

EDITOR'S NOTE: At the 1986 A.G.M., the Friday evening session was given over to discussion of issues to do with freedom of access to information. Two of the three talks scheduled are reported on here; the speaker for the third, on the Freedom of Information Campaign, was ill; to fill the gap, I have found an article by Des Wilson published in Sanity 1984, the year of the launch of the Campaign.

ACCESS TO PUBLICLY- FUNDED RESEARCH AND STATISTICS

Roger Jowell, SCPR, City Univ., London N.1 (as reported by Jeff Evans)

In this area, there is often a divergence of official interests, from those of the public. For example, in the case of the recent changes in the unemployment statistics, we should ask: would these changes have been made, if they had increased the level of recorded unemployment? In this case, it appears that the political considerations of party-political advantage outweighed the statistical ones of continuity in the series.

Just as official statistics and research results reflect official concerns in the selection of what will be produced, published, etc. - so they do in their interpretation (see Neil Stewart's paper for further on this point.) What is needed to make the statistics more accessible to the public, argued Roger, was more discussion about what they mean - rather than debates about whether they are "correct" (as occurs often in debates about unemployment - see John Lintott's piece in RS 26 - Ed.)

Roger's recommendation, or aspiration, was for official statistics (and research reports ??) which were understandable to everyone, not only ministers - based on assumptions which hide nothing. There are at

least two problems, however:

(i) the constitutional principle that civil servants are gov't not public, employees. Hence official statistics are collected, not for public use, but for gov't business (and Rayner claimed: not even for general parliamentary business!) Thus statistical publications are sold to break even.

(ii) the ethos of secrecy: Rarely in the last 20 years was this used to cover statistics and research, but recent research contracts have included the restrictive proviso that the Secretary of State may restrict publication "in the public interest"; what this may mean, of course, is in his/her own - or party's - vested interest.

There is another important dilemma: that between access to info. and privacy as is supposed to be protected by the Data Protection Act. (This dilemma is often confused with that between openness and secrecy.) The DPA may be used as an argument against archiving data for public availability - as individuals - and perhaps individuals - might be identified.

Roger left us with several issues to think about:

(i) How long should confidentiality for officially-collected data be offered?

(ii) What types of official data, currently "protected" by secrecy, should be released? e.g. info. on Sellafeld discharges?

There appears to be evidence from studies of certain states of the U.S. that the more official secrecy, the lower the quality of official information. A timely warning for the U.K.?

ARTICLE FOR RADICAL STATISTICS.

NEIL STEWART. PARLIAMENTARY LIAISON OFFICER,
ROYAL COLLEGE OF NURSING.

Radical statistics recently sponsored a meeting on Freedom of Information to express concern at the way in which the government are selectively using material prepared by government statisticians and in many cases are sitting on information which has been produced in statistical form or in report form.

It has been long recognised that politicians can use and abuse statistics to their own ends using them selectively for support of whatever case they wish to put forward.

The trend has become apparent with this current government that it is not just the use that is made of statistics but also whether those statistics are ever published in the first place. Thus the theme of "Freedom of Information". If all the statistics could be published then good and true statisticians could see them and the government would be exposed to the harsh light of public scorn.

I spoke at that meeting taking a wider view than that of a statistician - which I am not - or of a supporter of greater freedom of information, which I am.

I believe that whether you are a statistician, a journalist a politician or a parliamentary lobbyist like myself we all have a common interest in protecting a "chain" that starts with curiosity and ends with greater public understanding. I am careful to avoid the word truth.

The links in that chain start with curiosity. Curiosity on the part of an academic or a politician but a desire to know more about a subject. A research project is drawn up, usually by an academic. The resources are sought or approved. A public figure may be nominated to write the report. The report will be presented to the minister who will then usually have discretion about whether to publish it or not and whether or not to publish all the evidence on which it is based. It will then go public via parliament or press statement and into the arena of news management. It will be debated and may or may not be noticed by the public and the politicians outside that narrow circle interested in the subject.

This is a long chain which can be interfered with at any point and can break at any point. So even if we had full publication of all government statistics it would still be relatively simple for a government determined not to be embarrassed to prevent the information getting out.

This government took the first step with the Rayner Scrutiny. It simply stopped collecting much information which could not be justified in terms of cost. Secondly that information which it does still collect will now be circulated in such low

numbers as to fail to reach many of the independent researchers or academics. Some of it has been made so expensive as to limit access to it dramatically.

In the NHS we have a variation on this where certain information is now only produced on disc which is then used in new technology. If a voluntary organisation or a Community Health Council do not have the compatible technology they are effectively excluded from that information.

But there is a more sinister pressure to be seen in the control of research sponsorship. The research councils have been dramatically cut, none more so than the Social Science Research Council. This has in turn put pressure on primary researchers to gear their projects to those things in which the government is interested. In short it is easy to see the way in which the government have even managed to influence the "curiosity" of researchers and therefore the projects they draw up.

The annual exercises by the Treasury are another case in point. Here we see quite deliberate retention of key parts of the economic jigsaw so that opposition parties are not able to see the assumptions upon which the government have made their prediction.

But even if we protect curiosity, provide the funds for research, appoint independent people to write the reports, faithfully put them out into the public arena there is still much that can be done to deny public understanding. We are seeing a decline in our standards of public conduct towards information which governments feel is unpalatable. The worst case recently was that of the House of Lords Report on the state of British manufacturing which compiled a damning set of statistics and material criticising the government's record. The way in which the chancellor and the Trade secretary employed all the methods of news management to muddy the waters around that report represented a sorry low point in the respect which ought to be shown to good verifiable information in which all should be interested.

It seems clear that we have come to the end of an era which can be traced back to the middle of the 19th Century at which points governments of all complexion determined that they should know as much about the social condition of the people as was reasonably possible, even if that was not always complimentary to the government of the day. The same was true in the 50's and 60's whatever government was in power.

It is only recently that we have seen the re-emergence of the idea that statistics and the collection of information on which judgements can be made is fair political game and can be treated with contempt.

So while freedom of information might alleviate the current frustration which many statisticians and researchers feel I would argue that they would still not be safe from politicians determined to maintain public ignorance. They can tamper with any part of the chain and therefore it is in the interest of all to protect the chain at every link and to promote the return of higher standards in political life.

CAMPAGNING FOR FREEDOM OF INFORMATION

Des Wilson

January 5th this year saw the launch of the Campaign for Freedom of Information. On the same day, the Prime Minister attempted to slam the door shut with a letter to the Campaign to say she was unsympathetic. She then ordered the Cabinet Office to tell civil servants that they could not even discuss the information issue with the Campaign. Her excessively secretive approach soon spread to the ranks: Friends of the Earth had its office raided by the Special Branch. My fellow contributor to this issue, Duncan Campbell, fell off his bicycle and suffered not only injuries but a seven-hour search of his home by Special Branch officers. Finally, a 23-year-old Civil Service secretary, Sarah Tisdall, was imprisoned for six months for unauthorised disclosure of a document that the courts were told did not endanger national security. All of this happened in the name of Section 2 of the Official Secrets Act, a piece of legislation discredited as far back as 1972 by the Franks Committee.

Information and power are inter-related, and the Prime Minister had clearly indicated she had no wish to share either. She has proved that secrecy is the cause of the powerful, and access to information the cause of everybody else.

Of all democratic countries in the world today, Britain is probably the most secretive. That secrecy is institutionalised by the Official Secrets Act. Section 2 of this Act, in the words of the Franks Committee, "catches all official documents and information. It makes no distinction of kind, and no distinctions of degree. All information which a Crown servant learns in the course of his duty is 'official' for the purposes of Section 2, whatever its nature, whatever its importance, whatever its original source. A blanket is thrown over everything, nothing escapes."

In addition to the Official Secrets Act there are over 100 statutes making the disclosure of information by civil servants or others a criminal offence, and as well as this legislation, there are civil service rules and a classification system based on an implicit assumption that virtually all documents fall within one of four classifications: Top Secret, Secret, Confidential, or Restricted.

Reinforced by these laws and regulations, secrecy has become a disease that has spread from Whitehall to envelop local authorities as well as national authorities, other statutory bodies and quangos, nationalised industries and private commerce. It is a disease that has its roots in the cynical practice of power and it undermines the health of our democracy.

This disease has been diagnosed by many influential individuals and committees of enquiry in the past.

In 1968 the Committee on the Civil Service, chaired by Lord Fulton, reported that "The administrative process is surrounded by too much secrecy. The public interest would be better served if there were a greater amount of openness."

In 1972 the Franks Committee reported on the Official Secrets Act that "Its scope is enormously wide. Any law which impinges on the freedom of information in a democracy should be much more tightly drawn."

In 1977 the Royal Commission on the Press reported that "the right of access to information which is of legitimate concern to people, parliament and press, is too restricted, and this, combined with the general secrecy in which government is conducted, has caused much injustice, some corruption, and many mistakes."

In 1979 a government Green Paper admitted that "Administration is still conducted in an atmosphere of secrecy which cannot always be justified." It stated that "The catch-all effect of Section 2 of the Official Secrets Act is no longer right."

The price we pay for secrecy cannot be over-stated. The imbalance in access to information between governors and governed in Britain is of such size and scope that it seriously undermines the health of our democracy.

- The sources of power and influence are obscured.
- Public servants are not properly accountable.
- Public participation is seriously hampered.
- Detailed debate about policy isn't possible.
- Justice is often not seen to be done
- Inefficiency and error are made more likely.

Let's be clear that Section 2 is not the cause of secrecy in Britain. The cause is the desire for secrecy of those in power. Nevertheless, Section 2 institutionalises that desire. As the Franks Committee said: "It was designed to impose a much tighter grip on all unauthorised disclosure of all kinds of official information... Its effect is to throw a blanket over all documents and information held within the bureaucracy, with no distinction of any kind."

The Sarah Tisdall case demonstrated how it is used to cause fear within the civil service.

The Campaign for Freedom of Information condemned the sentence on Ms Tisdall because it does not

believe Section 2 should be used - it should be repealed. This is what the Franks Committee recommended. This is even what the present Attorney-General, Sir Michael Havers, and the present Home Secretary, Leon Brittan, said when they were in opposition. It is a widely-condemned piece of legislation and the case for its repeal is so substantial that its use is absolutely unacceptable in any circumstances.

Further, leaks of this kind simply should not be subject to criminal prosecution. It was made clear that national security was not endangered. Leakers of other information should be answerable to their associates and to the public, and at the most dealt with by internal disciplinary procedures.

Ms Tisdall was denied the opportunity of a public interest defence and thus had no option but to plead guilty. Under Section 2, all the prosecution has to do is to prove disclosure. Motivation is irrelevant. Legislation proposed by the Campaign for Freedom of Information would define those occasions when leaks can be justified in the public interest, and leakers would have the opportunity to employ that defence both in internal disciplinary proceedings and in court cases.

The United States, Canada, Australia, New Zealand, and a variety of continental countries already have freedom of information legislation. The importance of the three Commonwealth countries is that they operate a Westminster-style form of administration, and have demonstrated that this is not inconsistent with freedom of information.

Let me be frank about two points: whatever we achieve it will probably be less than we would like to see. We have to acknowledge that when we campaign for freedom of information we tackle power itself, and if we are completely uncompromising in what we demand, there is no way we will win.

In the United States they reformed their Freedom of Information Act after five years, to make it more effective, and we may have to accept a similar programme in Britain. Furthermore, our campaign accepts that an element of confidentiality is necessary. Our aim will be to restrict it to the minimum and thus to move the burden onto the authorities to prove the need for secrecy, rather than on the public to prove their right to know. Is this too modest a set of demands? I do not believe so, for we have to make a start, we have to achieve what we can, and above all we have to break the tradition and habit of secrecy and if pragmatism is needed to do it, pragmatism we will offer.

I believe this to be a cause second to none, other than peace itself, for if we achieve greater freedom of information, so many other causes will be easier to win.