation by the 'public sphere' – the media, the judiciary and, ultimately, the state.

Residue of Oral Tradition?

Given the ease with which it is associated with myth and folklore, it is tempting to construe rumour as a residue of oral tradition, a throwback to the word of mouth culture of older, peasant societies. Not only are the Irish a nation of talkers but, as Dr Johnson observed, we never speak well of ourselves. The fact that rumour percolates through the city as much as the countryside may be taken as proof that Dublin is simply a large village – rural Ireland at one remove. Hence rumour can be included with Brylcreem, bicycle clips and all the other anachronisms that have impeded the modernisation of Irish society: the GAA, stroke politics, 'sneaking regards', and so on.

There is indeed a sense in which one distinctive form of rumour is locked into an ideological struggle with the forces of 'progress', as represented by print culture and the media. This is the closed circuit of knowledge in a tightly knit community which amounts almost to a conspiracy of silence in the face of outside surveillance or scrutiny. One of the set pieces of Irish society in the 1980s was a rural scandal or *cause celebre* (such as the Granard tragedy, or the Kerry babies controversy), which brought into a small community an array of reporters, investigative journalists and legal minds in search of the 'inside story'.

Journalists hung around local bars, putting up with an endless diet of country and western music in the hope of obtaining some morsel of local gossip – but to little avail. After one particularly fruitless investigation into a murder in the Midlands, a Dublin newspaper announced portentously that the court case had uncovered all there was to know; whereas even the dogs in the street in the localities concerned knew that there was more to the story.

It is not, moreover, as if this local gossip is simply hearsay and rumour which wouldn't stand up in the courts, or pass other litmus tests of truth. As Jean-Noel Kapferer has pointed out in one

of the few systematic studies of rumour (*Rumour: Uses, Interpretations and Images*, Transaction Publishers, 1990), rumours are feared by those in power precisely because of their capacity to carry stray pieces of information which slip through the nets of security and censorship. This is clear from the obsession with 'loose talk' and 'idle gossip' on the part of the state authorities during wartime. The recommendations issued by the Office of War Information in America during World War Two, for example, betray an intense anxiety about the destabilising effects of rumour and hearsay on public morale in times of social crisis. Among the recommendations are the following (italics in original):

1. In the first place, the public must have total confidence in the *official media* (press, radio, film and later, television) so as not to be tempted to seek information elsewhere.
2. The public must have *total faith* in its leaders... Everything possible must be done to avoid distrust and suspicion which only serve to feed rumours.
3. When something happens, a *maximum of information* should be disseminated as quickly as possible. Rumours arise from spontaneous questions the public asks itself to which no answers are provided.
4. Issuing official information is not sufficient: one must ensure that official reports are heard by everyone. *Pockets of ignorance (sic) must be eliminated.*
5. As rumour thrives on idleness and boredom, it is important to prevent these through work and organisation of free time.

Using these guidelines as the basis of his analysis, Kapferer concludes that rumours are not feared by those in power because they are unreliable: were this the case, no one would pay attention to them. Rather, rumours are believed precisely because they often turn out to be 'true', as in the case of information leaks and 'political secrets' that are a secret to no one. Rumours are troubling because they constitute a source of information that is not controlled by the powers that be. Turning their backs to the official version, other versions spring to life.

Had the American government been less inflexible in its approach to rumour, it might have saved itself the embarrassment of being caught napping by the attack on Pearl Harbour on December 7th, 1941. In January that year, the American

in search of the inside story

ambassador in Tokyo, Mr Grew, learned from his Peruvian counterpart of a Japanese plan to attack the naval base (the Japanese had begun aerial reconnaissance of Pearl Harbour the month before). In its wisdom, however, the State Department filled this stray piece of information away under 'Gossip', enough in the eyes of officialdom to discredit its truth-value.

One of the most valuable political services performed by rumour is its capacity to keep certain undesirable items on the public agenda despite the best attempts of official authorities to remove them from open debate. A clear-cut example of this is the systematic cover-up by successive French governments, and the leading organs of public opinion, of the extent of collaboration with the Nazis during the Vichy regime in World War Two. A virtual public moratorium was imposed until the aftermath of the events of May 1968, when the persistence of rumour and popular memory finally broke through the *cordeon sanitaire* of official history. As Henry Russo argues in his recent book, *The Vichy Syndrome: History and Memory in France since 1944* (Harvard, 1991), the French administration's efforts to repress popular memory through secrecy and censorship actually contributed to its staying power and credibility with the public. The French 60-year rule for access to political archives is one of the most restrictive of any Western country – but as the American authorities' apprehension during World War Two indicates, this only encourages alternative, and perhaps even more corrosive, modes or retaining and circulating information.

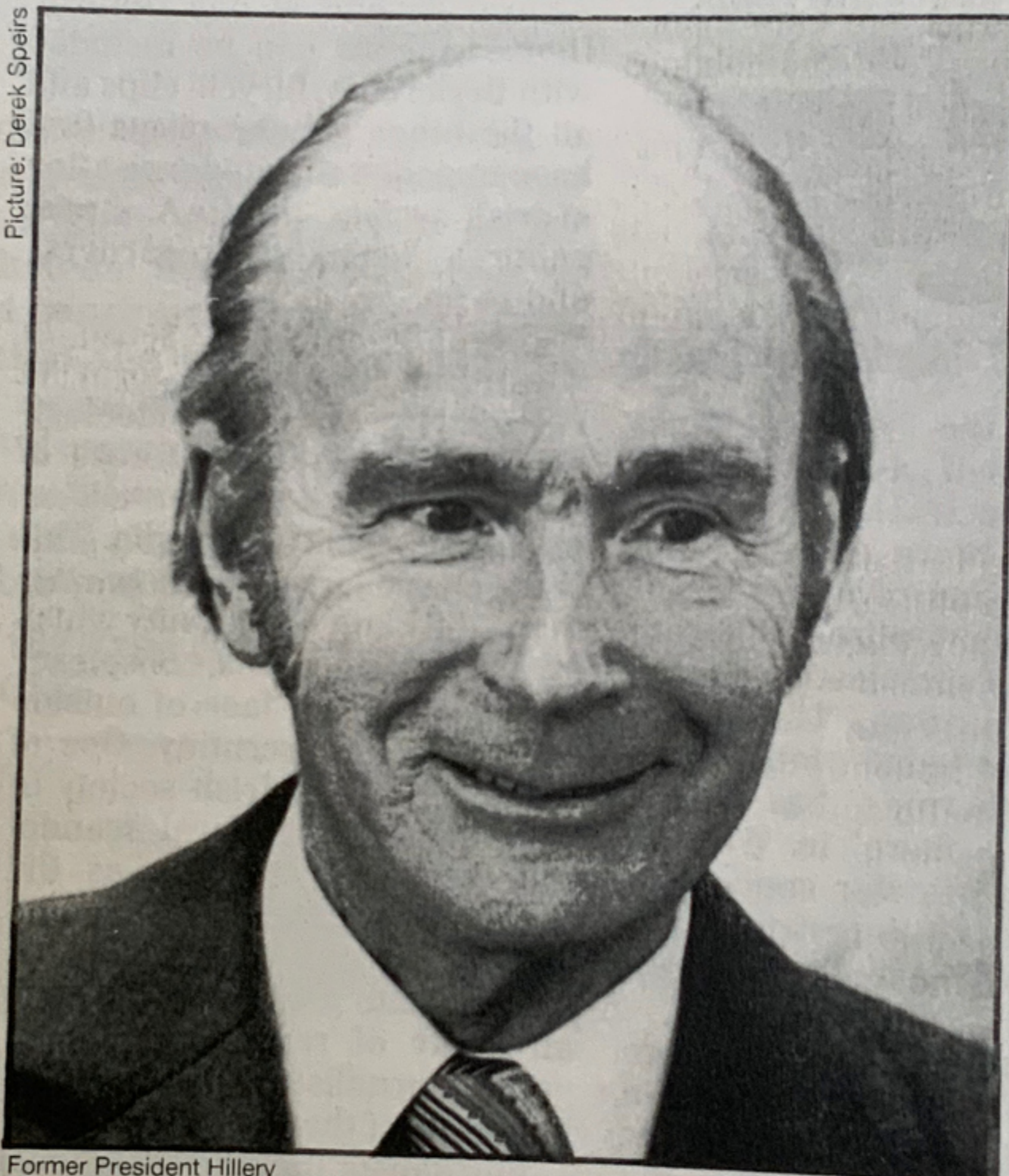
Critical Space

The example of the Vichy regime is instructive, for it helps to dispel the comforting illusion that rumour is simply a residue of oral culture, a primitive form of the bush telegraph which will disappear under the impact of modernity and 'the public sphere'. Rumour has less to do with the conservative power of tradition and more to do with the need to construct some kind of critical space for information and discussion outside the official organs of public opinion. As Kapferer puts it:

A rumour constitutes a relation to authority: divulging secrets, suggesting hypotheses, it constrains authorities to talk while contesting their status as the sole source authorised to speak...

on the public agenda

Picture: Derek Speirs



Former President Hillery

a sort of check on power

It often involves oppositional speech: it remains unconvinced by official disclaimers, as if 'official' and 'credible' did not go hand in hand. It thus attests to a questioning of authorities... As information that runs alongside and at times counter to official information, rumours constitute a counter-power, i.e., a sort of check on power.

So far from being rendered obsolete by the growing influence of the media on politics, rumour increases in importance with the 'professionalisation' of public knowledge. The proliferation of rumours in recent Irish politics, then, has little to do with 'aura' or mystique, but with attempts to keep open alternative lines of communication in the face of saturation coverage of current affairs by the professionals – political correspondents, public relations agencies and government information services.

If we return to the circumstances in 1979 which gave rise to the rumours which swept the country that President Hillery was having a secret affair, this, it will be recalled, occurred immediately after the Papal visit in September. Over 2,000 journalists had come to Ireland intent on covering every possible aspect of Pope John Paul's visit and its impact on a Catholic, conservative society. Yet the story on everyone's lips did not surface in the media (though admittedly another risqué story concerning the Papal Nuncio did make a brief appearance in one national newspaper before it was

whipped out of circulation – thus making that particular edition a collector's item!). It should be added, however, that this is not Dr Hillery's explanation of the episode, though, as we shall see, his account is not necessarily incompatible with the above interpretation.

Deliberately Engineered

According to Dr Hillery (as related in an *Irish Times* interview last August) the rumour was deliberately engineered by forces within Fianna Fail in order to prevent his entering the impending leadership race against Charles Haughey. What we have here is an attempt to discredit a rumour not just by refuting it, but by tracking it to a malevolent source.

Kapferer has little patience for such conspiracy theories, arguing that the effectiveness of a rumour derives not from its source but from its circulation, the willingness of people to lend credence to it and pass it on. This is indeed a salutary warning against rushing to judgement with charges of conspiracy and Machiavellian intrigues, but it may be that certain cultural contexts and political conditions are favourable to campaigns of disinformation. The political contraband of rumour is countered not by overt recourse to the media but more covertly by orchestrating whispering campaigns against those who threaten the powers that be.

Whatever about the communal basis of Irish society generating rumours, it is clear that the increasingly small worlds in which both journalists and politicians circulate lend themselves to the kind of disinformation which passes itself off as spontaneous or inside knowledge. In a valuable article in *Magill* some years ago ("The Take and the Feed", *Magill*, April 1984), Gene Kerrigan argued that the appointment of specialist correspondents in areas such as religious affairs, education and Northern Ireland in the 1960s was initially a progressive development, providing alternative conduits of information and debate to the thin-lipped sources of Church and State.

However, as this innovation, pioneered by *The Irish Times*, became the norm, and correspondents began to compete with each other for stories, specialist and investigative journalism lost its cutting edge. Those closest to the corridors of power (whether

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Picture: Derek Speirs

P. J. Mara

formally or informally) tended to get the best stories: advance information, Government leaks, sneak previews of reports, etc. What started as a critical relationship was converted into one of dependence and mutual exchange, as both Government and corporate interests brushed up their images, employing professional communicators and PR gurus to counter the threat of independent journalism. The result has been a gradual erosion of investigative journalism in Ireland, from the heyday of *Hibernia* in the 1970s and the *Sunday Tribune* in the early 1980s. The insistence of the Fianna Fail/PD government that new radio stations carry a substantial news content (no matter how unprofitable) can be seen as part of this process: RTE news and current affairs had left their mark on Fianna Fail in the early 1980s. With some notable exceptions, the major news stories which challenged powerful interests in Irish society in recent times have tended to come from

outside the ranks of the specialist correspondents – the Goodman story, for example, coming from a young journalist, Susan O’Keeffe, who could only find an outlet for her research on British television.

Crisis in the Public Sphere

The prospect of European integration has brought with it a need to consolidate state power in Ireland, as the civic process is brought into line with that of its advanced European counterparts. Yet this project is thrown into jeopardy if there is a crisis in the public sphere, the cultural support system of state formation and civic society. The recent political and economic scandals in semi-State (or former semi-State) companies and public institutions – Greencore, Telecom, Carysfort – constitute such a crisis, revealing the absence of a public or civic culture at even the highest levels of Irish society.

It is in the interstices of such

a threadbare public sphere that rumour flourishes. Kapferer quotes a classic study on the credibility of rumours in the USSR which showed that 95 per cent of the upper echelons of society, as compared to 56 per cent of the rural poor, believed that rumours were more reliable than the information transmitted by the official media. Having first-hand knowledge of systematic disinformation and the attempts to close off all available channels of communication, those closest to power can see the gaps between the official versions handed out to the media, and the truth.

This is an important corrective to the patronising view that it is only the gullible who subscribe to rumours. As Kapferer concludes, “in countries where a form of censorship exists, the intelligentsia attributes a great deal of credibility to rumours.” The fact that the rumour factory has still to work overtime does not say much for the existence of an open society in Ireland.

leaks and sneak previews

Confusing the Citizens

Brendan Ryan outlines why he moved a Freedom of Information Bill in the Seanad

FREEDOM OF information is now a necessary prerequisite for democracy. Increasingly, information has become a critical factor in the ability of the individual citizen to understand and to influence the political process. Denied information, the citizen will not understand what is going on or the reasons, thinking, or viewpoints upon which administrative, political and governmental decisions are based.

Ireland is far behind other countries in appreciating the importance of this issue. Access to public documents has been guaranteed by law in Sweden since 1766. France has provided access to public documents since 1978, enforceable by a Commissioner of Access. There has been a Freedom of Information Act in Australia since 1982. Similar laws have now been passed in New Zealand, Canada and Norway. A British Freedom of Information Bill was introduced in the House of Commons in March 1984.

Such a Bill is needed here not only for the reasons which provoked its introduction in other countries, but most particularly from my point of view to make our health and social services accountable and to open up policy matters which affect our nation's one million poor.

Freedom of information laws tend to have a number of features in common. These include a general statement of a right to information, a list of exemptions and a mechanism, or series of mechanisms, to enforce or govern public access.

Informed Citizenry

The best documented evidence of the effectiveness of freedom of information comes from the USA. Their Act was passed in 1966 and amended in 1974. It was based on the First Amendment of the

Constitution, guaranteeing freedom of the press, and a Supreme Court ruling that it was essential to ensure an informed citizenry which was vital to the functioning of a democratic society. In the view of the Supreme Court it was needed as a check against corruption and to hold governors accountable to the governed.

The 1966 Act required the federal government to register and record its information and make it publicly available. It proved inadequate for a number of reasons.

The Congressional Subcommittee on Government Operations concluded in 1972 – the time is of considerable importance – that public bodies had been guilty of foot-dragging, long delays, and unjustifiable claiming of executive privilege. As a result, a whole series of amendments was introduced in 1974, coinciding with a growing distrust of government arising out of the Watergate scandal. President Ford vetoed the amendments on the grounds that they would release military secrets, compromise the police, overburden administration and overwhelm the courts. Congress over-rode his veto by a heavy majority.

The present American law lays down that Government information must be indexed and made available on request, unless it is in one of nine exempt areas. Information must be released within ten days. Costs must not

exceed direct photo-copying costs. There is provision for appeal. Conflicts must be resolved in the courts and the Executive has no final veto.

The US Act of 1974 has been used, among other things, to uncover reports on health and safety at work which would otherwise have been concealed, the use of Agent Orange defoliant, federal plans for nuclear waste disposal, surveillance of student groups in college, information available to the government on items so far ranging as unsafe tyres, ineffective prescription drugs and the cancer risks arising from hormone treatment.

It was the American Act which revealed the details of an arrangement between the then Institute for Industrial Research and Standards and the American Department of Defence about the role of the Irish IIRS in validating defence specified components manufactured in this country. The IIRS stated that the agreement was confidential. We were able to obtain a copy from the United States via the Freedom of Information Act. It is somewhat ironic that an Irish citizen had to use the legislation of another country to obtain information that was refused to him in this country.

Irish Needs

■ For an Irish Freedom of Information Act the main areas of development would be welfare rights, consumer rights and information and the planning and environmental area. The precedents in other countries give us a useful idea of its likely impact. It would not only bring us into line with those countries, but it would also contribute to our development to the same level as those countries by advancing the information base on which citizens operate.

Irish case law points us in the direction of freedom of information. In 1967 Dublin County Council refused to grant outline planning permission to Mr. Joseph Murphy for the development of his lands. In 1968, a compulsory purchase order was put on his land. Mr. Murphy objected and a public inquiry was held. An inspector made a report; the Minister read it, and confirmed the CPO. Mr. Murphy appealed to the courts claiming the ministerial decision was unfair. The Minister refused to publish the report claiming that it was confidential and that it would be contrary to public interest to publish it. He claimed executive privilege.





Unemployed youths

Picture: Derek Speirs

The Bill provided for review by the courts of contested issues or the refusal of the government or a public body to grant access. No official documents could be withheld from the court and the Bill endeavoured to ensure that, where the court adjudicated that a matter of substantial public concern was concerned, the courts could ensure that all the costs of a court action were met by the State.

The Association of Higher Civil Servants, in a submission to a joint committee of the Dáil and Seanad made the point that they were in favour of comprehensive freedom of information legislation. It is the politicians, not civil servants, who apparently are opposed to freedom of information.

Example

To underline the importance of the Bill, it is useful to list a number of areas of information which the public have not seen in any detail. I sought details from the Minister for Social Welfare on the guidelines and background information under which public servants were operating the Jobsearch scheme, and I was told that it was not the practice to make such information available. This is a scheme which affected 150,000 people who depended on welfare and we did not know anything about the guidelines, the operational manuals, the criteria for adjudication on people which the public service were using. This is 'private' information. People who feel aggrieved with Jobsearch do not know how or on what basis they can remedy their grievance, because they do not know the basis on which decisions were taken which affect their lives.

Attempts by me to get information about equipment in the Armed Forces were resolutely rebuffed by the Department of Defence. Eventually I got this information from Sweden. Yet in the United States, which has a considerably greater level of defence expenditure than ours, such detailed information is traditionally available and is not regarded as a matter of national security. It is quite astonishing that we should find it inappropriate to divulge such information even to Members of the Oireachtas.

The 1987 review of rent allowances under the Supplementary Welfare Act is another case in point. This review was conducted by the Department of Social Welfare. It affected all the people

who depend on rent allowances to stay off the streets and to avoid becoming homeless. When the Department reviewed this scheme and took decisions about the new level of allowances and payments, the information the Department used, the criteria that led to a new statutory instrument and the report itself, were all secret and will remain so. When a homeless man was discharged to the Cork Simon Community in October 1987 and died soon after, the Department of Health investigated the matter. The report of that investigation was never published. All we got were the Minister's decisions in the light of that report.

The Craig Gardner report on Social Welfare Fraud, commissioned in August 1986, was never published in full. One million of our citizens depend on social welfare payments and they are often the victims of all kinds of allegations of cheating. Even so, new procedures could be introduced altering payment procedures which would make it more difficult for ordinary 'genuine' people to claim, and the criteria and procedures will be based on secret reports.

A secret 1981 report on alleged social welfare fraud by members of the travelling community was used to justify procedures whereby all travellers are required to sign on at the same time, 11.30 on Thursday mornings. A secret report, in which evidence was presumably presented making allegations against the travelling community, was used to justify what is, in my view, a racist practice, and the travelling community will never have an opportunity to refute the evidence because they will never be allowed to see it.

Cork Task Force

The final report of the Task Force on Unemployment in Cork, set up in January 1984, was never published. All we got were the decisions taken in the light of that report. That report was also deemed to be confidential. Industrial development in the city has since been planned on the basis of that report but we, the citizens of that city, will never be judged mature enough or capable enough to see what was being written about us.

The Department of Health has an inspectorate inspecting nursing homes. They assess safety regulations, quality requirements, fire escape devices, hygiene and heating standards and whether a

The Supreme Court ruled on *Murphy versus Dublin Corporation* in May 1971. Mr. Justice Walsh held that there was no such thing as absolute executive privilege. He ruled that, if there was a dispute about a Government document, the onus was on the party refusing disclosure to satisfy the courts. The courts would have the ultimate say as to which was the superior interest in a dispute, and the Government was liable to produce to the court any document the court requested. He added that documents could not be withheld from the public just because they belonged to particular categories.

The Ryan Bill

This Bill, which I introduced in 1988 was within the context of Irish court and constitutional law and in the light of the experiences of other countries, particularly that of the United States. It was a conservative Bill that built on existing Irish case law and on the legislation in other countries.

It stated a general right to information and access to any government document and encouraged the government to publish information as a matter of course. It listed the procedure whereby a member of the public could apply for information under the Act. A member of the public would also be entitled to correct or expunge misleading information about himself or on any other issue.

**a general
right to
access**

nursing home is overcrowded, etc. The information these inspectors collect is not published. If a consumer wants to judge whether a particular nursing home is suitable, he or she is not allowed access to that information because the information is 'confidential'.

There is an even greater irony because the usual phrase used to justify the suppression of the information is that it would not be in the 'public' interest. One of the things I have noticed in my limited political career is that those things the public are most interested in are those things which most Governments decide are not in the public interest to be published. I find that a delicious but somewhat painful irony.

In the United States, by contrast, reports on nursing homes were among the first things to be published under the Freedom of Information Act. There were, of course, improvements in standards as a result. Despite their importance to consumers, several reports of the Restrictive Practices Commission have not been published. These include the study on competition policy in 1977 and a study on the fixing of fees and restrictions on advertising in the accountancy profession in 1987.

Unequal Battle

Various people have written on this issue. The environment correspondent of *The Irish Times* has come to the conclusion that it is impossible to deal with a host of environmental issues until we have a Freedom of Information Act. In a lot of work I have done in the area of welfare and housing, I am equally convinced that you cannot do it. Many people in the area of industrial policy are beginning to wonder whether it can be done. There is an unequal battle between the citizens and the State, because the State more and more has a monopoly on all sorts of information. In the interests of what is described as the 'public interest' most of what the public is most interested in is kept from the public.

One of the interesting consequences of a Freedom of Information Act would be to increase accountability within the entirety of the public service and also between the government and the public. That accountability would be a superb incentive to efficiency. It would promote democratic participation and ensure that administrative decisions are well informed. It would be a logical, necessary and vital extension of the rights of the citizens.

Picture: Derek Speirs



Leinster House

*a delicious
but painful
irony*

Look Your Best
An Bearbóir
24A Charlemont Street, Dublin 2
Gruagaire fear
The Greatest Little Hair House in Town
Fáilte Roimh Gaeilge

Fit to Print

The Law and a Free Press

The laws relating to free speech are a complex web, many of them dating from a different era. *Marie McGonagle* asks what exactly is the current position and why is reform so urgently needed

A FREE press is essential to a democracy. But how free is free? The role of the law is twofold: to recognise and protect freedom, on the one hand, but to set its bounds on the other; to identify which competing interests justify curtailment of press freedom and to what extent such curtailment is necessary. Freedom of the press is therefore real, but not absolute.

apply to all media

The problem with Irish law in this regard is that much of it belongs to a different era and culture, in which the developing press was viewed as a negative force in society. Freedom of the press as we know it today was

hard won. It was not until 1782, for example, that parliamentary proceedings could be reported without fear of sanction. And it was not until 1888 that legislation provided protection for reports of court proceedings.

However, apart from the early days of printing in England, the press has never been subject to any licensing requirements. There are registration requirements in the case of a newspaper (Defamation Act, 1961, s.27), and regulations concerning mergers and monopolies. Printers are required to print their name and address on any document printed for reward (Offences Against the State Act, 1939, s.14) except in the case of newspapers printed on the newspapers' own premises. Otherwise anyone is free to set up a newspaper or publishing house.

Films require a certificate for showing, while video recordings are now subject to a grading system. It is essentially because of the difference in the various media that different legal requirements apply. However, there are certain laws which apply to all media.

The Constitution

The Irish Constitution of 1937 guarantees freedom to express opinions and convictions and recognises specifically the freedom of the press as an organ of public opinion (Article 40.6.1i). These freedoms are heavily circumscribed, however, by considerations of public order and morality and the authority of the State.

In addition, the Constitution guarantees to protect from unjust attack and to vindicate in the case of injustice done, the good name of every citizen (Article 40.3.2). It also provides for the administration of justice in public "save in such special and limited cases as may be prescribed by law" (Article 34.1), which means that in certain circumstances media reporting of court cases is either prohibited or restricted. These are the principal interests which serve to curtail media freedoms.



Defamation law, evolved over centuries by judges in court cases, and slightly modified by the legislature in 1961, is the law's response to protecting and vindicating reputation or good name. To what extent it meets the constitutional requirements remains largely untested. In any event it takes little account of the realities of modern publishing and distribution processes and has proved to be the major concern for all the media in recent times.

It cannot be denied that the potential for harm to the individual's good name is great, given the frequency, extent and precipitous nature of modern-day publishing. It is generally agreed, however, that defamation law is in need of immediate reform to take account of the nature and role of the media in a modern democratic society.

Some of the difficulties experienced by the media arise from the actual legal rules themselves, others from practice and procedure. For instance, a person suing for defamation does not have to prove that the statement complained of was false, only that it was defamatory of him/her. It is up to the publisher to prove truth, and this can be difficult in practice if sources have been promised confidentiality or witnesses refuse to appear in court. If the publisher pleads truth but fails to prove it to the satisfaction of the court, aggravated damages can be awarded against him/her on the basis that s/he "persisted in a lie".

Rules of procedure mean that the complainant has nothing to lose in proceeding to court. The level of damages awarded by High Court juries is often out of proportion to the defamation, and legal costs are often higher still. The proposals of the Law Reform Commission in March 1991 are therefore welcome. They recommend a scheme whereby each complainant must first seek a retraction, and whereby correction or declaratory orders would be available instead of damages, which would then be reserved for cases involving negligence on the part of the media, or special damage.

Public Order

Defamation by the print media although not, for some unknown reason, by the broadcasting media can also be a crime. Criminal libel, as it is called, was used frequently in the past to fine and imprison newspaper proprietors, but certain safeguards for newspapers were

Picture: Derek Speirs



Reform of libel law urged

**an order
must
be granted**

built into legislation at the end of the nineteenth century. Since then, an order must be granted by a High Court judge before a newspaper can be prosecuted.

The only two applications in recent years, by Eddie Gallagher against Independent Newspapers in 1976, and by the widow of Rev Stephen Hilliard against the *Phoenix* in 1990, failed. The offence was originally a public order offence intended to curb duelling, and has long since outlived its usefulness. The Law Reform Commission in August 1991, however, recommends its retention, although in a more refined form.

Criminal libel also encompasses blasphemous libel, obscene libel and seditious libel. The Law Reform Commission has rightly recommended that the latter two forms be abolished completely without replacement. It would also recommend abolition of blasphemous libel if there were other measures available to satisfy the constitutional requirement that "the publication or utterance of blasphemous... matter is an offence which shall be punishable in accordance with law." (Article 40.6.1i).

The Commission therefore recommends that a proposal to delete the reference to blasphemous matter be included in any referendum to amend to Constitution.

Morality

The new Irish state in the 1920s and 1930s was obsessed with morality and the desire to protect the public from immoral external influences. The most notorious manifestation of this obsession is the censorship process established under the Censorship of Publications Act, 1929. That process, which affected books and periodicals, has been well documented elsewhere. For present purposes, therefore, it is sufficient to say that it is objectionable on so many fronts that it should be abolished.

However, there are other less well documented features of the 1929 Act which restrict the media and which also need to be reviewed. These include provisions prohibiting "indecent" advertisements (s.17) and the reporting of indecent details of court proceedings, and restricting reporting of particulars of specified matrimonial causes (s.14). Much of what these provisions include as indecent would be unlikely to be so regarded today. Fortunately, these provisions do not apply to broadcasting, although anything which could "reasonably be regarded as offending against good taste or decency" may not be broadcast under the Radio and Television Act, 1988 (s.9.1(d)).

The Authority of the State

The Irish constitution clearly states that the rightful liberty of the press shall not be used to undermine "the authority of the State." The phrase appears to be wider than the preservation or security of the state. Nonetheless, the main restrictions in this field are imposed by the Offences Against the State Act, 1939, the Broadcasting Act, 1960 (i.e. Section 31), as amended, and the Official Secrets Act, 1963.

The Offences Against the State Act, 1939, is permanent legislation but has many of the characteristics of emergency legislation and, as the Law Reform Commission has recognised, is in need of urgent review. The Act makes it an offence *inter alia* to print or publish any seditious document as defined in section 10, or for a newspaper to pub-

lish any communication sent or contributed by or on behalf of an unlawful organisation. The 1972 Amendment Act, s.4, prohibits the publication of statements interfering with the course of justice.

The Official Secrets Act, 1963, is unduly vague and wide, and it too is in urgent need of reform. It is the product of a secretive society and totally unsuited to one which, according to Mr Haughey's speech to the last Fianna Fail Ard Fheis, is on the threshold of embracing freedom of information. It must be remembered that it was under the Official Secrets Act that the editor of the *Irish Independent* and Independent Newspapers were fined some years ago for publishing Garda identikit pictures in connection with the Shergar racehorse kidnapping case. The Act is not often invoked against the media, but it remains a major threat because it covers virtually every piece of information emanating unofficially from state sources.

However, it is on Section 31 of the Broadcasting Act, 1960, as amended, that most attention has been focused in recent years. Many of the objections to the ban imposed on interviews with members of proscribed organisations concern its overreach, the fact that it is not necessary since Section 18 imposes a sufficient obligation on broadcasters to

refrain from broadcasting matter likely to incite to crime, and also that it leads to self-censorship.

The broadcasting unions took the case to the European Commission on Human Rights, but it was declared inadmissible. While that decision closes one avenue of redress, it is for broadcasters to test the limits of the ban, and it is possible that the lesser British ban could provide direction.

Administration of Justice

Another area of restriction on the media is that imposed in the interests of the "proper administration of justice". That involves certain statutory reporting restrictions and the common law offence of contempt of court. Many aspects of the law of contempt are unclear: for example, the scope of the sub judice rule, which prevents prejudicial comment on ongoing or pending cases. Others, like contempt by "scandalising the court", should have ceased to operate a century ago, since they arise from a belief that the courts need to be protected from criticism.

Journalists are subject to fine and imprisonment also if they refuse to reveal their sources when asked to in court. The Law Reform Commission's recent provisional proposals for reform

of contempt law would do little to improve the situation for the media. Indeed, in some respects they would make it much worse, for example, by making it an offence to disobey an order of the Ceann Comhairle of the Dáil or Cathaoirleach of the Seanad prohibiting publication of part of the proceedings of either House.

Of the statutory restrictions, the Criminal Procedure Act, 1967, s.17, specifies that very few details may be reported in relation to preliminary examinations of the evidence against an accused in the District Court. The section is unduly restrictive but at least has the advantage of clarity.

These restrictions are imposed in the interests of a fair trial. Others are imposed in support of the privacy of the individual in rape, incest, or family cases, for example.

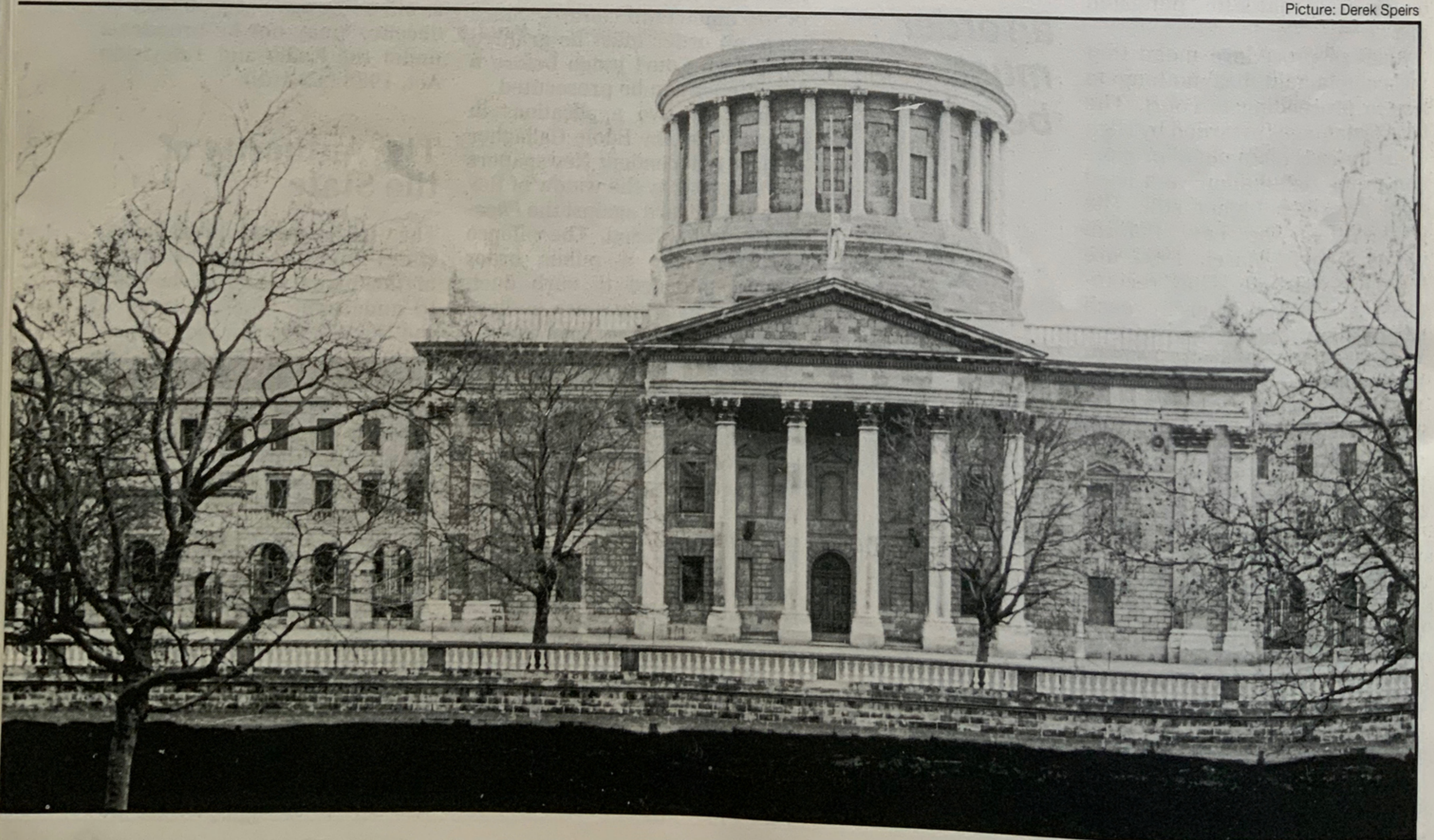
European Convention

In all there is a formidable array of laws affecting the freedom of the media. Many are out of date, constitutionally suspect or lacking in clarity, and therefore in need of reform. At least the European Convention on Human Rights, which gives priority to freedom of expression, points the way.

**remains a
major threat**

Four Courts

Picture: Derek Speirs



Superior Gaze Inferior News

Technology and the Information Flow

HERE *Farrel Corcoran* looks at the role of advanced technology in the Gulf War, and shows who is at the controls in the current 'communications revolution'

Communications technology is obviously at the heart of the ability to move information across national borders and therefore central also to power struggles aimed at supplanting one global order with another. The last decade in particular has seen a huge acceleration in the rate of technological change, reflected in the arrival of new products, services and companies into what were once closed and stable tele-communications markets, founded on the twin pillars of national public PTT and broadcasting monopolies.

Rapid change and fierce international competition, often driven by the belief that promoting growth in the services and information sector will help industrialised countries to cope with economic recession and disruptions in global trade, in turn put pressure on regulatory structures, some of them dating back to the early days of the telegraph.

In the case of broadcasting most European Public Service systems in the 1980s experienced an erosion in the old political alliances which since the 1920s had fostered the development first of radio then television systems. They had forged a consensus on subordination to Public Service goals, monopolistic control by a single Public Authority within a national context and a sensitivity to political rather than economic forces.

This alliance came asunder under pressure exerted by two sets of forces: firstly a loss of legitimacy for the monopolistic arrangement of public broadcasting systems, especially when new entrepreneurial voices joined community ones (albeit for totally different motives) to call for the expansion of access to the airwaves and cable systems; and secondly the declining possibility of holding national frontiers against foreign media intrusion reinforced by the recognition of technological imperatives (cable, satellite) in EC moves to harmonise rules for broadcasting.

The US-driven strategy of deregulation to free communication services from national controls springs as much from the commercial aim of holding the lead in the global trade in services as it does from political ideology. Today voice, image, and data services, once transmitted in different forms on separate networks are now digitalized and sent at even higher speeds along the same fibre optical cables and via the same computer links from one terminal to another.

The International Flow of News

What is the impact of this rapid rate of technological change on the international flow of news? First, it must be noted that news,

just like technology, is a construct of modernity. It presents the modern age as ephemeral but ceaselessly and progressively changing. The emphasis on current events, what is new, constitutes part of its fascination.

Television news in particular initiates its spectators into a hi-tech world that is fast and fragmented. The emphasis on actuality and immediacy conceals the fact that news consists of carefully constructed symbolic packages, planned and expected rather than spontaneous reflections of 'natural' happenings.

*fast and
fragmented*



The heavier its reliance on technology, as in the case of the Gulf War this year, the more it tends to conceal that it is a re-presentation of events that are often part of the routine of government.

This view runs counter to the ideology of modernity that suggests new technologies provide citizens as information consumers with many more options and much more control over their media environment.

But does it work like this? Is it likely that the public sphere will be enlivened by new communications technologies, so that vigorous debates on issues of public importance that will inform democratic decisions on complex and controversial issues will take place? Will the dominant medium of television, in particular, serve as an extralegal check on government, as posited in liberal theory, or will new technologies lead to the further compromising of the democratic potential of television and render it an instrument of social control and legitimation?

Before attempting to answer these questions through analysis of a recent example of television performance, in which the role of new technology was highlighted as never before, two points are worth noting. Firstly, it is not true that new technology such as cable, satellite, video recorders, remote control devices, miniature video cameras, etc. are providing viewers with a greater diversity of information and entertainment. On the contrary, trends in the political economy of communications are clearly in the direction of media mergers and conglomerates, giving fewer corporations control over the images received by the vast majority of viewers world-wide.

Secondly, it is highly appropriate to look with great scepticism at the technological determinism that is often embedded in the ideology of modernity, and that McLuhanesque optimism that makes many assumptions about the global benefits to be derived from the free-wheeling development of technology. A more sober assessment of the development of communications technology would focus on the question of who benefits and who loses when new technologies are adopted, and how democratic values are helped or hindered.

Gulf War Paradox

The paradox of television news coverage of the Gulf War is that although it was the most media-intensive war in history, there is an emerging consensus that a very narrow range of information was actually delivered to the global audience. This consensus was very belatedly joined in October by the American Radio and Television News Directors Association (representing all the networks including CNN) which now complains that "the Pentagon pulled the wool over our eyes with the news pools" and threatens to show up for the

posited in liberal theory

Picture: Courtesy Trocaire



Victims of the Gulf War

next war with "more satellite phones, smaller cameras, more walk-around money".

A great deal has already been written on press performance during the Gulf War, including the relationship between the Pentagon and the news industry. What needs greater emphasis is the role of technology, particularly the technology delivering television imagery, which not only set the agenda for what we were to think about in this war but also, it can be argued, influenced how we were to think and feel about it.

ences. Information was structured to minimise popular revolution at the slaughter to be unleashed on the people of Iraq (latest Pentagon estimates: 4,500 civilians and 100,000 military killed, 300,000 wounded, plus UNESCO estimates of thousands of children to die of war-related diseases before the end of this year).

Selected portions of this vision of Iraq were fed by the military to news organisations for transmission to television screens worldwide (for instance the remote images from video-guided missiles such as the Stand-Off Land Attack Missile (SLAM) which allowed pilots to manoeuvre directly to target from a "stand-off" distance).

Superior Gaze

The superior gaze of such technology, from positions of power never before assumed by a human observer, served an Orientalist ideological purpose as metaphor for the cultural superiority of the West over a backward, fanatical, dehumanised Arab population which remained mostly invisible throughout the war, hiding from the West's enlightened vision. Like the audiences of the 'slasher' films popular in the early 1980s, viewers are placed in a superior visual voyeuristic position, identifying with the airborne assault on Iraq through silent passionless films shot from a B-52 bomb bay or the nose-cone of a missile zooming in on the ventilator shaft of a building in Baghdad.

But unlike 'slasher' films, which positioned viewers with the rapist/murderer closing in on the screaming female, military-produced imagery rarely gave a view of the enemy, and was framed in such a way as to separate seeing from feeling and prevent identification with victims. General Schwarzkopf's now famous introduction to the press of a view of an Iraqi truck crossing a bridge, passing through the cross-hairs of a SLAM missile targeting camera, seconds before we saw the bridge explode in dust and masonry ("I am now going to show you the luckiest man in Iraq on this particular day") had all the feel of an early silent film comedy. A similar camera shot of the horrified face of another truck driver not so lucky was kept unavailable for public viewing.

When US television networks did show pictures of dead civilians, viewers were positioned by the sound track not to feel con-

Television played a major role in this war, as can be seen in a Gannett report showing that 89% of Americans used TV as their main source of information, as against 8% for radio and 2% for newspapers.

From August 1990, the technologies of vision – unmanned observation vehicles, night vision equipment, radar imaging, infrared photography, satellite remote sensing, laser targeting, video guidance systems – served not only a military function, in turning an entire country into target information, but also an ideological function, in gaining air superiority immediately for the US and its allies over huge international television audi-

a major role in war

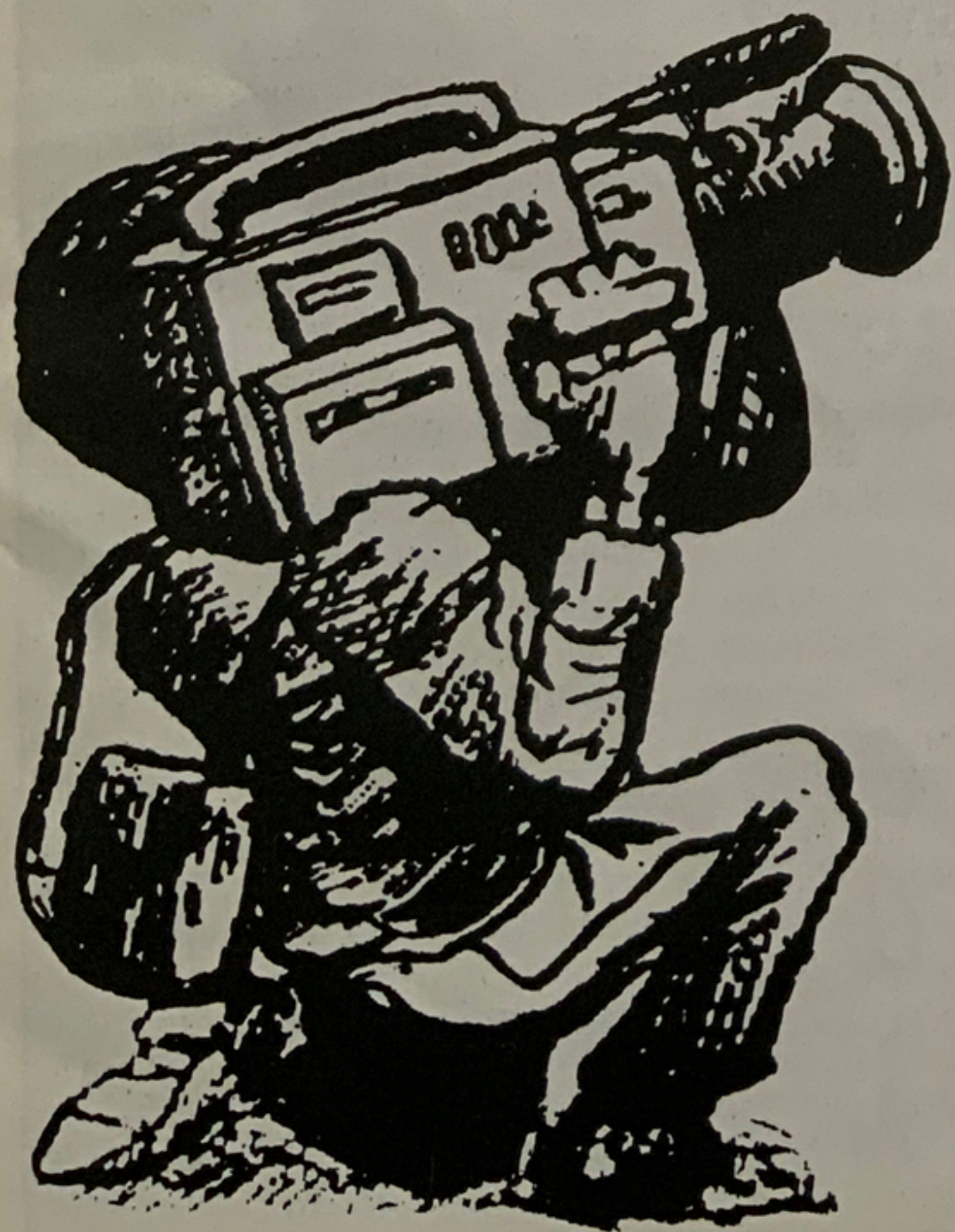
zapping of faceless aliens

cerned because the dead were "part of Saddam's psychological war against the American public". Over graphic videotape of the charred bodies of dead children outside the Al-Amirya air-raid shelter, which had been turned into a human incinerator by a laser-guided penetration bomb delivered by a Stealth bomber, NBC's voice-over said "What they do show is that Saddam Hussein's propaganda machinery continues to function." On US public television, the MacNeil-Lehrer News Hour called the footage "heavy handed manipulation".

The belated post-war complaints of news organisations in the US should be seen in the context of the major news organisations refusing to join in the legal suit launched in January by the Centre for Constitutional Rights on behalf of small news organisation – *The Nation, Mother Jones, Harpers, The Village Voice, Pacifica Radio* – contending that press restrictions amounted to an unconstitutional prior restraint on the freedom of the press.

Array of Technologies

The press has an impressive array of technologies available to it which could have been used to circumvent the military pool restrictions. These included E-Mail and computer to computer communications and digital transmission of still photos/video on credit card-operated portable earth stations placed in the desert by AT&T for US troop use.



Lap-top computers were connected to home office computers over a voice circuit or a packet-switched network, allowing journalists to read E-Mail messages and access US databases, as well as send their stories. Within the Middle East itself, facsimile supplanted the less reliable courier. 'Fly-away' satellite up-link dishes were available for very remote locations (including the truce ceremony between General Schwarzkopf and the Iraqi generals). Remotely-sensed imagery from Land-sat and Soviet satellites, including infrared technology which could peer through smoke into burning oil-fields, was linked with computerised mapping software to create television graphics rarely seen previously by civilian audiences. Such digitalised and colourised images could be captured with still-frame equipment for use in newspapers.

These technologies, and the ability to link them together quickly and easily, made this the first "real time" television war, giving news directors the ability "to go live anytime, every time" and to maintain audience attention with state-of-the-art graphics and instantaneous ability to switch from location to location.

Criticism of the use of this awesome array of technology must centre on how it was allowed to make the effects of war relatively invisible and to structure the audience experience of participating in the attacker-victim relationship in such a way that a moral sensitivity to the agony of burning and death was supplanted by the enjoyment of an antiseptic video game-like zapping of faceless aliens.

The impressive array of information technology in the Gulf was paralleled by the emphasis on 'SMART' weapons and hi-tech ways of delivering death. We know now, too late, that only 8% of bomb tonnage was in the 'SMART' category, the rest being 85,000 tons of old-fashioned carpet bombing and newer conventional weapons, such as the giant 'Daisy cutter', a 15,000 pound fuel-air explosive dropped from a huge transport plane, which duplicated the effect of tactical nuclear weapons by generating a massive fire-ball to engulf everything within several hundred square yards and produce pressure effects similar to low yield nukes at short range.

The use of these high intensity fuel-air explosives in a Third World country produced a nuclear-like level of destruction without arousing popular domes-

tic and international revulsion which would undermine US strategic interests. Selection and repetition of particular news items, saturating American television and relayed to 150 countries by CNN, maintained the myth that this was a clinical, surgical 'SMART' weapons war which would spare civilians.

Only now are we becoming aware of the long-term result of the battle between Western and Iraqi technologies in the form of germ warfare unleashed against civilians, not by Saddam Hussein as we had feared, but by Western armies destroying the health, sanitation, and food infrastructure of Iraq.

Enjoyed Watching

We know now that visual images of the slaughter of Iraqis were available, such as the night vision footage shot during Apache helicopter raids and described by soldiers: "The Iraqis looked like ghostly sheep flushed from a pen – bewildered and terrified, jarred from sleep and fleeing their bunkers under a hellish fire. One by one, they were cut down by attackers they could not see."

Some troops are reported to have enjoyed watching such videos over and over again, but the home audience had to be content with the repetition of sanitised hi-tech strikes given suitable moral detachment by commentaries from panels of retired officers who could be counted upon never to question the conduct of the war itself.

It is vital to stress that news technology is not 'neutral' but must be examined for the way it is used in the battle for the hearts and minds of viewers, especially those in the US who will form the consensual bedrock for George Bush's New World Order. Technology does have the potential to open up, rather than close down, the range of information needed for a fully informed public sphere.

During the invasion of Panama, for example, the testing ground for what became Gulf news control policies, technological wizardry almost caused the undoing of George Bush's tight control of the television image.

During a presidential news conference split screen technology juxtaposed images of Bush with sombre scenes shot live at Dover Air Force Base of dead GIs being flown in from Panama. Presidential ire turned full force on the networks and despite individual journalistic mutter-

ings about editorial judgement and First Amendment freedoms from government influence, network apologies were quickly forthcoming and in-house rules were tightened to prevent any repetition of such presidential embarrassment.

Content analysis by Fairness and Accuracy in Reporting confirms that government control of the press was highly successful during the Gulf War. It shows that in the first five months of television coverage, ABC devoted only 0.7% of its total Gulf coverage to opposition to the military build-up (that is stories about protests, peace organisations, conscientious objectors, religious dissenters, anti-war veterans, etc.), CBS 0.8% and NBC 1.5%. Bibliometric studies done by the Gannett Foundation corroborate this finding.

Political Effects

Post-modern theorists such as Jean Baudrillard suggest that media saturation driven by new information and communication technologies, has produced a new type of society marked by the incessant proliferation of images that produces an 'implosion' of the boundaries between television, politics, and reality. The problem with this line of thinking however is that it tends to ignore political effects of media campaigns, such as Gulf coverage. It also ignores the vitally important role of material interests in such campaigns, thus obscuring the extent to which economic ambitions and corporate power structures drive the war of words and images in Western democracies.

It is important to reflect on audience reactions to Gulf War news and to ponder the consequences for the international political system. In a Gannett survey in the US, 77% of respondents thought their media had been fair in the coverage of Americans who were against the war, 60% thought coverage was unbiased and 57% would like the US military to exert even more control over how news organisations reported the war.

A Times-Mirror survey showed that a full 78% of the public did not believe the military was hiding bad news from them. In the UK, a survey of opinion in Denver by Sut Jahlly concluded that those who relied heavily on television for information knew far less about the conflict than light viewers.

A University of Hull study showed that only 8% of the population of Hull thought the

bombing of Iraq had an unacceptable level of civilian casualties and no fewer than 82% endorsed the official view that the bombing of the Al-Amirya bunker was a justifiable precision strike against a strategic target, with minimum civilian casualties.

Whose Values were Served?

If the democratic value of public access to a wide range of information and opinion on the causes, conduct and consequences of the Gulf War were not served by the international flow of news, whose values were?

At one level, the answer must be the ideology of the National Security State, now in the process of solidifying a new post-Cold War hegemony: what is good for the US is good for the world and the paramount interests of the US can be enforced anywhere. Will the international news industry accept this dominant world view beyond 1991?

A glance at the political economy of the media would suggest that it will. The testing of new weapons and the testing of new communications technologies for selling the war are entwined at many levels.

Take for example General Electric; one of the world's largest manufacturers of weap-

ons and tenth largest corporation in the US, it owns the NBC network and all its stations. Examination of its interlocking directorships reveals links with a wide range of industrial, banking and media interests (eg Morgan Bank, Citicorp, Manufacturers Hanover, Harper and Row, Reuters, Washington Post, Bechtel, General Mills, Bristol-Myers, Pacific Telephone, US Air, Goodyear) as well as a wide range of corporate philanthropic foundations and such branches of government as the Business Round Table and the Council on Foreign Relations. CBS, ABC and Westinghouse are similarly interlinked.

Beyond owners, sponsors also exert an influence on the kind of news and entertainment that is offered to the public. Dupont, IBM, AT&T and ITT, for example all have a major interest in public support for the development of hi-tech weaponry and are also major sponsors of American television. This spread of corporate power, flourishing under the umbrella of the National Security State both in its Cold War and in its post-Communist phases, throws into sharp relief both the need to develop alternative media systems and the enormous difficulties to be faced in establishing what is genuinely a New World Information and Communication Order.

selling the war

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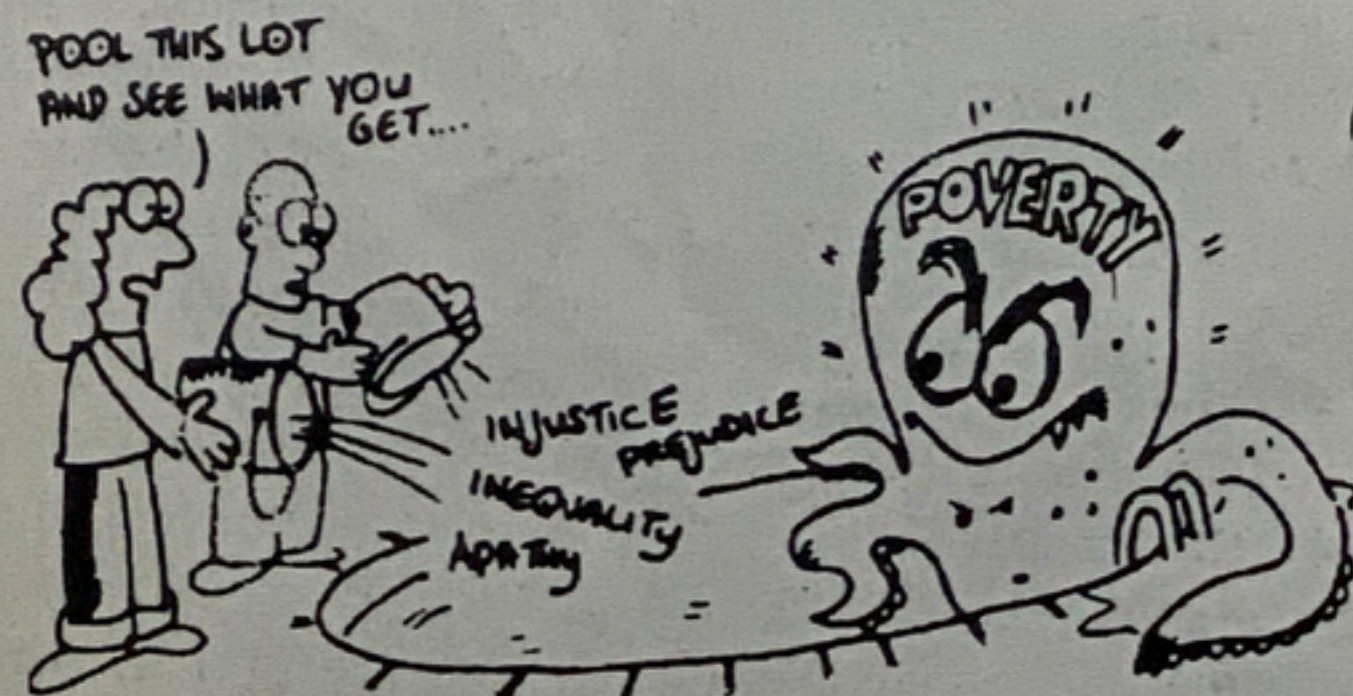
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A Thousand Days of Censorship

Fiction, Fact and the Fatwa

The year which began on a note of optimism and hope of British author Salman Rushdie's reconciliation with the Muslim community. Events since then leave the author and those associated with him no safer from the threat of terrorism.

by Carmel Bedford

IN EARLY December 1990, plans for Salman Rushdie to come out of hiding received a major setback when Dr Kalim Siddiqui, director of the British Muslim Institute, flew to Iran to ensure that the author's death sentence remained valid.

In response to claims that Rushdie had been talking with moderate Muslim leaders about terms on which he could resume normal life, Dr Siddiqui claimed that there would be no change in the position of the Iranian government. Between December 1990 and January 1991, the death threat against Rushdie was reiterated by three senior Iranian figures, two of whom were government ministers.

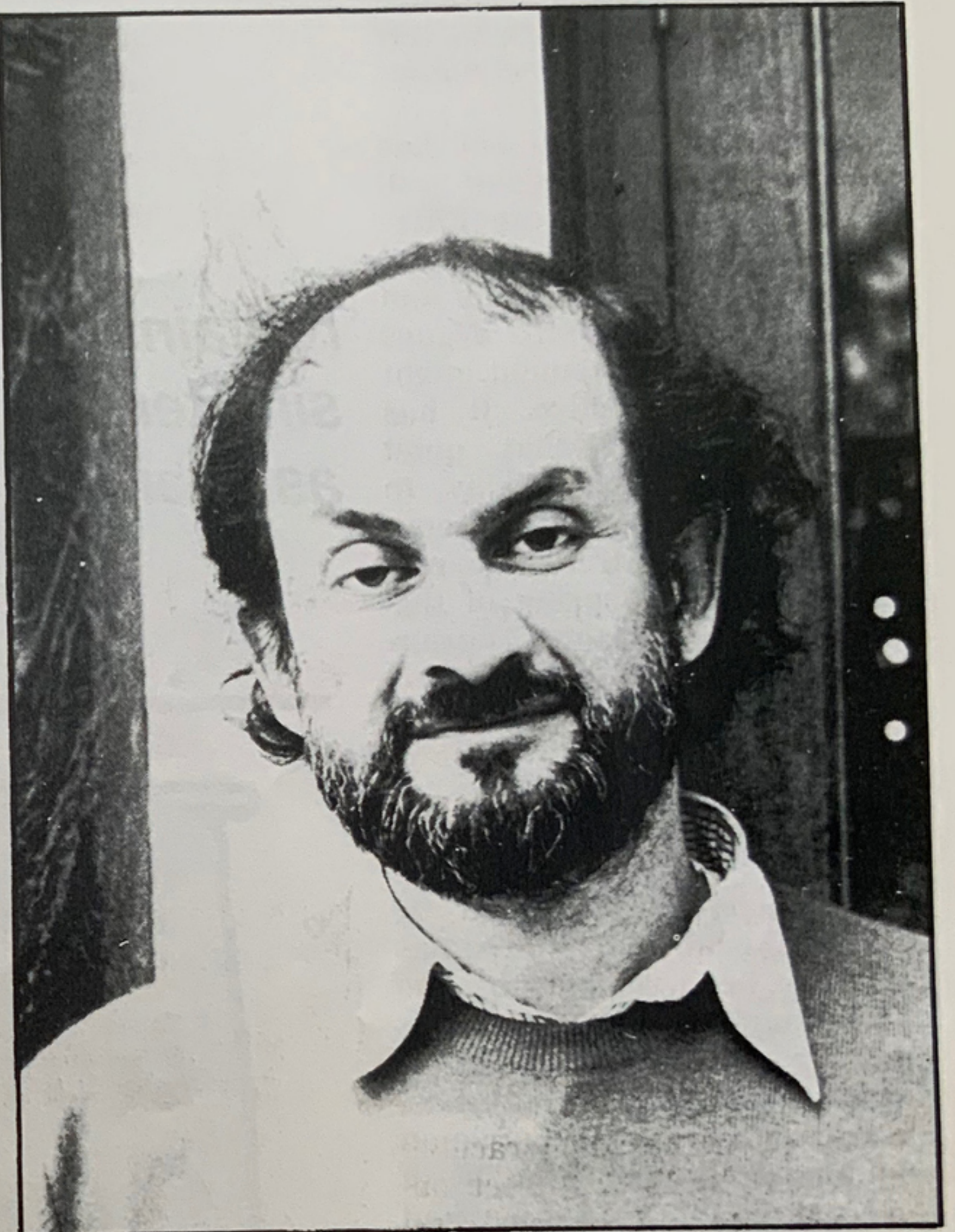
In January 1991, Merhdad Kokabi, an Iranian student at the Institute of Science and Technology in Manchester, was sent for trial at the High Court in London on charges of conspiracy to commit arson and cause explosions, during the spring and summer of 1989, at bookshops selling *The Satanic Verses*. Other Iranians arrested with him were deported. The attacks caused £200,000 of damage and injured an Irish tourist. The prosecution alleged that Kokabi's fingerprints were found on an oil can left at the scene of one arson attack and on paper wrapping two pipe bombs. It further alleged that Kokabi was

involved in hiring cars used in the attacks and had used his credit card to pay for petrol.

Deportation

In March, the charges against Merhdad Kokabi were dropped, but his deportation was recommended. The presiding judge based his decision "purely on the administration of justice", noting also that the evidence against Kokabi was formidable but not "unanswerable". He had heard that nine Iranians who had flown from Tehran to give defence evidence had been so intimidated by Heathrow immigration officials that they caught the next flight home and refused to return.

The British Home Office denied that there had been intimidation of witnesses and said the deportation order against Kokabi would remain in force despite the dropping of charges. The British Foreign Office denied that there was any link between the decision to drop the charges against Kokabi and the fate of the British



Picture: Tony O'Shea

Salman Rushdie

hostages in Lebanon. The Iranian government, however, has made no secret of the fact that it felt the cases could be connected, and during Kokabi's remand in prison there was a series of demonstrations outside the British embassy in Tehran calling for his release.

On March 15th, Merhdad Kokabi was deported from the UK and arrived in Tehran to a hero's welcome led by a cabinet minister and several MPs. Reportedly, Kokabi urged well-wishers to stay loyal to the "sacred ideals" of the late Ayatollah Khomeini and stated that Salman Rushdie should be killed. It has since been reported that Kokabi has been appointed as

**death
sentence
remains**

a special advisor to the Iranian government in the Science Ministry and will be responsible for the placement of students abroad.

Hit Squads

On March 2nd 1991, according to Tehran radio, Iranian religious leaders participating in an international conference of Muslim leaders and scholars warned that the fatwa was "irrevocable" and renewed calls for the swift implementation of the death sentence on Rushdie. At the same conference, Hassan Sanei, an Iranian cleric of the 15 Khordad (June 5th) Foundation, doubled to \$2 million the reward for any associate, relative or neighbour who killed the author.

The British government has remained steadfastly silent and, when challenged by the International Committee for the Defence of Salman Rushdie and his Publishers (ICDSR), argues that any public statement might be counter-productive. It has repeatedly stated that quiet diplomacy is more likely to achieve results. However, security surrounding Mr Rushdie was tightened in the spring of this year, amid fears that Tehran-sponsored mercenary hit squads were seeking him.

Embrace of Islam

The conciliatory actions by Salman Rushdie last Christmas Eve have been rejected by two of the imams who witnessed his embrace of Islam. Although they regarded his book as offensive, Sheikh Gamal Manna Solaimon and Sheikh Hamed Khalifa, of the London Central Mosque, had encouraged the Muslim community to accept Mr Rushdie's reconciliation.

Their meeting with Mr Rushdie angered hardline Muslims at the London Central Mosque, including Yusuf Islam (the former pop singer Cat Stevens). Neither imam was able to lead the Friday prayers without encountering violent protests from some worshippers. Under pressure both were persuaded to retract their position.

In May, both imams read out an apology for the "mistake" of having met Salman Rushdie and stated that his embrace of Islam made no difference to the judgment of apostasy because he had not completely withdrawn *The Satanic Verses*.

Moderate Muslim scholars in Britain claimed: "We are back to square one" and said the imams had agreed to the statement

under "tremendous pressure from a fanatical minority". Mr Tariq Aziz-Khan of Muslim Forum stated: "There are some extremist elements in the Muslim community bent on keeping the Salman Rushdie affair alive because their survival as Muslim leaders depends on it."

In July the People's Mojaheddin of Iran, opponents of the Iranian government, claimed that an Iranian assassination squad had arrived in Britain to carry out the death threat against the author. They alleged that other squads had been sent to Italy, Japan, France, Switzerland, Germany, Canada, Nigeria and Algeria.

Translator Murdered

The July 12th murder of Professor Hitoshi Igarashi, Japanese translator of *The Satanic Verses*, which followed nine days after the stabbing of Mr Ettore Capriolo, Italian translator of Salman Rushdie's novel, is evidence that the fatwa against not only the author but all those connected with the publication of his work remains as sinister in its implications as ever. These alarming developments appear

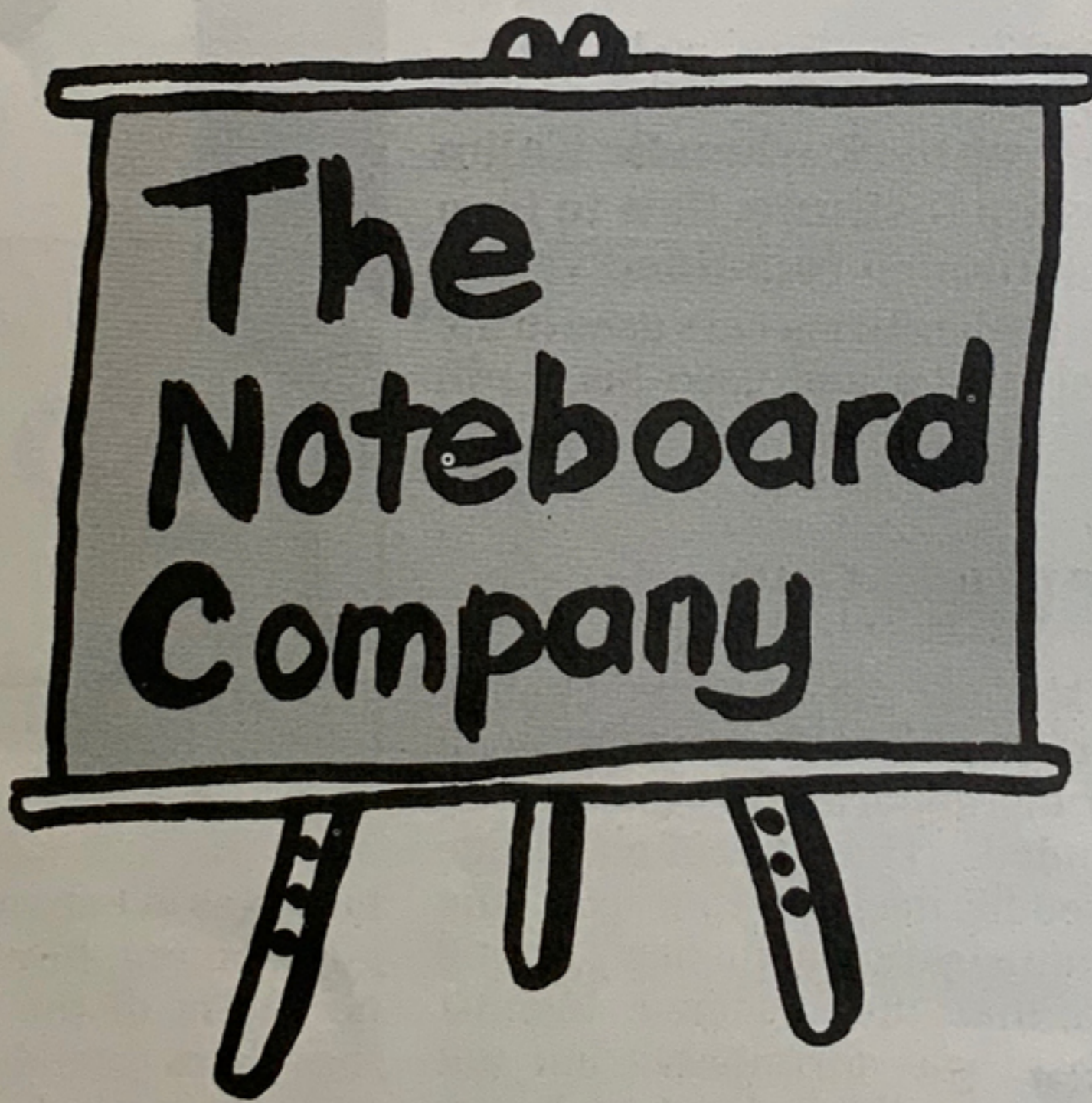
to have occurred with scant public response from governments internationally.

Two of Britain's leading Muslims, Mr Laiqat Hussain, President of the Bradford Council of Mosques, and Mr Abdul Quddus, a former member of the Council, responded by saying: "Those involved with the book, who wrote it, [or] translated it, must face the consequences." They added that the murder of the Japanese translator and the attack on his Italian colleague were "entirely justified".

Two and a half years ago the idea of a translator being attacked or murdered for a professional association might have seemed as preposterous as the recent actuality was horrible and unforeseen. A Polish translation of *The Satanic Verses* has just been published. The translator's name will be kept secret, but the list of Salman Rushdie's other translators and associates is a long one.

The 43rd Frankfurt Book Fair opened in October amid controversy surrounding an invitation extended to Iranian publishers, banned from the Fair in 1989. Following a wave of protests by German publishers and by writer Gunter Grass, who threatened to boycott the Fair, the invitation was withdrawn.

**remains as
sinister
as ever**



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Thousand Days

November 10th marked the 1,000th day since the pronouncement of the fatwa against Salman Rushdie. This grim anniversary was marked by groups in many countries with vigils and readings in support of the author and in protest at the lack of government action worldwide. A twenty-four hour vigil planned by a supporting group in London was cancelled after pressure on Salman Rushdie by the British government which claimed that the freedom of hostage Terry Waite might be jeopardised.

Clearly, the passage of time has diminished neither the severity not the extent of the original threat, and the hope that the affair might be resolved by time alone is idle and dangerous. The ICDSR supports the principle that all people, everywhere, should have the freedom to express their ideas and beliefs, free from censorship, intimidation and violence, and calls on governments everywhere to demand: the lifting of the bounty on Salman Rushdie's head; the lifting of the fatwa; and an end to the violence and intimidation directed at people who have defended and worked with Salman Rushdie.



“Protestants for a United Ireland” – Another View

by Carol Coulter

Robbie McVeigh's article "Black or Green? Protestants for a United Ireland", in the last issue of the *Irish Reporter*, was a welcome and significant contribution to the debate about the vexed questions of Irish identity and the future of the North of Ireland. It confronted the aftermath of the Anglo-Irish agreement in a new way, pointing out that it had provoked "a profound crisis of identity for many Protestants".

The work of Robbie McVeigh and his colleagues in the Irish Protestant Education and Action Group in reasserting the Protestant contribution to Irish radical and nationalist thought is long overdue. Further, the link between the Protestant cultural background of the intelligentsia in the late 18th and 19th centuries and the development of radical thinking in Ireland then is one which would bear further study. It is to be hoped that this work of McVeigh and the IPEAG will continue and flourish.

However, a key aspect of McVeigh's article is the argument that Protestants in Ireland have a ethnic identity, and specific political concerns in a future united Ireland, which mark them off from the rest of the population as a "national minority". I do not agree.

It is, of course, true that within the North the whole of society has become so sectarianised that there is scarcely a single social interaction that is not marked by the sectarian division. Religio-political origin and identity is established as a precondition to the most minimal social intercourse.

But this does not prove the reality of two distinct ethnic groups. Indeed, it could be argued that it is because of the absence of any identifiable marks of ethnic difference that the religious and cultural must be so clearly defined, in order to define an individual's expected attitude to the state itself and all its institutions. It is because they have always been intrinsically sectarian that they have forced such definitions on all citizens.

The southern state, with all its

faults, is not an intrinsically sectarian one in the sense that discrimination against a religious minority was institutionalised. Advancement in the civil service, for example, was not governed by religious affiliation. Thus religious background plays little or no part in public life – though the same could not be said for private or family life, where *ne temere* made mixed marriages a trauma for the couples and families concerned.

Nonetheless, the net effect is that in public life, and most social transactions, religious affiliation is of little importance, though in parts of the south sectarian attitudes undoubtedly persist. In most public transactions religion may be noted, but no more than social background, education and geographical origin – indeed, the last is likely to evoke far more comment.

Yet Protestants in the south would form part of the same "ethnic" group as those in the North? Why do they form a distinct group in the North and not in the south? Surely because it matters in one state, and not in the other. (The size of the Protestant minority in the south means that they don't matter much anyway, but that is another day's work.)

McVeigh rightly denounces the hypocrisy of the southern government, which lays claim to the Six Counties but does nothing to promote or institute a secular, non-sectarian state. "We argue that the southern state has reinforced partition through its institutionalisation of the power of the Catholic church ..." However, he goes on to urge action on "anti-Protestant sectarianism" in the southern state, giving the divorce and abortion referenda as examples.

I believe this misses the point about the southern state and its institutions. Their capitulation to the interests of the Catholic church flows not from anti-Protestantism, but from the deep conservatism of that state, leading it to lean heavily on all other conservative institutions, including the Catholic church. For example, the measures in the 1937 Constitution which place the woman firmly in the home are not anti-Protestant, they

are anti-woman – and there, as in other matters, the conservative de Valera and the Catholic church found common cause.

The danger in much of Robbie McVeigh's argument is the implied equation between Protestantism, secularism and progress. By urging Protestants in the North to campaign against sectarianism in the south, without referring to the problem of sectarianism in the North, he falls into the trap of right-wing Protestant ideologues who equate the south with Catholic obscurantism and imply that the Protestant North is some kind of haven of secular progress.

The record of Protestants in power in the North is not at all encouraging for those anywhere in Ireland opposed to clerical interference in public life. They resisted every measure taken in favour of women – or gay men – in the rest of the "United Kingdom", and to this day legislation regarding divorce, abortion and homosexuality is far more restrictive in the North than in Britain. Indeed, Protestants in power in the North even imposed their religious views on the rest of the population to the extent that they prevented children from playing in public playgrounds on Sundays.

The lesson of the history of both states in Ireland is that those who controlled them sought to maintain the social status quo and opposed progress on a number of fronts, especially the rights of women and the poor. In this they leaned on all the most reactionary aspects of institutionalised Christianity, of whatever stripe.

Those who want to see progress on these fronts come from all sections of Irish society, Protestant and Catholic, north and south – like Robbie McVeigh and the IPEAG. They have more in common with each other than with conservative elements from their own religious background or geographical location, and can work together for a secular united Ireland.

It is the policy of the *Irish Reporter* to encourage discussion of the articles published.

mixed marriages a trauma

Reviews

Listening to the Travelling People

By Harry Vince

Pavee Pictures, published by the Dublin Travellers Education and Development Group, brings together the prose and poems of travelling people with over 50 photographs from Derek Speirs.

In this new work Speirs continues his engaged and human chronicle of this unique section of Irish society. He banishes any tendency to a picturesque portrayal of travellers as iconic outcasts. Instead, they often make eye contact with the viewer. We join them in their work, protest, education and family lives, they have names and they speak for themselves, of the 'beauty that money could never buy' and of 'angry mad ghosts'.

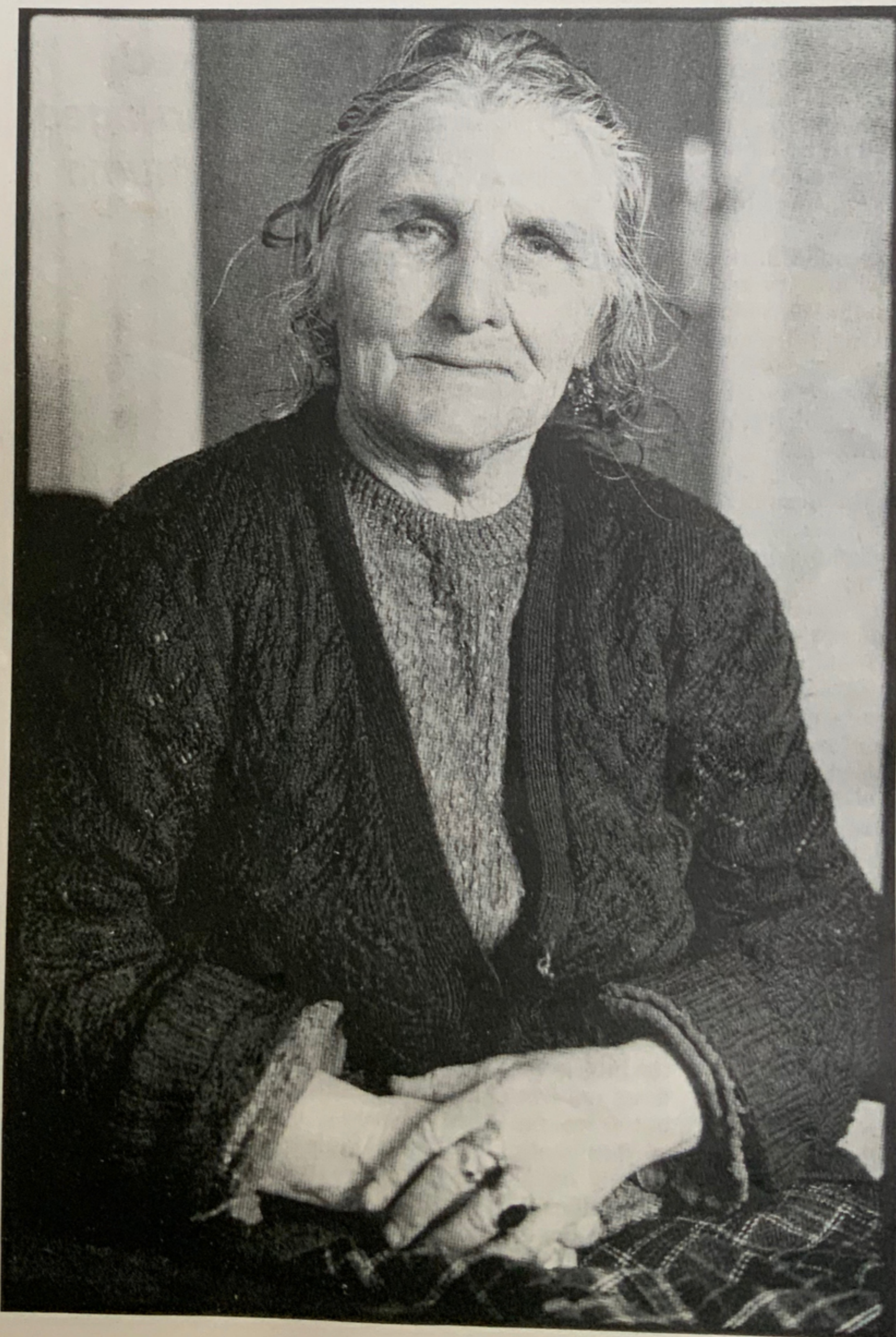
These photographs form part of the aesthetic and social fabric of the visual arts in Ireland, reaffirming Speirs' role as maker of sustained images as well as photojournalist. The appearance of things, translated through a photograph, can obscure and truncate their vital meaning. Speirs has evolved a format and working methods which uniquely allow the active, creative and individual character of the people of Ireland to shine through.

Pavee Pictures is available from the DTEDG, Pavee Point, North Great Charles Street, Dublin 1 (price £9.99).

Reporter page 30



Pre-school, Avila Park, Raheany, 11 April 1989



Nan McDonagh,
Coolock, Dublin



Michael Clarke, Robogue, Limerick

Revising the Rising. Ed. Mairín Ní Dhonnchadha and Theo Dorgan (Field Day, £7.65).

THIS book was rushed out at the end of 1991 by Field Day to mark the 75th anniversary of the Easter Rising. According to its editors, the initial plan was to hold a forum on the significance of Easter 1916, but this came to nought and the book was compiled instead.

It contains a number of essays by authors from both the "revisionist" and "anti-revisionist" schools of thought on Irish history, though all actually embrace the term revisionist in its sense of constantly reexamining and reinterpreting the past. Where the term has become emotive in an Irish context is where it has come to mean a diminution of the significance of the country's colonial history and a negation of the importance of resistance to British rule.

Thus Arthur Aughey argues that the heritage of 1916 embodied today in the Republic's stable institutions means it is "very much in its interest that Northern Ireland should remain a part of the United Kingdom.

There is some common ground between (intelligent) unionism and republican *raison d'état*." In terms of these institutions this is undoubtedly true, but it begs the question whether the institutions and social order of the southern state represent the full achievement of the ideals of the men and women who fought in 1916.

Edna Longley, one of the foremost opponents of Irish cultural nationalism, reiterates her argument that Irish nationalism was rooted in Catholic mysticism, and as such was culturally and psychologically hostile to Northern Protestantism, which, in characteristic pragmatic fashion, saw its future as dependent on the link with Britain.

Longley's profession as a literary critic leads her to concentrate on the cultural aspects of the conflict. However, in ignoring totally the historical, social and economic aspects of the unequal and exploitative relationship between Britain and Ireland, and its heritage of inequality and exploitation among the people of the northern state, she reduces the problem to a cultural one – and one which, because of the assumed cultural and psychological incompatibility between Catholicism and Protestantism, can have no unitary political solution.

Tom Garvin, on the other hand, places the Rising firmly in its social and economic context, and Joe Lee reexamines the writings of Pearse in their context to show that he was a far more complex thinker than the dreamy exponent of blood sacrifice often portrayed.

Returning to the cultural battlefield, Seamus Deane analyses the language of some "revisionist" history to show that it is not as objective and value-free as it seeks to maintain.

Revising the Rising brings an argument often restricted to specialists to a wider audience. We need more of this debate.

Carol Coulter

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Books Received

Aranmen All,
by Tom O'Flaherty, Brandon,
£4.99.

This is by the older brother of Liam and is a collection of stories of life on Inis Mor.

Irish University Review
Autumn Winter 1991, containing a number of essays on literature (£7.00).

***The Militant Democracy: Joseph Cowen and Victorian Radicalism.* By Nigel Todd (Bewick Press, Tyne and Wear, £8.95 stg).**

"A proletarian-radical party is now forming under the leadership of Joseph Cowen, an old Chartist, half, if not a whole Communist, and a very fine fellow... Ireland is bringing all this about, Ireland is the driving force."

The author of these lines is Engels, the year 1881, and the observation distinctly over-optimistic. Personal and political differences between the Marxists who were instrumental in forming Britain's Democratic Federation and Joseph Cowen, Newcastle's Radical MP, stalled their joint progress towards a popular "proletarian-radical party".

But it is the case that from Ireland's Land League agitation and the British government's repressive response, Joseph Cowen (1828-1900) emerged as the most unswervingly principled of English politicians: in the aftermath of the Phoenix Park murders, for example, he was the only English MP to speak against the 1882 Coercion Bill, ultimately costing him his already troubled Liberal links.

Nigel Todd, a history lecturer at the Centre for Continuing Education, University of Newcastle upon Tyne, has provided in *The Militant Democracy* an excellent, overdue thematic summary of Cowen's largely forgotten career. The book is firmly rooted in the radical and industrial politics of Tyneside, but also covers the extraordinary range of Cowen's international contacts and co-conspirators – including Mazzini, Lekawski, Lloyd Garrison, Kropotkin and of course Davitt.

Indeed, this was one left-wing activist who was at least the equal of Europe's ruling classes when it came to forging transnational links. Through his newspaper, the *Chronicle*, and through his influence in securing speaking engagements for visiting revolutionaries, the north-east of England buzzed with the ideas and activities of the continent's nationalist and liberation movements. Mid-century Italian and Polish radicals received his material assistance: Cowen by no means shirked "physical force", and appears to have used the family foundry as a source of

bomb-making equipment for foreign friends.

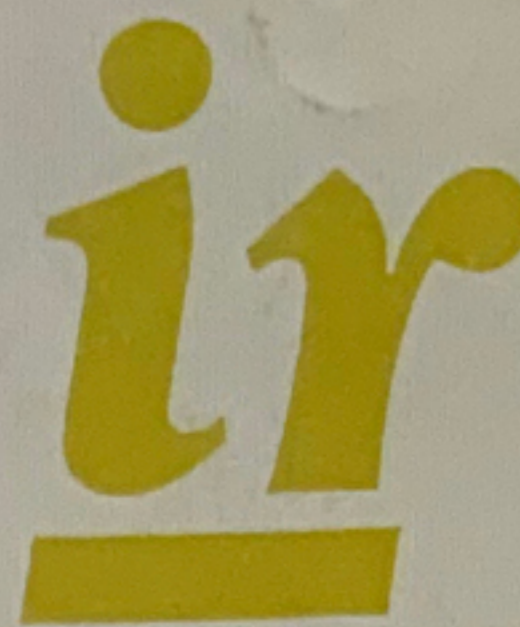
At home Cowen was a industrial capitalist and a certified traitor to his class. In 1871, while Cowen was praising the Paris Commune, he was also offering whole-hearted support to the 20 week strike by Tyneside workers for a nine-hour working day, instructing the *Chronicle's* editorial staff to tell the leader of the Nine-Hour League "we will print all he wants printed in the way of news."

The story is illustrative of one of this book's most significant themes: the influence of popular, radical journalism in a part of the 19th century which is often viewed as its quiescence. Cowen's *Chronicle* was a popular regional daily newspaper which was to the fore in terms of technical advances and a flashy, accessible editorial style; but in its campaigning commitment to democratic causes it was also a worthy successor to the great radical and Chartist papers of the 1820s to 1840s.

Nigel Todd by no means suggests that Cowen was without his flaws and contradictions. Most significantly, and in spite of his support for Irish Home Rule, he was fundamentally an English nationalist, a point conceded by his Irish admirers when faced with Cowen's enthusiasm for imperialism in more far-flung parts of the globe – characteristic of many late-century English Radicals. For better or worse, in his international as in his class politics Cowen developed with – and for many observers personified – an important political tradition.

The Militant Democracy is an enjoyable and informative work of local history, full of events and teasing political "might have-beens" of wider national and international import. Todd has also made a decent attempt at probing Cowen's eccentric and rather obscure character; though he doesn't quite unearth the man's underlying personality, this is probably preferable to a lot of psychoanalytical speculation about this capitalist in workman's clothes. The only real complaint about Todd's work is its length: at 200 pages, including notes and index, *The Militant Democracy* is too short to do thorough justice to a man described at his death by the *New York Times* as "one of the most extraordinary men in Europe... the friend of every conspirator from Moscow to Madrid."

Harry Browne



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