CHAPTER 3

EMERGENCE AND REVIVAL OF THE PRESS COUNCIL

"Quis custodiet ipsos custodes? (Who will guard the guards themselves?)
- a rhetorical query by second century Roman satirist Decimus Junius Juvenalis.

3.1 The first Press Commission of India expressed mixed feelings about the "standards and performance" of the press.¹ It observed that despite shortcomings such as yellow journalism, sensationalism, malicious attacks on public men, indecency and vulgarity, the country possesses a number of newspapers of which any country may be proud of. Many journalists who appeared before the commission assured it that "if the responsibility of regulating the profession is left to the journalists themselves, they would enhance the prestige of the profession and ensure that Indian journalism progresses along healthy lines".²

². Ibid, p. 352.
3.2 The Commission concluded that the best way of maintaining professional standards in journalism would be "to bring into existence a body of people principally connected with the industry whose responsibility it would be to arbitrate on doubtful points and to censure anyone guilty of infraction of the code." The body recommended by the Commission was a statutory all-India Press Council.³ Maintaining editorial independence, objectivity of news presentation, fairness of comment, fostering the development of the press, protecting it from external pressures and regulation of the conduct of the press in the matter of such objectionable writing as was not legally punishable were also suggested as the objects and functions of the proposed Council.

3.3 The Press Council of India was first established in 1966 under the Press Council Act, 1965 with the object of "preserving the freedom of the press and of maintaining and improving the standards of newspapers in India".⁴ Though the first Press Commission had recommended the setting up of such a statutory and autonomous body as early as in 1954, it came into existence only at the end of a duodecennial exercise of chequered legislation. The Bill introduced in 1956 for

³. Ibid, pr. 947, p. 352.
⁴. Preamble of the Act.
the constitution of a press council lapsed with the
dissolution of the Lok Sabha in 1957 and nothing was done
hereafter, despite the continuing demand from various
journalist organisations, till 1962 when the National
Integration Council called for the immediate
establishment of a press council. A fresh Bill was
introduced in the Rajya Sabha in July 1963 and, for lack
of priority in the government list of parliamentary
business, it took two full years for it to become an
Act\(^5\) on 12 November 1965. Even then it took another
eight months for the actual establishment of the Council
on 4 July 1966 with Justice J R Mudholkar, a sitting
judge of the Supreme Court, as chairman.

3.4 The very concept of the Press Council emphasises
the fact that it is a representative body of the press as
a whole; yet it was bogged down in the quagmire of
competing sectional claims over its composition. The
pulls and counter pulls became so intense as to take the
issue of composition to the court. However, the Delhi
High Court dismissed the writ petition, rejecting the
contention that the Council was not constituted in
accordance with statutory provisions. Irked by the
controversy, Justice Mudholkar resigned and Justice N
Rajagopala Ayyangar, a retired judge of the Supreme

\(^5\) The Press Council Act (34 of) 1965.
3.5 The Statement of Objects and Reasons of the Press Council Act, 1965 stated the broad expectations from the Council which was to be "an autonomous body ... and was to regulate its own procedure". It was "to safeguard the liberty of the press, evolve and maintain standards of journalistic ethics, keep under review developments tending towards monopoly and concentration of control and promote research and provide common services for the press". It was to consist of "people principally connected with the press ... as well as a few members ... representing the interests of education, literature, law and culture ... and also public opinion through three members drawn from Parliament. The procedure laid down by Section 4 of the Act for the selection of the Chairman was that he would be nominated by the Chief Justice of India. According to the same Section, 22 other members were to be selected by a three-member selection committee comprising the Chief Justice of India, the Chairman of the Press Council and a nominee of the President of India. Of the 22, thirteen were to be from among the working journalists, including not less than six editors who did not own or carry on the business of management of newspapers. Of the editors not less than three were to be of newspapers published in Indian
languages. Six members were to be nominated from amongst persons who owned or carried on the business of management of newspapers. The rest of the three members were to be from among the nominees of the University Grants Commission, Bar Council of India and the Sahitya Academy. Three members of Parliament - two from the Lok Sabha - were to be nominated by the presiding officers of the two Houses. The Chairman and members were to hold office for three years. The tasks of the Council were widely enumerated to include helping newspapers to maintain their standards, build a code of conduct, maintain high standards and "foster a due sense of both the rights and responsibilities of citizenship," to encourage a "sense of responsibility and public service among all those engaged in the profession of journalism," to review the concentration of power amongst newspapers and any other factors which may hinder the dissemination of news in the public interest and finally to promote technical research. However, the powers given to the Council were not so extensive. Apart from the power to censure, it had no power except the power to summon and enforce the attendance of witnesses, to require the discovery and production of documents, to receive evidence on affidavits, to issue commission for the examination of witnesses and documents and to require the publisher of

any newspaper to furnish information on such points as the Council deems necessary.\footnote{Id., s.14.}

3.6 A 20-member Advisory Committee with the Minister of Information and Broadcasting as chairman was constituted in 1968 to "study the existing Act under which the Press Council of India has been set up and to suggest such amendments as may be considered necessary to enlist for the Council full and effective cooperation from all sections of the press and the public and to enable it to play its due role in preserving the freedom of the press and improving the standards of journalism in the country which are in conformity with the basic objectives of the Council". Based on the report of the Committee, submitted on 31 October 1968, the Press Council Act was amended in 1970. One of the principal changes was to include news agencies within the scope of the authority of the Press Council.\footnote{The Press Council Act, 1970. Ss 9 & 10. (amending Ss 12 and 13 of the Press Council Act, 1965).} News agencies were also given membership on the Council. The Council was given the responsibility to undertake studies of publications of foreign embassies in India and investigate the extent to which newspapers got subsidies from foreign governments. Endowed with the dual duty of
defending the press and of improving professional standards, the Council was now required to "promote a better functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies". To its power of censure was added the power to "warn and admonish" journalists and editors. Power was given to require the concerned newspaper to publish the results of the Council's inquiry. The Council could requisition public records from offices and courts. But it was made clear that a newspaper editor or journalist could not be compelled to disclose the source of his information. Though the status of the Council was enhanced to that of a chief negotiator in all disputes relating to the press, those disputes between the proprietors and journalists to which the Industrial Disputes Act, 1947 apply were excluded from its purview.

3.7 In this study we are not very much concerned about the 1965 Act, including its amended version of 1970, except to note that the paramount function assigned to the Council was "to help newspapers and news agencies maintain their independence" and "to build up a code of conduct for newspapers and news agencies and journalists in accordance with high professional standards". Enmeshed in factional controversies, the Council could only
proceed very slowly in the initial stages. As soon as it acquired momentum, its career was wound up as part of the legislation against the press during the emergency, on the specious plea that "it was not able to carry on its functions effectively to achieve the objects for which the Council was established". This charge did not hold water because in its decade-long existence, the Council had considered nearly 1,000 complaints — mostly either against or by the State Governments — and an awareness was created in the public mind about the role and functions of the Council. Though the Council did not formally evolve a code of conduct, those adjudications, besides redressing the grievances, helped to build up a good case law serving as a code of conduct. Reserving a detailed post-mortem to subsequent chapters, it would be suffice to point out here that the Second Press Commission had declared that it had done useful work and recommended not only its continuance but a larger ambit of its powers and functions. The abolition of the Council was only a corollary to the official attempt to extinguish the flame of freedom during the black days of 1975-77. And viewed in that context, the Repeal Act of 1976 was nothing but an encomium, albeit incognito, to the commendable performance of the Council. And it is pertinent to repeat the words of the first chairman of


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the Council:

If at any time the Council chooses to remain
dormant one would say that the freedom of the
press is in danger.\footnote{Madholkar, J., \textit{Press Law} (Tagore Law Lectures,
1975), p. 127.}

**REVIVAL AFTER EMERGENCY**

3.8 With the restoration of press freedom after the emergency, the Press Council was resuscitated with the enactment of the Press Council Act, 1978. Though basically a copy of the earlier legislation, the new Act made certain significant changes in respect of the powers of the Council. It was given explicit power to make observations on the conduct of any authority, including the government.\footnote{The Press Council Act, 1978. Section 15(4).} As a safeguard against frivolous complaints, the Council was given power to reject a complaint in limine if in the opinion of the Chairman there is no sufficient ground for holding an inquiry.\footnote{\textit{Ibid}, S. 14. During the three-year term of the fourth Press Council (1988-91), a total of 496 cases were adjudicated while 1,195 were dismissed at the preliminary stage.}

In order to make the Council viable, self-dependent and autonomous, it was given power to levy fees from newspapers and news agencies besides receiving grants
3.9 The British Press Council, when first formed in 1953, consisted of 20 members, all representing the profession. It continued as an exclusive professional body consisting entirely of representatives of the newspaper industry and having as chairman a member of the press till 1963 when it was restructured to include five lay members in accordance with the recommendation of the Royal Commission. The size of the Council was kept the same and Lord Devlin, an illustrious judge, was chosen (by the press itself) as its first independent chairman.

3.10 The 1965 version of the Indian Press Council consisted of a chairman, nominated by the Chief Justice of India, and 25 other members of whom three were from among persons having special knowledge or experience in the field of education, science, literature, law or culture; and three from among the members of Parliament. In the 1978 Act, the number was raised to 28 besides the chairman. The chairman, instead of being solely nominated by the Chief Justice, has to be nominated by a three-member committee consisting of the Chairman of the Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha) and a person elected by the members of the Council. Of the other 28 members, 13 shall
be nominated from among the working journalists, six shall be from among persons who own or carry on the business of management of newspapers; one from among persons who manage news agencies; three shall be persons having special knowledge or practical experience in respect of education and science, law and literature and culture, nominated respectively by the University Grants Commission, the Bar Council of India and the Sahitya Academy; and the remaining five shall be members of Parliament.

3.11 Though the Indian Press Council closely resembles the British Press Council in many respects, no uniform pattern can be drawn from a comparative study of different press councils functioning in the world. The constitution of the New Zealand Press Council is on the British pattern. The Swedish Court of Honour, the progenitor of modern press councils, has normally a former judge of the Supreme Court as its president; but in Ontario, a former university president is the chairman of the Press Council. Both in the Austrian and Burmese Press Councils, there are no lay members. In Indonesia all the members are chosen by the government for the exclusive purpose of advising the government on press matters. Though the size of the press is as miniscule as its territory, Israel has the largest press council with
a membership of 30. Though no qualification is prescribed for a person to be appointed as chairman of the Press Council in India, taking into account the quasi-judicial nature of the duties and responsibilities entrusted to the Council, a retired judge of the Supreme Court has so far always been appointed as chairman.\(^{13}\)

3.12 The most important function of the Press Council is to adjudicate complaints; the gradual and steady increase in the number of complaints is an indication of the fact that the performance of the Council is being appreciated and recognised by the people who have great faith and confidence in the functioning of the Council. In its first full annual report (1967), the Council described the importance of this function thus:

The Press Council is intended not only to protect the freedom of the press but also the rights of citizens ensuring that they are served by a healthy, non-scurrilous, public-spirited and independent press. Adjudication of complaints against the behaviour of the press and also behaviour of others towards the press thus constitutes the most important function a press council is required to perform.

\(^{13}\) Mr Justice P B Sawant, a former judge of the Supreme Court, succeeded Mr Justice R S Sarkaria as Chairman of the Press Council of India following the expiry of the second three-year term of the latter on 23 July 1995.
3.13 A study of the Annual Reports would reveal a progressive increase in the institution of complaints and their disposal by the Council in recent years with consequent acceleration of the process of building up a code of conduct for newspapers and newsmen. Norms of ethics have now been extended to new areas. Privacy is a typical example of such extension.