

PART III

BALANCED COVERAGE

In this part the committee addresses the issue of whether the Prime Minister influenced or sought to influence the 1991 and 1993 decisions to increase the permissible percentage of foreign ownership of newspapers.

Chapter 5 explores the issue of whether those decisions were influenced by considerations relating to the content of newspapers including any requirement for 'balanced' coverage. The chapter examines statements made by Mr Black and by the Prime Minister regarding their conversations leading up to the 1993 ownership decision and unravels the threads of their explanations. In doing so, it reflects on the undertakings which were made and the extent to which they were carried out.

Chapter 6 is a summary of government experience in this and similar countries, relating to media regulation and 'balance'. It traces the notions of diversity of opinion versus 'balanced' opinion and draws conclusions as to the appropriate mechanisms for protecting the rights of the public and of newspaper proprietors vis-a-vis 'balance'. It makes recommendations regarding further inquiries by other committees and makes a finding on the propriety of Mr Keating's actions.

CHAPTER 5

CONSIDERATIONS RELATING TO THE CONTENT OF NEWSPAPERS

Conversations between Mr Keating and Mr Black

5.1 As identified in chapter 1, the events giving rise to the committee's terms of reference were the *Lateline* interview with Mr Conrad Black on 18 November 1993, and the remarks made at that time by Mr Keating in Seattle. It was alleged that Mr Keating's interview included the statement that the increase in foreign ownership for Mr Black had been contingent upon the Fairfax group delivering balanced coverage, especially in the lead-up to the 1993 Federal election.¹

5.2 The above comments by Mr Black and Mr Keating were made with regard to the 1993 decision to increase the allowable shareholding of Mr Black from 15 per cent to 25 per cent. They did not specifically refer to the 1991 decision to allow the original purchase of Fairfax with a 14.99 per cent holding by Mr Black's *The Telegraph*. That decision had been taken when Mr Hawke was Prime Minister and Mr Willis the Treasurer.

5.3 This chapter therefore canvasses the concept of 'balance' with regard to the 1993 decision only.

The term 'balance' in the discussions

5.4 The first controversial airing of the term 'balanced political coverage' in this context was in Mr Black's autobiography, *A Life in Progress*, where he said of a meeting with Mr Keating in November 1992 that the Prime Minister had:

acknowledged that he had been delinquent in not acting earlier on the promise of January. He urged us to send an application at once to the Foreign Investment Review Board to raise our share to 25 per cent and he would champion it.

¹ Senator Alston, Senate Hansard, 9 December 1993, p 4280

If he were re-elected and Fairfax political coverage was 'balanced' he would entertain an application to go higher.²

Later on the same page, he adds:

In March 1993, he was comfortably re-elected and in April he approved our ownership increase application.³

5.5 The Australian media were quick to pick up Mr Black's comments and he was interviewed on *Lateline* on ABC television on 18 November 1993 regarding his statements. Mr Black attempted to explain his understanding of 'balance':

Kerry O'Brien: Paul Keating also said according to the book that if he was re-elected - that was in the election this year - and Fairfax political coverage was balanced, he would entertain an application for higher ownership of Fairfax again beyond the 25 per cent. Has he since indicated to you that the Fairfax coverage was balanced?

Conrad Black: No. I want to be clear here. He was not endeavouring to influence the editorial position that might possibly be a matter in which I would have some say. He was more concerned with the performance of journalists. He has the view that Fairfax journalists, some of them, have historically been gratuitously hostile to him, and what he was hoping was - and I think he said this to his Caucus at the time that he championed our move from a 15 to 25 per cent allowable ceiling - that we would assert a discipline in favour of fairness - not partisanship, and he was never asking for that.⁴

And elsewhere:

Conrad Black: He was concerned, as I've said to you before, Walter, that he thought he'd not been fairly treated by certain

² Conrad Black, *A Life in Progress*, Random House Australia, Sydney 1993, p 453

³ *ibid*

⁴ *Lateline*, Thursday 18 November 1993, MICAH transcript p 22

Fairfax reporters. But he, in so far as he referred to my alleged Thatcherite tendencies, one, he was respectful of them and two, he only raised them in what I took to be a jocular context.⁵

All he was seeking was professionalism, fairness and balance in the Fairfax titles and all I was pledging to do was my best to ensure that occurred, but that contained no implications of partisanship in one direction or another, and indeed I had somewhat similar discussions with Dr Hewson. The only interest either man ever expressed was that the paper's quality be maintained and that professionalism be maintained, and where one or other of them perceived it had been lacking before, to be shored up. There was no discussion of deals and no discussion of partisanship.⁶

And the Government's view was, since they had that xenophobic faction in their own Caucus that the Prime Minister had to contend with, that it would be easier to justify such an increase if the fact of balance - and he was very careful to say he did not mean that as a euphemism for partisanship or favours for his party - just balance and avoidance of unprofessional practices during the election campaign and the run-up to the election, if that balance was demonstrably something that we were going to try to encourage, that's all.⁷

5.6 The disturbing elements of these first statements from Mr Black are as follows:

- in stressing that Mr Keating was not endeavouring to influence his editorial opinion, Mr Black was clearly conceding that the Prime Minister was seeking to influence journalistic coverage. He was also making it plain that he saw nothing improper in Mr Keating seeking to do so.

⁵ *PM*, 19 November 1993, MICA transcript

⁶ *PM*, 19 November 1993, MICA transcript

⁷ *Business Sunday*, 21 November 1993, MICA transcript

- Mr Black saw 'balanced coverage' as something which he could bring about with a 'discipline in favour of fairness'.
- Mr Black was happy to concede that Mr Keating had not always received fair treatment at the hands of Fairfax reporters without presumably having any more than the vaguest awareness of any evidence to that effect. He was also happy to concede that Mr Keating was entitled to have the 'balance' redressed.
- Mr Black was therefore more than willing to intervene to promote 'balance' as 'something that we were going to try to encourage'.

5.7 The long history of antipathy between the Labor Party and the Fairfax press was described in the book *Corporate Cannibals* as 'the stuff legends are made of'.⁸

5.8 On the relationship between Mr Keating and Fairfax, *Corporate Cannibals* quotes from a board minute by editorial executive Mr Max Suich in early 1987, reporting on an extended meeting with Mr Keating, then Treasurer:

... Keating says his motives for getting involved in the *Herald* and *Weekly Times* takeover were a desire to see the [Melbourne] *Herald* broken up and a desire to hurt Fairfax ... The Treasurer is a product of the New South Wales right wing of the ALP and his conversation is littered with threats, references to getting even, doing deals and assisting 'our crowd' in business, the press and within the ALP.

He is very blunt about the fact that the New South Wales right are 'deal makers' and that they provide favours to 'our crowd' in return for favours given.

He also has very strong feelings about old money or establishment money, which he describes as dead money stultifying the economy, and he sees great advantages in new money - in which he includes Murdoch and Packer - being given opportunities to knock off old money. This I guess is the last glimmer of the class warrior⁹

⁸ *Corporate Cannibals* p 172

⁹ *Corporate Cannibals* p 173

5.9 Against this background it is hard to imagine Mr Keating, of all people, having any altruistic or academic interest in questions of journalistic 'balance' - his motives were much more transparent. Having regard to his long-standing reputation for ringing up journalists and berating those whose writings to which he took exception, an observer could reasonably conclude that Mr Keating was of a mind to right past wrongs and tilt the balance as much as possible in his favour.

5.10 Given the history of the relationship between the Labor Party and Fairfax, there is a thread in Mr Black's early statements that whatever the term 'balance' implied, it was something which had not always prevailed, and that it was something other than the status quo. Whatever Mr Black understood by the term, he took it to mean that it would require some action on his part to bring it about. Mr Black's writings and his interviews, however much he subsequently sought to disguise the nakedness of the arrangement, made it clear that he was willing to trade at least a promise of proprietorial intervention to enhance his prospects of increased foreign ownership in the Fairfax empire.

5.11 Mr Keating's comments in Seattle did nothing to dispel the notion of a causal link between coverage and ownership limits:

I said, "Well, we'll think about it, but we want a commitment from you that the paper will be balanced. And if there is any notion that, you know, of bias, that is that you barrack for the Coalition, on the basis of your conservative proclivities in other places, then there's no way you would qualify as the kind of owner we would like."

J: But Mr Keating, should a commercial dealing of that sort rest on your judgement about whether a media organisation is fair to Labor?

PM: No, not whether it's fair to Labor, but whether reporting is fair.

J: But you're the judge, are you?

PM: Well, I'm the Prime Minister. That's how I become the judge.¹⁰

¹⁰ Transcript of interview with the Prime Minister, the Hon P J Keating MP, Seattle USA, 18 November 1993, pp 5 and 6

5.12 These admissions and explanations raise fundamental questions about the manner in which such decisions were made and whether the 'national interest' was a mere cloak to disguise more mundane considerations.

5.13 In addition to Mr Black's own explanations of the meaning of 'balance', the committee has heard from a number of witnesses within the newspaper world regarding the use of such terms by politicians. They have testified that whenever a politician asked them for 'balance', they took them in fact to mean 'bias'. For example:

Mr Kohler: We get lots of calls. Balance is generally in the eye of the beholder. So one person's balance is another person's bias, I guess.

Senator Kernot: You do not develop an immunity of sorts?

Mr Kohler: Sure, I am immune to politicians.

Chairman: I take it that you have not had any of them ringing up recently asking for balance.

Mr Kohler: I have never had politicians asking me for balance. What I have had is politicians asking for bias.

Chairman: Imbalance.

Mr Kohler: Precisely.¹¹

5.14 Given the above, there was every reason for the media and the public to suspect that if Mr Keating had used the word 'balance' in this context, that a reasonable person would have taken him to mean bias, or at least a less unfavourable treatment for his party.

5.15 Mr Black has commented to the committee that:

I had - and I suppose I have myself to blame for this - absolutely no idea that using the words I initially did, and in particular putting the word 'balance' in quotes, would lead to the supposition that what I really meant was the reverse of what I wrote!¹²

¹¹ Evidence p 306. See also Mr Kennedy on p 164

¹² Evidence p 687

5.16 The committee is not attempting to use semantics to twist the word 'balance' in any way. Despite Mr Black's assertions, the committee has not assumed that it was Mr Keating who first used the word. What concerns the committee, as it did the public and the media at the time, is the context in which the reported conversation occurred and the subsequent rationalisation of it by Mr Black and Mr Keating. This section of the report attempts to unravel the main threads of those rationalisations and to evaluate each of them. It begins by looking at the term 'balance'.

The meaning of 'balance'

5.17 Mr Black, as a media owner dependant on the government for his ownership percentage, must have been well aware from the time when he first began to negotiate with the government, of the need to please them. He would also no doubt have been aware that there was compelling good sense in accommodating the government and specifically the Prime Minister on an issue of such political sensitivity, particularly when the fate of any such application was entirely dependent upon the discretion or whim of one powerful individual. When addressing Mr Hawke at the Hearing of 22 April 1993, Senator Kernot commented that:

I asked Mr Black yesterday why we should believe him. I thought it was interesting that Mr Black reflected favourably on Dr Hewson and Mr Keating who are current decision-makers, but less favourably on you and Mr Kerin and Malcolm Turnbull. I think this is a real difficulty for people who are watching the proceedings here.¹³

5.18 There are clear signs of such a disposition on Mr Black's part long before the publication of his book. As early as the day on which Mr Keating became Prime Minister in 1991, Mr Black appeared in the media to state his willingness to please the new leader:

Peter Martin: Will any anti-Labor bias continue under you?

Conrad Black: Balance and professionalism and reasonableness and high quality standards of fair reporting and comment will be observed and I will do whatever I can as an influential shareholder. I wouldn't put it more strongly than that, and I think it would be inaccurate to put it more strongly than that. Anything I can do to ensure

¹³ Evidence p 757

that it happens. Therefore if Mr Keating's comments on the former performance of those papers were well-founded then I think perhaps we can set his mind at ease a bit and I'll try to do that. I'm talking about the elimination of bias if there was such a bias, I'm not talking about partisanship or the institutionalisation of partisanship.¹⁴

5.19 Mr Black used similar terms when discussing the draft charter of editorial independence at Fairfax:

As I understand and as I've seen these versions, the journalists are free to write what they want independent of any influence from outside and if the editor does not or can not require of them a standard of balance, quality and fairness required by the AJA code of Ethics, then there's nothing anyone can do about it. Not the shareholders, not the directors, not the general manager not anybody. Well at some point there has to be some recourse to ensure that, but that's what I mean. I'm talking about the ensuring of quality, balance and fairness. I'm not talking about euphemisms for the intervention of a proprietor...¹⁵

5.20 These quotes demonstrate Mr Black's already frequent use of the word 'balance', and his willingness to reassure the government and the public by using that term. In using that particular word he also seems to have been drawing more from his own vocabulary and familiar environment than from the local context. The AJA Code of Ethics simply says journalists 'shall report and interpret the news with scrupulous honesty by striving to disclose all essential facts and by not suppressing relevant, available facts or distorting by wrong or improper emphasis.' By contrast, the Statement of Principles for Canadian Daily Newspapers contains an entire section on 'Accuracy and Fairness' which defines fairness as 'a balanced presentation of the relevant facts in a news report, and of all substantial opinions in a matter of controversy'.¹⁶

¹⁴ AM, 20 December 1991, transcribed by committee secretariat.

¹⁵ PM, Wednesday 18 December 1991

¹⁶ See Paul Chadwick, *Charters of Editorial Independence: An Information Paper*, Communications Law Centre, Melbourne 1991. The AJA model charter which was appended to *News & Fair Facts* (Appendix 11), did include the following: 'The Chief responsibility is to provide news that is as accurate, fair and complete as possible and comment that reflects the diversity of opinion within the community'

5.21 In April 1993, looking back on the November 1992 meetings, Mr Black again used similar key words:

I promised both party leaders that I would assert all the influence I could in favour of **fairness and coverage**, and that I would not endeavour to influence the editorial recommendations in any way other than to ensure that they were where they belong and clearly labelled opinion pieces rather than news stories. And I made it absolutely clear, personally and via the Managing Director, Mr Mulholland, that I was not seeking and actively sought not to achieve any influence at all on the recommendations the editors would make to their readers.¹⁷ [emphasis added].

5.22 When his book was published in November 1993, Mr Black attributed the word 'balanced' to Mr Keating, and put it in quotes. Mr Black repeated that attribution at first in his opening statement to the committee on 22 April 1994 by saying:

the word 'balanced' was in quotes by me because that is the word that was used and that is what he meant.¹⁸

5.23 Later in the same discourse, however, Mr Black claimed that the term was his own:

The word 'balance' was used by me, but it was a fair summary--that he accepted and has used since - of what he said.¹⁹

5.24 Similarly, although Mr Keating at first responded in public to the quote as his own, he did argue on one occasion that the word was Mr Black's:

Kerry O'Brien: ... Conrad Black said, that you had promised him that you would entertain going higher if the Fairfax reporting of this last election was balanced.

Paul Keating: No, look, in fact Mr Black raised the question of balance. The only matter I raised was the question of accuracy and reporting. He said to me in the first conversation he wanted to move the Herald and the

¹⁷ *PM*, Wednesday 21 April 1993

¹⁸ Evidence p 646

¹⁹ Evidence p 646

Age more towards the British broadsheet standard of accuracy. And I said to him this is a good thing, this needs to happen, there should be more presentation of news and less of views - comment that as news copy should be news copy, where the reader has a chance to read. That was the matter I raised with him, not in fact about the balance. But someone asked me on what basis do you get a right to consider the balance.²⁰

5.25 Whether the precise word 'balance' originated with Mr Black or with Mr Keating is irrelevant. Mr Keating, then and since, chose to adopt the term to sum up his various demands regarding Fairfax's coverage.

5.26 It is unfortunate that the failure of the Prime Minister to speak to the committee renders it necessary to judge his use of words and to weigh the evidence of Mr Black without the benefit of another version. Contrary to Mr Black's apprehensions, we do not intend to misinterpret this single word, and to build conclusions upon it. Indeed, given all of the above, it seems likely that the term 'balance' did not originate with the Prime Minister, but was a part of the standard vocabulary used by Mr Black to reassure government. It is quite clear that regardless of its origin, however, the Prime Minister did adopt the word.

5.27 What is disturbing here is the circumstance in which the word was used: that of a foreign newspaper proprietor meeting with the leader of the government to seek a vital commercial concession. In that conversation, assurances are sought and given on both sides. The fact that communication between the two was less than perfect is not at all reassuring and it is not comforting for the public that each came away with differing recollections of what was said by the other. On the contrary, it contributes to the overall cloud of poor communication, inadequate documentation, and imperfect recollection which has shrouded the history of these significant foreign investment decisions.

5.28 Mr Keating declined to appear before the committee or answer written questions. Whether he chose to do so to demonstrate his contempt for the Senate or because he did not want to expose himself to questioning on this issue, the fact remains that he has not chosen to resile from his

²⁰ *Lateline*, 29 November 1993

Seattle remarks. The committee had to rely upon his public statements in order to make any judgement of his stand on this issue. At the end of chapter 4 there appears a list of the questions which were sent to the Prime Minister.

5.29 The Prime Minister made a deliberate and calculated decision to refuse to appear before the committee and instead to publicly denigrate it. As well, he did not respond to letters seeking his cooperation. He cannot therefore complain if conclusions are drawn about his words and actions based on the material available to the committee.

Key points of agreement regarding the conversations

5.30 In searching for the key points of agreement between the recollections of Mr Black and those of Mr Keating, and using the inadequate information provided by Mr Keating's statements to the Parliament and to the media on the subject, the committee has carefully considered the various explanations and interpretations which have been put forward. In doing so, certain consistent themes do emerge.

5.31 The first of these themes is 'balance' in the sense of editorial control and the line taken by Fairfax journalists. The second is 'balance' in the sense of general bias or partisanship in political coverage. The third relates very little to 'balance' and could be described as 'national interest and cultural identity'.

'Balance' as editorial control over journalists

5.32 The nature of Mr Keating's deep sense of grievance over Fairfax reportage has been well documented. It was plainly understood and acknowledged publicly by Mr Black and by media commentators that Mr Keating believed that Fairfax journalists had consistently treated Labor unfairly. The following examples illustrate the depth and breadth of Mr Keating's long held views on this matter:

Rupert Murdoch had advised me we would find the Fairfax journalists 'a snake pit', but Keating's reflections on them are often less charitable than that. In fact, most seem to me acceptable, but as a group they required a

serious debriefing from their long bout of disenthralled liberty to be as tendentious or even defamatory as they pleased.²¹

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He was concerned, as I've said to you before, Walter, that he thought he'd not been fairly treated by certain Fairfax reporters.²²

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He was more concerned with the performance of journalists. He has the view that Fairfax journalists, some of them, have historically been gratuitously hostile to him, and what he was hoping was - and I think he said this to his Caucus at the time that he championed our move from a 15 to 25 per cent allowable ceiling - that we would assert a discipline in favour of fairness - not partisanship, and he was never asking for that.²³

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...he was speaking of reporting. He made it clear that it was one of his proper concern what the legitimate commentators or editorialists said in what was clearly marked as opinion.²⁴

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he did refer to a practice in some sections of the press, according to him, of allowing too much editorialising to creep into what purported to be reporting.²⁵

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He was talking about, as he perceives it, the penchant of some journalists - whom he did not name, but he did not lead me to believe that he confined them to Fairfax: he just meant journalists in general--if the editors were not requiring a high professional performance from them, to pursue their own taste in what was represented as reporting. He said this in a

²¹ *A Life in Progress*, p 454

²² Conrad Black, *PM*, 19 November 1993

²³ Conrad Black, *Lateline*, 18 November 1993, MICAH transcript p 22

²⁴ Conrad Black, Evidence p 646

²⁵ Conrad Black, Evidence p 665

good-natured way. He did not say it in a spiteful or vindictive way. He did not confine it to Fairfax.

His view, I think, would be - as he has expressed it to me - that, if the editors do not do their jobs, some journalists (naturally, I suppose; as an employer of many journalists, I think there is some truth to this) will tend to allow their own biases to creep into their reporting. But his view was that the whole process of augmenting our shareholding would be easier if, in the abstract, in a non-partisan, non political way, we were perceived as champions of professionalism and balance in precisely that sense: that we had editors who required the separation - as much as is possible, since you can never be perfect about this - of reporting from comment.²⁶

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Paul Keating: The only matter I raised was the question of accuracy and reporting. He said to me in the first conversation he wanted to move the Herald and the Age more towards the British broadsheet standard of accuracy. And I said to him this is a good thing, this needs to happen, there should be more presentation of news and less of views - comment that as news copy should be news copy, where the reader has a chance to read.²⁷

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Paul Keating: So let's be clear about media bias. There was a lot of media bias by journalists at John Fairfax and Sons in not publicising the diversity of the media change under this Labor Government. And the Government's taking stick over what has been a milestone piece of legislation. [Extract archive tape, August 1988]

Deborah Snow: Keating had helped secure party support for the changes by playing on Labor hostility towards the Fairfax and Herald and Weekly Times groups.

²⁶ Conrad Black, Evidence p 674

²⁷ *Lateline*, 29 November 1993

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- John D'Arcy:** I think it was an obsession with the ALP about those two independent newspaper groups - I don't know.
- Deborah Snow:** Fairfax and Herald and Weekly Times?
- John D'Arcy:** I don't know why. I think it started in antiquity and just kept going on.
- Deborah Snow:** Keating's animosity towards the Fairfax group over articles run in its Sydney papers was well known to company executives at the time.
- Ted Thomas:** Oh, I think it's been inferred, if not stated, that the Treasurer didn't particularly like the Fairfax press. He may have felt that there was a vendetta, a conspiracy, or something of that sort. It seemed to be a word that was floating around at the time, both in respect to Paul and to Neville Wran.²⁸

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- Ken Davidson:** The reason why this government has always disliked the Fairfax Group and why, incidentally, its also disliked the ABC, is because you can't do deals with the management. You can't ring up one person in either organisation and say 'get that journalist off my back'. Both organisations don't work that way.²⁹

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In the second half of 1986, when Cabinet was finalising its media plans, Fairfax was changing the *National Times*. Relunched as the *Times on Sunday*, the paper infuriated Keating by investigating his friend, property developer Warren Anderson, reporting that Keating had obtained planning permission to renovate his Sydney home and discussing valuations for the antique French clocks Keating collected. Keating later told friends: 'Don't they realise it's a jungle out there and I'm a tiger? The only way to get a tiger is to shoot it here

²⁸ *Four Corners*, 5 November 1990

²⁹ *Lateline*, 19 September 1991

(tapping the middle of his forehead). Those fools hardly hit me.³⁰

Look, there's no group more self-interested than the Fairfax journalists in the affairs of Fairfax. The only rivals are the ABC and the affairs of the ABC. Outside of these two very articulate and self-interested groupings, the rest of us are bystanders to the general media debate.³¹

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5.33 This government dissatisfaction with Fairfax journalism and, particularly *The Sydney Morning Herald*, was apparently so well known that it had even been taken on board by FIRB. It is interesting to note that in the controversial leaked FIRB Minute of 5 December 1991, the first and presumably the major benefit of foreign ownership of Fairfax which the Chairman and the Executive Member assumed would be persuasive to the then Treasurer was 'higher quality journalism'. This was mentioned ahead of 'more modern technology' and was the conclusive argument for allowing bids which the minute acknowledged could give control to the foreign owners. This is despite the fact that no plan for improving journalism at Fairfax has at any stage in the proceedings been drawn to the attention of this committee. The wording in the minute was:

The Chairman, Sir Bede Callaghan, and the Executive Member consider the prospect of foreign control to be outweighed by the benefits of foreign newspaper expertise, such as higher quality journalism and more modern technology. They therefore recommend in each case that you authorise advice to the parties that there are no objections to the proposal under the government's foreign investment policy.³²

5.34 Mr Black's response to his understanding of the Prime Minister's views about journalists may have derived from his standard stock of phrases. It was in terms of exerting editorial control:

³⁰ Chadwick, Paul, *Media Mates: Carving Up Australia's Media*, Macmillan, Melbourne 1989, p 35. Quotes Carew, Edna, *Keating - a biography*, Allen & Unwin Australia, 1988, p 181

³¹ Transcript of interview with the Prime Minister, The Hon P J Keating MP, Seattle, USA, 19 November 1993

³² See Appendix G (final page)

I promised both party leaders that I would assert all the influence I could in favour of fairness and coverage, and that I would not endeavour to influence the editorial recommendations in any way other than to ensure that they were where they belong and clearly labelled opinion pieces rather than news stories.³³

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It is the job of good editors to remind journalists, from time to time, of their professional obligation to play it straight in reporting, whatever their opinions - and they are entitled to their opinions - and however ferocious their comment would be in what is labelled as comment.³⁴

5.35 What is emerging here is that Mr Keating complained about journalists and their tendency, as he saw it, to comment unfavourably upon himself, his party or his government. Mr Black, as he would have us believe his reply, gave a standard response about the need for newspapers to separate comment from straight reporting and his willingness to ensure that this would happen. In retrospect, both he and Mr Keating have dressed this up as a concern solely over the clear labelling of opinion:

... he was speaking here of reporting. He made it clear that it was none of his proper concern what the legitimate commentators or editorialists said in what was clearly labelled as opinion.³⁵

5.36 Much of the subsequent media discussion as to what the parties meant by 'balance' and Mr Keating's repeated efforts to play down the significance of his original remarks and Mr Keating's role, have centred on the official line of the Fairfax newspapers as reflected in their editorials. However, Mr Black as a seasoned newspaper proprietor with a close, active and long-standing interest and involvement in politics on several continents, well knew that it is not the editorials which get under the skin of politicians, it is the slant of the stories, their absolute and relative prominence and the headlines which most concern politicians.

5.37 Mr Keating's own accounts of what he had in mind at the time are quite inconsistent. On *Lateline* on 29 November 1993, he stated that he had

³³ *PM*, 21 April 1993

³⁴ Evidence p 665

³⁵ Evidence p 646

been simply agreeing with Mr Black that there should be 'more presentation of news and less of views', whereas on 19 November 1993, in his second Seattle interview, he was trying to portray himself as the defender of the Fairfax journalists against their proprietor:

I don't think that anyone in Australia should welcome heavy handed proprietorship. I remember the whole of the Fairfax employees talking about the rights to write and have printed that which they believe and not have proprietorial intervention. And it was that same point that I was making.³⁶

5.38 The latter view is not reflected in any statement by Mr Black at any time. At no stage did Mr Black mention Mr Keating having advocated 'hands off' the Fairfax journalists. The tenor of Mr Black's recollections was more consistently like the following:

And his view, as recently as early this week, was that while he accepts there's been considerable progress, strictly in professional standards he's not purporting to judge or require the friendliness towards him or to his party, but his professional standards of fairness in reporting - not comment - he feels that there's still a way to go. And I don't think he's all wrong. But he does acknowledge that in terms of assuring a discipline in favour of fairness and professionalism we've made some progress.³⁷

5.39 Clearly either Mr Keating is being untruthful when he claims that he was defending the rights of Fairfax staff, or his remarks to Mr Black were so slight and so forgettable, that Mr Black could not even recall them. In either case, the effect is the same, and it highlights the folly of putting such a valuable asset as journalistic freedom at the mercy of a private conversation. Had Mr Keating any serious view about the rights of journalists at Fairfax and the need to protect them beyond the charter of independence which Tourang had already signed, he could have ensured that FIRB incorporated guarantees of independence as conditions on the approval of increased ownership. There are ample precedents for such guarantees. The Labor Party Platform itself includes at Article 42, that it should 'promote the public's right to a full variety of views in printed media by ensuring diversity of ownership through:

³⁶ Transcript of interview, Seattle, 19 November 1993

³⁷ Conrad Black, *Lateline*, 18 November 1993

... e) supporting the development of enforceable codes of editorial independence by ensuring that the articles of association of newspaper companies guarantee editors a proper degree of independence from the proprietor.³⁸

Finding 5.1

Given the totality of Mr Black's and Mr Keating's explanations the committee finds that Mr Keating did complain to Mr Black of unfavourable and, as he regarded them, gratuitous, comments by Fairfax reporters and that Mr Black's public response was to characterise these complaints as concerns about the separation of reporting from editorial comment.

The committee does not accept Mr Keating's explanation to the media that he was trying to protect the rights of Fairfax employees 'to write and have printed that which they believe and not have proprietorial intervention'. On the contrary, all his actions suggest he was more interested in using the unique leverage of his position to influence the political coverage of the Fairfax press in his favour in the lead-up to the 1993 election.

The first element - the exercise of editorial control at Fairfax

5.40 There is little evidence of active intervention by Mr Black during the period leading up to the election.

5.41 With regard to direct intervention over journalists Mr Black seems to have been content to assuage Mr Keating's concerns without doing very much. The committee has heard evidence from a number of current or former Fairfax editors and from Mr Claude Forell, the Vice-Chairman of the Age Independence Committee, whose words probably sum up the general view:

Although I believe many members of staff are unhappy with the editorial restructuring and the cost-cutting measures that have been instituted by the

³⁸ ALP Party Platform, Resolutions and Rules as approved 39th National Conference, Hobart 1991

new management, there appears to be no evidence that Mr Kohler or the editor of the *Sunday Age*, Mr Bruce Guthrie, have been directed or pressured to modify editorial policy contrary to the principles of editorial independence.³⁹

5.42 This lack of apparent follow-through is not new amongst newspaper owners making deals with government. Paul Chadwick commented in 1989:

Politicians commonly go over the heads of journalists and editorial executives to make direct contact with owners or senior management to complain about criticism or request favours. Good mates will want to try to help. Whether media patronage always works is debatable but irrelevant; the point is politicians think it does and owners have a vested interest in encouraging that belief. A senior Hawke Cabinet minister reflected this classic politician's view when asked why the government had done so much for a couple of media owners. He replied: 'I guess we hoped they'd throw us a bone'.⁴⁰

5.43 Despite Mr Black's comments the committee has seen no evidence of concern from any quarter, other than the Prime Minister, about the lack of separation of editorial comment and reporting at Fairfax.

The second element - balance as general bias/partisanship in political coverage

Discussion on balance

5.44 In this section we examine the theme in Mr Black's and Mr Keating's discussions of 'balance' as referring to support for one party in political coverage during the election campaign.

5.45 There can be no doubt that Mr Black believed that he needed to accommodate the wishes of the ALP and particularly Mr Keating if he was to have any realistic prospect of an increase in his level of permitted ownership under a Labor government. Even his own flagship newspaper *The Sydney Morning Herald* had told the world about Mr Keating's uncompromising approach to the matter. In the 24 October 1992 edition

³⁹ Evidence p 360. See also Mr Hickie's evidence on p 301

⁴⁰ *Media Mates: Carving Up Australia's Media*, Paul Chadwick, Macmillan, Melbourne, 1989, page i of *Chronology*

there was a report concerning a meeting between Mr Keating and the newly arrived chief executive of Fairfax, Mr Mulholland, 'barely off the plane from South Africa'. According to the report, after advising Mr Mulholland of the inexpediency of changes to the Canberra bureaus for *The Age* and *The Herald*, Mr Keating went on to a luncheon meeting with him and senior *Herald* editors:

At one stage someone, in what was described as a light-hearted comment, asked what were the prospects of Canadian Conrad Black increasing his company's shareholding in Fairfax from 15 to 20 per cent.

Describing Black as a 'truant proprietor', Keating declared the company was 'on probation'...⁴¹

5.46 These reported comments leave little doubt that the Prime Minister was making it clear to senior Fairfax executives that if their owner was to get his way, senior management and journalists would need to be on their best behaviour - they should not offend the ALP in the run up to the election, even if it deserved to be criticised.

5.47 The article went on to point out that there was bound to be speculation about Fairfax coverage of the upcoming election including bias towards either party. It was common knowledge at the time that the issue of Fairfax coverage would be a sensitive one in the light of Mr Black's ambitions for increased ownership. It is simply not credible for Mr Black to have said to this committee that:

Fairness to Labor is, in itself, an admirable thing, but as far as I know, it has not been a contentious issue in respect to Fairfax, and it is not the only criterion in judging an application to raise our shareholding.⁴²

5.48 The committee observes that fairness to Labor has been a contentious issue with respect to Fairfax and it should never have been a criterion in judging an application to raise a shareholding.

5.49 Mr Black's writings make it clear that he knew of Mr Keating's long and strongly held views concerning lack of fairness towards himself and his

⁴¹ Tom Burton, Canberra Insider: Pressing Issues in the Capital, *The Sydney Morning Herald*, 24 October 1992

⁴² Evidence p 665

party by the Fairfax press. Mr Black's remarks imply that fairness to Labor was a legitimate concern to be taken into account when considering the merits of an application for an increase in foreign ownership.

5.50 Unfortunately, despite Mr Black's protestations that fairness to Labor was not the only criterion to Mr Keating, there is no evidence that any other criteria were in fact taken into account. On 24 and 25 November 1993, when called on to answer questions in the House of Representatives on the motives for his decision, rather than answering the questions Mr Keating chose to allege that Dr Hewson had promised even higher levels of ownership. These allegations are examined in chapter 11.

5.51 The next issue to canvass is whether Mr Keating had, as Mr Black belatedly suggested to the committee, sought only to ensure even-handedness and political neutrality. In his written statement to the committee dated January 20 1994, Mr Black said:

Finally, Mr Keating made the point that, regardless of who won the election, he felt it would be easier for our application to be approved if no political party could reasonably accuse Fairfax of unbalanced political coverage.⁴³

5.52 This contains a new element: the suggestion that 'if no political party could reasonably accuse Fairfax of unbalanced political coverage', then it would be easier to approve the application. This bilateral view had not been mentioned in any previous statement.

Chairman: I think what I was putting to you was that your submission was the first place in which you adverted to the fact that you say that Mr Keating was professing concern about balance on behalf of the opposition as well as the government.

Mr Black: If I were to say, hand over heart, that Mr Keating professed a really exaggerated state of solicitude for the welfare of the opposition ...

Chairman: Or any degree at all.

Mr Black: I think you would be right to wonder if I was telling you the whole truth. But he was perfectly clear in saying that in this case he meant that any such application had to be regarded

⁴³ Submission No 3

as not a politically sensitive issue because of any partisan position of the newspapers. You are quite right. This is the first time I have pointed it out, because I had - and I suppose I have myself to blame for this - absolutely no idea that using the words I initially did, and in particular putting the word 'balanced' in quotes, would lead to the supposition that what I really meant was the reverse of what I wrote. I accept that I must have somehow been deficient in intimate knowledge of the Australian political context to have made such a misjudgment but, in my experience, normally, if you quite clearly state something, you can be assumed to be stating it accurately and not meaning the reverse of what you have just written.⁴⁴

5.53 Mr Black's long history of political activity and involvement would certainly have made him alert to the possible electoral outcomes. Furthermore, having met Mr Keating on several occasions, he would have been well aware that no-one else would believe that Mr Keating was seriously interested in protecting the opposition. Mr Keating at the time of the book release, showed that his own approach had been far narrower:

... I said, 'Well, we'll think about it, but we want a commitment from you that the paper will be balanced. And if there is any notion that, you know, of bias, that is that you barrack for the Coalition, on the basis of your conservative proclivities in other places, then there's no way you would qualify as the kind of owner we would like.'⁴⁵

5.54 Nor at the time did Mr Black deny that this had been raised:

Conrad Black: ... in so far as he referred to my alleged Thatcherite tendencies, one, he was respectful of them and two, he only raised them in what I took to be a jocular context.⁴⁶

5.55 The difficult questions for the committee here are:

⁴⁴ Evidence p 687

⁴⁵ Transcript of interview with the Prime Minister, The Hon P J Keating MP, Seattle, USA, 18 November 1993

⁴⁶ *PM*, 19 November 1993

- Whether Mr Keating attempted to influence the 'bias' and level or direction of political coverage in Mr Black's Australian newspapers.
- If so, whether Mr Black felt constrained by Mr Keating's attempt and did act upon it.

Finding 5.2

Despite ample opportunities in the Parliament and elsewhere to do so, Mr Keating has never resiled from his remarks made in Seattle, where he said he had told Mr Black:

'... we want a commitment from you that the paper will be balanced. And if there is any notion that, you know, of bias, that is that you barrack for the coalition, on the basis of your conservative proclivities in other places, then there's no way you would qualify as the kind of owner we would like.'

In the light of those remarks and the other evidence mentioned here, the committee finds that Mr Keating attempted to influence Mr Black regarding the political coverage of the Fairfax newspapers for the 1993 general election.

5.56 The issue of whether Mr Black felt constrained by Mr Keating's attempt to influence him, and whether he acted upon it is discussed in the next section.

Delivery of general bias or partisanship in political coverage

5.57 Mr Black has claimed that Mr Keating's remarks in regard to bias were to ensure that he did not offend either side. However, whether or not such advice came to him from Mr Keating, it was a natural apprehension for a media owner who had already decided that it was unwise to offend when concessions hung in the balance. With an election in the offing and the opposition widely tipped to win, it would not have been surprising if Mr Black had a mind to both possibilities. Indeed, if one assumes that any bias by Fairfax was to be motivated by self-interest then it would be logical to expect the newspaper owner's bias to reflect the polls at the time. These

polls predicted a victory by the opposition. Although he had no indication from Dr Hewson of any relationship between bias and his increased ownership, Mr Black may well have chosen to 'hedge his bets' for that possibility by at least running dead in response to Mr Keating's blandishments.

5.58 Thus, rather than going in to bat for the ALP against the odds, Mr Black's game plan would have been sufficiently advanced by achieving an absence of criticism of the ALP even if such criticisms were objectively justified by its political performance at that time.

5.59 Attempting to pass judgement on whether the Fairfax papers did favour one side or the other is an almost impossible and subjective task. The issue for the committee here is a difficult one, since it is impossible to compare the election coverage at the time with what might have been under other circumstances. It is claimed in some quarters that the coverage was less favourable to Labor than it was to the Opposition although this was strongly contested by Dr Hewson, the opposition leader at the time of the 1993 decision:

Senator Carr: The evidence is that all the Fairfax mastheads in the last election supported you. Do you see that as tilt?

Dr Hewson: I am happy to answer that. I must have been in a different place during the last election. I saw an editorial or two but I saw a fairly consistent run of front page stories that did not do us a lot of good.

Senator Carr: Like the 'Pork-barrel republic'. Do you regard that as a fair presentation?

Dr Hewson: I thought the headlines in the last week that focused on Medicare and impacting on the seat of Lowe are pretty damaging.

Senator Carr: So you regard the Fairfax press as being biased towards Labor, do you? Is that the proposition you are putting?

Dr Hewson: You made a statement that they had been universally in our favour and I was -

Senator Carr: No, four of the five were.

Dr Hewson: I was simply pointing out to you that on my recollection, and I have not gone back over it, it is true that in editorials, in the end, they sort of on balance came down in favour of us. But I can remember a number of other stories during the election campaign that featured more prominently than an editorial, namely on the front page, which I did not think were all that supportive. So you draw your own conclusions about what I am saying. I think that you could hardly say they were uniformly in our favour through the election campaign.⁴⁷

5.60 Mr Black has already referred to Mr Keating's references to 'my alleged Thatcherite tendencies' and in his book has described his involvement in the making and breaking of governments overseas.

5.61 The consistent thread of Mr Black's involvement elsewhere has been conservative and his tendency has been to push his publications further to the right. This was referred to by Mr Keating in the Parliament when he cited Mr Black's changes at the *Jerusalem Post*.⁴⁸ On the other hand, it has been argued, indeed by those who had least reason to apologise for him, that Mr Black is on a scale of interventionist proprietors, quite moderate.⁴⁹

5.62 In the case of the 1993 elections in Australia, Mr Black, at least according to his editors, exerted no direct personal influence. The committee had heard Mr Black's evidence that he made some attempt to tell his editors that they had freedom to endorse whomever they wanted:

Mr Black: What I would say is, as I have remarked elsewhere, I did ask Mr Mulholland, and so lacking in heavy-handedness was my request that he professes not to remember it, to invite the editorial director, Mr Hoy - and I think I did mention it to Mr Hoy directly, and he does dimly remember - to ask the editors to endorse whoever they wanted ...⁵⁰

⁴⁷ Evidence p 726

⁴⁸ House of Representatives Hansard, 24 November 1993, p 3540

⁴⁹ For example see *Citizen Black: A Field Manual*, Christopher Dornan, in *Media Information Australia*, No 68 May 1993, pp 12-20

⁵⁰ Evidence p 685

5.63 Although there was clear confusion amongst the editors as to who had transmitted this message and how⁵¹, and Mr Mulholland had forgotten it altogether, the committee finds substantial agreement that there was no direct pressure on editors to endorse either party. Indeed, given Mr Black's self-professed 'Thatcherite tendencies' elsewhere, it seems most likely that the net effect of Mr Keating's demands was that Mr Black avoided direct personal intervention.

5.64 The committee did take evidence however on the tendency for owners to create corporate cultures in which their interests are easily transmitted to the staff without direct coercion, and of Mr Black's own efforts to do so:

... I think as far as the editors were concerned, and perhaps this goes to at least one part of your inquiry, the incoming ownership was dominated unambiguously by Black. Even though he technically did not own more than 15 per cent, or now 25 per cent, he always intended from very early days to exert very strong management control over the company

But he was always going to exert management control by a tried and trusted method, and that was change everybody who ran everything. There are five major newspapers within the group. That is all it does and so he did, over the first year, change every editor. No editor that was editing that particular paper prior to Black coming in is now the editor of that paper. In that sense, each of the editors owes their position, I suppose, in that kind of crude managerial sense, to the incoming management. I was simply one of those editors removed. In any case, I was removed entirely, but all of the other editors were moved.⁵²

5.65 Paul Chadwick, in *Media Mates*, described the phenomenon in this way:

Owners usually appoint executives whom they believe know the owner's general views well enough to ensure the paper or station will reflect the owner's interests and certainly will not harm them. When necessary, the executive consults with the owner and then passes orders on. Lower down the ladder it can be difficult to confirm which directives come from the proprietor via executives, which are an executive's guess at what the owner would like, and which are simply an executive exercising a bit of power himself or herself and perhaps leaving the false impression that it is the

⁵¹ See Evidence p 268 ff, p 301 ff and p 307 ff

⁵² Mr Gerard Noonan, Evidence p 341

owner's wish. Fear of offending the owner, or zealous pursuit of the owner's favours, can lead some executives to excesses that may appal the proprietor.⁵³

5.66 It was into such a climate at Fairfax that Mr Keating launched himself in his new role as 'judge' of Mr Black's 'balance', lunching with the Chief Executive officer newly arrived from South Africa, and announcing, according to Fairfax's own papers, that Mr Black was a 'truant proprietor' and 'on probation'.⁵⁴

5.67 The committee cannot say with any certainty that the Fairfax coverage of the election was less conservative than it might have been. However, the climate had been created in which there was an awareness of the need to placate Mr Keating and of the commercial consequences of failing to do so.

5.68 Mr Black's behaviour before the committee, in particular his determination to avoid offending current party leaders, his consistent public comments designed to reassure the media and the Parliament, and his hastily reconciled disagreement with Mr Hawke, all point to a man more interested in safeguarding his commercial operations than in the right to free speech. The Mayor of New York commented recently in the US debate on proposed legislation to enforce balanced coverage:

I get the sense that a lot of the people who make profits in this business will sell freedom for fees. They will make deals with Congress, they will accept regulation that they shouldn't be accepting .. all in exchange for an opportunity to make more money.⁵⁵

5.69 It would be disappointing if anyone aspiring to be a media proprietor in this country felt that the surrender of freedom was the price of ownership. Whether or not Mr Black subsequently sought to influence the slant of the Fairfax newspapers either in favour of the ALP or at least not against it, the committee is concerned that he saw nothing improper in having been asked to act in such a way. Newspapers are expected to be the

⁵³ Chadwick, *Media Mates*, p 214

⁵⁴ Tom Burton, Canberra Insider, *The Sydney Morning Herald*, 24 October 1992

⁵⁵ *Washington Post*, Editorial, 6 November 1993, final edition. Commenting on the Bill for a Fairness in Broadcasting Act 1993, based on the Fairness Doctrine of the 1934 Communications Act. See chapter 6 for a discussion of this Doctrine.

champions of free speech, and the proprietor, whether foreign or not, should be prepared to champion the cause of democracy and encourage debate on issues of substance.

Finding 5.3

Since his acquisition of the Fairfax group, Mr Black has made executive appointments of persons who were sympathetic to his political and commercial concerns. By warning Fairfax senior management that the proprietor was on probation Mr Keating did his best to ensure that he would receive a more sympathetic hearing at Fairfax than had previously been the case.

The committee finds that Mr Keating attempted to exert pressure at Fairfax for favourable election coverage by making a linkage between 'balance' in election coverage and an increased ownership limit for Mr Black.

The third element - balance, national interest and cultural identity

5.70 On 24 November 1993, Mr Keating had the opportunity to explain his Seattle remarks and his original conversations with Mr Black, to the Parliament. He chose to do so in terms which did not mention the issue of 'balance' but focused instead on 'national interest'. Mr Keating maintained to the Parliament that the conversation had concerned issues of cultural identity and chose to argue discursively that he had been intent to ensure that the Fairfax newspapers continued to reflect Australia's unique cultural identity and heritage, irrespective of a change in the level of foreign ownership. He conspicuously failed to grapple with the central allegation - that he had been prepared to trade the national interest for any political advantage:

When I spoke to Mr Black I made these points to him: I said to him that in Canada there is a limit of 25 per cent on foreign ownership of mass circulation print media. That is to protect the interests of Canada in terms of its cultural and national interests. But I made the point to him that whatever Canada's cultural and national interests are, its plurality as a society is protected by the media of the United States, the television of the United States, and by the fact that Canada is landlocked by Alaska and

continental USA. So Canada's strategic interests are protected by the presence of the United States, with its vast community of 230 million Americans, and the fact that it is landlocked on both sides. I said that that was not true of Australia, and Australia's newspapers, particularly its broadsheet newspapers, should reflect unambiguously those things which are in Australia's best national interests.

I said that my view was that a financial arrangement by a foreigner, in this case a Canadian who is not often resident in Canada, coming from the acquisition of Mr Warwick Fairfax and the aborted takeover of the Sydney Morning Herald, the Age and the Australian Financial Review, cannot lead simply to a thoughtless shift of ownership and control to a foreigner of Australia's principal broadsheet newspapers which have an authority to at least speak about the country's national interests.⁵⁶

He also referred to Mr Black's intervention at the *Jerusalem Post*, and stated that:

I said to him that I accepted his arguments about not being able to have any executive control of the papers at 14.9 per cent, but the government wanted the papers to be a serious reflection of the state of Australian national life ...

Opposition members interjecting ...

Mr Keating: I did - and that that should be reflected in these newspapers.⁵⁷

5.71 Mr Keating did not retract his earlier admission of the commitments he had sought from Mr Black in return for favourable consideration. Whilst his parliamentary answer is in higher moral terms, no evidence by any party has mentioned that the discussions included such a component.

5.72 This interest in preserving national identity is not mentioned anywhere else by either Mr Black or Mr Keating as having formed part of their conversations. During the entire hearing, Mr Black made no reference to such concerns having been expressed to him by Mr Keating at the time. When he did address them, it was in response to Dr Hewson's reported remarks about foreign ownership.

⁵⁶ House of Representatives Hansard p 3540

⁵⁷ House of Representatives Hansard p 3540

5.73 Mr Black's comments to the committee on the subject of foreign ownership were indignant and condescending:

We need to know - and I think a great many other people interested in investing in this country would wish to know - who really speaks for Australia. Mr Hawke spoke very eloquently in his appearance here of not constructing a wall around Australia, a country of 17.5 million, he said, in a world with 5.5 billion people in it. Do those people in both major parties, including the Prime Minister, who embrace, at least commercially, the whole vast Pacific from Bangkok to Vancouver, really speak for Australia? Or is it this element that is still audible and has not been completely absent from the proceedings of this committee that, in effect, implies that any Australian is preferable to any foreigner and that foreigners tend to be ravaging predators from another hemisphere coming here to deprive the women and children of Australia of their birthright? We need to know this because we have to plan our business.

I think we have been - and I do not want to be self-righteous about it - pretty good corporate citizens in this country. We have invested \$273 million in Australia in Fairfax - and, by the nature of our shareholdings, a large share of that is my own money - and we have received one 7c per share dividend, which in an annualised rate gives us a return of under two per cent. Is not the least irony in this situation that precisely those people who accuse us of wishing to skim the assets here or flip them at a great quick gain to ourselves are those who are the most vocal in opposing those measures that would enable us to do what we ardently wish, which is to stay here and invest more? ⁵⁸

5.74 There are a number of points which need to be made here. The first is that the concern expressed by Mr Keating, so belatedly in the Parliament, and by Dr Hewson at the time, are sentiments shared by many Australians. More than that, they reflect a realistic assessment of the economic as well as the cultural implications of foreign investment in communications. As the world moves closer and closer to a global village the issues of media control become more and more significant.

5.75 'Cultural imperialism' has a real meaning when one considers the significance, firstly of the ownership and control of information, and secondly, the implications of that information for shaping culture and commerce. In any discussion of media ownership the concept of diversity of

⁵⁸ Evidence p 659

ownership is a core value because it relates to the need for a diversity of views in public debate. Related to this diversity is the need for a local view.

5.76 Mr Black also said to the committee:

But there are also special circumstances that I hope I can raise without giving offence to anyone. It has never in the history of Canada occurred that the media industry was largely in an insolvent condition. You will recall that in this country, the leading newspaper publisher, News Corporation - though controlled by a man who is now a citizen of the United States - was on the verge of insolvency, Fairfax and several other newspaper companies were in receivership and most of the private sector television industry was in the tank too. A very large swathe of the media industry was in a financially embarrassed condition. We never had that in Canada. It was in those circumstances, as you know, that we came to this country, bringing our money with us.⁵⁹

5.77 The suggestion that a major portion of the Australian print media industry was crying out to be rescued from insolvency by a foreign white knight is a misleading and romantic attempt to disguise the purely commercial nature of the deal. This is a dangerous and inaccurate view of the situation. There can be no doubt in the mind of any well informed observer that Mr Black, in buying into Fairfax, as in so much else, was following the patterns he had laid down much earlier. His business success, as his own autobiography boasts, was built upon buying sound investments when they were cheap. His own boast of Fairfax was that it was 'the best large newspaper deal done in the Western world since the purchase of *The Daily Telegraph*...'⁶⁰

5.78 His remark that the Australian scene was in some way uniquely impoverished and in need of his cash is also unrealistic. Mr Black worked long and hard to fend off a bid by Australian investors and well knew the bargain that he had achieved when he succeeded in making a purchase. The irony of his claims is that his same autobiography boasts of buying control of Southam in 1992. Southam is the Canadian equivalent of Fairfax and by a twist of irony, it was the subject of a Canadian Royal Commission (the Kent Report) in 1981. That Commission reported that 'Newspaper

⁵⁹ Evidence p 658

⁶⁰ *A Life in Progress*, p 437

competition, of the kind there used to be, is virtually dead in Canada'.⁶¹
It went on to say that:

We are concerned only about the special case of newspapers, the particular consequences of conglomeration on the way newspapers discharge their responsibility to the public. The effect is to undermine their legitimacy; it is to create a power structure of which the best defence, on the evidence of their principal corporate proprietors themselves, is that they do not exercise their power. In their evidence to the Commission they uniformly argued that the reason why there is nothing wrong is that they give free rein to the employees who are defined as publishers of particular papers. Many absolute monarchs in history might have made the same defence, but did not survive by it. Delegation does not change the absolute locus of power.

It is in any event, a power that is wanted. The process of concentration has, if existing law and policy are unchanged, momentum. The major next extension is apparent. Southam spends millions of dollars a year employing more journalists and providing better newspapers than any hard-nosed business calculation requires. Clearly it is ripe for a conglomerate such as Thomson which will pay what the shares would be worth with the unnecessary costs eliminated and the bottom line improved accordingly...⁶²

5.79 In 1992 Mr Black achieved control of Southam and wrote:

At David Radler's and my first board meeting in February, the dividend was cut in half. I proposed a further \$80 million allocation for demanding to remove 1000 superfluous employees, all in the year-end figures for 1992, and a special committee was struck to consider methods of further collaboration between Southam and Hollinger. Southam's newspaper division employed 7,500 people, clearly a third of whom shouldn't have been there.⁶³

He went on to say that:

⁶¹ Royal Commission on Newspapers Conclusions and Suggestions (Kent Report), Canada 1981, p 215

⁶² Royal Commission on Newspapers Conclusions and Suggestions, Canada 1981, p 219

⁶³ *A Life in Progress*, p 479

We had bought half a loaf for the price of a quarter of a loaf. A very substantial capital gain was virtually inevitable, whether we should choose to realise the gain or not, and the Southam transaction was a worthy successor to the Telegraph and Fairfax.⁶⁴

Of buying into Southam he said:

It was a profound metamorphosis from the shambles left behind by McDougald in 1978, and even from the beleaguered Hollinger that propelled itself into the newspaper industry in London from the proceeds of liquidations in other industries.⁶⁵

5.80 The point here is not to belittle Mr Black, but to refute any myth-making as to his role in Fairfax. It was not an heroic rescue operation but a fiercely contested corporate struggle for a glittering prize, a struggle which Mr Black himself portrayed in more accurate terms when he said:

... this is one of the great institutions of Australia and one of the great newspaper companies of the English-speaking world, and for its fate to be settled in a spectacle of political influence peddling like that is nothing that anybody involved in it should be proud of in my opinion. I don't think anybody is proud of it...⁶⁶

and admitted that:

The Melbourne group had lots of money but they weren't as focussed, they weren't as politically adept and they didn't have the newspaper background.⁶⁷

5.81 Australia is not unique in valuing its quality newspapers or its cultural heritage. A succession of commissions in Canada and the United Kingdom have been set up in the face of the very process of conglomeratisation of which Mr Black boasts and in which he has participated to his profit. All three countries have prized an independent press and in particular their quality broadsheets. It is not surprising or unusual that Australians should

⁶⁴ *A Life in Progress*, p 484

⁶⁵ *A Life in Progress* p 485

⁶⁶ *Four Corners*, 16 March 1992

⁶⁷ *Four Corners*, 16 March 1992

be concerned to maintain the quality and standards of Fairfax, and Mr Black was well aware of this factor from the outset.

Finding 5.4

The committee rejects Mr Keating's claim to the Parliament that he took into account national interest considerations when deciding on the ownership of Fairfax.

5.82 Mr Keating's own words are an apt criticism for his role and that of his government:

...a financial arrangement by a foreigner, in this case a Canadian who is not often resident in Canada, coming from the acquisition of Mr Warwick Fairfax and the aborted takeover of *The Sydney Morning Herald*, *The Age* and *The Australian Financial Review*, cannot lead simply to a thoughtless shift of ownership and control to a foreigner of Australia's principal broadsheet newspapers which have an authority to at least speak about the country's national interests.⁶⁸

5.83 This intention of protecting the national interest, if indeed it was an intention, should have been carried out via transparent FIRB processes. The committee recommends elsewhere in this Report, the kinds of mechanisms which should be set in place to ensure that in such cases there are proper conditions attached to any acquisition and that these are enforced. The increased share of Fairfax which Mr Black obtained was a valuable concession and could fairly have been limited with conditions which would have protected the identity and integrity of the papers.

5.84 The committee has heard evidence on the way in which the earlier undertaking to FIRB, by Tourang, to appoint an Australian senior executive was simply abandoned with the consent of the government.⁶⁹ We can find no reason to accept Mr Keating's version that by a simple blandishment to Mr Black he had somehow protected the cultural and national interests of this country or the plurality of its society. Moreover, as the nation moves

⁶⁸ House of Representatives Hansard, 24 November 1993, p 3540

⁶⁹ Mr Dawkins, Evidence p 503

with the rest of the world into new forms of media and greater convergence of technology and ownership the committee has grave concerns about any government which seeks to protect its citizens' interests with nothing more binding than a private conversation.