

SECRET

70% of MPs support Campaign's call for reform of the Lobby

The Campaign for Freedom of Information has extended its activities to cover reform of the lobby system, the exposure of media manipulation, and research into and publicity of abuse of Whitehall information resources.

In a major speech at the House of Commons, Des Wilson, co-chairman of the Campaign for Freedom of Information, said that the absence of freedom of information legislation and the enactment of even tighter secrecy legislation meant that the public were increasingly dependent on the media, yet in many ways the media were part of the problem rather than the solution.

His call for reform of the lobby system was backed up by an unprecedented poll of backbenchers, conducted by the Campaign with the assistance of three MPs, Steve Norris (Conservative), Jeff Rooker (Labour) and Archy Kirkwood (Liberal Democrat).

Of nearly 200 replies, at the time this newspaper went to press, 70% favoured some reform of the lobby system.

Des Wilson told the House of Commons meeting that while there was room for contention about the benefits or otherwise to Britain of a decade of Thatcherism, what was beyond doubt is that the ability of ordinary citizens to obtain adequate, objective information in order to make their own judgements on the performance and policies of their public servants had been seriously diminished.

"While the rest of the democratic world has moved towards greater freedom of information, we in Britain have moved towards greater secrecy. Apart from a series of private members' bills, each promoted in the teeth of ministerial opposition, or excessively modified under threat of defeat, the only legislation to do with information passed by the Thatcher administration has been to strengthen the control of information.

"We have not failed to achieve freedom of information because of political apathy. We have failed because of the determination of the Prime Minister to refuse it. This is a point that has to be stressed. Not only do we not have it, we have been told 'you will not have it'."



"What is worrying is that the energy and resources devoted to manipulation of the media, and to campaigns of mis-information, are far greater and far more damaging than ever before, and that the media, for all its ritual protests, and with a few notable exceptions, allows itself to be manipulated with what I can only describe as shocking ease."

Des Wilson

Lobby report — pages 2&3

Des Wilson said that while the battle for a statutory 'right to know' would continue unabated, there were new and serious problems to do with information that needed to be faced.

"It is always the case that those in power will seek to not just control information, but also to release information, or so-called information, in a way most likely to be helpful to them. Not only is it a fact of life that those in power seek to manipulate the media, to some extent it is understandable. But what is worrying about the present situation is that the energy and resources devoted to manipulation of

the media, and to campaigns of mis-information, are far greater and far more damaging than ever before, and that the media, for all its ritual protests, and with a few notable exceptions, allows itself to be manipulated with what I can only describe as shocking ease."

Des Wilson said that at the heart of media manipulation was the way the lobby system operated. "We do not call for a complete end to the lobby; there are sound reasons why there should be accredited journalists who have access to certain facilities, including to those parts of the House of Commons where they can talk easily to politicians, and be able to obtain advance copies of official publications etc in order to be able to convey them to the public at the earliest possible moment.

"What I believe has become unacceptable is the concept of regular mass unattributable briefings, where ministers and spokesmen draw journalists into what one can only describe as an unstated conspiracy to influence public opinion.

"Notice, I do not say a conspiracy to inform. I doubt if there is one recorded instance of a genuinely full and rounded case being presented at an unattributable briefing. Otherwise, why would it be unattributable? It is inevitable it will be a loaded case, making the minister's position or the proposed policy sound as attractive as possible. It is unattributable partly so that ministers or spokesmen can later deny they said what they have said. One can quote many cases where this has happened, and journalists have in effect been called liars, and allowed themselves to be called liars. It is unattributable because they are flying a

kite, and if the reaction to the idea is bad, they can drop it. Or it is unattributable to counter another unattributable briefing given by the Prime Minister or other ministers. Often they want to spread mis-information, either by untruths, or by misrepresentations of facts, and want to cover their back.

"It is surely a relatively safe maxim that whenever someone says 'don't quote me on this ...' there's at least a chance they are either breaking a confidence, saying something that they are unsure will stand up, lying, or in some other way acting dishonourably.

"Furthermore, they are asking newspapers to then deliberately deceive their readers about the source of the information. The use of the words 'sources close to the minister' when in fact the source is the minister himself, may be a small act of deception but it's an act of deception just the same. Since when has it been the role of journalists to participate in the persistent deception of their readers?"

Des Wilson criticised radio and television programmes for allowing ministers to dictate the terms of their appearances, often refusing to participate in debates with those who could most effectively challenge policy. This helped ministers to spread mis-information.

He wondered whether television news editors and picture editors sometimes completely lost their critical faculties when falling 'hook, line and sinker' for so-called photo-opportunities that had no news value whatsoever but had been set up with the deliberate intention of creating a favourable impression.

"The photo-opportunity has virtually nothing to do with information, or news, and everything to do with propaganda."

Des Wilson argued that as it is unrealistic to expect politicians to change the way they behave, it is up to the media to protect its readers, listeners and viewers by applying a more critical mind to its relationships with politicians and to the distinction between real information and misinformation.

He criticised the way the media 'bought' a particular argument from a minister without in many cases checking to see whether it was true. "By taking a particular line, and repeating it several times in one day on radio and television, and having it appear in newspapers day after day, a minister can create public acceptance for a particular view that is simply untrue". Des Wilson cited the way that the Home Secretary had kept stressing that the Official Secrets Acts 1989 took major areas of information out of the protection of criminal law and kept using phrases like "an unprecedented step towards greater openness" to imply that the information would now be available to the public. In fact it would not be. If the Campaign for Freedom of Information had not existed and had not repeatedly in articles and letters to newspapers and at every opportunity challenged this particular line it would have undoubtedly prevailed."

Des Wilson called for:

1. A major debate by the media on how it can more effectively avoid manipulation.
2. Voluntary reform of the lobby system to end mass unattributable briefings.
3. A publicly-declared policy by the

BBC and ITV that ministers will not be allowed to dictate the terms of appearances. Where they refuse to appear in serious discussion on major policy issues, their seats should be left vacant. The viewers should be told that, of course, the Minister or his representatives have had the opportunity to appear.

4. A radical overhaul of the use of Whitehall information officers and information expenditure.

In his speech Des Wilson stressed that the Campaign was not anti-media but deeply committed to a media that fulfilled a crucial role of informing the public. "The tragedy is that it has allowed itself to be manoeuvred into a position where it is increasingly mis-informing the public through its naivety, laziness, or in some cases weakness. It is of course, with the exception of some of the tabloid newspapers, not deliberate participation in mis-information — it's cock-up rather than conspiracy — but not less serious for that."

MPs say no to "collective unattributable briefing"

Of nearly 200 members of parliament who responded to a questionnaire about the lobby system, an overwhelming majority have indicated they wish to see reform.

Some 70% indicated they would "support the ending of the lobby system of collective unattributable briefing".

Altogether, at the time this newspaper went to press 197 MPs had replied. Of these, 149 wished to see the system reformed, 42 wished to maintain the status quo, and 6 indicated that they did not care one way or the other.

Of Conservative backbenchers a small majority favoured reformed — 46 for reform, 40 for status quo, and 4 did not have specific views.

Of 98 Labour MPs, 95 favoured reform.

Sir Cyril Smith was the only Democrat who favoured the status quo, but he indicated "I don't see strongly — this is simply on balance".

The former Prime Minister, Edward Heath, indicated "the time has now come to end it".

O.S.A. 1989

The Official Secrets Bill has passed both the House of Commons and the Lords. It contains no public interest defence and no defence for prior publication.

It contains no advance towards freedom of information. The areas of information removed from the protection of the criminal law will instead be protected by civil service disciplinary proce-

dures.

It was pushed past the Commons by the use of a three-line whip despite the fact that Home Office ministers were almost alone in their advocacy of its benefits, and in the teeth of fierce parliamentary, media, and other opposition.

Its repeal is now a key objective of the Campaign for Freedom of Information (see page 6).

How the Lobby undermines the integrity of the media

by Des Wilson and Maurice Frankel

The Lobby is a group of around 220 political correspondents, nominated by their editors, and granted special privileges by the House of Commons. The system has three main elements.

First, members of the Lobby have access to parts of the Commons building, closed to the general public and to other journalists. The most important of these is the Members' Lobby in the House of Commons, where MPs and Ministers gather before and after entering the Chamber. This gives them easy access to MPs and Ministers, and the opportunity to discuss political developments as they occur.

Second, members of the Lobby get advance copies of official publications, on strict understanding that they keep the contents to themselves until formal publication. To avoid openly breaching the convention that MPs are informed before anyone else, the Lobby is given what is technically a draft of the report — known as a "Confidential Final Revise" — which in theory (though not in practice) is still subject to revision.

Finally — and controversially — they participate in regular unattributable briefings, where government spokesmen and Ministers meet journalists en masse, on the understanding that they will not be identified as the source of what they have said. Supporters of the system say this is an essential aid to discovering what is really going on. Others see it as a channel for the systematic manipulation of the news.

Originally, the existence of Lobby briefings was itself a closely guarded secret. The Lobby's own rules stated "Members of the Lobby are under an obligation to keep secret the fact that such meetings are held, and to avoid revealing the sources of their information." Prime Ministers would come in to office wholly ignorant of the fact that the system existed at all. Peter Hennessy has described how Attlee's press secretary, Francis Williams, in order to persuade the Prime Minister to install a Press Association tape machine explained that he would be able to pop out of cabinet to see how Middlesex were doing at Lords:

"The first time he did this, the tape happened to be carrying a summary of that morning's cabinet discussion. Attlee rushed into Williams's room, asking how his 'cricket machine' came to be tapping out the cabinet minutes? Williams gently explained his longstanding practice of briefing

"If what they said was ascribed to them, between quotation marks, they would have to make sure that it was defensible line by line and did them credit. Since it is ascribed merely to 'the quarters that matter' or 'those in the know' or simply 'senior ministers', they can cast what they like upon the waters, innuendo, denigration, childlike optimism, Lear-like undertakings to do terrible things: if it floats then they can derive the advantage, and if it sinks with a nasty gurgle they can disclaim all responsibility."

John Whale, 'Journalism and Government', Macmillan, 1972.

"the Lobby journalist does not always want a great deal. The Lobby is often passive; it waits for the information to be presented on the sugared spoon held out by government public relations officers off the record. It practices spianiel journalism, like those newspapers that roll on their backs to be tickled by the award of a knighthood to their editors or political correspondents."

Michael Cockerell, Peter Hennessy & David Walker, 'Sources Close to the Prime Minister', 1984.

the agencies and evening papers on mornings the cabinet met." [New Society, 7.2.85]

Nowadays it is common knowledge that the Prime Minister's press secretary — Bernard Ingham — briefs the Lobby twice daily. The journalists visit him in Downing Street in the morning, and he meets them in the House of Commons in the afternoon.

In addition, the Leader of the House meets the Lobby every Thursday. The Sunday newspapers have a special



"There is nothing wrong with the British press that a renewed respect for facts, objectivity and fairness rather than false gods of invention and malice would not cure".

Bernard Ingham (above) The Prime Minister's press secretary.

briefing on Fridays. Ministers and officials have other ad hoc meetings. Groups of journalists may take a Minister to lunch, where the inside story is communicated on "Lobby terms". And in parallel to the formal Lobby — which is made up of political correspondents — other groups of specialist correspondents, covering education, employment, foreign affairs etc, have developed their own similar arrangements with the departments whose work they cover.

Until recently the whole of the national press, the main news agencies, regional papers and broadcasting organisations took part in Lobby briefings. This changed when the *Independent*, launched in 1986, announced that it would not participate. They were immediately joined by the *Guardian*, which — more provocatively — originally said that its journalists would continue to attend briefings, but break the non-attribution rule, by revealing the information came from Downing Street. The short-lived *News on Sunday* also boycotted the briefings. And in January 1989 the *Scotsman* decided that it too would be better off outside the system.

It is important to recognise that what these papers have done is withdraw from the collective briefings — the objectionable element of the Lobby system. Their political correspondents remain members of the Lobby, which allows them direct access to MPs in the Commons. And they use information supplied unattributably in private conversations with MPs and ministers and officials, where the story is not available "on the record". It would be impossible to report on the background to political events without this technique.

All journalists sometimes accept information unattributably: indeed the protection of sources is one of the journalist's highest professional obligations. It is a way of allowing those who dissent from an organisation's official line, those who are at risk of reprisals, to reveal what they know in safety. It may be the only way in which people will speak to a journalist at all.

But what should be a device for exposing the truth, can also be a tool for those who want to distort it. It can be

used to plant stories, spread rumours, or denigrate opponents in the knowledge that what is said will not be traced back to its source. The only thing that protects the public from being deceived is the journalist's integrity and experience: the determination not to be used, and ability to sense when it may be happening.

If a journalist purports to describe the events that took place in a Cabinet meeting the previous day the reader is entitled to expect that the writer has satisfied him or herself that the account is reliable. This should mean that the journalist will have spoken to someone who was present, or perhaps to more than one participant.

But journalists whose account of Cabinet comes through a Downing Street Lobby briefing won't have done this. Their account has been handed to them by someone who wasn't there — the Downing Street Press Secretary, or his assistant — and inevitably will be packaged to reflect the slant of the day. It may draw attention to one item in order to deflect attention from another. It may conceal the existence of disagreements or defeats, or enhance one individual's reputation at the expense of another's.

This may occur in any briefing. But the risks are magnified by the Lobby system in several ways.

First, by the nature of the non-attribution rule. If attributed, the words must be placed in the mouths of 'government sources', 'Whitehall sources' or 'ministers'. It cannot be attributed to 'Mr Bernard Ingham' or 'The Prime Minister's office' or even 'Downing Street'. Under Lobby rules it is perfectly permissible for a journalist to falsely claim that his information comes from personal contacts with senior Cabinet ministers. The briefers prefer this: it gives their ac-

"Harold [Wilson] has been accused of exploiting the Lobby system. Exploitation is a curious criticism to use about a system which feeds solely on the use made by one body or another". Marcia Williams, *'Inside Number 10'*, Weidenfeld & Nicholson, 1972.

"I found when I was [in the Lobby] that too many of us relied almost exclusively on Tom McCaffrey's [James Callaghan's press secretary] account of what was going on in the Cabinet. It is quite difficult that late in the afternoon to do a milk round of normally helpful suppliers because they are usually guarded by their private offices quite carefully until they are on the way home or come down to the Commons to vote, to find out what has gone on... Tom's version is the one that gets out. It is very hard to check it." Peter Hennessy, *Journal of the Royal Society of Arts*, November 1987.

count of what took place, an aura of authority which may be totally undeserved. What the journalists cannot do is place the information in context by revealing that it comes from the Downing Street Press Office, and explaining what allowances for the source should be made.

When the *Guardian* proposed to attribute what was said in Lobby briefings, it intended nothing so radical as "Mr Bernard Ingham today said..." It merely wanted to be able to attribute comments to "Downing Street sources" as opposed to "government sources". Mr Ingham told the Lobby inquiry that followed that this was unacceptable to him: he was speaking on behalf of the whole government and was not prepared to brief on any other basis. The effect of this is to make it harder to report on differences of opinion within government. Mrs Thatcher may be in a minority in Cabinet, but her views must be represented as the consensus. There is of course a convention that Cabinet decisions bind all members of the government: but even this doctrine does not apply to discussions that

precede a decision. The effect is to obscure what is actually happening, and replace it with a packaged account designed to enhance the Prime Minister's reputation. Anthony Bevins, the *Independent's* political editor comments: "Bernard Ingham is a complete professional. It is his job to sell the Prime Minister. It is his secondary job to sell the government. If the two are different, he will sell the Prime Minister."

The second, is the difficulty of putting a story together from other sources. Of course journalists could rush out of Lobby briefings determined to uncover what really happened — and the best of them do. But many don't bother. It is hard work; Ministers may be difficult to contact; deadlines may be near; and they may have been presented with just enough usable material to write the story already.

The problem may be compounded by the fact that the Lobby — made up of political correspondents — is sometimes deliberately chosen to receive news which actually would be more rigorously handled by specialist correspondents who know the particular field. They may print ministerial claims of great progress on protecting the environment or preventing crime that would be taken apart by environmental or home affairs correspondents.

Government deliberately plays on the pressure facing journalists. Controversial reports are published late in the afternoon, and given to the press only a very short time beforehand. A briefing is offered — whose line may become irresistible as journalists find they have no time to study the report properly. One example was the publication of the Official Secrets Bill, which appeared at 5.20pm on November 30 1988 allowing journalists almost no time to get beyond the press release and briefing before writing their stories.

The publication of the Franks report on the Falklands war was a particularly blatant example of such manipulation. The final paragraphs of the report exonerated the government of responsibility for the Argentinian invasion of the Falklands. But the body of the report carried such damning evidence that those who studied it thoroughly found it difficult to comprehend how the conclusions had been reached.

However, the press was given no chance to study it beforehand. The conclusions — clearing the government of blame — were selectively leaked a few days before publication. The press had no advance copies and received the report at 3.30pm on January 18 1983, as Mrs Thatcher stood up to make a statement on it in the Commons. She read out the two final paragraphs — those which cleared the government — in full. A Lobby briefing initially organised for 2.45pm that day, was later rescheduled to start after the Prime Minister had finished speaking. In *'Sources Close to the Prime Minister'* (Macmillan, 1984) Cockerell, Hennessy & Walker report:

"With only an hour or less to prepare their stories, the evening papers and television and radio

"I suggest that the post of Chief Information Officer at No 10 Downing Street is in fact a political job in a party sense and is not a job which it is proper for a Civil Servant to fill unless he, or she, resigns from the Civil Service on appointment. Moreover, what is said ought to be said on the record. The participation of the media in the lobby system is a public disgrace." Sir Frank Cooper, former permanent secretary at the Ministry of Defence, 1986.

"The purpose of the Thursday Lobby briefing from the government point of view is good publici-

news bulletins led with Mrs Thatcher's interpretation of the report and Mr Ingham's unattributable guidance. Almost all the press next morning followed suit... And all the newspapers and broadcasters concentrated on the Franks conclusions. 'Thatcher is cleared of Falklands blame' ran the headlines in both The Times and the Guardian...

"It was only in the course of the next few days, when reporters and politicians had the time to study the inherent contradictions in the Franks Report, that a rather different version began to emerge."

Later, several newspapers, including *The Sunday Times*, *The Sunday Telegraph* and *The Guardian* revealed that the Franks report implied a far more critical account of the government's liability: but by this time it was too late to correct the powerful first impression left by the original manipulation of the news.

The third factor is the effect of the



"It is part of the system that if Bernard Ingham is saying something in the lobby and all your colleagues are reporting it then you have to report it otherwise you get called up at midnight saying — all the other papers have got it, why haven't we... The lobby is a crutch for crippled journalism."

Anthony Bevins (above), Political Editor, The Independent

collective nature of the briefing process itself. The incentive to use what is revealed — however insubstantial, or unsubstantiated — is magnified by the knowledge others already have it and will use it. No newspaper likes to be the only one not covering a story. In *'Journalism and Government'* published in 1972 John Whale wrote:

"A lobby man's principal anxiety is that he should not be scooped or left by his competitors... Lobby men will pass on forecasts of unattainable government successes... they will write a story which they know to be a waste of their readers' or listeners' time, or which they suspect Downing Street is particularly anxious for them to write in spite of its slender link with the truth; and they will write it only

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ty, because you can control it... The Lobby can go away to say it was a united Cabinet yesterday, because nobody's told them they were kicking and punching each other on the floor."

Joe Haines, Harold Wilson's Press Secretary.

"As the former political correspondent of The Sunday Times I never attended a single Lobby group meeting for many years before I retired... for discovering the substance or meaning of what was happened behind the controlled news items it was pointless." James Margach, *'The Anatomy of Power'*, W H Allen, 1979.

Media Manipulation

The truth, the whole truth . . . ?

The Channon lunch

In March 1989 Transport Secretary Paul Channon came close to being forced out of office. His department had failed to pass on to airlines and airports full details of the bomb threat warnings it had received prior to the Lockerbie air disaster in which 270 people died, and he had made a series of highly misleading statements about the matter.

As pressure on the Minister mounted there was a sudden burst of good news: the bombers had been located. Identical reports appeared in several newspapers announcing that the identity and whereabouts of the terrorists was now known and arrests seemed imminent. *The Times* said the event was being described in Whitehall as "one of the most remarkable feats of criminal detection ever known".

The report obviously came from high places — *The Guardian* referred to "senior Government sources". Yet it was potentially highly damaging. If the suspects were not already under arrest they would now have been warned of their danger. The story itself was quickly called into question: the Scottish police, who were co-ordinating the Lockerbie investigation, reacted with astonishment saying the perpetrators had definitely not been identified. Similar reactions came from the West German police, the US

State Department and the FBI. The Lord Advocate said that although the reports "purport to be based on Whitehall sources" they were inaccurate and irresponsible.

There was intense speculation as to the identity of the Whitehall leaker, fuelled by reports on ABC Television in the US which pointed the finger at Mr Channon himself. Mr Channon however denied that he had anything to do with the disclosure, and condemned the leaking of security related information. This was too much for some of the papers involved. Their story had proved false, and they were being blamed for it. The Lord Advocate in particular had attacked the press for "wild irresponsible speculation". Finally the Scottish *Daily Record*, one of the papers which broke the story, decided it had had enough. On March 20 it revealed its source:

"the Lord Advocate, Lord Fraser, complained about 'wild, irresponsible speculation'. But we weren't speculating. We were reporting information handed out by Mr Channon at a private gathering with journalists. If anyone was 'wild and irresponsible' it was the minister himself."

The Minister had lunched with political correspondents from four papers, *The Times*, *Guardian*, *Today* and *Daily Mirror*

(which is the *Daily Record's* sister paper) at London's Garrick club the week before. The gathering was not a Lobby briefing, but it was on "lobby terms" — unattributable, and deniable. The following day the *Mirror* confirmed that Mr Channon had been their source and had:

"told a group of reporters off the record that the Scottish police now knew everything about the bombing (and) who had planted the bomb. And they also knew where he or she was."

Teetering on the edge of resignation, Mr Channon faced the Commons. He admitted what he had previously denied — that he had briefed the journalists — but continued to deny that he had given them the false story. He told MPs:

"In all honour . . . to the very best of my recollection, I have said no more than where we believe the bomb was put on, how it was concealed and that we were making brilliant progress"

So what had really happened? We will never know. The newspaper accounts that pointed the finger at Mr Channon were written by people who weren't themselves there. The others have said nothing. "Lobby terms" guarantee that whatever the circumstances — whether they are briefed in good faith or deliberately misled — they will not disclose what really took place.

'Good' news that masks the bad

by Sarah Helm

A few days after Christmas the BBC ran a lead news story that said no prisoners were being held in police cells at that time and that the Home Secretary would never again allow cells to be used routinely as a prison overspill in this way.

It was — given the depth of concern about the use of police cells for this purpose — an important story. However, it omitted to explain that the reason the cells were empty was that the courts do not sit over Christmas.

More importantly, during the following weeks there were no announcements that police cells were rapidly filling up again and that the Home Secretary's Christmas pledge would not be honoured.

Like any government department, the Home Office thinks about the timing of its "good news stories". What is perhaps more worrying, however, is the way it "manages" its bad news stories.

Early in March, well in advance of official publication of new crime statistics, a story was splashed in *The Daily Telegraph* showing a massive fall in certain types of crime, particularly burglary. It was not until the third paragraph that a significant rise in violent crime was mentioned and then only in the context of what "ministers saw" as a broadly encouraging trend. A story, surely, leaked to a sympathetic paper to mask the bad news with the apparently good?

Nothing causes more anger in the Home Office than leaked bad news which has not gone through the hands of an official "masseur".

On one level this is all good knock-about stuff. Home Affairs correspondents get used to playing the game of watching ministerially-inspired good news leaks splattered over the Press — usually to political correspondents — at moments which suit. Ludicrously, the leaks are followed with absurd protestations of dis-belief from the Home Office press office as to the source.

But beyond the game-playing there are serious questions about

the way the Home Office issues information. Specialist correspondents can put up with inspired leaks as long as they are able to get access, by painstaking investigation, to real information of public importance. Sadly, this is too often not the case.

For example, while the crime statistics story was being leaked to *The Daily Telegraph*, *The Independent* was attempting to get information from the Home Office about how crime statistics are compiled and what they really mean. Requests for briefings with expert civil servants were met with silence and then obstruction from the press office, despite the stated readiness to help of the civil servants concerned. Only after lengthy protestations was a briefing granted and then its ambit severely restricted and the very senior civil servant concerned heavily "policed".

It is difficult to know exactly where this attitude springs from; it does not appear to issue solely from the press office, where individual press officers can respond with great professionalism to requests for information.

Rather, the all-pervasive "can't say, won't say" attitude seems to be endemic in the whole fabric of the department which has historically had to deal with difficult-to-present issues, prisons and race to name but two.

The contrast with other countries is only too easy to draw. Speaking to Interior Ministry officials and press departments on the Continent and in the United States one finds a ready willingness to discuss policy, indeed a desire to do so. More importantly, there is a confidence in that policy which could not be shattered by mere criticism or even inaccurate reporting in the Press. If such confidence and openness were to show through from the Home Office, surely it would mean policies being presented in a better light?

This article first appeared in *The Independent*, 10 May, 1989

The Lawson tape

On November 11 1988 the Sunday press announced that the government was considering making pensioners' benefits subject to a means test, as a way of "targetting" benefits subject to a means test, as a way of "targetting" benefits on the poorer pensioners. The politically explosive news that universal benefits such as free prescriptions and the £10 Christmas bonus might be withdrawn from millions of elderly people provoked a flood of criticism, not least from the Conservative backbenches. The proposals were denounced by former Conservative Health Minister Sir Barney Hayhoe as "batty, ill-prepared, politically inept and half-baked".

The papers variously attributed the news to "ministers", "one senior minister", "one senior source" and "a senior Treasury source". But it was quickly concluded that the revelation had taken place during a briefing the previous Friday given by the Chancellor of the Exchequer Nigel Lawson for the Sunday papers' Lobby correspondents.

Throughout Sunday Nigel Lawson himself remain curiously silent, conspicuously failing to deny the stories. Some press reports suggested he was urgently constructing a cover story. On Monday he

spoke out, denouncing the reports as "a farrago of invention", and "the most inaccurate, half-baked and irresponsible of any that I have seen in nearly ten years as a minister". He acknowledged that he had briefed the Lobby but claimed they had totally misinterpreted what he said. He had been talking about providing additional new benefits for the poorest pensioners, not means testing anything presently provided.

To demonstrate that he was telling the truth — plans for the new benefit — if they had ever existed at all before that moment — were suddenly announced, involving a package of around £200 million for the poorest groups of pensioners.

But what had Mr Lawson really said? What is clear from the notes released afterward by many of the journalists present is that he didn't talk about any new benefit — though he also didn't explicitly mention means testing existing provisions. What he did do was drop a series of hints, which the journalists believed could only be interpreted in this way. He said pensioners' incomes had risen faster than average wages; that only a minority had any real difficulty making ends meet; that as the social security system evolved "better targeting

to help the minority" would be needed; and he suggested that journalists might like to check for themselves which benefits the government was pledged to uprate regularly, and which were not. Amongst the "unpledged" benefits was the pensioners' £10 Christmas bonus.

A simple way of resolving the dispute presented itself. Some of the journalists present revealed that the Treasury had tape recorded the whole briefing. In fact, to their surprise as they left the meeting they were told that Mr Lawson's remarks were "on the record" (though they were later phoned to say this was a mistake) and were invited to consult the transcript of the tape recording to refresh their memories. Mr Lawson initially claimed that he had a transcript which confirmed that the journalists had blundered, but later said there was no transcript. Officials said the tape recorder had malfunctioned; although one journalist later said he had seen the red indicator light on, and two others said they had seen the spools turning. The BBC then offered technical assistance to see what could be recovered from the tape at which point officials replied that the tape had been returned to the "pool" and was no longer available.

Eye Operation

In July 1983 Mrs Thatcher underwent laser treatment for a detached retina. The treatment was unsuccessful, and Mrs Thatcher had to have surgery. In "Sources Close to the Prime Minister" (Macmillan, 1984), Michael Cockerell, Peter Hennessy and David Walker describe how the episode was concealed from the press:

"The health of the West's longest-serving political leader is a matter of legitimate public concern, but . . . Mrs Thatcher's first instinct was to keep it secret. The following day she instructed the Downing Street press office . . . to put out a misleading statement that made no mention of the operation. The statement, which one of her doctors privately described as 'medical nonsense', talked of 'an abrasion on the retina' of her eye. Downing Street informed the Lobby journalists that her retina had been scratched as a result of the Prime Minister rubbing her eye when a piece of dust had lodged in it at the Queen's garden party. But the retina is at the back of the eye and cannot be scratched in this way."

"Three days later, after the press was told that she was unlikely to need further treatment, she was whisked secretly off for an emergency eye operation. For fifteen hours Downing Street would not say where Mrs Thatcher was. When the news later leaked out, the official word from Number Ten was that she was running the country from her hospital bed. Like Wonder-woman, the Lobby was told, she was sitting up in bed working on her papers within hours. In fact it was her husband Mr Denis Thatcher who gave the lie to this. He emerged from seeing his wife and scoffed at the idea that she was able to read, as she had to rest in a darkened room with bandages over her eyes." (223)

Sterling crisis

During the sterling crisis in January 1985 the sterling exchange rate fell to almost one pound for one dollar. On Friday January 11th the Sunday Lobby correspondents were briefed by Bernard Ingham to the effect that the government would continue its 'hands off' policy, despite the fall in the pound. The briefing formed the front page lead for the Sunday papers. "Thatcher ready to let £1 equal \$1" said *The Sunday Times*, attributing the information to "the highest levels in Whitehall". The Sunday Telegraph headline was "Whitehall: We won't throw money at £", attributing the intelligence to "authoritative government sources" and "Downing Street", while the *Mail on Sunday* ran "Let pound slide, says Maggie".

The only paper to get it right was *The Observer* whose headline announced "Thatcher in U-turn to save pound". Their staff had checked with Treasury contacts and correctly announced that Ministers were now prepared to see interest rates rise.

Later that week Samuel Brittan noted in *The Financial Times* that the Ingham briefings were not only wrong, but had themselves contributed to the pound's further decline. Mr Brittan wrote: "One would like to be fair to Mr Ingham by quoting his exact words . . . But the restrictive practice known as the lobby system used by Ministers and their acolytes to plant stories without taking responsibility for them makes this impossible." There was an important distinction to be made between not having an exchange rate target and not caring to what level it fell he said, adding: "It is unreasonable to expect Mr Ingham, who has no background in these matters, to explain these subtleties to political correspondents equally un-specialised in the area".

Falklands War

The Falklands war put unusual strain on the lobby system. While the Downing Street press office sought to exploit every opportunity to publicise Mrs Thatcher's mastery of the conflict, the Ministry of Defence insisted that as little as possible be revealed. At the beginning of the conflict it cancelled its normal lobby-style briefings of defence correspondents, though these were later reinstated. Robert Harris notes that: "The press took the cancellation of the background briefings badly . . . Some defence correspondents, dependent on being spoon-fed information in non-attributable briefings, were left with nothing to say." [*Gotcha*, Faber and Faber, 1983]

When the MOD restarted its briefings, these were highly spiced with disinformation. On May 20 1982, the eve of the invasion, Sir Frank Cooper, the permanent secretary at the MoD, told defence correspondents not to expect a D-Day type mass landing. "The screw will be turned . . . in a variety of ways" he said; the task force would "step up action in a whole different variety of ways". This was universally recycled by the press next day:

"There will be no bloody D-Day style landings" (*Daily Mirror*)

"There will be no mass landings, D-Day style. It will be a series of smash-and-grab operations by the back door" (*Daily Express*)

"a single D-Day type frontal assault has been ruled out", (*Daily Telegraph*)

"There [will] not be a D-Day type invasion" (*Guardian*)

"Sources were not expecting to see a repeat performance of D-Day" (*Times*)

"Whitehall chiefs . . . rules out a huge single operation like D-Day" (*Sun*)

The morning that these newspapers appeared, five thousand troops began landing in San Carlos in the biggest British invasion since D-Day. In characteristic fashion, the lobby had been used to spread misinformation — though this time the real target were the Argentinians rather than the British public.

Later lobby briefings disclosed information which the military regarded as highly sensitive.

Following a Lobby briefing (which Ber-

nard Ingham subsequently confirmed he gave) the press reported on May 24 that Mrs Thatcher had "ordered" the troops to press on and expected Port Stanley to fall "within days rather than weeks" (*Daily Telegraph*) and "within days" (*The Times*). Reading a little more into the briefing *The Daily Express* reported that troops were already "believed to be advancing towards Goose Green." On the record, however, the government denied that Mrs Thatcher was personally directing troops movements. John Nott, the Defence Secretary told the Commons that day: "There can be no question of pressing the force commander to move forward prematurely. The judgement about the next tactical moves must be his and his alone."

But on May 25, the loss of two British ships increased the pressure for new gains. Max Hastings and Simon Jenkins, in *'The Battle for the Falklands'* wrote: "London needed a tangible victory. If ever there was a politicians' battle, then Goose Green was to be it." The order was given to march on Goose Green although according to Hastings and Jenkins the commanding officer on the ground, Brigadier Julian Thompson, "said he regarded Goose Green as strategically irrelevant".

In "Sources Close to the Prime Minister", Cockerell, Hennessy and Walker report that on May 27 "the defence correspondent for BBC radio, Mr Christopher Lee, had a meeting on the Embankment of the Thames with a man he describes as 'a highly placed Whitehall source' — not from the MOD, but from the other side of the street". Lee was told that the battle for Goose Green had begun, that 2 Para had had their first engagement and that there was no reason for it to remain secret." After checking with the MOD, who neither confirmed nor objected to the story, it was broadcast at 1 o'clock. Later that day Mrs Thatcher told the Commons that troops "are now moving forward".

The news was simultaneously reported on the BBC World Service, where British troops — who in fact had not begun the assault — heard their position and plans being broadcast to the world. The troops believed their plans had been leaked to the enemy. According to one account, Colonel 'H' Jones who was commanding the Second Parachute Battalion "immediately ordered the battalion to disperse and find cover wherever possible, away from what must now be an obvious target for Argentine weapons". [Major General John Frost, *'2 Para Falklands'*, 1983] Max Hastings, reported being told by a senior officer on the spot that "if a BBC correspondent arrived in his area, he would be sent immediately to the prisoner-of-war cage" and that Colonel Jones threatened to sue the Prime Minister and Defence Secretary if anyone was killed. General Frost reports that interrogation of captured Argentinian officers suggested that the Argentinians had reinforced their positions "following the BBC announcement the day before of the impending attack".

Speculation about the military campaign was fed by a multiplicity of sources, including on-the-record ministerial statements to the press, but Lobby briefings played a significant part. Cockerell, Hennessy and Walker report that throughout the conflict Bernard Ingham sought "to burnish the image of Mrs Thatcher as a dynamic war leader and present the picture of a swift, surgical advance to victory . . . The Prime Minister's desire for favourable publicity clashed with the military need for operational secrecy." Indeed, according to one report one of the Falklands commanders was so worried about the premature disclosure of military operations by London that over one 24-hour period he simply refused to communicate with the command centre at Northwood. (Valerie Adams, *'The Media and the Falklands Campaign'*, 1986)

Harold Evans on the US experience

In January of this year Harold Evans, former editor of *The Sunday Times* and *The Times*, came from New York to present the fifth anniversary Freedom of Information awards. An audience of more than 200 politicians, media personalities and representatives of a wide variety of national organisations heard him speak critically of the level of secrecy in Britain compared with the availability of information in the United States. Government information belongs to the people unless there is a good reason why this is not in the public interest, he argued, but in Britain the burden of proof is reversed. Subjects not citizens we have lost sight of our right to know. He called upon the media to be more determined in defence of their — and our — freedom. We reproduce a section of his address below.

Freedom of Information “the oxygen of democracy”

Here are some hot news tips of more than passing interest to the world at large:

- Security guards at some sensitive Army weapons plants are unstable and some have criminal records
- Two centers taking blood for national supplies have kept their records in such a disorganised state that Aids-tainted blood could have got into the national system.
- Radiation readings near a nuclear plant have exceeded government standards, but the fact has not been published. There have been 141 unreported major mishaps at nuclear power plants
- Researchers at two leading medical schools fabricated their data
- Painkilling and anesthetic drugs routinely given women during childbirth cause brain damage to their babies.

All true stories.

All true with malign effects on the everyday lives of us all when they are tolerated and concealed; and a good day for the life and happiness of the citizens when they are exposed and corrected by the force of public opinion. They have been exposed and corrected. The populace is safe, for a time at least, from these abuses. It happens that the citizens protected in this manner are American. It happens that these are stories I have picked up in the United States. I have lots more.

But they might just as easily be stories about Britain.

FoI Act — 3 decades of success

And none of us would know about them because Britain does not have the instrument that was crucial in the exposure of every one of these scandals — the Freedom of Information Act.

In America the Act is now in its third decade of success. None of these scandals would have been revealed at the time if reporters and others had not been able to request and get official documents by the thousand.

Can anyone say that our society is so pure that the abuses and infractions suggested above would never occur in Britain — are not occurring at this very moment?

Can anyone say that the British government and its departments are so dedicated to openness that abuses of the public good such as these, once identified, would be immediately publicised?

Can anyone say that they would instantly be revealed by Parliamentary scrutiny?

Well, yes, people do say the strangest things. Question Time notably is a joke for extracting information other than that which the Administration — any Administration — wants to give. All this century despite the enormous growth of bureaucratic power its time has stayed fixed at 50-55 minutes and its restrictions grown ever more arbitrary. And given the gnomish casuistry of our Civil Service to ask an effective question you have to know the answer already.

But even if MPs did enjoy the authority, investigative power and independence of Congressmen and Senators, it would not be enough. Congress, like the American Press, wonders how it ever got along without a Freedom of Information Act. There are critics of the Act — but nobody,

not even the most reactionary, suggests abolishing it.

It is now an article of national faith. As an expatriate, and especially since *Spycatcher*, I am often asked in the US to say it ain't so — that Britain is not slipping away, bit by bit, from being a free country. From the right, as well as the centre and the left, there is a universal bewilderment at the wave of suppression — and I must add also contempt and disgust at the antics of the wilder tabloids.

... The Harvard University director of the Nieman program, sums up the flak. Tell them, he said, we don't understand why Winston Churchill's

institutes and public interest groups all busy finding out and arguing. They are only too ready to field your questions. Not all news organisations exploit this opportunity. Given the openness of the system, the press falls too often for news management, for government by leak and photo opportunity, especially the television evening news.

And despite some blemishes there is British tolerance to admire. In Britain, you can — can't you? — still say pretty well anything you like. Yes, maybe. But if the coercive power of the state is seldom used against the utterance of an opinion — I say seldom, rather than never because of the unique rules of

press will win against “secrecy and deception in government in the United States”, but it does ensure it is free to do battle. It protects the right to publish. Prior restraint is unconstitutional.

By this test we enjoy freedom of the press. But not by this test alone. The great English jurist Blackstone said: “The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publication. Every freeman has an undoubted right to lay what sentiments he pleases before the people; to forbid this is to destroy the freedom of the press”.

So on Blackstone's authority the injunctions that come like confetti from the British bench are wrong. Prior restraint orders are not unknown in America, but they are quickly revoked; and editors have gone to prison rather than yield their constitutional rights. Will it ever be right for an English editor to take a similar stand? A decade ago the question would have seemed unthinkable. Not so, I fear, today.

2. The Freedom of Information Act

The value of the second mechanism of openness, the Freedom of Information Act, is best exemplified by Dr Strassbismus of Utrecht (whom God Preserve). Some of you may recall the incident reported by *Beachcomber* in the *Daily Express* when Dr Strassbismus in the middle of a speech reached below the rostrum and started pelting the crowd with rotten eggs. As he was led away by the police in the ensuing riot, the good bemused doctor remarked: “I seem to have got things the wrong way round”.

Well, that's how it seems to Americans with the notion here, not peculiar to Downing Street, that government information is something that belongs to government.

The Freedom of Information Act recognises that it belongs to the people. It lays it down that all records in the possession of the executive branch of the federal government must be provided to anyone on request, unless it can be demonstrated to fall in a defined classified category. There are nine specific tests (concerning mainly national defence and foreign policy, personal privacy, privileged or confidential trade secrets of the regulation or financial institutions).

Exposure of Abuse

The success of the Act can be measured if you can measure infinity. It is in the way it has exposed abuse, mismanagement, and violations of the law. It has helped make America a better-run country; it has helped government because the raw data, checked and amplified by a journalist or scholar, often reveals dark corners unchecked by anyone. It is a catalyst for good government. And it has enlightened history: One thinks of Allen Weinstein's 15,000 pages of documents in proving the guilt of Alger Hiss, and Willie Shawcross on Cambodia. The act is open to aliens. Of course there is a cost, but Congressman Glen English concludes: “The savings that result from the FoIA disclosures are more than the costs of the Act. When the intangible benefits such as confidence, waste deterrence

and a better informed citizenry are considered the FoIA is a tremendous bargain. The FoIA more than pays for itself”.

The Act is not perfect. It has been used by organised crime to try and trace FBI sources. It can be maddeningly slow. But agencies generally provide all the information requested in full and without deletions. The sensitive Department of Defence for instance processed 72,534 FoIA requests in 1983 and granted 92% without any deletions. The Dept for Health and Human Services granted 98% of all requests.

Public Interest

It is true the US agencies don't enjoy the scrutiny; but they do not argue for repeal, only for tinkering. And while there is, inevitably, similar tension in both Britain and America between those who want to disclose and those who prefer to conceal, there is a huge difference. The FoIA, as Floyd Abrams has pointed out, rests on a deeper notion than the idea that the information released will benefit the public. It is public information whether it is probably or even likely to be in the public interest. Yet here in Britain we would think it an enormous advance if public interest were recognised as a defence of disclosure. The argument here is conducted less in terms of public interest and more often some appeal to privilege.

Look how upside down things are.

On a very important and contentious issue of foreign policy a senior-member of the executive deliberately deceives the legislature and the citizens. The deception is discovered and exposed to public scrutiny.

What happens in a democracy where those who hold power are supposedly accountable to the people?

You might well respond that there is an investigation, the degree of deception is established, the truth promulgated and the deceiver arraigned and if guilty punished.

This is indeed what has happened in the recent case of Robert McFarlane, the former national security adviser, who lied to Congress about the NSC staff raising money and other aid for the Contras. Something similar happened in earlier years with Richard Kleindienst, a former Attorney general, and Richard Helms, former director of the CIA. They were prosecuted by the Executive.

What kind of democracy, you might ask, would do otherwise. And you would know the answer. The British. See Ponting. See Tisdall. Here there is no prosecution for official deception of people and Parliament. The prosecution is for people who expose the deception.

Clive Ponting went free after his ordeal but only because the jury had a better grasp of the constitution than Mr Justice McGowan — which of course is why, in the *Spycatcher* farce, the government used the law of confidence, a monstrous distortion of a commercial principle that is quite unknown in the United States. The reality is that in Britain today we — you — are struggling with a political system electively democratic but ill-matched to an authoritarian information system.



Harold Evans and Des Wilson, Co-Chairman of the Campaign, at the presentation of the 1988 Freedom of Information Awards. Award winners included: Richard Shepherd MP, Chris Smith MP, Archy Kirkwood MP, Bill Montgomery, local government correspondent for the Hendon group of newspapers, Ray Fitzwalter, of World in Action, David Newell of the Guild of British Newspaper Editors, Dr Aidan McFarlane of Oxford District Health Authority, and a special individual award to Rachel Baird.

country has become a Pretend Democracy.

Well, one can make some responses to that. The American press is bland, it's not very diverse in its viewpoint, it's dominated by corporate bottom-liners, network television is a form of Chinese water torture in which fragments of ads and info lacerate every minute, political campaigns are corrupted by the need to raise cash for distorted tv commercials, there's a violent intolerance simmering beneath the surface on some issues such as abortion and race. Ours is a more tolerant society.

But one breathes the oxygen of democracy in America.

I knew when I went to work in Washington five years ago that I would get greater and surer access to official information. I did. Anyone can. The streets of Washington are paved with information. Apart from the not-quite-transparent Government departments and agencies, Washington more than anywhere exemplifies the American gift for association. There are hundreds of associations, not just commercial lobbyists, scavengers in their own cause, but semi academic

contempt of court here — this is not a full definition of a free press or of freedom of speech. As I have argued before, an opinion needs facts to sustain it or stir it up in the first place; and certain relevant facts are absurdly hard to come by in Britain. The assumption of Mill that the information on which to base an opinion is available was tolerable in a society with a very small conglomeration of power and a ruling elite, certainly as tolerable as the assumption of the classical economists that there was a free flow of goods and services in a perfect market. But in Britain the citizen's access to knowledge has failed to keep pace with the vast expansion of state and corporate power; and this is a tendency that has dramatically accelerated.

The mechanisms of the open society of America are two and very different.

1. The first amendment

Is a constitutional bulwark, written in ink and blood. It cannot easily be amended or repealed. It says nothing about access to official information. In the words of Chief Justice Potter Stewart it does not guarantee that the

The Lockerbie Disaster

"Every question met with silence or misleading muddle"

The Lockerbie disaster, like the Bradford fire before it, and too many similar incidents, shows how secrecy is not just about defence and national security, but is entrenched in almost every aspect of our institutional life, so that whenever people are desperate for information, they find it almost impossible to find it. The son of Rita and Martin Cadman was one of 270 people killed four days before Christmas last year when Pan Am flight 103 was bombed out of the sky over Lockerbie. Their distress has been compounded by the need to fight for every bit of information they so sorely needed.

This is Rita Cadman's own story.

Our son was killed on Pan Am flight 103 on December 21, 1988. This article is not about that disaster. It is about attempts by my husband and myself to get information and the gradual realisation that this has become the closely-guarded privilege of the "authorities."

We urgently needed to know the circumstances of our son's death. Why were he and so many others killed that night? How much did he suffer? How can such a wholly avoidable disaster be prevented from happening again to anyone?

We wanted to know who was responsible for aircraft security and why they failed in their duty. Are standards of security higher

State for Transport) can do in such circumstances, for example in the way that sometimes happens in serious kidnapping cases, to reach an agreement that such information should not be prematurely released to the public?"

By now our credulity was stretched we thought to the full, but Mr Taylor had not finished. He went on to add: "My Right Hon. Friend was right not to put forward that information at the beginning because it could have increased the speculation, but, nevertheless, it reached the public domain and I should be grateful if my Right Hon. Friend could review the activities of his

may have been right on one count. This constituent, for one, does not easily understand what goes on in the House.

Tragedy seemed to be turning to bitter farce. I could surmise only that Mr Taylor's part was written for him and he was not allowed to put the question he wanted to ask.

The goings on in the House on January 10 were nothing compared with the muddled admissions and denials yet to come from the Department of Transport. Perhaps we were naive to expect the British authorities to have plans for emergencies and that these would include volunteering information to close relatives of victims. There was nothing. Absolutely no

at best as persons of no consequence to be placated by muddled letters from secretaries and at worst as vermin.

We do not want to fight politicians to get information. Adversarial politics are not our line. They are for politicians to indulge in. If they must, with their follows not with us. We seek only information which we believe we have a right to, as it was our son's right. We should not be made to feel guilty because we want answers about how and why 270 people were murdered on December 21 at Lockerbie. Our grief is enough to bear without the added insolence of office.

In fairness, I must say that my husband had a most helpful and considerate reply from Sir Geoffrey Howe when, not having heard from Mr Channon after several weeks, he wrote to enquire where the Foreign and Commonwealth Office stood in the matter. But Sir Geoffrey was the exception.

It is clear that if security at Heathrow were as good as it should be, the Lockerbie disaster would have been prevented even had there been no intimations of sabotage.

Publishing warnings would have meant enhanced security as it did at British airports over Easter — as well as giving passengers the right to choose whether to accept increased risks.

Our son is dead, and his death is personal as all deaths are. Our immediate and overriding need as soon as we knew that he was on that flight was to find him, to identify him, and touch and tend his body.

On January 10 Mr Channon announced in the House of Commons that "only 39 bodies could be identified in the normal way."

By then we knew our son was one of these, although it was not until January 3 that we were told he had been found and identified. Every day we had phoned Strathclyde police offering to go to Lockerbie to help identify him. We were repeatedly told "No visual identification will be necessary." By "necessary" they meant "allowed". In our shocked state we thought they meant "possible."

It was much later, and only after further enquiries, that we were told our son's intact body had been found late on Christmas Eve at Tandergh.

Why were we denied the right to identify and tend our son's body? Who decided "it would be too harrowing"? Who are these "authorities"? By what right do they exercise their powers to withhold information?

Why is every question met with silence or with misleading muddle?

This article was first published in *The Weekend Guardian* (15/16 April, 1989)

Campaign Comment

Rita Cadman's article, initially published in the *Weekend Guardian* and reprinted here, is a moving reminder of the main justification of the Campaign for Freedom of Information.

Whenever the issue of secrecy surfaces in the media, it is usually to do with major defence and national security matters, Spycatcher and Zircon, or the Ponting or Tisdall affairs, and yet secrecy is now so entrenched in the way our institutions work, that the most desperate need is for greater rights to information by ordinary people — information they need for their health and safety, or even just for their piece of mind.

The information that Mr and Mrs Cadman wanted could not save their son, but was necessary so that they could come to terms with his loss, and be satisfied about how it happened. They needed to be satisfied that it could never happen to someone else's son as a result of lessons not being learnt and people not being held to account.

A lot of secrecy is to do with paternalism. So-called professionals decide what it is best for people to know or not to know.

The story on the King's Cross fire (see page 7) also illustrates how secrecy is an obstacle to greater public health and safety.

We made this point, of course, after the Bradford fire. On that occasion 50 people died as a result of a fire that was totally preventable. There had been two warnings to the football club but these had been kept from the people most directly affected — the people who sat in the stands at Bradford and were at risk.

What it must have been like to be a member of the family of someone who died at Bradford only to read in the newspapers after the event that the fire authorities had warned the club of the threat is hard to imagine.

It is clear from close reading of the reports on the Bradford fire, and of the King's Cross fire, that lack of information represents a direct threat to people's lives. We quote elsewhere in this newspaper the comment of the Fennel Report "the travelling public have a right to know about the safety arrangements made by transport operators and the safety of places in which they habitually gather."

How often these words "a right to know" are appearing these days after disasters or during public health controversies. At the very time the Government is refusing to acknowledge, even decrying in the crudest terms the phrase 'a right to know' it is becoming increasingly clear that it is not just a right, but a need to know that now exists.

One of the reasons that those in power have been able to entrench secrecy within our society is because we, the public, have not been more demanding of information. Its time that people let it be known that they expect their servants to give them the facts.



Rita and Martin Cadman

on some flights than others? We also wanted to know about the warnings.

Some intending passengers saw notices of possible threat in US embassies. Why were not all passengers contacted? And why should anyone want to put a bomb on board?

In our first efforts to get information my husband contacted our MP, Mr Ian Taylor. He expressed concern.

But the question he asked in the House of Commons on January 10 was the exact opposite of what we had wanted and expected. He kindly sent us a copy, which we read with growing amazement.

Here it is, as it appeared in Hansard: "... may I say that the rumour that there was a warning before the crash circulated unchecked for several days after it at a time of maximum grief. That has caused increased distress because it appears that some people had had notice of the warnings while others had not. Is there anything that my Right Hon. Friend (Mr Channon, Secretary of

Department in such circumstances and discuss with the police and international authorities whether information that may cause unnecessary grief could be withheld from the public?"

Whatever his motive, Mr Taylor was suggesting that information that could have prevented the disaster was rightly withheld from intending passengers and in future should be covered up after the event as well.

My husband asked for clarification. The opening admonition in Mr Taylor's reply implied that constituents must have a low level of understanding: "In understanding my comments in the House of Commons it is important to appreciate," he wrote, "that although uncannily accurate, the 'warning' about the danger to Pan Am flights which originated in Helsinki was subsequently proved to be a hoax. In the meantime, however unnecessary grief was caused."

On second thoughts, Mr Taylor

information of any kind was forthcoming.

So my husband wrote directly to Mr Channon on February 16. He heard nothing until March 22 when he had a letter from a secretary. Not surprisingly, she did not answer the questions. We have not had the courtesy of so much as one word from Mr Channon himself.

Not hearing from Mr Channon and having lost confidence in our MP, I then asked the Opposition spokesman on transport, Mr John Prescott, if he could help — not because I see this as party politics but because I did not know who else to ask. But when Mr Prescott and his colleagues put questions in the House they were met with insults from the Government side culminating on March 20 in Mr Marlow's description of those seeking information as "a carrion ratpack gorging on the blood of the victims of Lockerbie."

He was not taken to task for using those words.

So in the Minister's eyes relatives seeking information are regarded

The Official Secrets Act

Selling the Secrets Bill

by Des Wilson & Maurice Frankel

The launch of the government's Official Secrets reform was a classic illustration of the way unattributable briefings and official leaks can be used to manipulate the press.

The legislation was promoted by Richard Shepherd's private member's bill, in January 1988, to reform the Official Secrets Act. The government decided to kill off the Shepherd bill — which was too liberal for its taste — promising to bring forward its own new legislation instead.

From the outset, it disclosed nothing of its plans. During the debate on the Shepherd bill, Home Secretary Douglas Hurd repeatedly refused to say which if any of the Shepherd proposals he found unacceptable. And although he claimed the government had already got "about two thirds of the way" in working out its own proposals, he would not reveal any of them either. MPs would have to wait until June 1988, when a White Paper would be published.

The news black-out continued for the next six months. Journalists covering the Home Office found officials extraordinarily tight-lipped. The silence was only broken two weeks before the White Paper. On June 12 the *Sunday Times* splashed the government's thinking over its front page. The story, attributed entirely to unnamed "government sources" stressed that the bill would be extremely restrictive. The tone was set by the headlines:

'Government's "Draconian" steps to prevent another Spycatcher.'

'Secrecy: tough new bill aims to stop all leaks'

The story began:

"The government is planning a 'draconian' new Official Secrets Act which will effectively block every loophole in Section 2 of the existing act. Its impact will be to ensure that journalists who receive information, people who leak information, and former spies such as Peter Wright, can all be prosecuted with some hope of success."

"The proposed legislation, promised as a reforming measure that would make official secrets legislation 'effective, enforceable and reasonable', will add teeth to existing legislation..."

"Government sources admit that some of the key provisions will be seen as 'draconian'."

The piece revealed that the "public good" defence successfully used by Clive Ponting "would be outlawed" and that the prior publication defence used in the Spycatcher case would also go.

But a third question was left unanswered. Would the prosecution have to prove that leaks caused damage — or would the issue be settled by an unchallengeable ministerial certificate? The latter approach had featured in the government's earlier, much criticised, attempt at official secrets reform in 1979.

The *Sunday Times* left this critical matter conspicuously open. "It is not clear who will decide what is 'damaging'", it said.

Even more significant was the suggestion that crucial decisions about the

there is a suggestion that for the legislation to be enforceable, cases should be heard without a jury. However, it is accepted that to abandon jury trials might be politically unacceptable."

Removing jury trials would have massively undermined the defendant's position. Clive Ponting had been acquitted only because a jury ignored the judge's summing up. When the government had only a judge to deal with, it had little difficulty in getting its way — as a series of recent decisions under the civil law of confidence

the private thoughts of a minister generally suggest that the briefing has come from the minister, or a close confidant.

There was certainly no sign that this was an unauthorised leak. On the contrary it looked like a deliberate account of government thinking, designed to prepare the ground for an extremely tough White Paper, with no hint of concessions. But there was something implausible about the idea that as fundamental an issue as the abolition of jury trial could still be undecided, just two weeks before the

ed by the Prime Minister herself, but opposed by Mr Hurd. It began

"Disagreement between Mrs Thatcher and her Cabinet colleagues — centred on whether a minister's say-so would be enough to determine whether disclosure of information seriously damaged the national interest — has been holding up a government white paper on new official secrets legislation."

This too seemed to indicate a hard line was coming.

Soon afterwards, on June 29, the White Paper appeared. As the *Sunday Times* had predicted, the public interest and prior publication defences were out. But there was no sign of the most draconian suggestions — ending jury trials, and leaving judges to try cases. And ministerial certificates had been rejected: juries would decide if damage had been caused. Compared to the oppressive agenda we had been told was under consideration, this was a masterpiece of liberality. Moreover, if there really had been a battle with Mrs Thatcher the result was a triumph for Mr Hurd.

The Home Office did nothing to discourage this interpretation. Everything it said stressed the dropping of ministerial certificates: this was the first point in its summary of the bill's proposals. Mr Hurd made much of it in the Commons, pointing out that ministerial certificates were first proposed in 1978 by the Labour government. Compared to their proposals his White Paper he said was "a model of openness and liberalism". Yet until the *Sunday Times* article most people had taken it for granted that certificates, which had done so much to damage the 1979 official secrets bill, would go.

To thwart the publication of opposing views, the White Paper was kept under wraps till the last minute. To reinforce the message, the Home Office carried out an extensive programme of briefings: many editors and Lobby correspondents were spoken to privately by the Home Secretary himself. The White Paper was published at 3.30 in the afternoon. It was followed by a Commons statement which ran till 4.35pm, with a press conference at the Home Office straight afterwards. In an effort to break this briefing monopoly, the Campaign for Freedom of Information had arranged a press conference of its own, near the Home Office,

(continued on page 8)

"Essay in Openness"?

Mr Hurd's White Paper made no claim to enhance openness, stressing that its purpose was to do with the protection of official information, not its disclosure:

"The White Paper... does not... address such matters as the question of public access to official information not covered by the Government's proposals. This is a separate issue which does not arise directly out of the reform of section 2." (para. 5)

But this was not the impression given by the Home Secretary. In the Commons, on the day of the White Paper, Conservative backbencher Robin Squire asked him if he accepted the classic freedom of information premise:

"that there is a presumption in a democracy in favour of all information gathered at the public's expense being made available to the public, subject to certain, obviously, carefully defined areas, such as national security? Does he feel that the White Paper reflects that presumption?"

Mr Hurd replied:

"Yes, the white paper reflects that presumption and it moves the boundary markedly in the direction of that presumption." [29.6.88, col 379]

The White Paper in fact did nothing to create a presumption of openness. It restricted criminal penalties for leakers to six main areas. Information outside these areas — for example on education, housing, the environment — would no longer be protected by the criminal law. But it did nothing to enhance public access to this information. As the White Paper itself made clear this information would continue to be protected from unauthorised disclosure by civil service discipline, by the many specific bars on disclosure already existing in individual statutes and where necessary by civil action under the law of confidence.

But in parliament, and in speeches and articles Mr Hurd began to describe his reform in terms that suggested a Freedom of Information Act. It was:

"a notable essay in openness"

"an essay in openness which has no parallel in the history of our government since the war"

"a substantial and unprecedented thrust in the direction of greater openness"

"a charter for liberty"

"an earthquake in Whitehall"

These claims were widely reported and contributed to the impression that the new law was an open government measure, which would give the public access to large amounts of hitherto secret information.

Mr Hurd was expressly challenged to substantiate these claims. He was asked to name one additional piece of information, however small, that would necessarily become public as a result of the bill. He never replied, but after some time stopped making these claims. Simply by asserting the fact so often and so prominently he had left the impression that this was an open government measure.

government's publication deadline.

The next "leak" appeared just over a week later in the *Guardian* on June 20. The headline announced:

"Cabinet split on new Secrets law"

This piece was consistent with the *Sunday Times* story, though more specific. It said ministerial certificates were still being considered, were back-

proposals had still not been taken. Although the White Paper was now only a fortnight away the *Sunday Times* reported that:

"No final decision has been taken on whether cases will be held before a jury. Recently juries have been unsympathetic to prosecutions brought under the current act and

had illustrated.

Where had all this come from? The article cited only "government sources" and, more often, "one government source". At one point it noted that "Douglas Hurd... privately acknowledges that he expects the new bill to be the most difficult of the next session of parliament". References to

Black day for democracy

It is a deeply depressing fact that the Official Secrets Act 1989 merely replaces Section 2 of the Official Secrets Act 1911 as a piece of legislation that we are committed to campaign to fundamentally alter or repeal.

As civil libertarians we welcome the fact that some people who disclose information without authority will no longer end up in the dock at the Old Bailey, but as campaigners for freedom of information we see no virtue in the new Act whatsoever. Not one additional piece of information, no matter how trivial, will necessarily become available where it was not available before.

From the start, the Home Secretary attempted to convince politicians and public alike that this was a notable step towards greater openness. It would be "an earthquake in Whitehall". It would be "a substantial and unprecedented thrust in the direction of greater openness".

He hoped that many people would assume that because the information was no longer protected by the criminal law, that it was no longer protected at all, and unfortunately in this exercise he partly succeeded. Yet it was always a lie. And it was one of the achievements of our Campaign that after a few weeks he was forced to abandon such phrases because of our relentless exposure of their fraudulence.

From all sides he was pressed for a public interest defence. In his refusal to consider this he undoubtedly was acting under orders from Number 10. The effect has been to make it clear beyond dispute that it is the view of the Thatcher administration that the first priority of

information policy is to avoid any possibility that it can be embarrassed by the publication of information unhelpful to it no matter how much that information may be needed by the public.

The Official Secrets Act sets out to reverse the decision of the jury in the Ponting case that the interests of the public do not necessarily coincide with the interests of the government of the day. We must now hope that when a similar case comes to trial, a jury will once more refuse to accept this.

Campaign Comment

The refusal to accept a defence of prior publication means that we will continue to be made the laughing stock of the world when information about our own country is available to hundreds of millions of other people on every continent, while we ourselves are denied it.

When the Campaign for Freedom of Information was launched in 1984 we had two main objectives: the first was to achieve an FoI Act. The second was the repeal of Section 2 of the Official Secrets Act. Our objectives are altered now only in the sense that the repeal we seek is of the Official Secrets Act 1989.

We do not do so out of a sense of inflexibility, or as a knee-jerk reaction, or because whatever the authorities

do, we will be opposed to them.

We do it for two reasons, first, the Official Secrets Act is unacceptable in a democracy. It enforces secrecy as the rule, rather than the exception; it strengthens those who wish to cover up, rather than the citizen in his or her right to know.

Second, an FoI Act and this 1989 Act are clearly incompatible, and the latter has to be repealed in order that the former is possible.

The Prime Minister and the Home Secretary believe that they have finally dealt with the issue of secrecy. That they no longer need to worry about freedom of information. That they no longer need to worry about a Section 2 that they could not operate. In this, they have made a fundamental error of judgement. All of the opposition parties will commit themselves to repeal or reform of the 1989 Act in their General Election manifestos. All of those — media, jurists, politicians, and people concerned with constitutional reform — who have criticised and campaigned for reform of Section 2 in the past, will be just as committed to repeal or reform now.

The debate on the Act is now over, but Thatcher and Hurd could not have got it more wrong. They have created a piece of legislation that runs contrary to what is happening in every other democracy in the world. We could export the 1989 Act to any banana dictatorship in South America and they would be happy to enforce it exactly as it is. What a triumph for a Prime Minister who claims to set such store by freedom and democracy.

Access to Personal Files

Medical Records — Govt. plan inadequate

The Department of Health has published a draft code of practice, agreed with the British Medical Association, to encourage doctors to let patients see their medical records. The code says doctors should normally meet patients' expectations for information by full discussion, but that if they are dissatisfied with this, patients "must be allowed to see information recorded about them". The Campaign is critical of several key elements of the draft code.

Firstly there is no mechanism for enforcing the code. If doctors refuse to give access because they believe the patient has no business seeing what they write — which is currently many doctors' attitude — there is nothing the patient can do.

Secondly, the code will only apply to information recorded after its implementation date; and it will only allow people to see information about specified consultations or "episodes of treatment". It will not be possible for a patient to review his or her full medical history over a period of time.

Existing rights

The proposals will introduce further inconsistencies to an already confused area. Statutory rights of access already exist under 3 different laws:

- If your medical records are held on computer, you have a right to see them under the Data Protection Act 1984.
- If your GP sends a report on your health to an insurance company or your employer you can see it under the Access to Medical Reports Act 1988. But if your doctor writes to another doctor about you, you have no right to know what is said.
- If your GP writes about you to a social worker, or the council's housing department you can see the letter under the Access to Personal Files Act 1987 (which opens up social work and housing records). But your records

in the doctor's surgery remain closed.

(All the above Acts contain exemptions. For example, they allow information to be withheld if the doctor believes it could cause you serious harm.)

The limitation on access under the proposed code is unnecessarily restrictive and in some respects anachronistic compared with existing rights. A right in law, is the only way to prevent doctors who don't like the idea resisting disclosure. The most obvious way forward is to extend existing rights to cover ordinary medical records.

The case for access

Opinion polls show overwhelming public support for a right of access. A 1987 survey found that 86% of the public thought people should always or usually have the right to see information held on them by doctors.

Access would allow people to learn more about their health, and discuss their condition with the doctor on a more equal basis.

Yet patients often don't get even basic information. A 1986 study found only half of patients referred by their GPs to a consultant knew the reason for the referral, even in general terms.

This is one reason why many patients don't turn up at hospitals after being referred, or don't follow the medical advice they are given. Moreover, some doctors seem to believe it is better not to tell patients too much about what is wrong, even where a more informed patient might be better able to help him or herself.

A London GP wrote in 1985: "I wonder if many patients really want to hear the truth. Does the woman with osteoarthritis of the knees want to know that the pain and suffering of her joints are due to her being too fat, and unless she takes off surplus pounds no one can help her?"

"A famous consultant at my local teaching hospital used to tell his students 'No patient

should be made unhappy by having seen the doctor'.

"... many patients live lives of quiet desperation. For them the truth can be very painful and surely it is better for the doctor to help his patients' lives to be more bearable, rather than making people feel guilty for their disabilities..."

[Letter to Guardian, 13.4.85]

Open records would make it easier for people to find out about their condition in the face of doctors who believe that any disclosure is likely to provoke uncontrollable anxiety.

A doctor who examined his own notes cited the following as "alarming or worrying comments" that might need to be withheld from patients: "very high" blood pressure, "chronic hypertension"; "unequal pupils? cause", "there is an element of mystery about this patient's attacks" and "I do not understand the cause of these symptoms... I do not know what is going on here". [Lancet, 7.6.86, 1316-18]

Access would have many other advantages. It would make it easier to detect and correct mistakes — repeated studies have shown that medical records can be very inaccurate. Access would also be a safeguard against unfair personal comments that sometimes appear on medical notes.

Allowing people to have copies of their records would make it easier for patients to explain their medical history to a doctor who didn't know them. Seriously ill people could keep a copy at home in case of an emergency visit by a doctor from a deputising service. And people could take a copy with them when they went on holiday or moved to a new practice. At the moment it often takes several months before the new doctor receives patients' notes through the system, and in some cases the records never arrive at all. In 1986 a doctor was fined for having indefinitely held on to the records of more than 100 patients who had moved off his list. [Pulse, 20.9.86]

Access "improves patient doctor relationship"

Some doctors do allow patients to see their records — and find the results positive. Dr Alan Melville, a Fife GP, monitored the response of patients who were given their records when they arrived at his surgery and invited to read them and discuss the contents with the doctor. Nearly all (94%) read their records. Of these the vast majority, 91%, though access was a good idea; 83% said it helped them understand their medical condition and 58% said it improved their relations with their doctor.

A small group were given both the full record and a summary of it. The summary was more widely understood, but not as effective in improving patients' relationships with the doctor.

Dr Melville disputes the view — expressed by the leader of the British Medical Association's consultants' committee — that only middle class patients want access. He says his study "refutes this

opinion as most of the study patients were in the lower socio-economic groupings, with a background in coal mining."

Nor does the study suggest that access would prove extremely time-consuming. (At a 1986 conference a surgeon claimed the effect would be so bad as to produce "a doubling in surgical waiting lists".) Dr Melville, found the average time spent on questions about the records was 10 seconds per patient.

He concludes that "Within a general practice setting, an adult to adult relationship is the most productive one in obtaining patient trust and compliance with treatment. This requires a free exchange of information, which is aided by giving patients access to their medical records. Around 90% of patients in this practice wish this to happen."

Health Bulletin, 47/1, January 1989, 5-8

"Why I wanted to see my medical records"

"About a year ago I was feeling acutely stressed and decided that a consultation with a psychiatrist might help... Not knowing any other way to obtain a consultation... other than through my GP I asked to see one, and agreed to do so privately because (a) I would be offered an appointment sooner and (b) I would be given a lengthier hearing initially..."

"As expected the psychiatrist did not want me to receive medication, but I agreed to a series of psychotherapeutic sessions, in some of which my wife was included with her consent."

"I was appalled to hear from the psychiatrist at the end of these sessions that he had written at length about me (and my wife) to the GP and I must confess I regard this as a total breach of confidentiality without my consent. My wife and I have asked to see this letter, and it has been refused by the GP and the psychiatrist wrote angrily... to say the letter was confidential. In some ways this leaves me with almost as many problems as those with which I began! And perhaps further complicated by not knowing what has been said about me. (I would add that I did not seek to discuss this possibility with the psychiatrist initially in order to avoid being 'labelled' paranoid at the beginning.)"

"In discussion with the GP who similarly told us nothing of what was in the letter, he agreed that it should be sealed within my medical notes. On a subsequent visit he has agreed to destroy the letter after telling me the letter belonged to the Secretary of State... and also telling me the copyright belonged to the psychiatrist, and also that by destroying the letter he was committing an illegal act. The psychiatrist agreed the letter could be destroyed, although the GP was free to transfer any of the information it contained."

"My complaint is that I was written about at length without permission (that's the system so I'm told), and more important I am not allowed either to be told or to see what has been said about me. As one of the psychiatrist's summaries in a final session with me was, I considered, so wide of the mark, I have good reason to suppose that things have been written about me which are misleading. If the letter had not been destroyed it would have remained with my medical notes for people to see over the subsequent years..."

Letter to Archy Kirkwood MP in support of his efforts to open up medical records

The Kings Cross Fire

Secrecy hides safety failures

Lack of accountability and excessive management secrecy were key factors in the Kings Cross fire according to Steve Norris recently re-elected as Conservative MP for Epping Forest and Co-Chairman of the Campaign for Freedom of Information.

Speaking in a Commons debate on *The Fennell Report* on the Kings Cross fire on April 12 Mr Norris said:

"Management style and the management of LRT are crucial to the King's Cross disaster... there was not a proper process of accountability which brought the seriousness of the issue sufficiently to the attention of senior management..."

"... how one would make that accountability work would be to ensure that public interest and indignation was raised by the clear indication of unsatisfactory safety practices, which would force the management of the day to take them on board and do something about them."

Mr Norris compared Kings

Cross with the Bradford city fire and the Zeebrugge ferry disaster. In each case "there was evidence that they might occur, but management, because of secrecy and privacy, was able to get away with going nothing about it."

The only way to prevent future tragedies was to insist on greater accountability via a comprehensive freedom of information Bill: "the healthiest part of an open society is that it improves the accountability of those who work in the public

access to information for the public on all aspects of safety arrangements."

Chris Smith, Labour MP for Islington South & Finsbury and a member of the Campaign's parliamentary advisory committee called for a government commitment to openness, disclosure and public access.

John Prescott Labour transport spokesman, spoke critically of the management ethos within LRT and London Transport which prioritised

"I view with dismay the suggestion that information gained by a statutory authority which has a bearing on the safety of the public using a system for mass transportation should not be made publicly available. The travelling public have a right to know about the safety arrangements made by transport operators and the safety of places in which they habitually gather."
The Fennell Report, Chapter 19, para 21

ed economy and efficiency at the expense of safety: "all the areas where LRT was saving money were contributory factors, which meant that people's efforts to deal with the tragedy were inadequate."

MPs of all parties highlighted the report's call for improved rights of

Secrecy and human error

A recent study of human error in industrial and transport accidents by the University of Surrey's psychology department links management efficiency drives with a likely increase in error leading to accident.

Researchers found that workers may come to ignore safety procedures and cut corners to maintain production even if this is not what the management are looking for. According to head of the psychol-

establishes, rather than solely the result of individual error of judgement. One way of decreasing the likelihood of error is to open up channels of communication within an organisation and increase accountability at all levels.

More accountability

"A lot of errors have their origins in the social situation in which people find themselves. You need changes in how people deal with each other, how much they communicate, and how open and accountable the organisation is. You need constant restatement of the consequences of neglecting safety."

"Where the stated goals are efficiency and productivity, and information about how things work is kept secret, you get the sort of thing which happened on the Underground before Kings Cross. There was no public accountability, and the workforce was getting the message that all that counted was cost savings."

LAURA THOMAS

The Lobby system

"The best interests of our readers"

"Journalists — all over the democratic world again — do, of course, talk to single sources (politicians, civil servants like Mr Ingham and the rest) and put anonymity on the table in return for information. There is no reform that can address that; nor, when journalists are responsible, is there a case for reform. But the lobby system poses a different challenge. Twice a day . . . the Prime Minister's Press Secretary holds meetings that 'do not take place'. Information there can be used (that is published) but not attributed. So readers who examine more than one paper may often find the same basic story asserted as fact in all of them, without any clear signal where the 'facts' came from. Colleagues of Mrs Thatcher — like Mr Peter Walker — may suddenly be pronounced disloyal or unreliable. The Prime Minister may seemingly be poised for some great initiative . . . which catches headlines for a day, without any action flowing in train. There is all the scope in the world for manipulation at summit time when Downing Street accounts of an unflinching, embattled Premier driving feckless, feeble European leaders to triumphant compromise are the only interim information in town . . .

"Why has it all gone on for so long? Because the concept of a club naturally seduces club members. Because it suits politicians in power, who can float ideas and then renounce them if flak flies. Because, in short, it has been convenient. Such convenience, no doubt, still exists. But now it is far outweighed in our minds by public distrust of the system, of the words on paper at the end of the day; by the growing distaste of journalists for the uses of the rules of the game are put to — some of them straightforward political vilification; and by the broader issues of accountability which surfaced starkly during the Westland Saga as secrecy and manipulation and non-accountability mushroomed out of control."

Guardian editorial, 25.9.86

"Lobby briefings are a symptom of Britain's secretive style of government . . . The system is wide open to abuse. Ministers, above all the prime minister, can use it to knock their colleagues. They can hint at new policies, to test the water — and then, if it proves too hot, deny, without fear of contradiction, that they had any change in mind."

"Does it matter? Whatever system a government uses to make its views known, there will also be off-the-record chats and winks and nudges. And, after all, lobby journalists are not fools; they know as well as anybody that politicians bend the truth. Yes, but they are not saints either. For them, lobby briefings provide not only a high-up source of news but a con-

venient one. The public might be better served if journalists had to dig to find out what the government was really thinking but did not dare to admit in public . . .

"While the lobby survives, we think it would be a disservice to our readers to stay away. But we too would prefer a more open system."

Economist editorial, 25.10.86

"The really useful stuff is the day to day business. He [Ingham] would tell you which Cabinet committee had met, which planted questions would get priority, and provide information which would help anyone in the morning plan the day. He would also hint what had come up in Cabinet . . . What he doesn't tell you is all the nasties he's slipping through . . . He would try to do this every day if there was anything embarrassing to the government . . . Now I'm outside you have to work much harder but you're more appreciated by MPs. If they see you trying to follow things through you get a better response from them. MPs generally resent the lobby because they're left out in the cold. They have a low view of lobby journalists because they see them as being spoon fed and not having to bother to talk to anyone and they resent that."

David Hencke, political correspondent, Guardian.

"It is not with any intention of striking a great political gesture, or of challenging the might of Downing Street, that we have decided to take *The Scotsman* out of the Downing Street lobby system. It is simply that we feel it no longer serves the best interests of our readers . . .

"Most intelligent readers — which includes all subscribers to *The Scotsman* — know perfectly well that there is a system of unattributable briefings given by the Prime Minister's Press secretary on a daily basis. Its existence has been acknowledged sufficiently often for it to be dishonest to maintain the fiction. And since it no longer enjoys support from all the Press, it has been deprived of its unchallengeable authority."

"It has usually been argued that — good or bad — the lobby system was an essential conduit of information, without which the reader would be at a disadvantage. But in the end it seemed to us that the opposite was true. Deprived of the ability to reveal the source of mainstream political news, we were unable to put it properly into perspective."

"Now, however, we can offer better guidance to the frequently contradictory messages to be picked up in the corridors of power."

Scotsman editorial, 11.1.89

Selling the Secrets Bill

... continued from page 6

timed to start 5 minutes after the end of Mr Hurd's. But by the time the journalists left the Home Office it was 5.15pm, deadlines, were pressing hard, and most journalists rushed straight from the Home Office to their desks, without stopping to hear any other view. This stage management paid off handsomely. Mr Hurd's interpretation of events was a leading theme of most of the press coverage the following day.

The *Times* is a good example: "The Government took the wind out of the sails of both the Opposition and its own rebel backbenchers yesterday with proposals for reform-

ing Section 2 of the Official Secrets Act."

"Mr Douglas Hurd, the Home Secretary, described the proposals as 'a model of openness and liberalism'."

"The long-awaited White Paper, published yesterday, appeared to be far more liberal in tone than expected . . .

"Mr Hurd . . . announced that he had rejected the idea of giving ministers sole authority to decide whether . . . information would be harmful. Instead of ministers signing a certificate . . . it would be left to the courts to decide, he said. Even the *Guardian's* report said:

"Mr Hurd sailed through his lengthy question period [in the Commons] in the knowledge that he had produced a much less repressive plan than expected. He dismissed talk of a row with Downing Street, but Conservative MPs last night regarded the tone of the paper as evidence of a substantial personal victory."

The *Independent* editorial though critical acknowledged that "Mr Hurd has produced ideas which are more liberal than had been anticipated." And a welcoming editorial from the

Financial Times called the proposals: "a tidying up exercise with a slightly liberal bent".

So had Mr Hurd really defeated Mr Thatcher in a last minute fight to liberalise the proposals? Or had he, as seems more likely, planted a deliberately false trail to raise fears about ministerial certificates, solely in order to claim credit for dropping them?

Ironically, the moment he achieved his objective the press leaks started to tell an entirely different story.

Two days after the White Paper *The Times* reported an unidentified "senior Whitehall source" who specifically rebutted the idea of a last minute Hurd-Thatcher fight over certificates.

The piece appeared on July 1 1988 under the headline: "Secrets reform change agreed to last year". It said:

"The Prime Minister personally approved the main elements of the Government's plans for reforming the laws on secrecy nearly a year ago, according to a senior Whitehall source yesterday."

"The insistence that Mrs Margaret Thatcher had all along supported the proposed changes belied persistent reports that the Prime Minister and Mr Douglas Hurd, the Home Secretary, had been at odds over the reforms."

Mr Hurd himself was asked when the decision on certificates was taken: his denial that there was any last minute discussion about it rings true. He told the Commons. "Having reviewed all the arguments . . . we came to the conclusion some time ago that the game was not worth the candle."

But the game that was worth playing, was the one with the press. And as the results showed, Mr Hurd was the clear winner.

Lobby undermines media

... continued from page 2

because they know that their competitors will write it, and rather than offer long explanations to the newsdesk when the phone rings at midnight, they find it easier to write the story now."

Anthony Bevins, political editor of the *Independent* also cites journalists' fear of not getting the story everyone else has as one reason why the Lobby persists:

"The Lobby provides a perfect formula to meet a number of fundamental weaknesses in contemporary British journalism. Basically the cowardice of the midnight call; that of writing stories that other papers have got even if they are unsubstantiated or downright false . . . Some papers pick up stories from others without checking at all. It is part of the system that if Bernard Ingham is saying something in the Lobby and all your colleagues are reporting it then you have to report it otherwise you get called up at midnight saying — all the other papers have got it, why haven't we? . . . The Lobby is a crutch for crippled journalism."

Some journalists believe that criticism of the Lobby tends to overstate its importance. They say that conscientious journalists don't rely on the briefings except for practical guidance on the day's parliamentary business and forthcoming events; they get their real stories from personal contacts built up over many years. They say that as far as the guidance itself goes it would simply not be feasible for Downing Street to provide it to each newspaper individually; and that without collective briefing the provincial press — who couldn't expect to build up the same level of personal contacts as the major nationals — would be left behind. These are fair points: but they all could largely be met by transforming Lobby briefings into on-the-record press conferences.

Another argument is that if the Lobby was really used to mislead the press with any regularity it would soon lose all credibility, and be ignored by journalists. This is true in theory; but journalists do not expect absolute accuracy. They have to produce their copy every day, working against tight deadlines: they will tolerate being off target a certain amount of the time — particularly if they know their competitors are equally at risk. According to Peter Kellner, the great and compensating attraction of the Lobby is that it provides regular copy. It is:

"a marvellously economical and inexpensive way of filling up columns of newsprint. Ninety per cent of the time the stories are true, though perhaps inequitable in the amount of detail. Ten per cent of the time the stories turn out to be wrong, or only partially true, because the journalists are being used. But on the whole, journalists accept that as the price they pay for having access to this cheap, easy, undemanding, well-organised way of the government presenting information." [Parliamentary Affairs, 36(3) Summer 1983, 275-281]

The real failure of the Lobby system is that it does allow itself to be used, and it knows it. It is no secret that the Lobby is there for Ministers — as Mrs Thatcher's former Cabinet colleague James Prior put it — "to plant any stories or information he wishes in the knowledge that his name will not be mentioned". (*A Balance of Power*, 1986).

The three papers that are out of the Lobby say that have lost very little — but have gained some freedom. They are no longer required to exclude all references to Lobby briefings from what they write but can now report on them

as an element in the political process, worthy of comment in itself.

For example, Andrew Marr, *The Scotsman's* political editor recalls that on December 16 1986 at the height of the salmonella in eggs controversy, he listened as the Health Minister David Mellow answered MPs' complaints that details of the egg compensation scheme were being leaked to the press before being announced in Parliament. "He told the Commons, using the phrase 'on my honour' or something similar, that there would be no briefing to the press before MPs were given a full statement on Monday", recalls Andrew Marr. "I was aware that as he was speaking, 150 yards away the Lobby was being briefed on the subject. But as a Lobby correspondent I couldn't report that."

One consequence of the papers' withdrawal from briefings is that they will now not hesitate to publicise its use to denigrate political opponents. The most damaging attacks in fact have been directed at Mrs Thatcher's own Cabinet colleagues. When in 1986 John Biffen suggested that Mrs Thatcher should enter the next election with "a balanced ticket", reflecting a wider spectrum of views than her own, he was unattributably denounced in the Lobby as "a semi-detached member of the government" whose remarks "did not have to be taken too seriously".

When Francis Pym expressed some gloom in a 1982 speech about the economy Mrs Thatcher stood by him in public, praising his "excellent speech". At the same time Bernard Ingham was telling the Lobby that Mrs Thatcher was "dismayed" by it. He blamed Mr Pym's "natural pessimism" and likened him to the wartime radio figure Mona Lot, whose catch phrase was "its being so cheerful that keeps me going".

The Lobby was used to try and distance Mrs Thatcher from the humiliating consequences of the government's defeat over Spycatcher in the Australian courts. It was suggested that the decision to launch the spectacularly unsuccessful legal action had been the personal responsibility of the then Attorney-General, Sir Michael Havers — a suggestion which he hotly denied.

The criticism of the Lobby is that it permits this kind of material to go out, without holding the source in any way accountable. Briefers are given the freedom to puff up their reputations with untrue stories, float rumours about their political prospects, suggest that dynamic new initiatives are imminent, rubbish the efforts of their Cabinet rivals, and test out risky ideas unattributably knowing that they can take full credit if they are acclaimed but accuse the press of fabrication if they flop. The system feeds us this information instead of filtering it out or insisting that those who wish to be reported go on the record.

At root is the indiscriminate use of non-attribution. Journalists should be using information anonymously only sparingly. They should accept information on this basis only where their source would genuinely be at risk by speaking on the record, and where there is a public interest in enabling the point of view to be expressed. If a Minister's job may be at risk by disclosing an honest account of what is taking place inside government there is obviously a case for printing the account anonymously. But the Lobby does not restrict its protection to those who need it. They offer it indiscriminately, to the powerful as much as the vulnerable. It becomes an open channel, available to anyone who can provide usable copy, rather than a carefully controlled conduit to ensure the expression of truths that would otherwise be suppressed.

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