

STOOPS

Campaign overcomes bid to sabotage Bill for access to medical records

A Bill drafted by the Campaign for Freedom of Information to give people the right to see their manually held medical records has finally had its second reading in the Commons, after twice being blocked. Despite claiming to support the Bill, the Government had secretly arranged for the Bill to be obstructed. But after furious protests, it withdrew its opposition and the Bill went through at the third attempt.

The Bill now waits its turn to go into committee, but is still vulnerable to procedural obstacles. However, if the government now genuinely support the bill it stands a good chance of becoming law.

The Access to Health Records Bill was introduced by Doug Henderson, Labour MP for Newcastle upon Tyne North. The Bill has strong all-party support, is backed by 70 national organisations including professional bodies such as the Royal College of Nursing, the Royal College of Midwives, the Health Visitors Association, the Royal Pharmaceutical Society and The Law Society and by some 300 individual GPs. A recent Consumers Association opinion poll found 91% of the public supported a right of access.

The Bill would apply to health records compiled after it comes into force. It contains safeguards to protect the privacy of third parties and the health of patients who could be seriously harmed by access.

The government appeared to give the Bill explicit support when it was debated on February 23 1990. The Parliamentary Under Secretary of State for Health, Mr Roger Freeman, said the Bill and its safeguards were consistent with the Data Protection Act, which allows access to computerised medical records.

Mr Freeman said: "we do not object to the Bill. It is consistent and we accept it."

He made it clear that the government's previous ob-



Doug Henderson, MP for Newcastle North (above), who introduced the Access to Health Records Bill.



Roger Freeman MP, Parliamentary Under-Secretary of State for Health, accepted the Bill.



Archy Kirkwood, MP for Roxburgh and Berwickshire, who paved the way with two earlier access to records bills.

jection to legislation had been removed. Since 1987 ministers have supported the principle of access but favoured a voluntary code of practice, agreed with the medical profession. Mr Freeman has now revealed that the profession has rejected this approach. He said: "after two years the medical professional essen-

tially says: 'We do not accept the principle. We do not believe that a code of practice, whatever it says in detail, is acceptable.'" Ministers have previously said that if the voluntary approach failed they would be unlikely to resist legislation.

But the moment Mr Freeman sat down, a Conserva-

tive MP — Mr Ian Taylor — stood up and talked the Bill out, carrying on speaking until it was too late for a vote.

It is almost unheard of for an MP to block a Bill which his own government genuinely backs. MPs are told privately what line the government wishes them to take, and rarely disobey. It

was clear that Mr Taylor was acting on behalf of the government.

The following week another Conservative MP, James Arbuthnot, blocked the Bill again, clearly acting on behalf of the government.

All the signs are that Mr Freeman and other health ministers had genuinely supported the Bill but had been overruled — perhaps by the Home Office.

The Home Office has overall responsibility for data protection and access to personal records. It may have wanted to prevent the precedent of a right of access, enforceable in the courts, which could be cited in support of rights of access to government records generally and Home Office records in particular.

Whatever the motive, the government behaved in a thoroughly disreputable way. Parliament was deceived by the surreptitious blocking of a Bill which ministers explicitly supported. And in blocking the Bill the government appeared ready to disown the promises of no less than five ministers — including the present Home Secretary David Waddington — who had all committed the government in support of patients' rights to see their records.

The government's handling of the Bill was widely condemned. In an editorial headed "No more trickery" the Sunday Express said "These parliamentary games must cease. If Ministers have reasoned objections . . . let them come out into the open and explain them. To kill (the bill) off by procedural trickery is an insult to the public".

The Guardian's columnist Hugo Young said the saga had shown government "in an uncommonly contemptible light".

Faced with mounting public and private criticism, the government withdrew its opposition and allowed the Bill its second reading. If the Bill now succeeds it will come into force in 1991.

Official Secrets Act in force

The Official Secrets Act 1989 which came into force on March 1 1990 covers five broad areas: security and intelligence, defence, international relations, information supplied in confidence by other governments and law enforcement.

Offences may be committed by civil servants or government contractors, by journalists who print leaks or by anyone who passes on information which has been improperly disclosed. In some cases the offence is only committed if the information is likely to be harmful; in others no evidence of harm is needed.

The main weaknesses of the Act are:

- (1) *Where there are tests of harm, these are weak.* The 1972 Franks report recommended that only disclosures causing "serious injury" to the nation should be offences. But the new Act sets the threshold lower. It covers disclosures about defence likely to "damage" the armed forces, or about international relations likely to "endanger" the interests of the UK abroad.
- (2) *Some tests of harm are met so easily as to be almost meaningless.* Revealing information supplied by other

governments in confidence is an offence if the interests of the UK abroad could be endangered. But this damage can be done merely by breaking a confidence — even if the actual information disclosed is innocuous.

Disclosures of "a class or description" likely to damage the work of the security services are an offence. This catches information which itself does no harm, if it falls into a class which in most cases would be harmful.

- (3) *Some offences are absolute — no evidence of harm at all is needed.* Any disclosure relating to the authorised tapping of telephones, opening of mail, or actions of the security services under a warrant is an absolute offence, even if the information is trivial or has been published many times before. Any disclosures by members and former members of the security and intelligence services, are absolute offences. People whose work is connected with the services may be notified that they too are under this absolute bar on disclosure.
- (4) *There is no prior publication defence as such.* For the

absolute offences, prior publication is totally irrelevant. Every repetition is automatically an offence. Where there are tests of harm, repeating information is an offence if further harm could be done. But journalists may be unable to judge the possibility of further harm and be discouraged from printing information already in the public domain.

- (5) *There is no public interest defence.* The benefit of the disclosure can never be taken into account, even if it is the only way of preventing gross wrongdoing or immediate public danger, and even if and all internal remedies have been exhausted. Such a defence exists under the civil law of confidence. In the Spycatcher trial Lord Griffiths ruled that if a member of the security service learnt of some gravely damaging act which could not be stopped by complaints to the authorities he "should be relieved of his duty of confidence so that he could alert his fellow citizens to the impending danger". The new Act makes no such allowance even in the most intolerable circumstances.

Access to medical records

MP says more people will trust their doctor

Introducing his Bill in the Commons on February 23 **Doug Henderson** (Labour, Newcastle upon Tyne North) said "it is an important principle in any democratic society that an individual should have the right of access to records held about him".

Mr Henderson said the Bill would have three practical benefits. It would improve the relationship between doctors and their patients, help people learn more about their health "so that they can face realistically treatment or any change in life which may be necessary... The Bill's intention is to change the general climate of the relationship between a medical practitioner and a patient so that the practitioner will err on the side of telling the patient more about his disease and so that records will more accurately reflect the patient's medical problems and the proposed treatment".

The Bill would mean that "medical practitioners will be more open, records will be kept more accurately and more people will have trust in their doctor".

Emma Nicholson (Conservative, Torridge and Devon West) said medical records contained three elements: "fact, opinion and fiction". She described several cases where "the refusal to disclose medical records to the patient resulted in misdiagnosis". A GP had not believed one woman was genuinely ill and described her as having Munchausen's syndrome — defined as "the fabrication by an itinerant malingerer of a clinically convincing simulation of disease". In fact the women had endometriosis, had undergone four operations in four years, been retired from her job as a nurse on grounds of ill health, and had been receiving disability benefit. Miss Nicholson said the most conclusive evidence that she was not

malingering was that by the time she saw this comment she had already got herself back to work.

After discovering what the doctor had written "she was finally able to see how poorly she was being cared for... left his practice, signed on with another GP and is delighted with his care". She concluded:



Emma Nicholson, MP for Torridge and Devon West, said "the Government ought unhesitatingly to support the bill."

"Logically the Government ought unhesitatingly to support the Bill... the patient will be the beneficiary".

Stuart Randall, for the opposition, said if the Bill was not passed "the matter will inevitably be raised again and again... the Bill is long overdue."

Roger Freeman Parliamentary Under Secretary of State for Health said: "we accept the principle of access to medical records." He said he had visited GPs who gave patients access to their records, and said it

was important that doctors should be as open as possible about disease. The bill and its safeguards were consistent with those in the Data Protection Act which allows access to electronically held data.

The minister said the Bill had public support: "The weight of correspondence that my office and hon. Members received clearly supports the principles behind the Bill".

However he said that senior representatives of the medical profession had raised serious concerns about the principle of access. He quoted them as stating that it "could seriously undermine the relationship of confidence between doctor and patient" particularly if "patients were to come to rely on their own interpretation of doctors' notes rather than on the professional advice of their medical practitioner". He finished by saying that the profession had rejected the principle of access, even on the basis of a voluntary code of practice, and added: "For those reasons we do not object to the Bill. It is consistent and we accept it."

The Government's promises

No less than five different ministers have committed the government in support of patient access to medical records. Ministers have said they prefer access to be based on a voluntary agreement with the medical profession. More recently they have said that if that failed the government would be unlikely to resist pressure for legislation. The government now accepts that the voluntary approach has failed. This is what ministers have said:

The Rt. Hon. **David Waddington** MP then Minister of State at the Home Office, now Home Secretary:

"If more openness (about medical records) is what hon. Members... want, they should know that they are pushing at an open door. The Government and the profession are in favour." (Standing Committee C, 1.4.87, col. 60)

Mr Nicholas Scott MP, Minister of State for Social Security and the Disabled:

"As a government, we consider that as a matter of

principle patients should have the right to know what has been recorded about them". (12.2.88, col. 665)

Mrs Edwina Currie MP then Parliamentary Under Secretary of State for Health:

"In the current state of the law there is no way that a patient can gain access to those records. The doctor has an absolute veto over them. Surely, in a world of intelligent, educated people, that cannot be right." (29.4.88, col 679)

Mr Michael Forsyth MP Parliamentary Under Secretary of State for Scotland:

"The Government favour the principle that NHS patients have the right to see what is written about them... The hon. Member... suggested that if we were unable to reach agreement on a voluntary basis we should take the necessary statutory measures. I can assure him tonight, without too much equivocation, that if we are unable to reach agreement on a voluntary code, I shall respond vigorously to the pressure that the hon. Gentleman

"Half My Records Weren't About Me — They were a Shambles!"

"I'd gone to the doctor about a minor matter and he asked if I'd ever been in hospital. I said only for an operation for an abscess at the base of the spine. He looked in the notes and said 'I was thinking of the other hospital'. I said what hospital? He said: 'It says here you were an inpatient, in a mental hospital for 6 months.' I told him I'd never been in a mental hospital. I got the impression he didn't believe me.

"I asked him if he had the details of my operation in the notes. There was nothing. Then he examined me, saw the operation scar, and that made him believe there might be something wrong with the records. The problem I'd been operated on for flared up again 4 or 5 years later, and that wasn't there either. He went through parts of it that were all wrong. I said 'I've never had a doctor in that area. That was never my doctor. None of that applies to me.' It wasn't just the odd sheet. I discovered that about half of my records weren't about me. There was obviously a shambles."

The GP got in touch with the medical records section. He discovered that parts of the record referred to another person of the same name with a similar birthdate. "We both appear to have been with the same doctor at one time".

"Could I have been given the wrong treatment at any time as a result of the incorrect information contained in 'my' notes? Could some treatment have been withheld for the same reason? If you've applied for a serious job and they see you've been in treatment for mental problems it could cause all kinds of problems. I have still not been able to see the record myself. There could be all kinds of other information that is incorrect."

and others are putting on the Government in that respect." (24.1.89, cols. 982 and 998)

Mr Roger Freeman MP, Parliamentary Under Secretary of State for Health:

"I assure him (Archy Kirkwood) that I take seriously following through the commitments and promises made by my predecessor and other Government colleagues... The Government do not rule out legislation for all time... As I have said, many representations have been made that, if that (the voluntary approach) does not work, it must be achieved ultimately by statute. However, we should first try the voluntary code." (26.5.89, cols. 1284-5)

"it is clear that the majority of the profession remains firmly opposed in principle to patients having a right of access... not one other (consultee) has taken a stance against the principle of access... there is a clear balance of opinion in support of a right of access" (Written Answers, 1.2.90, cols. 353-4)

The patients views ...

Most patients — 94% of those asked — would want to be told the truth about a serious illness. But 80% of doctors said they would lie if the illness was terminal or they thought the person couldn't cope.

These are the findings of a survey of just over 1000 adults and 100 doctors, published in *New Woman* magazine in April 1990.

The survey found that "The overwhelming majority of respondents want more time from their GPs, greater openness and more precision in the way conditions and treatments are described... The most telling responses concerned the frequent failure of doctors to explain fully a

patient's condition and treatment. With 44 per cent saying these were not always properly explained and a further 15 per cent apparently never receiving the necessary information".

By contrast, when doctors make a point of sharing information fully, patients are delighted. Dr George Rylance of Birmingham Children's Hospital gives parents copies of all his correspondence about the care of their children at his outpatients' clinic. In a survey of 224 families "222 replied that the practice was helpful, that it made them less worried, and that they wanted it to be repeated".

What the Bill says ...

The Access to Health Records Bill would give people the right to see information about themselves recorded in manual health records after the Bill comes into force. Health records held on computer are already accessible under the Data Protection Act.

The Bill applies to information held by or on behalf of a health professional, whether in the NHS or private practice. "Health professionals" include doctors, dentists, pharmacists, nurses, midwives, health visitors, clinical psychologists and some others.

People would be able to inspect the record and be supplied with a copy. Unintelligible abbreviations must be explained. A fee could be charged for photocopies or for inspecting an old record relating to a patient no longer under the treatment of the health professional or hospital involved. In the latter case, the maximum fee would be £10. No fee would normally be charged for access to GP records. Access would normally be given within 40 days of

an application. But it would be less, only 21 days, where the person wanted to inspect recently recorded information, and did not want to be supplied with photocopies.

Applications must normally be in writing but may be made orally if the applicant is known personally to the health professional.

Exemptions

The following types of information would be exempt from access:

- (1) information whose disclosure would be likely to cause serious harm to the applicant or someone else;
- (2) information about another individual or which would identify someone such as a family member, who has supplied information in confidence;
- (3) where a parent has access to a child's record, information which the child had provided in confidence (eg about

problems in the home or child abuse)

- (4) information whose disclosure would prejudice the prevention or detection of crime;
- (5) information protected by legal professional privilege.

An applicant must be informed if such information is withheld and of the right of appeal under the Bill.

Parents would not normally be able to see their children's records unless the child gives consent. If a child is too young or too ill to give it, the parent can have access without consent — but not to information given by the child in confidence.

A young person below the age of 16 may apply for his or her own records if the person is capable of understanding the nature of the application. In Scotland, a child above the age of minority can apply.

People can authorise representatives to apply on their behalf, and representatives can be appointed on behalf of people who cannot

manage their own affairs.

The personal representative or a dependent of a deceased person may apply for records relating to the cause of death if a claim for negligence is possible.

A health professional would have to amend an inaccurate record. If the health professional does not accept that the record is inaccurate he or she must invite the person to add a statement of his or her own to the record and inform the applicant of the right appeal.

A contract which attempted to make a person give up any of their rights or duties under the Bill could not be enforced. Nor could a contract which attempted to force someone to obtain their records and hand them over to a third party (eg an employer).

The Bill would be enforced in the courts. However, a complaint about an NHS record would initially have to be made to the NHS body involved. If that was ineffective the individual could then apply to the courts.

70 top agencies back Bill

More than 70 major organisations are backing the bill. They are listed on the back of this newspaper.

Ludovic Kennedy presents 1989 Fol Awards

Ludovic Kennedy presented the Campaign's 1989 Freedom of Information Awards at the end of January.

The author and campaigner against miscarriages of justice described some of his own experiences of "mindless secrecy". He told of how, when researching a book in 1973 on the sinking of the German battleship the Bismark, he had no difficulty in obtaining an Admiralty report on the interrogation of survivors. Yet more recently when he asked for a fresh look at the papers, he was denied access. This was an example of "secrecy for secrecy's sake" where disclosure could have done no harm of any kind.

He said this "Nanny knows best" attitude was responsible for the new Official Secrets Act which allowed no public interest defence and, despite the farce of the Spycatcher Affair, no defence of prior publication.

Individual awards

This year's Award winners showed how individual courage and persistence can successfully challenge paternalistic attitudes. After Winifred Cockton's son, Simon, was killed in the Falklands War she was at first informed that his helicopter had crashed in bad weather conditions. Next she was told that he had died from 'injuries received as a result of enemy action'.

It took another six years before she established at a second inquest that his helicopter had been shot down in error by a Royal Navy destroyer. Mrs Cockton's battle with the Ministry of Defence showed how the efforts of a determined individual can overcome the most unresponsive bureaucracy.

Rita and Martin Cadman won an award for their determination and courage to obtain the truth about the death of their son Bill, who was one of the 270 people who died in the Lockerbie tragedy in December 1988. Like other relatives of those who died they were frustrated at every turn in the search for information, and had to depend on leaks in the press and their own sustained campaigning. Their letters and articles exposed the bureaucratic, uncaring and secretive response of the authorities.

For the third time in six years our Parliamentary award was presented to a Conservative MP. Jonathan Aitken has himself been in the Dock at the Old Bailey charged under the Official Secrets Act 1911 when he was a journalist on the Sunday Telegraph. Mr Aitken has been a constant campaigner against excessive

government secrecy. He relentlessly fought for more liberal approach in the new Official Secrets Act and repeatedly denounced its authoritarian nature and lack of a public interest defence.

In a year when the number of food poisoning cases substantially increased, and the dangers of contaminated food became an issue of intense public concern Richard Lacey received an award for his robust attacks on food secrecy. Professor of Clinical Microbiology at Leeds University, Richard Lacey was instrumental in raising the issues of salmonella and listeria poisoning, the failure of microwaves to kill bacteria and the dangers of BST. He used his authority as a scientist to disturb the complacency of the food industry and government and has repeatedly called for more information about food safety, and the independent monitoring of standards.

Personal files

Tameside General Hospital in Manchester received an award for its experimental nursing development unit. One distinctive element in its



Ludovic Kennedy presents an award to Rita and Martin Cadman.

approach is that patients have access to their nursing records. The scheme, pioneered by consultant nurse Steve Wright, allows patients to keep their own notes and to record in them themselves. The patient's traditional role, of having to seek information has been reversed.

Graham Gaskin received an award for his ten year campaign to see his social services file. The Access to Personal Files Act which came into force in 1989 allows access to social work records compiled after this date, but there is no right to see earlier records. Mr Gaskin had tried

to get the records relating to his time in local authority care through 'discovery' in order to sue the local authority for negligence. He had been refused at every stage, including the Court of Appeal which held that confidentiality was necessary to protect the people who had provided information in the record. He then took his case to the European Court of Human Rights which held that the blanket refusal to allow access retrospectively, without regard to Mr Gaskin's own needs, breached Article 8 of the Convention which guarantees respect for private and family life.

Media awards

The first of two media awards went to Thames Television's *For What It's Worth*. In a series of programmes it repeatedly drew attention to the way in which consumers were constantly handicapped by secrecy, whether in relation to food poisoning, car safety, environmental pollution or other issues.

The Yorkshire Evening Post won the newspaper award for the second time. It successfully campaigned to force the Leeds Urban Development

Corporation to open its planning meetings to the press and the public. UDC are isolated from the normal processes of accountability. Their members are appointed, not elected, and they are not subject to any open meetings legislation. Yet they have taken over vital planning functions from local councils in their areas and have powers to acquire land by compulsory purchase.

Last word

To protect themselves from proper questioning on television ministers sometimes demand the most extraordinary guarantees. Usually the viewer knows nothing about these — but occasionally television blows the whistle on the minister.

During an item about social security on Thames TV's consumer programme 'For What It's Worth', on December 5 1989, the presenter, Penny Junor made public the terms on which the Social Security minister Nicholas Scott had insisted on appearing. These were that (a) he was given all the questions in advance, (b) he was given a written synopsis of all the points made by other interviewees (c) his interview be shown unedited and, most extraordinarily, (d) that none of the other interviewees be allowed to comment on anything he said.

The one thing the minister had forgotten to demand was that the terms themselves be kept secret. They were then read out in full, Penny Junor concluding: "So it was under these reporting restrictions that I spoke to him earlier today."



Campaign reduces food secrecy

An oppressive secrecy clause in the Food Safety Bill has been drastically cut as a result of amendments proposed by the Campaign for Freedom of Information.

Under the original Bill an inspector who publicly revealed details of an unsafe food manufacturing process could have been jailed for 2 years.

This is the same penalty as the new Official Secrets Act prescribes for disclosures of vital military secrets. But the Food Bill was even more oppressive than this Act, which in most cases requires proof that the disclosure could be harmful. No evidence of harm would have been required under the Food Safety Bill.

The problem was a clause which made it an offence for an inspector to disclose information about "any manufacturing process or trade secret". The case for protecting trade secrets is obvious: but this protected all other information about food manufacturing including details of unsafe handling practices.

In the House of Lords, Lord Tordoff, the Liberal-Democrat peer said the clause was too wide in scope, and that a similarly drafted provision in the Clean Air Act 1956 had later been amended to restrict it to trade secrets only. His amendment, proposed by the Campaign and backed by Consumers Association, would have removed the reference to "any manufacturing process", and limited penalties to trade secrets only.

The Minister of State at the Ministry of Agriculture, Baroness Trumpington, promised to consider the matter, and later announced that she had accepted the argument. When the bill reached its report stage the minister herself tabled an identical amendment which she said "will avoid any possibility of needless secrecy". The amendment was carried.

The Government's responsiveness on the issue is unusual, and welcome. But it still deals only with part of the problem. An Environmental Health Officer who releases information about an unsafe process no longer faces prosecution. But the inspector is still under no duty to reveal such information, and the public has no right to it.

Some of the Bill's enforcement procedures — for example prosecutions — would take place in open

court, and become public. But other action against unsafe food would be concealed from public view. For example an inspector can issue a notice ordering food to be withdrawn where it "is likely to cause food poisoning or any other disease communicable to human beings". No details of the relevant notices would be made public. Improvement notices can be served where food regulations are breached. These notices would be secret unless they were disobeyed and led to a prosecution.

Under the current Environmental Protection Bill now in parliament, pollution authorities have to establish public registers of equivalent enforcement notices. Lord Tordoff proposed similar provisions for notices under the Food Safety Bill. But these were rejected by the government. Baroness Hooper, Minister of State at the Department of Health, said publicity for a notice which was later withdrawn might unfairly damage the reputation of food premises; and that the threat of publicity could make owners unwilling to co-operate with enforcement officers.

The Campaign believes that enforcement of safety laws has long been handled in unnecessary secrecy. There can be no possible justification for failing to alert the public to the fact that an order prohibiting the use of food "likely to cause food poisoning" has been served.

Publicity will help ensure that people avoid the premises; seek appropriate medical attention if they become ill after consuming food from these premises; and ensure that remedial action is taken with the greatest possible speed. These arguments have been accepted by the government in other areas. The Environment and Safety Information Act 1988 — the result of a private member's bill promoted by the Campaign and introduced by Chris Smith MP — already requires such registers of notices in relation to certain types of public safety and environmental hazards. The government's current environmental legislation explicitly extends this approach to other environmental areas. The same principles of openness should now be applied to the safety of our food.

Microwave saga

Sometimes the government itself is the main victim of its own secrecy.

The microwave saga is a classic example. In December 1989 the Ministry of Agriculture, Fisheries and Food announced that 30 out of 102 microwave ovens it had tested had failed to heat food to 70 degrees centigrade, the minimum temperature needed to kill food poisoning bacteria. But instead of identifying the models which had failed the tests it published the result in anonymous form. The government's advice to worried consumers was to contact the manufacturer directly.

As Consumers Association was quick to point out, the idea that 8 million microwave owners should each telephone manufacturers individually was not only impractical, but ludicrous — for the ministry had the full details and could have pub-

lished them. Some retailers later complained of the "unbelievable chaos" caused by this advice.

Soon afterwards the industry itself published a bland list of 'satisfactory' models, and others (none of which were described as 'unsatisfactory', let alone 'unsafe') for which additional safeguards were advised.

Why had MAFF refused to publish the list, allowing itself to appear to be covering up a major safety hazard, when it should have been taking credit for exposing it?

The answer is that the ministry had signed away the right to publish its results at the outset. It had accepted free microwaves from the manufacturers in return for a guarantee of anonymity. This saved the government some money — but utterly compromised its independence.

Whatever the Question, the Answer is No

Another recent example shows how easily ministers can avoid answering inconvenient parliamentary questions. Martyn Jones MP's private member's bill to improve consumer guarantees met unexpected government opposition although the sponsor believed it had almost universal support elsewhere. He therefore asked the department which if any organisations had expressed opposition to the bill. The trade and industry minister, Eric Forth, replied:

"It would be inappropriate to name bodies who have expressed views in confidence". (16.1.90, col.186)

The following week Mr Jones asked a different question. How many organisations had opposed the proposals? Mr Forth replied:

"It would be inappropriate to quantify the bodies involved in the same way as it would be to name them, since their views have been expressed in confidence". (22.1.90, col.506.)

Petty Secrecy

Many laws contain restrictions on the use of information which occasionally can be used in petty, if not oppressive, ways.

The Local Government (Access to Information) Act 1985 makes it clear that a council is not obliged to allow its proceedings to be photographed or tape-recorded. (Section 100A(7)).

This restriction was recently put to heavy handed use by Stirling district council in Scotland. A member of the public noticed that the Conservative party agent to the local MP, Michael Forsyth was sitting in the public gallery during a meeting held in public and using a small dictaphone to tape the council's proceedings. This was reported to the council's (Labour) convenor who adjourned the meeting for 10 minutes to seek legal advice. The outcome was that the tape recorder was temporarily confiscated, the tape erased, the agent — and a colleague who had merely been taking hand-written notes — told to leave the meeting, and the council's legal officers asked to consider whether legal action should be taken against the individuals involved. The incident was then raised in the floor of the House of Commons, when a Labour MP likened the tape recording to the activities of the Romanian 'securitate'.

Freedom of information is often the victim when political paranoia rules. The council should ask itself what respectable objection it has to anyone tape recording what an elected representative says at a public meeting of an elected authority, particularly if it is used (as those involved say was the case) simply to complement hand written notes order to produce a report on the meeting for a Conservative party newsletter. Technically, the council's permission should have been sought. If on another occasion it is, the council should say yes.

A test of Govt. integrity

"Access to Health Records Bill" cried the Speaker. For the third successive week we awaited the cry of "no", but this time it never came.

Thus, in silence, the Bill was given a second reading. There was no more explanation for the absence of opponents that there has been for their presence in previous weeks.

The credit for achieving a second reading lies with a number of people.

First, even Conservative newspapers, notably the *Sunday Express*, complained that enough was enough.

"These parliamentary games must cease. If Ministers have reasoned objections to (this) highly popular Bill, let them come out into the open and explain them. To kill (it) off by procedural trickery is an insult to the public".

In his *Guardian* column, Hugo Young said the issue showed the Government "in an uncommonly contemptible light."

Second, there were the efforts of a small number of Conservative MPs, most notably Emma Nicholson and Richard Shepherd, to whom the Campaign is grateful for their wholehearted drive to save the measure.

But, above all, credit is due to our Director, Maurice Frankel. We don't engage in self-congratulation in this newspaper, but Maurice's

tenacity, his simple refusal to allow the Bill to be defeated, had to be seen to be believed.

As I wrote in our last newspaper, this bill is crucial not only because people need access, but because it really does encapsulate all of the principles that lie behind our Campaign:

- That people should have the right of access to information that affects them, especially



Comment by Des Wilson

when it affects only them.

- That people should have access to information that enables them to take decisions about their own lives.
- That people should have information unless there is an overwhelming case for secrecy.
- That information should not be retained by professionals in order to create a distance between them and those that they are supposed to serve.

It is to the credit of the Junior

Health Minister, Roger Freeman, that he has accepted this case and been open and supportive in the House of Commons.

What lies behind the opposition?

It has to be assumed that it is coming from the Home Office, the number one defender and sustainer of secrecy as an integral part of the British way of life. But not by open and properly argued opposition. Instead, a link-up with the party Whips to not only use self-serving backbenchers to do down a private members' bill, but to double cross another Government Department at the same time. Is it any wonder that people develop such a low opinion of politicians and civil servants?

There are still serious obstacles to this bill. Because Mr Henderson's bill was blocked twice, other bills have now gone ahead of it in the parliamentary queue. The delay means the bill could now fail through lack of time. Its chances of success may depend on it getting Government assistance.

Whether the Government gives that assistance, and by so doing both honours the promises of its own Health Ministers and responds to the overwhelming public and institutional support for the measure, is a test of its integrity.

Steve Norris

Steve Norris MP, who has been co-Chairman of the Campaign For Freedom of Information, has become a parliamentary private secretary, and in accordance with rules has to resign the position. He has been an outstanding advocate of FoI on the Conservative benches (where, as you can imagine, he has not had a lot of company) and the extraordinary energy and skill with which he has argued our case both in public and private has been a real asset to the Campaign. We wish him well.

About the Campaign for Fol...

The Campaign for Freedom of Information was launched in January 1984.

Its main aim is the replacement of the Official Secrets Act with a Freedom of Information Act which would combine a statutory right of access to information with protection for the limited information that needs to remain confidential to protect individuals or in the national interest.

It has played a major part in the achievement of four private members bills:

- *The Local Govt (Access to Information) Act 1985*, introduced by Conservative MP Robin Squire and promoted by the Community Rights Project in partnership with the Campaign.

- *The Access to Personal Files Act 1987*, introduced by Archy Kirkwood MP and drafted and promoted by the Campaign.

- *The Access to Medical Reports Act 1988*, also introduced by Archy Kirkwood and drafted and promoted by the Campaign.

- *The Environment and Safety Information Act 1988*, introduced by Chris Smith MP, and drafted and promoted by the Campaign.

It has also achieved a wide variety of other advances towards freedom of information in terms of voluntary action by public authorities.

The Campaign is a coalition of 60 national organisations, is all-party, and is one of a number of campaigns based at the offices of Citizen Action, the non profit-making campaigning organisation founded by Des Wilson and Godfrey Bradman.

Scottish Consumer Council
Scottish Spina Bifida Association
Scottish Women's Rural Institutes
Shaftesbury Society
Spinal Injuries Association
Townswomen's Guilds
Tranx
Volunteer Centre UK
Women's Reproductive Rights Campaign

Supporters of Health Records Bill

Action for the Victims of Medical Accidents
Age Concern, Scotland
Association for the Improvement of Maternity Services
Association of Community Health Councils
Association of Disabled Professionals
Association of Parents of Vaccine Damaged Children
Association of Radical Midwives
Baptist Union of Great Britain, Social Affairs office
Barnardos
British Association of Social Workers, Scottish office
British Council of Organisations of Disabled People
British Epilepsy Association
Brittle Bone Society
Campaign Against Censorship
Cancerlink
Children's Society
Children's Legal Centre
Citizens Advice Scotland
Co-operative Women's Guild
College of Health
Consumers' Association
Dalkon Shield Association
Disabled Housing Trust
Dyslexia Institute
Education Otherwise Association
Endometriosis Society
Family Service Units
Family Welfare Association
Haemophilia Society
Health Visitors' Association
Help the Aged
Howard League for Penal Reform
Hyperactive Children's Support Group
Law Society
MENCAP
MIND
Myalgic Encephalomyelitis Association
National Association for Limbless Disabled
National Association for the Childless
National Association for the Welfare of Children in Hospital
National Childbirth Trust
National Citizen Advocacy
National Consumer Council
National Council for Civil Liberties
National Council for Voluntary Organisations
National Federation of Kidney Patients' Associations
National Foster Care Association
National Information Forum
Open Action Committee
Parents Against Injustice
Patients Association
Pedestrians Association
Prison Reform Trust
RADAR
Rescare
Richmond Fellowship
Royal College of Midwives
Royal College of Nursing
Royal National Institute for the Deaf
Royal Pharmaceutical Society
Salvation Army Social Services

How to support the Campaign

There are many ways whereby you can help the Campaign.

For instance, encouraging your MP to support the Access to Health Records Bill. Write, too, to Roger Freeman at the Dept. of Health and tell him of your concern.

Or contribute to the Campaign financially by filling in the attached coupon.

Campaign for Freedom of Information

Chairmen of Council: James Cornford.
Co-Chairmen of Committee: Des Wilson and Christopher Price.
Chairman of Parliamentary Advisory Committee: Jonathan Aitken MP
Treasurer: Neil McIntosh
Director: Maurice Frankel
Campaign Researcher: Emily Russell

The Campaign is a coalition of more than 60 national voluntary organisations, trade unions, and professional bodies.

The Campaign does not have a formal membership scheme. On the other hand, it welcomes help and support.

All those who contribute a donation of £12.50 or more automatically receive the Secrets newspaper. If you were previously a supporter but have not made a donation for this year, or if you would like now to receive the Secrets newspaper, please fill in the coupon below:

Campaign for Freedom of Information

To: 3 Endsleigh Street, London WC1H 0DD Tel: 01-278 9686

I/We _____ (individual or organisation)
of _____

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● Enclose a cheque for £ ____ for the Campaign for Freedom of Information

● I wish to receive the SECRETS newspaper ● Yes/No

All cheques should be made payable to: The Campaign for Freedom of Information.