



House of Commons
Public Administration
Select Committee

Whitehall Confidential? The Publication of Political Memoirs

Fifth Report of Session 2005–06

Volume II

Oral and written evidence

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The current staff of the Committee are Eve Samson (Clerk), Clive Porro (Second Clerk), Lucinda Maer (Committee Specialist), Phil Jones (Committee Assistant), Sue Holt (Secretary) and Louise Glen (Senior Office Clerk).

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Memorandum by The National Archives

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Oral evidence

Taken before the Public Administration Select Committee

on Thursday 17 November 2005

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Julia Goldsworthy
David Heyes
Kelvin Hopkins

Mr Ian Liddell-Grainger
Julie Morgan
Mr Gordon Prentice
Grant Shapps

Witnesses: **Lord Wilson of Dinton, GCB**, a Member of the House of Lords, and **Professor Peter Hennessy**, FBA, Queen Mary, University of London, examined.

Q1 Chairman: I welcome our witnesses this morning: Lord Wilson, a former Cabinet Secretary, and Professor Peter Hennessy, man about town. It is good to have you both together. Primarily, we asked you to come and talk about the issues of memoirs that we are having a look at. We started looking at it before the most recent controversy but it shows that it is sensible to do it. Because we have got you, we would like to ask you about the other inquiries that we are doing at the moment too: one is broadly on the area of ethics and standards in government; and one on the minister-civil servant relationship. I hope you do not mind if we touch on a number of areas, even though we shall start with memoirs. Do either of you want to say anything by way of introduction, or shall we just fire off?

Professor Hennessy: Briefly, Chairman, may I explain this piece of paper I brought from the National Archives, which everybody has, because I think it illustrates the kind of ecology of expectations in that generation, this is 1970, about when you should publish, who should publish, the rigmarole you should go through before you publish, and the degree to which it is a world we have lost since 1970. Ted Heath has just been Prime Minister for less than a month; Mr Macmillan's memoirs arrive rather late and there is not enough time to read them. This is a volume *Riding the Storm* covering 1956–59—this is Richard's predecessor but four, I think—Sir Burke Trend apologising for bothering the new Prime Minister with this, but he is very alarmed, you see. The bit I would draw your attention to is in the middle of the big paragraph on the first page: "It is—needless to say—a very attractive work; lively, interesting and very informative. Nevertheless, it comes dangerously near to being 'contemporary history'..." This only went up to 1959 and it was 1970. He warns Ted that he might have to be called in aid to calm Harold down. Macmillan, as ever, is hilarious. He says he is due to see his publisher, and so can they get on with it. He was the President of Macmillan Publishing. It was an elaborate joke really. Five years after this, and I know Richard is

going to be the guide on this, the ecology changed dramatically again with the *Crossman Diaries*, which the then Cabinet Secretary had to go to court to try to suppress and failed. And the Radcliffe guidelines, which everybody seems to have forgotten about—emerged from those: the 15-year voluntary reticence on both of the parties to the governing marriage, officials and now ministers, and now it has completely changed. I think that has to do mainly with the very scratchy relationships, scratchier than I have ever known it, between the partners to the governing marriage, officials and the ministers, and the third party in that marriage, the special advisers, but no doubt we can come to that later. I thought if we started with this, it would show you the degree to which expectations change over 30 years, almost completely.

Q2 Chairman: It is a fascinating text. The Committee has just had circulated to it also the letter from the present Cabinet Secretary, Gus O'Donnell, to the publishers of Sir Christopher Meyer. It is very interesting to compare these two texts, just to show us the time that has elapsed between these two moments. Peter, I want to ask you this to start with. You have lived on both sides of this divide, have you not? You have been the person who has sniffed around Whitehall giving these secrets out as a journalist that people did not want to tell you. I often tease you that your main reference in your books is always called "private conversation". You have been the great sleuth digging all this stuff out, and then you have become this very distinguished historian of these things. When this memoir, this stuff, comes out, I want to know which side you are on really.

Professor Hennessy: It is fascinating but of course I love it on one level; there is nothing better. It brings harmless joy to the reading public, serialisers of Sunday newspapers, my old friends sitting on that bench there, even humble contemporary historians and their students. On the other side, in another bit of me, I think you have to have a pretty high level of trust between the partners of the governing marriage. If you do not, you are going to have

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serious trouble across the whole of the piece. I have one or two thoughts, which I can come to in a minute, if you like, about what the new Radcliffe settlement might be in today's circumstances, because you have to start where reality is. Let me do something historians are not meant to do, leap forward. I have a feeling that when this Prime Minister has finally gone to the Valhalla of the failed—that is a bit unkind, the Valhalla of the departed—his Press Secretary, Alastair Campbell, will publish his diary, and that will be the equivalent of an archduke being shot in Sarajevo in July 1914. It will be the opening salvo of the most ghastly mobilisation of most wonderful exchanges of competitive memoiring. People will have touched the acid keyboard in anticipation of that. I have a slight suspicion—my old friend on my left here may confirm this or not—that in anticipation of that day, people have got defensive bits of paper of their own ready to put out. Geoff Mulgan, who is a very considerable figure, in a very good radio programme on Number 10 and all that, recently said how corrosive it was to have the knowledge that Alastair Campbell is in the meeting with the diary going that night. I think there is a lot of defensive preparation there, and it will be like 1914. Timetables will be mobilised. There will be the most enormous clash and you will have to reconvene. You have this glorious opportunity, I know you get fed up when I tell you this, to save the British Constitution, but you are all we have got left really. Parliament, through you, has the opportunity to get to a new settlement before the equivalent of the Great War that Alastair Campbell's diaries will stimulate, so go for it.

Q3 Chairman: You are on the Mulgan side of the argument, are you?

Professor Hennessy: The glory of having a very, very tight Whitehall—the old citadel when Peter Riddell and David Hencke and I still had our hair and teeth and were young and promising, was a really tough target. It is a pushover now. You have freedom of information, competitive leaking, and all these memoirs. It was so much more fun when you had to treat it like an intelligence target and go for it over decades and run networks of informants. I am knocking my friend here who was extremely resistant to my charms in his day. It was much more fun all round if we had to work for it rather than getting it on a plate.

Q4 Chairman: This is the bit I was asking you at the beginning. This is destroying your trade, is it not?

Professor Hennessy: Yes. We will have to find other ways to take on the mighty. I am sure there are some. We could think of some together, could we not?

Q5 Chairman: Richard, could we have your view? Has there been a falling off and what can be done about it?

Lord Wilson of Dinton: I think the change is less sharp than Peter is suggesting. I worked in the Department of Energy in the 1970s under Tony

Benn. I worked on nuclear power for four years, which was an area which, to say the least, was extremely contentious with a lot of tension between Tony Benn and the centre of government, a lot of tension between him and some of his officials. We all knew he was keeping a diary. He made no secret of it. He went home every night and dictated in the shed at the bottom of the garden. I do not think it affected us at all. I think we knew it was going on and we just braced ourselves for publication when it came. At that time, Brian Sedgmore who was his PPS published—I have checked my facts here—Brian Sedgmore published a book in 1980 called *The Secret Constitution* in which he wrote in enormously detailed account of discussions between the Secretary of State and officials, including summaries of advice that was given. He broke every rule in the book, far more so than Christopher Meyer or Lance Price or any other recent publications. He also wrote a novel called *Mr Secretary of State* in 1978 when he probably was still a PPS, or only just stopping as PPS, in which all sorts of people appear and settings including a conference at Sunningdale which I organised. He has a great account of how difficult it was to get people to organise it. There is a sense in which at that time people were publishing things I think in rather more detail than they are now. I do not think anyone made a great fuss about it. We are more sensitised now than we were then. In that sense, people have always written books. I could go on at length. Civil servants have written books. Robert Hall kept diaries, which have now been published; he kept diaries for six years. Jock Colville kept diaries during the war from 1939 to 1955, which have been published. Bernard Ingham, 15 years ago, if you read his biography, his memoir, sat down the moment he had retired and wrote *Kill the Messenger*. I do not remember there being an outcry, though I may be wrong about that. There is a marvellous description of Peter Hennessy as “lord high butterer up of top civil servants”. From time to time this breaks out. I do not think you should ever see it as being a slow decline or a rapid decline. What is important is that the Radcliffe Report, which I would like to commend to you very warmly, in 1976 covered all of this with wisdom and subtlety and a great deal of common sense. Radcliffe says that of course there will be people who break the rules; what matters is that nobody condones it. As long as people recognise what is done as being wrong, and as long as the bulk of people observe the rules, then that is still the best approach.

Q6 Chairman: Surely, that is what has changed? When I re-read Radcliffe, and you have given your take on it there, what they are saying is that we do not need any new laws because basically the world is still full of honourable people; there may be the occasional rogue but we should not change the law because of the occasional rogue; honour is still intact. I am sure what we are seeing now with everyone doing this is that that world has changed, has it not?

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Lord Wilson of Dinton: Has it? I was Cabinet Secretary for nearly five years. By my recollection, and this is simply from memory, I cleared 10 kinds of memoirs and diaries: six of them were by politicians, four of them were by permanent officials. Do you want me to list them?

Q7 Chairman: That would be helpful.

Lord Wilson of Dinton: John Major, Norman Lamont, Michael Heseltine, Mo Mowlam, Richard Needham and interestingly Paddy Ashdown, who, because he was a member of the Joint Consultative Committee which was formerly a Cabinet committee, very properly came to me and said he thought he should ask me to clear the relevant passages, and I did that. Those are the ministers. All of them went through the process in an absolutely proper way, and I can describe the process to you if you want that. Then the four officials were: Stella Rimington; Percy Cradock who wrote that book *Know Your Enemy*; Peter Le Cheminant, a book of memoirs; and Roy Denman, a book called *The Mandarin's Tale*, and he had been a Deputy Secretary in the Board of Trade (DTI). Only two books compared with that 10 were published which broke the rules: one was Geoffrey Robinson, who wrote a book called *The Unconventional Minister* that did not come to the Cabinet Secretary; and the other was John Nott, who I think did it by accident. He wrote me a charming letter the day the book came out saying, "I was not meant to have cleared this with you, was I?" and I wrote back and said, "You were really, but it is a bit late now". As it was over 20 years since some of the things he was describing, I think it had not occurred to him. There were two other books which are in a rather curious category. One was Janet Jones, Ivor Richards's wife, who wrote *The Labour of Love*, which is a kind of *Mrs Dale's Diary* of what was going on in government. Whether that comes under the rules, I really do not know, but anyway it did not come near me. I am not sure but I remember thinking that Giles Brandreth had published some diaries, but whether he was actually covered or not, I am not sure because he had only been, I think, a Lord Commissioner of the Treasury, but I may have got that wrong.

Q8 Chairman: That was on the dirt on the Tory Whip's Office.

Lord Wilson of Dinton: Was it? I have never read it. The point I am making is that I think you are wrong to say the rules do not hold. In my experience, which I admit is now three years out of date, 10 people went through the processes properly and only one person really broke the rules.

Q9 Chairman: This is fascinating. When we reach a point where a departing ambassador can immediately write a book, not caring really whether he is told this is okay or not because it seems that he is going to do it, and when we have routine diary keeping, instant memoirs from everybody engaged in government, huge sums being paid out to them,

it becomes an industry. The argument is being made now that this is corrosive of the good conduct of government. What I would like to know, Richard, is: is that an argument that you take seriously?

Lord Wilson of Dinton: This is an argument I take very seriously indeed. I think that permanent civil servants have a duty of confidentiality to their ministers, and it is crucially important that they should observe it because, if they do not, trust breaks down; people start worrying about whether what they are saying will be recorded and published in a newspaper. More than that, you not only damage trust in yourself if you publish but you also undermine things for other people still in the service because ministers will start wondering who else is going to publish memoirs like that. I think Christopher Meyer was wrong to publish his memoirs in the way that he did. I think Lance Price was wrong as well. I think it is also important, though, to realise that what matters is the act of publication and the timing of publication. If you read Radcliffe, he is very clear. He is eminently quotable and I am going to bore you a bit with quotes. He says: "At some point of time the secrets of one period must become the common learning of another". I think it is very important that people understand government, how governments work and what actually goes on inside government. I would not want there to be a sense that there is a complete ban on people publishing ever at all.

Q10 Chairman: But publishers do not want books 10 years on. Publishers want books today about what happened yesterday.

Lord Wilson of Dinton: The interests of publishers do not override the interests of good government. It is very important that there is a system which people observe and in which judgments are made as objectively as possible about what is acceptable at any one given time. It does depend on the context of every case.

Q11 Chairman: The system has broken down?

Lord Wilson of Dinton: I am not serving in government at the moment. It is over three years since I left, so I do not know that. I do not accept that the system has necessarily broken down. I just think it is very important that if we can strengthen it, we should, and I am happy to offer some thoughts about that. It is very important that everybody asserts the rules. I would guess a lot of what Christopher Meyer wrote is, frankly, rather dull. There is only a handful of pages in his book, which I have skimmed, which seem to me to cause offence. What is wrong about his book is that he is commenting on people who are active in public life now and on events that are still very hot politically, and I think that is disloyal and ill-judged. I would guess he probably regrets it now, but I do not know that.

Professor Hennessy: I think we need to hang around for the Meyer defence, which he outlined in an interview with the *Independent on Sunday*, because he implied that he thought that the

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ministers who had rushed into print recently had broken the ministerial side of the bargain. He cited Robin Cook, Mo Mowlam and Clare Short. The trouble is that once one party to the governing marriage thinks the other one is behaving out of order, you can treat it as an alibi for following suit. But he also added, and we must not forget this, and this really is a new world, "and out there somewhere there is the public right to know". Since January, we are a freedom of information nation. Radcliffe could not contemplate freedom of information; it was a mere whisper in Labour manifestos, which nobody read in 1974. Now it has arrived after all this time. Former officials can use the Freedom of Information Act to ask for stuff that is pretty well warm off the Whitehall word processors, if it is not in the exempt areas. We have to blend into this inquiry in a way Radcliffe did not have to the fact that we are a freedom of information state and everybody has rights under that Act, including former ambassadors. Where do you draw the line there? Percy Cradock's one, for example, used the Waldegrave Initiative by which a cornucopia of intelligence-related documents, Joint Intelligence Committee stuff from the Cold War, was released, and he built his book not around his own experience as Chairman of the Joint Intelligence Committee but from the archive. So Percy, in a way, was the forerunner of what we might see more of. The Cabinet Secretary or the Permanent Secretary of the Foreign Office being asked to vet memoirs or think pieces on the part of former officials that are pretty largely based on documents that are legitimately in the National Archives or are sought and found under the Freedom of Information Act is quite a tricky one, is it not? What do you do then? They bring to it an experience and an insider knowledge that may in spirit break the conventions. It is not just that the good chap theory of government has broken down. You are quite right that in 1974 people said, "It is just Crossman being Dick", and people did say that, and Radcliffe quite rightly said that the main thing is that the standards have always been restored. There have always been breakdowns, but it has always been restored. I think we have gone through that. I think duelling memoirs and duelling diaries are going to be a permanent feature. You have always tried to think the best of people. That is why you have been a civil servant. You have had to pretend that the twerps that you have been dealing with were in fact pillars of the constitution and bring some insight. You cannot help yourself. You are still charitable about them. You do not realise what rats most of them are. You never have done!

Chairman: *Mea culpa.*

Q12 Mr Prentice: Christopher Meyer famously talked about "political pygmies", and he was very dismissive of the qualities of some politicians. You talked about his alibi that politicians were slagging each other off. It is not just memoirs, is it; it is authorised biographies. The Pollard authorised biography quotes David Blunkett directly saying

that Margaret Beckett is just really holding the ring. Margaret Beckett came out alpha plus as far as Christopher Meyer is concerned. Is there a case for asking biographers to submit authorised biographies for clearance?

Lord Wilson of Dinton: I think you would find that quite difficult to enforce because they have no contract of employment in which you can incorporate a process. I also think you would find yourself attracting all sorts of books which in no way would you wish to attract. There is a limit to what even the Cabinet Secretary can cope with in office in terms of reading and processing things. I would not want to make it an industry. If I possibly can, I would want to hang on to a system which is voluntary. I think Peter is right that we live in a more open world. What I am arguing for is a process where people wishing to publish information go to the Cabinet Secretary and discuss with him or her what is acceptable and what is not. A great deal of what people write goes through without difficulty. I myself when I looked at a book would say, "What is there in here that really matters?" One has a bias towards letting things go through. What you look at are the three very good criteria, which Radcliffe lays down: national security, international relations and the confidential relationship between ministers and ministers and ministers and civil servants.

Professor Hennessy: That does not leave much left.

Lord Wilson of Dinton: It leaves a huge amount. If you read the biographies that I cited earlier, there is a great deal in them that is perfectly all right and does not fall into those categories. What you are trying to do is avoid things that cause damage. Even within the most open age, there is still an area of relationships you want to protect and there is a national interest in protecting good government.

Q13 Mr Prentice: What about timing? The tabloids are out there. Let us take the *Daily Mail*. The *Daily Mail* could pay a huge sum of money to serialise memoirs in the run-up to a general election because it sees its mission in life as destabilising the Labour Party. Would you offer advice on the timing of publication?

Lord Wilson of Dinton: I think that timing is of the essence. One of the things that I would comment is that I would want manuscripts, or typescripts, to be submitted before they go to a newspaper. I think what the Lance Price case illustrated was the difficulty of the case where a newspaper compares the final version with the version that was submitted, because then you have this publicity based on what was banned from the book, which only draws attention to it. I think the timing of publication is also important because it must not be, if it is the case of an official, an intervention in the political process. That is really fundamentally what I think is one of the things which Christopher Meyer did. I would also argue that Peter, in his description of what the Cabinet Secretary does, was underestimating the extent to which it is a negotiation. Of course, in the end, as Radcliffe says, the person who wishes to publish has the right to

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publish if it is about relationships, but the case needs to be put to them and there must be sufficient time for the negotiation to take place. What you should not do is bounce, and again timing is important in that.

Q14 Mr Prentice: Lance Price left Downing Street seven years ago. He is quite relaxed about his book, I suppose, because of the passage of time. Would you say seven years is just about right?

Lord Wilson of Dinton: It depends again on the facts of the case. I think you ought to wait until the main players are no longer active, as it were, until events have moved on, until the world has moved on. I ask myself why was Ingham's memoir all right coming so soon after he ceased to be a civil servant. I think the answer must have been because the then Prime Minister, Lady Thatcher, had retired, and a lot of what he was writing about was to do with her time, and presumably also she was not objecting. There is a world of difference between what you are writing in that context and the position where people are still in office and what you are writing is critical of them.

Q15 Mr Prentice: When Campbell publishes his diary, presumably Blair will have gone?

Lord Wilson of Dinton: Yes. I have no idea what the diary is like.

Professor Hennessy: You have a pretty shrewd idea, have you not? There were extracts from it in the Hutton Report.

Lord Wilson of Dinton: I am not going to get into the business of editing something in advance which I have not seen and is not my business. I am a private citizen.

Q16 Chairman: As Peter says, this is the good-natured view of the world where everyone behaves decently; they would come and show you these manuscripts and a decent time elapses. We are in a world now where people do not give a toss about that. They want the money now. You have got Meyer who says, "I am going to publish this stuff anyway".

Lord Wilson of Dinton: You have also got a world where there is reaction against the Pollard book, which I think must have done David Blunkett's relationship—I am guessing as a member of the public—with some of his colleagues a lot of harm. I think you will find that Christopher Meyer will find that he pays a price in his relationships with other people, which he may come to regret. I do think the reaction to publication of books is important in the signal it gives to future people who are thinking of publishing. There is a price to be paid if you go ahead with revealing confidences and breaking loyalties very quickly in a way that causes offence and is a kind of entry into the political arena which is unacceptable. People pay that price and it is a hidden penalty with some significance.

Q17 Grant Shapps: Just in terms of trying to dissect what can be done about this, it seems to me, having read the Radcliffe Report which for its time, 1976,

is brilliant, it is so well written, that what we should really be doing is separating out the Ministerial Code from the Civil Service Code in our minds here. I think that it must be wrong that somebody who has been a senior civil servant can immediately betray those confidences. That is entirely different from a minister doing it. I would have thought there is a good case here for separating out the two a lot more. Can you reflect on that?

Lord Wilson of Dinton: Can I comment on that? I agree with you that the position of ministers is different from the position of civil servants in all sorts of ways. I think that ministers are accountable publicly; they have to defend their actions publicly and are subject to quite a lot of strong criticism in public. Therefore, the case for allowing them to come out with some kind of justification for their own actions is entirely defensible. I think that is right and it has been going on for a long time. Officials are protected still by ministers, though there is a tendency to make us more public figures. I think officials do owe a duty of loyalty that requires them not to rush into print. The interesting thing about the list that I read out to you earlier is that there are very few home civil servants over the years who have ever published anything quickly. Try to think of how many of them have done that over the last 30 or 40 years? In a way, I think that is quite remarkable. If I may finish my point very briefly, in the Civil Service you have an enormous corpus of knowledge about what goes on inside government. The degree to which that is not the subject of publication is, I think, impressive. If you look at the list I gave you, you could count on the fingers of one hand the home civil servants who have published anything about what went on in government, say, within 10 years of their leaving service.

Q18 Grant Shapps: The reason I am trying to interject is that I think I am already closer to your point of view on this. I am much more interested in Peter's more excitable view on this matter. Even if you take the Meyer book, really the revelations in there are not that remarkable. He called Jack Straw a pygmy. We can all come to a conclusion as to whether or not we think that is the case; it does not have much to do with anything. The fact that Tony Blair walked along with his hands in his pockets when he was with the President of the United States again is really not a big revelation. There may be some tidying up to do around the edges here but it is not really the big problem that you think it is.

Professor Hennessy: It was in the Jonathan Aitken trial in 1971, the official secrets trial under the old Official Secrets Act, when I think it was a Foreign Office witness who said that the highest classification in Whitehall is not "top secret", or all those GCHQ ones; it is "politically embarrassing". There is one above that which is "personally embarrassing". I often have to remind myself that you lot are human beings, but you are. There is nothing more offensive to a certain Deputy Prime Minister than the fact that he cannot entirely keep

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the foreign policy details of the world in his head when he goes in for a session with the Vice President. It is extremely wounding and he is bound to care more about that than an official writing about the row over the directive on dried prunes from Europe.

Q19 Grant Shapps: Yes, but this is not something that we should move to legislate on, is it, because Radcliffe already deals with these things?

Professor Hennessy: I think you should think about recommending a revamping of Radcliffe under the voluntary system. I would go for a five-year voluntary restraint on both sides (officials, ministers and special advisers, the two and a half governing tribes) providing for a shorter period if the government changes—not a prime minister changes but a government changes—because, as Richard said, when a government changes, there is a change of party and it is different. I think a five-year voluntary restraint, which some people will still break, is quite reasonable these days.

Q20 Grant Shapps: Peter, what I am really interested in is the split here between ministers and civil servants. Five years might be exactly right for civil servants, I do not know, plus the change in government. Surely for ministers it is fair game? The one thing this whole thing teaches me is that I should go home and start writing a diary tonight, if only as a defensive mechanism.

Professor Hennessy: You have been corrupted, Mr Shapps!

Q21 Grant Shapps: Not at all. We are here to look after ourselves and do not need to be molly-coddled by more rules and regulations, certainly not by laws. Ministers and politicians should be able to take care of themselves.

Professor Hennessy: You wait until you are a minister!

Q22 Chairman: Richard, could I bring you in because I would like to know if you would assent to this prescription that Peter is giving us about what we might do about this?

Lord Wilson of Dinton: I do not think I would lay down the time period like that because I can think of some things which I would not want people to write after five years and some things in less than five years which I would not object to. What Radcliffe is saying is that over time, the strength of the confidences does gradually weaken, and it does depend a bit on context. He says that some things which are matters of national security can be revealed very soon after they are over because they suddenly cease being secure. Other things you need to protect for much longer than that. I think that is true of some confidences. There are personal matters to do with ministers I worked for 30 or 40 years ago which I would not want to reveal.

Professor Hennessy: Give us one example.

Lord Wilson of Dinton: Certainly not.

Q23 Kelvin Hopkins: I am fascinated by what I have heard, particularly because I was Brian Sedgemore's party chairman in the 1970s, so I used to get these events retold to me in the pub every Friday night. It was exactly as you say. My impression is that what has really changed from that era is the politics. We lived in an era of the mixed economy, social democracy and pluralism in those days. Now we live in a world driven from the centre by radical, right-wing politicians. It is driven by neo-conservative international policies—foreign policies and neo-liberal economic policies, and pluralism has been pushed back. Have not the tensions arisen because of that change?

Professor Hennessy: I think there is a lot in that. If I was on the receiving end of the command style premiership of your nominal leader, because you obviously do not subscribe in full to the leadership principle, I would get profoundly irritated. If, as it is sometimes put to me, the kids at Number 10 come on the phone and say "Tony wants", I would be tempted to say, "bugger off" and, if I did not, I would make a note about the absurdity of their suggestions at what I do as a secretary of state. I have never known a period when secretaries of state and their permanent secretaries are such diminished figures. I sometimes wonder how they can look at themselves in the mirror in the morning. The kind of catharsis through memoir, which is what it is, is what this leads to. If you operate a court system of government, whether it is the Chancellor or the Prime Minister, those who are on the receiving end of the court find what weapons they can when they can, and it stores up real trouble. If you are not naturally collegial, which the Prime Minister is not though he is trying terribly hard—and you used to spend hours to persuade him to be more collegial, did you not, Richard—you are just asking for it, are you not? The worms turn, and the worms turn on the page, and who can blame them?

Q24 Kelvin Hopkins: Yes, indeed, and I must say I cannot wait for the memoirs of our Cabinet which meets, apparently, for five minutes just to listen to the Prime Minister, and then goes away again. It used actually to discuss papers and not to have votes as such but develop consensual approaches to government, which is no longer the case. I will be fascinated to read all these memoirs. Do you think this is leading to some sort of breakdown or change, a reversion to the way we were, or are we now into an entirely new era of working where the pages will not be turned back?

Professor Hennessy: I know everybody says this because it is the kind of fall-back position, but if we had a civil service act that repainted the lines between who does what within the governing marriage, including the special advisers, it would be a start. The good chap theory of government was based on what Sidney Low over 100 years ago called "the tacit understandings on which British Government depends". All that has gone. There is

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a tremendous tendency, which is what gave you such anguish, was it not, that that is traditional stuff; it just gets in the way; we have public service delivery. Once the good chap theory has come to the equivalent of a combination of management consultancy babble and self-interest, it has gone really. I know you think, like Radcliffe, it can all be restored, and I hope it can, but we have had nothing but this since 1997, with the occasional reversion to trying to behave a little bit better. Mrs Thatcher was just the same. Remember after Westland, she tried to behave for a while and listen to people in Cabinet. The real thing to do when you are watching these people is rather like intelligence; you watch people when they do not think you are looking at them—when they are on automatic pilot—because they do not think they are under particular scrutiny, that is when they give themselves away on the way they really conduct government. I think you are closer to the model than Richard's desire to see sides to them which can be played upon, playing upon their decent side. Maybe I am entirely wrong about this. I come back to this: if you could broker a modern version of the good chap theory of government which took into account modern realities, you really would have pulled off something quite formidable. I think it is linked to your known views that we need a Civil Service Act, and that is not a suggestion which is greeted with throbbing warmth across the road by anybody. There was not one person in the Cabinet who was in favour of it, and even some of your wretched colleagues at the Wednesday meeting of permanent secretaries were not wholly in favour. If you can make that happen and link it to this, I think you will have done the state some service, you know.

Q25 Chairman: I can see Richard steaming.

Lord Wilson of Dinton: I am not steaming at all. I just wish to make it clear that silence does not indicate consent.

Q26 Kelvin Hopkins: The point I make in our discussion, and I agree entirely with what you said, Peter, but this is really for Richard, is this: during the Benn-Sedgemore era, Francis Cripps and Frances Morrell, and I am sure you remember them both very well, used to meet Tony Benn in the morning before the civil servants got to him and discuss with him the policies of the day. The civil servants would then speak to the Secretary of State afterwards. They used to get very upset about this, apparently. Now we have a situation where the special advisers are the bosses, in a sense. Rather than just advising the minister and then the minister going to the civil servants, they are now interposed, in a sense. They see the minister and the Civil Service much more, and the top layer of the Civil Service, certainly under Sir Andrew Turnbull, seem to have become more politicised; it is all part of political grouping conspiring against Parliament to get things through. When did that change take place, or is my description not right?

Lord Wilson of Dinton: I am, of course, out of it now. This may sound like a commercial, but if you look at *The Code of Conduct for Special Advisers*, which we published in 2001, you will find in it a description of what sorts of work a special adviser may do, and that is not consistent with the description of the role of special adviser that you give. I think the truth is that the role of special advisers is different between different ministers at different periods. I think Francis Cripps and Frances Morrell, who you rightly guess I do remember, were in a very powerful position in that department. Your account of how they operated, I think, if anything, is an underestimate. They were interposed between Tony Benn and the department quite often. I can remember one occasion that Brian Sedgemore has written up—it is nearly 30 years ago—when I was instructed by the secretary of state and, in the end, by the permanent secretary to negotiate a Cabinet committee paper with them. It was a very tortuous process but certainly they were there between the secretary of state and the department. I will not go into it.

Q27 Kelvin Hopkins: I remember it well. I know the sort of thing.

Lord Wilson of Dinton: It illustrated the point that a lot of the issues people talk about today in relation to special advisers are not new. All the issues that people are talking about now were very much alive and kicking 30 years ago. One needs to pull back a bit from the suggestion that we are all poor figures now and it was all marvellous in the past. I hesitate to attribute it to an objective and independent professor, but I think some of that is to do with the passing of years. I think you do tend to see the past in a rosy glow. There is one point I would like to come back to, which is a point that Gordon Prentice raised. I think some things are changing. One of them is the willingness of, let us say, the press to make a civil servant more of a figure. Another is the willingness to criticise civil servants through the press without your ever actually knowing, if you are the civil servant, who is making the allegation. I think that is an insidious and bad trend because it is unfair. The hands of civil servants are tied. You cannot answer back, just as you cannot answer back to criticisms in a memoir. There ought to be something in the code which makes it very clear that that is unacceptable, whoever does the briefing.

Q28 Chairman: Julia is going to bring us back to memoirs. As Kelvin has a start on it, I do not want to lose the moment just to ask you both this. I do not want to quote back at you stuff you have been writing, Richard. You have been expressing disquiet about the way in which government is conducted now, and indeed Peter has, too, perhaps more predictably. Although you are saying, in response to questions, that there was never a golden age, you do not think there has been a great falling off, you have been writing in a way which suggests that there has been a falling off. Something has gone wrong with the process of government; the

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quality of decision-making has begun to be attenuated. Chris Foster, as you know, has written recently something called *Why are we so badly governed?* He is someone who has worked for both governments over many, many years. It is quite a compelling indictment of the way in which news management now drives decisions; Number 10 overrules departments; the quality of material produced by government White Papers has deteriorated. Just the business of doing government is not as robust as it used to be. As I read you, you pretty much assented to this.

Lord Wilson of Dinton: The things I have been saying are things I actually said to this Committee when I was Cabinet Secretary. I was not always sure you heard me but I have been saying these things for a long time. I think we are in the middle of huge constitutional change. What I have always argued is that there is a trend towards devolution, in formal constitutional terms: devolution to Scotland, Wales and Northern Ireland; and a rebalancing between the state and the individual. It is all on the record from previous sessions. At the same time, I think at another level there is a trend towards greater centralisation. As always happens, the important things that go on in the constitution happen unobserved. The way in which local government has become an agent of central government, which is now declared by government ministers, rather than a democratic local tier of government, is a hugely important development, which has passed by virtually without much debate. The concentration of power within government makes it all the more important that within government there are proper processes to ensure and regulate the use of power and the checks and balances which we need to have in place. I think it makes the role of Parliament, the role of this Committee, all the more important. There is nothing very radical in that. It is just an observation as to how the constitution is changing and the importance of the roles of different parts of the constitution, the constitution ensuring that power is held in check and in balance.

Professor Hennessy: I think we have to remember that for all your sterling efforts as a Cabinet Secretary in private to get better minute-taking, to have proper Cabinet discussion, even the occasional Cabinet paper, what it took to get to the point where we have some restoration of the useful bit of the past were two accidental reports: the Hutton Inquiry and the Butler Inquiry. But for the tragic death of Dr Kelly, there would have been no Hutton Inquiry. If the American President had not instituted an inquiry into intelligence-related policy-making on the road to war in Iraq, we would not have had Butler either. But for the light shone by those two completely aberrational inquiries—they involved disclosures way beyond the 30-year rule stuff, let alone the Freedom of Information Act—we would not have had you being alerted to the extent you have been, the press being alerted to the extent they were, and people like me being able to quote chapter and verse rather than general anxieties. That is what it took to get a partial

restoration of papers and proper minute-taking. You might as well have pleaded in vain in private to get that back. This is no disrespect to you: it took an external shock with quotes from chapter and verse in both of those reports, whole rounds of experience in there, including diaries, and David Omand having to reconstruct from his notes because no minute was taken of the rolling discussion in Number 10, with people coming in and out about whether to tell the press it was Dr Kelly if they thought it was, if they got the name. That was monstrous. You were worried about that in private from the beginning but you could do damn all about it. It took those two accidents to alert Parliament and the public. We should never forget that. Not one minister wanted either of those inquiries, did they?

Lord Wilson of Dinton: I should just say again, for the record, that Peter Hennessy is very kindly giving evidence on my behalf but I am not assenting to it. I feel myself being manoeuvred into a position where others are giving evidence on my behalf and writing my memoirs, which I am not going to do.

Q29 Julia Goldsworthy: This is the flip side of what Grant Shapps was saying, and so rather than should there be a separate code for ministers and civil servants, is it not more about what is driving the authors that is the most important thing in terms of whether it is appropriate or not, whether it is a desire to set the scene of some historical record and give insight into the political processes, whether it is for personal revenge, some kind of personal experiences, or it may be even money. If they are going to get huge advances from newspapers, is that what is driving them? Gus O'Donnell, when he gave evidence to us, said he was looking into ways in which the Crown could claim royalties as a way of overcoming that particular problem. I would like your comments on that?

Professor Hennessy: There is a precedent to that, if I remember. Reggie Jones (RV Jones) wrote *Most Secret War*. He was a lovely man and he had taken away to Aberdeen University as a young man in 1946 a large amount of very sensitive material on which he wrote that book. This was really official secrets stuff. He waited until the Ultra Secret was up but it was still very hot in the Seventies. An unspoken deal was done, which I think we got hold of and published in *The Times* whereby they did not want to prosecute Reggie because he was a thoroughly good thing and just imagine the court case. So they did a deal whereby I think at least a part of his royalties from *Most Secret War* went to the Crown. I do not think that was ever admitted to, but in fact it was the case. If I can find the cuttings from *The Times*, it would be there somewhere. So there is a precedent for that. That was a one-off because they suddenly realised that Reggie had this treasure trove. He really did like the people he had left in Whitehall. It was the good chap theory working; it was one of those very British compromises. I do not think you could institutionalise that. It is interesting that Jeremy

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Greenstock has agreed not to publish; I have not checked that. We must not forget that the Director of the Ditchley Foundation has abided by the good chap theory of government. You need to check that. You will be able to do that rather more easily than me, but I think he has agreed not to publish, at least for the time being.

Q30 Chairman: The publishers did not want it after it had been taken care of.

Professor Hennessy: Is that what it was? You are ahead of me on that.

Q31 Mr Liddell-Grainger: He lost his contract. I want to take you back to one diary thing we have not talked about and that is *Spycatcher*.

Professor Hennessy: It was not a diary. It was a memoir, written by a fruitcake.

Q32 Mr Liddell-Grainger: It may be, but it ended up with the Cabinet Secretary, now Lord Armstrong, making a journey with a briefcase because the establishment had told him to go out to Australia and try to silence this bloke.

Professor Hennessy: You are cruel remembering that but it is true, he was upset at Heathrow, was he not?

Q33 Mr Liddell-Grainger: A little, and I think the journalist may be one of those in the room. Was that the downgrading of the Cabinet Secretary, having to go out to try personally on behalf of the British Government to stop a diary, a memoir, whatever, which was highly damaging? There was an enormous amount of stuff in there about burglaries, break-ins, the role of the Wilson Government. It was absolute dynamite. It was not stopped. It was leaked back into the country as a sort of dirty little memoir and it was being sold on street corners. Is that not the sort of downward spiral?

Professor Hennessy: Robert Armstrong should not have gone. It should have been the Attorney General. Robert had done very well.

Q34 Mr Liddell-Grainger: Who made him go?

Professor Hennessy: If I remember, Robert had done extremely well in the Westland inquiry before the Defence Select Committee. He had interposed his body, which is one of the functions of a Crown servant, between ministers and here. Permission was not granted to anybody else from the Civil Service who was involved in the Westland affair to come. Robert—fireproof Robert—took it all upon himself, and he did extremely well. If I had been Robert, I would have refused to go to Australia on the grounds it should be the Attorney General because it had to be a Minister of the Crown. In those days, we had Attorneys General, and the Attorney General should have gone.

Lord Wilson of Dinton: Chairman, I have always thought that Robert Armstrong was much maligned over that episode. He has been very restrained in not publishing his version of it, which is his right, and I would respect that. I think one

day this is one of those cases where history will start putting the record right. You do have to have a sense, if you are in public service, that in time if injustice has been done, it will be put right, but sometimes you have to wait rather a long time.

Q35 Mr Liddell-Grainger: Surely that is a prime example of where the Civil Service were ordered to deal with the situation which had been created because somebody had done something which the government could not control? The political side said that they did not want to know about that and that they would send out the sacrificial lamb with his briefcase and give a right to him on the way out to Australia, and the whole thing was a disaster.

Professor Hennessy: Nobody could quite have anticipated the degree to which that judge—and I am libelling the Australian judiciary—was determined to get revenge for dominion status. It was quite extraordinary to watch all of that. I do not think anything in Robert's formation—and he had been around the block a few times—had prepared him for that.

Lord Wilson of Dinton: I do not think Robert Armstrong, or anyone, could have anticipated quite how that was going to develop in that case.

Q36 Mr Liddell-Grainger: Stella Rimington wrote a fairly boring book. When that came before the censors, can you say how much was taken out? Was there anything to be taken out? Was there stuff that you felt was going down the wrong line and you said, "enough is enough"?

Lord Wilson of Dinton: The answer to your question is: yes, quite a lot had to be rewritten, to my recollection.

Q37 Mr Liddell-Grainger: Do you think for spy chiefs—and Scarman would be fascinated to read this—and for that sort of level of persons within the Intelligence Service there should be a different, dare I say it, law, statutory obligation, on people who are within the intelligence community? You were talking about somebody who took all his archives up to Aberdeen, Reggie Jones. That is obviously an early example. Should there be a bit more for intelligence and the military?

Professor Hennessy: That is difficult because the precedent for Stella Rimington's book was Sir Percy Sillitoe's book *Cloak without Dagger*, which he had written after ceasing to be Head of MI5 in 1955, and to which Mr Attlee wrote a foreword. It was an extremely boring book. It was mainly about being Chief Constable in Kent, which even in those days was not the most riveting job in the public service. It was very hard to tell Stella not to because of the wretched Sillitoe book. As the British system of government works on precedent and custom and practice, that is what they had to go on, was it not? Not that I am recommending this to you, but I suppose you could, as part of the Intelligence Services Act, if you had wanted in 1994 put in a statutory bar on ever saying anything to anybody. Their indoctrination processes tell them that anyway. Again, it is the world we have lost. Ten

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thousand people kept the Ultra Secret for 20 years. Is that not extraordinary—20,000 people knew at least a part of the Ultra Secret and they kept it for 20 years. Those days are gone.

Lord Wilson of Dinton: I would repeat the point, at the risk of repetition, that the home Civil Service has a remarkable record in observing the duty of confidentiality. I do not think there is evidence that that is sliding.

Professor Hennessy: The intelligence services have been pretty mute. Even somebody who is interested in that world understands that they have to be. We have found two ways: on the back of the *Spycatcher* affair, they got a counsellor to whom they could go if they were anguished about pensions or anything else. That has worked pretty well. There is also the oversight committee, the Intelligence and Security Committee, which I know is not flesh of your flesh quite but it has done an extremely good job. On the back of that *Spycatcher* affair, reforms were put in place, which I think together have worked pretty well. Do you not?

Lord Wilson of Dinton: I think so.

Q38 Mr Liddell-Grainger: Shaylor had to be brought back from France. He did exactly the same; he skipped out of the country and basically in the end he was extradited. Surely again that shows an example of where an intelligence officer decided to publish and be damned. Whether the stuff he said was true or not, I do not know. Again, the Government got dragged into something where they had to try to get somebody back who had written a memoir which was potentially very damaging to the country. There is another example of where we are fairly neutered as a nation. That literally ended up with an embarrassing situation and the government in France trying to get this bloke out.

Professor Hennessy: He was convicted, as was Richard Tomlinson, if I remember. I think there has to be an extra special duty of care on people in the intelligence world. This is an extremely nasty world. When they make the cases they do, and if stuff is disclosed that gives away techniques or even agents—not that Shaylor or Tomlinson gave away agents but I think Tomlinson did name some people who were officers—that is extremely difficult because it is very hard to recruit people if you think it is going to come out. It is an obvious link and it is one they make all the time, and I understand that. In many ways, they are a separate case from what we are talking about. Having said that, for Christopher Meyer and Jeremy Greenstock, and indeed you and your colleagues, the intelligence product is something that is very much part of your world. You may not be actually in it, but the sensitivity of the stuff, because you are the customer, does affect you. It is important that it is related to this, but the actual duty of confidentiality on an officer in MI5 and MI6 or a GCHQ employee is very high, the highest there is really, and I understand that. I think we all do. We have found a way in this country of mitigating that kind of blanket ban where you did not even get anything

after 30 years, not a whisper, until the Waldegrave Initiative, however old it was, even though the Cold War was over. We found a very sensible way of reaching quarter-way houses, if not half-way houses, on this as has the Houses of Parliament. In a funny way Richard's optimism about sensible procedures is still possible, you can rely upon people's decency, it is a combination of the good regiment discipline, the kind of morale that these outfits should have, plus codes for guidance, he's worked in that area and that is the most delicate area of all. On the back of the *Spycatcher* nonsense beneficial reform did occur, did it not?

Lord Wilson of Dinton: I just wanted to give a plug for official histories. I do think it is important that people have an understanding of what goes on in Government and I think the official history programme is an important part of that. Before I ceased to be Cabinet Secretary we commissioned, with the Prime Minister's approval, a series of official histories in which academics are allowed to have full access to all the papers and write up the history of a particular episode or period, like the Falklands War which I think has now been published. I think that programme may fairly soon be running out and I do just hope this Committee may take an interest in ensuring that it continues to run because there is a real public interest in that programme.

Professor Hennessy: I agree with that.

Q39 Chairman: The problem is the *Daily Mail* does not produce a big chequebook for official histories.

Professor Hennessy: Why are we obsessed with the *Daily Mail*? Everybody runs in fear of them. You should just tell them to bugger off. That is twice we have mentioned the *Daily Mail*.

Q40 Chairman: Far from running in fear, people seem to be attracted by their chequebooks.

Professor Hennessy: Yes, I suppose there is that. Mr Prentice was engaging in a wonderful piece of displacement activity suggesting the Labour Party was in trouble because of the *Daily Mail*. I thought you had quite a lot to do with it yourselves, with all due respect, my dears.

Q41 Chairman: I do not think we have got to the bottom of this. You are telling us that the "good chap" theory has broken down.

Professor Hennessy: Not completely.

Q42 Chairman: No, but it is breaking down and something needs to be done. Richard, I think you are saying the "good chap" theory is still intact and we do not need to do very much.

Lord Wilson of Dinton: I did not say that. I said I would try and strengthen the "good chap" theory.

Q43 Chairman: You said earlier on that you thought it was a bad thing that people were keeping diaries in Cabinets and you were sitting round the table with people who you knew were going to publish a record very, very quickly. All that is the world in which we live, that is what is happening

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now. Either we say, "Well, there's nothing we can do about it. The good chap's era has finished," or we have a proposal. I have not heard a proposal that is going to do anything about this at all.

Lord Wilson of Dinton: Can I give you the odd proposal or two? Of course people keep diaries and of course people are thinking while they are in government that they will write their memoirs and you know that will happen. What matters is that you should have a process which they observe. I am also arguing that the process has not broken down. The fact that there have been people who break the rules does not mean that the whole process has come to an end. What you need to do is to reassert it and not to condone cases where people have not observed it. I would like to see the Management Code of the Civil Service assert more clearly than it in fact does (I was looking at it last night) an obligation on civil servants and on ministers who want to publish to consult the Cabinet Secretary at an early stage, when they have a typescript, not before they have done a deal with the newspaper and would like to go to press within the next month, and then to discuss with the Cabinet Secretary and, if need be, to accept his judgment on international relations and on security and to do a compromise. The Radcliffe Report says you have always got to compromise in the end, but there does have to be a negotiation and I think that way can still work if people will observe it. It may be the process needs to be made explicitly part of the contract of civil servants. You cannot make it a contract with ministers because ministers are appointed, they do not have contracts, but if you can have a process which you can enforce then I think the system may still be made to work. I do not accept that it has broken down.

Q44 Mr Prentice: Julia mentioned Crown Copyright and Peter told us that he did not think it was a runner. What is your view?

Lord Wilson of Dinton: It is quite a complex area. One of the things that was established in the Blake case is that in some situations you can hold people to account for profits of what they have earned. I think that is quite hard to apply. It might be possible to incorporate in contracts for civil servants, including former civil servants, a provision that anything which they published on the basis of their experience in the Civil Service would attract Crown Copyright unless they had authorisation for its publication. I am not saying that is possible. My recollection is that that is a possibility. The argument against it, which is one that I think Peter might put, is that that is far too comprehensive. I think there is a public interest in people being able to talk on the basis of their experience about how government works and I would not want one to feel that everything one said was instantly a breach of copyright, which it would be under that approach. We are moving into an age of freedom of information and it is rather odd to toughen up in that way when we are going for freedom of information. I am not that enthusiastic about it but I think it is still a possibility which, if

we really feel that things are breaking down, people might have to explore. If they went down that road I think they would need to be very clear at the same time about the situations in which it would be exercised; I think that would have to be part of the deal. It is worth remembering that everything a civil servant writes now in the course of their job is covered by Crown Copyright, that is my recollection, so it would be an extension of that provision.

Q45 Julie Morgan: Your proposals are that the existing process could be improved on the basis of how it exists at the moment.

Lord Wilson of Dinton: It could be strengthened a bit, yes.

Q46 Julie Morgan: I am quite curious as to how that process operated. Did you personally read every one of those books? Was it your personal duty to read them?

Lord Wilson of Dinton: Can I describe to you what happens? You are sitting in your office and suddenly a box arrives with a lot of typescripts, typically. It is about enough to fill one box of the kind that you take home in the evening. I would read it, yes. I would skim read it very fast partly because it was quite a treat.

Professor Hennessy: You have led a sheltered life!

Lord Wilson of Dinton: I have. You sit and you skim this book and with a skim read you can get a pretty good idea of (a) whether it is really going to be a serious headache or not and (b) the areas of Government that it is going to cover. You identify those passages which are of interest to other government departments and you send them to your colleague who is head of that department and you ask for comments by a given time. Usually people always want this back as quickly as possible, which is why I stress this question of the timescale. Then you will get back from departments—and you have someone who will kindly collate it for you in the Cabinet Office—a list of comments. One of the things they will do—being civil servants, they are congenitally unable to let any error past—is that they will list for you a huge number of things which the minister or the individual has got wrong. I always found myself saying, "You're not required to accept this but we think you have got the following factual errors," and there would be pages of things that the civil servants picked up. It goes with the job. Secondly, you would then have a list of comments where people would want changes and I would go through those and look at them and some of them would be ones which you would think were nit-picking and you would send them to the author and say, "It's up to you, you may want to think about this. I do not think it is that important." There would be some where you would suggest to them positively they should make a change but you would make it clear there is not an issue. And then there would be a few—I would try to make it as small a number as possible, it usually was only two or three or four at the most—where you really thought there was an issue and

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you would make it clear that these were ones that you really wanted to press and discuss with them. You would send it back with roughly that categorisation and then you would get a letter back and usually there would be very little dispute. I can recall one or two cases of national security, one or two cases where it was a comment on former civil servants, where in the end it was a matter for the person writing whether or not they pressed it. I do not recall any case where in the end we were not able to reach agreement pretty amicably. It was a pretty swift process. I would always bias myself towards publication and say does it really matter if they publish this, but if I thought it really did matter then I would press the point, although usually there were very few points of that kind where you had to make an issue of it.

Q47 Julie Morgan: Presumably Christopher Meyer's book went through that process.

Lord Wilson of Dinton: I do not know. We got a letter suggesting they did not have time to do it. I have not talked to Gus O'Donnell, I do not know what happened in that case, but I would guess in his shoes, if you find yourself faced with that problem, the danger is that if you start asking for changes all you are going to do is provide publicity for the serialisation, which you do not particularly want to do. In the Stella Rimington case where I said to her initially "Please don't do it", that conversation was then used in *The Guardian* as a platform for "the book they tried to ban" and for a fairly one-sided account of that discussion. So you do have to think about that too.

Q48 Julie Morgan: But you think this process is the correct process, do you?

Lord Wilson of Dinton: I think it is correct. Ten people went through it and it was not a problem. Only one person simply did not observe it. I may be out-of-date, it may be things are declining now, but I do not regard that as evidence that in my time the whole thing was cracking up.

Q49 Chairman: What about the idea of having a Committee on Memoirs?

Lord Wilson of Dinton: You are tempting me, Chairman! I read your speech in the House of Commons on Tuesday where you were talking about the proliferation of regulatory bodies. I am not going to be tempted by you into suggesting another one.

Q50 Chairman: So that is not something that attracts you?

Lord Wilson of Dinton: No.

Q51 Mr Burrowes: In your experience the problem is not the issue of disagreement between the Cabinet Secretary and the author because you are saying that usually you will be able to come to an agreement, are you not?

Lord Wilson of Dinton: You usually resolve it.

Q52 Mr Burrowes: So there is no need for any further committee of Privy Counsellors, is there?

Lord Wilson of Dinton: No.

Q53 Mr Burrowes: In terms of looking at what has happened since, you do not see the "good chap" theory going out the window to a certain extent and a need now to tighten things up in terms of that committee?

Lord Wilson of Dinton: In setting up a committee to oversee it?

Q54 Mr Burrowes: Yes.

Lord Wilson of Dinton: I happen to agree that we have quite enough bodies of one sort or another to regulate behaviour without necessarily impressing the public that we are doing it better, though I think standards have improved. I do not think there is a need—but, as I say, I may be out-of-date—for any committee to oversee the process.

Q55 Mr Burrowes: In terms of improvements, you say there is not a need to change the process in relation to the Cabinet Secretary looking through and considering the documents which have gone through 10 people. Is the problem with the author and the way they have applied the rules? Perhaps the lesser obligation is towards the old principles of honour and so forth.

Lord Wilson of Dinton: Yes. Julia Goldsworthy was talking earlier about motive. I think there are two or three motives usually at work. One of them, with ministers, is to set the record straight and I think, as Radcliffe says, that is a legitimate motive for a politician, a minister, to want to put their side of the story when they are so much in the spotlight. A second motive is making money out of their experience. Although it is inevitable to some degree, I think the spectacle of civil servants rushing forward into print in order to make money out of it is very distasteful. If one could find a way, like on the copyright route perhaps, where it really became a problem then I think you would have to do that. The third, which is very hard to deal with, is vanity or pride. Sometimes when people retire they find it very difficult to come to terms with the sudden loss of identity. One of the reactions which takes place with some people is a feeling that you need to go into print to assert who you were or to get off your chest a sense of grievance. I would think it is highly desirable that people should not do that and they should find some other form of therapy rather than going into print. However, that is just a personal view.

Q56 Mr Burrowes: You are playing down the problem in a sense by saying it is still a few occurrences and although the system is generally working, there needs to be a reassertion of radical force. I am trying to accommodate that with your views about the trend towards the concentration of

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fewer hands and whether that has essentially corrupted modern government and whether there is a need for more of a fundamental change.

Lord Wilson of Dinton: I think you are putting together two rather different things. The alternatives are either a voluntary system or, ultimately, legislation. I think the arguments against legislation are strong. I am sure we could all put together a Bill which set up a tribunal to oversee the system, which laid down a process and which had penalties and criminal sanctions or civil sanctions, I do not know, for people failing to observe the process. I think that would be very heavy handed and I would want to try and keep out of that if I possibly could. What I am saying is that there clearly are cases at the moment which if I was a Cabinet Secretary would be causing me dismay, but I would still want to reassert the voluntary system and find ways of strengthening it rather than going into legislation, that is all I am saying.

Q57 David Heyes: I want to stay on this Crown Copyright idea. Would it be feasible as a variant on that to introduce a contractual condition for serving senior civil servants whereby any future publication of memoirs would be done on a profit-sharing basis? This might be a source of finance for the official histories that you were promoting to us. I think it is less than £200,000 a year goes into all of the official histories that are published from time to time, less than the serialisation figure from a newspaper. It is a thought. I just wondered what your views were on it.

Lord Wilson of Dinton: My understanding is that Gus O'Donnell is reviewing this area. I think he said that to you in his evidence. I would have thought that is the sort of thing you might want to suggest to him he might want to look at. I am sure he will read this evidence and ask for advice on it. I do not think I am not going to venture an opinion on it.

Professor Hennessy: Can I add support to the official histories point because I am not one of nature's official historians but I am very pleased when people like Lawrie Freedman do it. It is a half-way house between all the anxieties. Lawrie saw everything for the Falklands War, including the intelligence and there was very highly sensitive diplomatic stuff to do with Chile and aid and all the rest of it to the British campaign. Although I am not one who would ever sign up to do it, the product of those official histories is crucial to the rest of us in the historical business. It is intrinsically desirable, and the amount of money is secondary. One of the great moments in the war for a nerd like me was when Sir Edward Bridges, Richard's predecessor but six, commissioned Sir Keith Hancock in 1942 to get the civil histories of the war ready and Hancock, an Australian professor, said, "This perhaps isn't the right moment given what we are facing in the world." And Bridges said, "It is very important always to have a fund of experience because you might have to go through a version of this again", and in a way it was an act

of faith. There was no money in 1942, every piece of manpower was devoted to winning the war and yet the Bridges' generation had no doubt this was an integral part of the state, it was the collective memory and it was an aid to not going wrong in the future, taking the lessons where they were applicable. It worries me a great deal that this should even be a question. We are a vastly richer nation now than we were in 1942, we are not facing that kind of emergency and yet there is this kind of "Can we flog it off or do we have to do it at all?" mentality. It is deeply dispiriting and it would be an own goal by the state if we did that. I was very relieved when Richard got the Prime Minister's approval to put that new set in just before he retired. It worries me deeply that it should even be a question. They vary in quality, but everything does, but they are extraordinarily useful instruments for the state, and I think there should be more of them. You could go into partnership with people like the British Academy if you wanted to have some way of doing it with them, but to give up on it altogether just shows how present centred the current generation of politicians can be. I am not one of those who believe that their memories do not work before 1994, but on some occasions you would think that criticism was indeed justified.

Q58 Grant Shapps: I think it has been a tremendously helpful evidence gathering session. The two of you, if you do not mind me saying, would make a great road show at some stage, if you felt that way inclined, maybe as part of your own memoirs. I think we may have stumbled upon a couple of the solutions here, one of which came up when Peter was talking about the current situation as you perceive it amongst the Cabinet, the lack of the consensual relationship between the Prime Minister and where the power lies. You said one of the aspects of this is that Cabinet Ministers tend to go off and write their memoirs quite early, sometimes to settle scores or get their side of the story out. Do you not agree that that is in fact the system in the longer term working quite well, because what will happen is that someone will go away and you will end up with a Blunkett book, the Blunkett book slates some other Cabinet Ministers and they are then unhappy with it? What then happens is that the government as a whole starts to look shabby. We saw it in the Major government, we are seeing it in this government and the electorate gets fed up. So democracy deals with this entire issue when it comes to the ministers as opposed to the civil servants.

Professor Hennessy: That is an interesting thought. The one theme that Mo's memoir and Robin's and Clare's share is the lack of proper Cabinet discussion, that is their greatest beef. Cynics might say, "Well, they would say that, wouldn't they? Why did they not resign earlier? Why did they put up with it?". One of the most depressing phenomena is the kind of nodding parrot head phenomenon whereby when the Prime Minister says something five ministers swing in behind him loyally—the CQ or "crawling quotient" is off the

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Richter scale—and yet when they break loose they say, “Well, it wasn’t like that really”. The gap between front of house and what they really think in back of house is so profound now and it leads to ever greater public disdain for you lot as a profession. Nobody is deceived, that is the other thing. They think that we are absolutely naïve. What an unendurable week you went through at Blackpool.

Q59 Mr Prentice: Why do you keep looking at me?

Professor Hennessy: On Saturday five of them said “Gordon is the one and it will all be wonderful”. Do they go to a training school? They are the most unfortunate people in the world.

Q60 Grant Shapps: Can I keep you on the point here? You are demonstrating the extent of the problem amongst the current Cabinet and possibly past ones but you are ignoring the solution, which is more of a medium-term solution, which is the electorate will see this, they will get fed up with it and eventually they will go for a prospective government which says, “What we are going to do is come in and have much more of a Cabinet-style government.”

Professor Hennessy: Whether they believe you or not is another thing.

Q61 Grant Shapps: That is absolutely true. Governments eventually may do it. One is reminded of the way in which, perhaps ironically now, the Bush Presidency started with this idea of a cleaner White House than had been there for a while.

Professor Hennessy: They all say that. The first people they have to delude are themselves. They cannot help it.

Q62 Grant Shapps: You are critical of short-termism and the speed with which these memoirs come out. I would have thought you were attracted to a more medium-term solution, which seems to me to be already there in the checks and balances of politics and democracy and eventually the lot will get thrown out simply for the fact that they have started to look too presidential in style.

Professor Hennessy: I wish that did turn elections but I do not think it does. Who knows what turns elections? It would be nice if clean, decent and restrained government was a factor.

Grant Shapps: There is evidence that if you get sleazy enough then you get kicked out. You only have to look at 1997 to see that. I would suggest there is probably evidence, although we will have to wait another three or four years to find out, that if the Government continues to be this presidential base with so little collective Cabinet responsibility and so on and so forth—

Q63 Chairman: The problem with that theory is that Clement Attlee got kicked out as well and he is your great hero and mine, Peter. There is nobody more procedurally correct than Clement Attlee.

Professor Hennessy: He wrote the most boring set of memoirs.

Chairman: The idea that there is some self-correcting mechanism at work here I do not think is true.

Q64 Mr Prentice: Peter, you have previously referred to the Cabinet as being the most supine ever.

Professor Hennessy: Yes. It has got a bit of life since I said that last but it is not much life.

Q65 Mr Prentice: When Campbell cashes in his pension and publishes his memoirs do you think the floodgates are going to open and we are going to have a whole series of memoirs published by Cabinet Ministers who feel really wounded by what Campbell said?

Professor Hennessy: The opening shots will be people rebutting what he says the next day after the first serialisation. My press chums will have a field day doing a ring round and the resentment levels will be immensely high and they will all be waiting for it. Alastair has got remarkable gifts, not least he has got a turbo charged pen and he is not the most charitable to those he regards as either misguided or feeble, which is a pretty large category of the political class. Everybody will be ready. It happened a bit with Dick Crossman but not very much. I think everybody is anticipating that there will be a gap before the memoirs and the diaries come out.

Q66 Chairman: It would be a cruel irony, would it not, if we toughened up the rules and deprived Alastair of his pension?

Professor Hennessy: I am crushed at the thought!

Q67 Mr Prentice: We have been talking about people in the intelligence community, civil servants and politicians. What about senior police officers? We have got Sir John Stevens who said some very critical things about the Home Secretary and David Blunkett chose not to respond.

Professor Hennessy: His defence was, “The Pollard book rubbished me and, therefore, I am putting the record straight.”. You can always express resentment, whether justifiably or not, and be cross about it in putting the record straight. Once this tit-for-tatting, which I think is what we were talking about right at the beginning of this session, has got out of hand, it is very hard to get it back.

Q68 Mr Prentice: Sir Ian Blair would be party to the most sensitive discussions and could come up with a book entitled “The 90 days—What Blair really said”. Do you think books and memoirs from people like Sir Ian Blair should go through some clearance procedure? The late Ben Pimlott said tongue in cheek that everyone should keep a diary. Would you agree with that, Peter?

Professor Hennessy: Yes. I know you are not encouraged to as a senior official but I think you can after a decent interval. The Macmillan government thought of prosecuting Sir Maurice

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Hankey, the first ever Cabinet Secretary, because he was going to use his diary for a book called “Supreme Command” about the Great War. This was in 1958 and that war had ended in 1918. Ever since then I think Cabinet Secretaries have been asked to say voluntarily that they would not keep diaries post-Hankey, is that right?

Lord Wilson of Dinton: Nobody ever asked me. I am not publishing diaries, memoirs, anything. I have absolutely no plans to do it.

Q69 Mr Prentice: You have kept a diary, have you?

Lord Wilson of Dinton: I kept my engagement diaries and press cuttings. I did jot things down, it is what Radcliffe calls “the private discharge of psychological tensions”, but I have not looked at it all. I do not know what it adds up to.

Professor Hennessy: I will help you sift it!

Lord Wilson of Dinton: I am certainly not publishing diaries or memoirs.

Q70 Mr Prentice: Presumably those will go to the national archives when you pass on.

Lord Wilson of Dinton: They will probably go into the waste bin.

Q71 Julia Goldsworthy: You said you were dismayed by what you had seen happening more recently. What would you do if you were still in a position to overcome these problems?

Lord Wilson of Dinton: I am not going to get into the business of telling my successor in public how to do the job. He is a tremendous appointment, he has my full support and I think he will turn out to be one of the classic Cabinet Secretaries.

Professor Hennessy: Chairman, I think we are both agreed that we want you to sort it out. We have to say that because we think that.

Chairman: The danger of inviting you as a witness, Peter, is that you always come and ask us to sort things out, which we are never quite able to do. We have had a splendid session. As Grant says, not only was it a wonderful performance, we have had lots of real substance in there too. You should certainly take to touring. There would be an audience for it everywhere. Richard, I thought your suggestion that instead of writing books these people should go and have some other kind of therapy is one that needs some serious consideration. Thank you very much indeed for coming along.

Thursday 15 December 2005

Members present:

Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
Julia Goldsworthy
Kelvin Hopkins
Mr Ian Liddell-Grainger

Julie Morgan
Mr Gordon Prentice
Grant Shapps
Jenny Willott

Witness: **Lord Turnbull KCB CVO**, a Member of the House of Lords, gave evidence.

Q72 Chairman: Could I welcome our first witness this morning, Sir Andrew Turnbull. It is very good to see you back. We used to see you regularly when you were in post. I thought we would have more fun with you when you were retired and I suspect this is probably going to be the case. It is very kind of you to come along and help us with our inquiry into the whole business of memoir writing. You have had some experience of this and I think you have some views about it, would you like to kick off with an opening statement?

Lord Turnbull: Yes. I am going to start like the Vicar of St Anthony's: my text is the Civil Service Code verses 9 and 13: "Civil servants should conduct themselves in such a way as to deserve and retain the confidence of ministers" and "Civil servants should continue to observe their duties of confidentiality after they have left Crown employment." You should keep those two sentences in mind all the way through. Let us start with memoirs. Inherently they are a good thing: a rich source of history. Many is the time I refer to Nigel Lawson's memoirs—it is almost a text book. Our job is to facilitate them, I believe, while protecting what needs to be protected. The Radcliffe report, which is a beautifully crafted report, correctly identified what needs protecting; that is, national security; international relations; confidence between ministers; and confidential advice from officials. Next: is his system working? To a large degree, yes, but some flaws are becoming apparent. I think his 15-year time limit now looks dated and inflexible. Times have changed and I think the truth is we are less squeamish than we were—and I would give less weight to time and more to whether the relevant players have left the scene. There is a loophole, so-called proxy memoirs, what I would call footballers' memoirs: "David Beckham"—or "Blunkett"—"as told to" is an obvious loophole. I think we need restraint on material given directly to an author with the expectation of publication. Next: the guidance is not robust enough about the point in the process at which the memoirs should be submitted. It is no good simply submitting a book proof days before publication. The Radcliffe report makes a distinction between the memoirs of a minister, who is publicly accountable and therefore entitled to provide an account of his stewardship (but not to knock someone else's stewardship), on the one hand and officials and diplomats who serve

on permanent terms, provide advice in confidence, taking neither blame nor credit. The Radcliffe report reproduces an answer given by Herbert Morrison in 1946 which makes exactly this distinction. But over time the enforcement process has really become the same for both, though in my view the official/diplomat has a less compelling case to publish his memoirs and that needs to be built into the system. Is the system being observed? I agree largely with Richard Wilson: yes, for the most part it is, although with some notorious exceptions. Clare Short submitted her manuscript and agreed changes. So too did Robin Cook. So too, after some argy-bargy, did Derek Scott. In talking later to Sir Christopher Meyer, you in my view should have no truck with the argument that he could go it alone because ministers were not observing the system. It was not true and in any case two wrongs do not make a right. Remedies: I think the law is too clumsy; the Freedom of Information Act is faulty. The Freedom of Information Act builds in the concept of protection of confidentiality but by judging it almost sentence by sentence: "Will this remark cause damage?" makes it virtually useless as a piece of protection. The courts have over history been more or less unusable. Contracts are difficult to enforce, particularly for people who are, in effect, out of contract. Copyright is worth looking at, especially for a defined area like intelligence, but it is not a panacea. If I write an article in a professional journal on public service reform, am I exploiting HMG's copyright or providing a public service by making my experience available? There are some technical remedies around loopholes, early submission and copyright, but, as Radcliffe concluded and Richard Wilson drew attention to, the strongest safeguard is a sense of professional pride, and Radcliffe was right that the real sanction is that those who flout the guidelines will suffer reputational damage. Your calling witnesses is helpful in signalling that breaking confidences is not without cost. Finally, some specific points you may want to raise with the next two witnesses. I hope you will ask Sir Christopher what thought he gave to the longer-term consequences of breaking the confidence of conversations to which he may have been party, meetings he was at, particularly while receiving them as visitors, as guests, in the UK residence; and, secondly, the effect of patronising and derogatory comments in relation

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to elected politicians whom an ambassador has been paid, and paid handsomely, to serve. You may say it is all kind of airy-fairy old “good chap” stuff but I will give you some concrete examples of where damage has been done. When a minister goes abroad he has two choices: to stay in the residence or to stay in a hotel. I and my colleagues have always urged a minister to stay in the residence, where they can make full use of the ambassador’s experience: it is better for them and it is better for the ambassador. What chance, you might ask, do we have of succeeding when ministers feel they are going to have their confidences betrayed or even be sneered at? Secondly, when looking at the manuscripts I always pay particular attention to ministers who write derogatory things about officials who have no right of reply. It will be much more difficult for my successors to enforce that if ministers feel that they will be disparaged by officials or diplomats. Thirdly, sparing use has been made in this country of political appointments to ambassadorial posts. I am afraid Sir Christopher Meyer’s book has done no service to his successors in the diplomatic service—a service of which he claims to be “intensely proud”. Next, you could ask Sir Christopher to explain the logic of paying the proceeds of serialisation but not the proceeds of the book to charity, including one personally promoted by his wife. How can that offset the offence caused by abusing of confidence and sneering at ministers? Thirdly, I think you have now received a copy of the correspondence between Sir Christopher and the FCO. I assume you will want to ask him why he refused to submit the text to the FCO: Sir Michael Jay is the relevant head of his service. As the guardian himself of a largely voluntary code, what example does Sir Christopher set in refusing to adhere to the codes to which he is subject? I think you should have no truck with the argument that the book was cleared by the Cabinet Office. First, it should have gone to the FCO, and, secondly, it was clear that the Cabinet Office were dealing with a *fait accompli*¹—which is something that has sent both Sir Michael Quinlan and Sir Nicholas Henderson off the trail. I would commend, incidentally, the Quinlan article in the *Tablet* (which is not normally my bedtime reading). Next: I assume you will explore his continuing role as Chair of the Press Complaints Commission. This is not “medieval theology” (to use another Christopher Meyer phrase). What confidence could a minister or officials have in him as chair, when presenting a complaint which is written up in a serialisation, when he has been engaged in this trade himself. If we are dissatisfied with his handling, who can we turn to but his employers, the Press Standards Board of Finance, who include the editors who have bought the serialisation in the first place? I think you need to ask: Does this piece of governance still have credibility? Turning to the Lance Price book, there are some issues which are the same and some which are different. It has the same issue about confidences betrayed and the

same disparagement of ministers. The first question is simply asking whether it is consistent with the professionalism of a civil servant to be paid to do a job, go home at night, and write up other people’s conversations and then publish them for money. When we come to the question of process, the issues are different. Lance Price did submit manuscripts and did proffer some excisions. But the Cabinet Office was then double-crossed because some of the excisions made their way into the press. This raises two questions: Did you or your publisher have any part in passing over information about those excisions? Did you—as many people have said to me—receive a higher serialisation fee as a result? There is also a question about reputational damage. I am mystified as to why it would help someone, in seeking a job, to have established a reputation as someone who would work for an employer, write down his intimate thoughts and subsequently publish them. To conclude, much of what is in Radcliffe stands the test of time: most ministers and civil servants accept its logic and abide by its provisions. But it remains the case that those who flout the system can still do so. There are a number of what I call technical ways in which that could be discouraged or the penalties increased, but eventually it comes down to professional pride on the one hand and reputational costs on the other. Finally, we come to the big C, the Alastair Campbell diaries. Rightly, he has said he will not publish these until after the Prime Minister has left office, but by that time you may have published your report, the Government hopefully will have responded and the bar may have been raised—the general standard, the test one has to pass, may have been raised. One has to remember that the great Sir John Colville diaries were published 40 years after the end of the war, 30 years after the last Prime Minister he served and 20 years after the death of Churchill. I will just finish with this one irony: if you go to Waterstone’s the book that stands on the stand next door to Sir Christopher Meyer’s book is Alan Bennett’s *Untold Stories* and maybe they should have swapped dustcovers.

Q73 Chairman: Thank you very much for that. I am sorry I described you as still “Sir Andrew”. You are of course Lord Turnbull now. What is interesting about that—and there was much that was interesting—is that when it came to what do we do about it, we got a bit flaky, did we not, because we then started talking about reputational damage?

Lord Turnbull: Yes.

Q74 Chairman: Is it not the truth in all this that, whatever we might want to be the case, the dam has simply burst? Reputational damage, set against financial advantage, has now simply gone, and getting disapproving looks in the club does not count for much these days. As you have said, we cannot go to the courts, we cannot enforce any of this, this is the world in which we now live.

¹ Ev 1, supplementary memorandum submitted by Lord Turnbull.

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Lord Turnbull: It is not just the world in which we now live, it is the world that Radcliffe was writing about 30 years ago. I think he distinguished between those issues of national security and international relations where you were pretty much obliged to take the advice, and those issues of confidence where you could seek the advice of the Cabinet Secretary and it was up to you what you did with it. As he said, reputation was an important sanction. And it still is, I think. People do care about their reputations. However, I am not saying there is nothing that can be done but I am thinking, and I think all previous witnesses have thought, there is no simple technical solution. I think we can make the processes better understood and bring them more to people's attention—although it is in fact their duty to establish their proper terms of service—and one or two other things. We can make the language more robust. But I do not think there is a body that you can turn this to, a kind of national censor—you know, you could reinvent the Lord Chamberlain and send all the memoirs to him, but I do not think that is appropriate.

Q75 Chairman: As your own experience testifies, the rules are quite clear. What people should do is quite clear.

Lord Turnbull: Yes.

Q76 Chairman: People have decided they are not going to play by the rules—in fact, there are great advantages in not playing by the rules—and so we have all this to-ing and fro-ing: “Will you submit the stuff?” “No, I won’t. I’m going to publish anyway.” That is why I say to you that we have just moved on, have we not? It is finding some way of handling it. The fact that someone is doing it, the fact that someone you worked with is doing it and making a large amount of money out of it, means that you are more likely to do it, and the whole thing sets in train this vicious circle.

Lord Turnbull: I understood the purpose of this PASC project, which I strongly support, is to try to say, “Come on, let’s try to get back—

Q77 Chairman: Yes, but I am testing you on the what-to-do bit. We can talk about implementation but I am testing you on the what-to-do bit. We have to make the guidance more clearly, more strongly written. We have to modernise it. Fifteen years is no longer right in the modern world, we have to update it, and it is basically a collective endeavour that you, the Government, the Civil Service and the Diplomatic Service then have to try to build a consensus that standards have slipped a bit and we have to bring this back. I think some of the furore around the most recent memoirs is the point at which—kind of like Granny’s footsteps—people turn round and say, “Yes, this has really gone too far.” We want to make it a lot more difficult for people coming later to go down the same road.

Chairman: The private sector does not seem to have these problems. We do not have books called *ICI Confidential*, do we? I agree that it may not be the

biggest Christmas seller, but . . . They seem to be able to enforce contracts of confidentiality more easily. Why does the public sector have so much trouble with it?

Lord Turnbull: It is partly, if you are looking at this question of copyright: Can you only define it ex post? Is that satisfactory? Or to make the system work do we have to define it in advance? I do not know all the answers to this because I am not now running the project, but we do need to look at it. The security service I think is trying to make a system of copyright work which would not stop someone publishing but would mean that you could pursue the profits of what they have had published. You have to build a consensus. The basic consensus is that we need to get back to these fundamental principles and give them greater weight. We are at a point where people think, “Yes, we can generate a better, a stronger consensus.”

Chairman: Okay. I am going to ask some colleagues to come in now.

Q78 Paul Flynn: It is a great life being an ex-ambassador: you have a fat salary, you are on a glide path to a sinecure of a job in the PCC or somewhere else and you have your gong and you complain, as Christopher Meyer has, that he is at a disadvantage, as a civil servant, because obstacles are put in his way to publishing and venting his spleen against his ex colleagues in a way that government ministers and special advisors are allowed to do this. Do you think there should be special rules for civil servants as opposed to special advisors?

Lord Turnbull: I think the principles are the same. I think a minister, in effect, has a right to publish memoirs: they are directly accountable and are entitled to give an account of their stewardship. I do not think an official has the same right. There is not the same need. They have enjoyed, in some sense, the privilege of permanency. They are always on the winning side and they give their advice in confidence; they do not take the credit and they do not take the blame. Then to come along afterwards and say, “Of course, my view was always this and I was right” and so on is attempting to get the ha’p’orth and the bun. In saying, “What is the justification for this? Should this be allowed?” I think an official/diplomat has to make a tougher case than a Minister has.

Q79 Paul Flynn: The damage, as you have rightly said, is profound, so the whole relationship in the future between diplomats and politicians—and it is not just staying in the embassy but it is everything else, the whole relationship, the whole way they negotiate, the confidence they have in one another—has been destroyed to a large extent. There must be deep suspicion there in the future. What can we do about it? Is it practical to declare these memoirs are Crown copyright, so they do not make profits out of them? Can we give some period where they do not get their gongs or their sinecures

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afterwards? What action do we need to take? Do we need to make confidentiality agreements, as they have in the private sector? What can we do?

Lord Turnbull: That is the project that is going on in the Cabinet Office as we speak. I know that when they took legal advice around the most recent memoirs, the legal advice was pretty discouraging really for what could be done. It can be reaffirmed as a duty—it is in the Civil Service Code already. The issue then is not whether we make it part of the contract but how easy it is to enforce it and where you go to enforce it. You go to the courts ultimately. Right back to *The Crossman Diaries* the courts have not been terribly supportive.

Q80 Paul Flynn: One of the truly shocking bits of this book is the open confession by Christopher Meyer that he behaved in a manner that he described as being as “ethical as a £7 note”. He claims that he was approached by Robin Cook to do a deal. The deal that he alleges took place was that Robin Cook would get assistance with a constituency case in return for Robin Cook using the might of the Foreign Office and the Government to help him on a personal matter (involving the custody of the children) with his wife. There are a number of other references to similar situations in the book. Does this strike you as correct, for the whole of the apparatus, the 400 staff paid for by taxpayers in the embassy at Washington, to have their work concentrated on dealing with the personal problems of the ambassador himself?

Lord Turnbull: I share your concern. You are going to have your opportunity to pursue that yourself directly.

Paul Flynn: Thank you very much.

Q81 Mr Prentice: Alastair Campbell. We will come on to Christopher Meyer in a minute, but did you know that Alastair Campbell was keeping a diary at Number 10? Did he speak to you about it?

Lord Turnbull: No. I had suspected it and then of course in the . . . I am not sure whether it was Hutton or Butler—

Q82 Mr Prentice: When did you find out?

Lord Turnbull: It was absolutely confirmed when in the—

Q83 Mr Prentice: The Hutton business?

Lord Turnbull: The Hutton inquiry. I mean, someone keeping a diary can be of many forms, but the nature of it, that it is very kind of . . .

Q84 Mr Prentice: So you had no discussions with Geoff Mulgan, who said that all this diary keeping at the centre of government is corrosive to good decision making?

Lord Turnbull: No. I knew that that was Geoff’s view and there were other people in Government who expressed that view.

Q85 Mr Prentice: Do you think it is right that Alastair Campbell should be allowed to publish his diary on the day after the Prime Minister quits?

Lord Turnbull: No. No, because the Prime Minister may have left the stage but many of the people he would have been talking about will still be there.

Q86 Mr Prentice: So there should be another period of quarantine, another few years, five years or something?

Lord Turnbull: Yes, I think there should be.

Q87 Mr Prentice: Sir Christopher Meyer. We have the exchange of correspondence before us between the Foreign Office and Sir Christopher Meyer, and the Gus O’Donnell letter. It starts on 30 June, a letter from the Foreign and Commonwealth Office asking for details after the trailer on the Amazon website had been spotted.

Lord Turnbull: Yes.

Q88 Mr Prentice: Christopher Meyer writes back on 12 July and says, “At no point in the last two years until your letter has the Foreign and Commonwealth Office seen fit to remind me of the Official Secrets Act, the Diplomatic Service Code of Ethics or Diplomatic Service Regulations.” The next letter comes from the Permanent Secretary in the Foreign and Commonwealth Office to Christopher Meyer and that is dated 26 July. He says Meyer is lying, basically. Sir Michael Jay says to Christopher Meyer, “I should perhaps remind you, I called you on 4 June last year [2004] to relay concerns expressed by ministers, including the Prime Minister, that some of your public comments appear to be straying towards the revelation of confidences in conversations in which you had taken part. So it is not correct to say, as you do, that at no point in the last two years . . .” and so on and so forth.

Lord Turnbull: I think his claim that no one told me I could not do this is laughable.

Q89 Mr Prentice: You were Cabinet Secretary at the time . . . Did Michael Jay have a conversation with you?

Lord Turnbull: Yes.

Q90 Mr Prentice: He did.

Lord Turnbull: There is a set of rules which talk all about “The Civil Service”. I looked after the Home Civil Service and he, by analogy, ran an exactly parallel system for the Diplomatic Service, so the Diplomatic Service Code exactly mirrors it—the words may be slightly different but the principles are exactly the same. He did express his concern to me, because I am running across very, very similar cases.

Q91 Mr Prentice: What did you conclude?

Lord Turnbull: I concluded that he was right to take the action that he did and I was amazed, when it says in black and white in the Foreign Office handbook “You should submit this to your head of department,” that Sir Christopher said, “No, I

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am not submitting it to my head of department. Anyway, you did not tell me.” And in the end it was never submitted to his head of department, it was submitted to the head of an allied but different service. It was submitted to the head of the Home Civil Service, who then sent it across, of course, to the Foreign Office, but he never, ever performed exactly what the thing says, which is to submit it to the head of department of his service.

Q92 Mr Prentice: And that is disgraceful, is it not?
Lord Turnbull: I think it is disgraceful.

Q93 Mr Prentice: In Christopher Meyer’s subsequent letter of 7 August to Michael Jay, he is very dismissive, is he not? You used the word “sneering” earlier. It is a sneering kind of letter, is it not?

Lord Turnbull: Is there not something in there about, “I am a—

Q94 Mr Prentice: “I am a better judge . . .”

Lord Turnbull: “In my present job I judge the public interest, so why—

Q95 Mr Prentice: Yes, he is a better judge of public interest than the Permanent Secretary in the Foreign Office.

Lord Turnbull: Yes.

Q96 Mr Prentice: Yes. And he goes on to say, about the June 2004 conversation: “We have sharply different recollections”. Is it really credible that the Permanent Secretary in the Foreign and Commonwealth Office could have got it wrong?

Lord Turnbull: Not in my view, but, even if they had different recollections of the conversation, it is simply not credible that he—particularly as someone who had served as Press Secretary at Number 10—did not know the basic processes around the clearance of memoirs. Everyone in the Civil Service—

Q97 Mr Prentice: You clearly believe this has been a terrible breach of trust. Do you think he should stand down as Chairman of the Press Complaints Commission?

Lord Turnbull: I have no faith in him whatsoever in that role but it is not my call. It is the buyers of the serialisation who have that call, as I made clear.

Q98 Mr Prentice: But I am just asking you to express your personal view. Do you think Christopher Meyer, after everything that he has done—his sneering, his patronising, derogatory comments that you have told us about—is a man fit to be in charge of the Press Complaints Commission?

Lord Turnbull: I do not think he is, but it is not my call—

Q99 Mr Prentice: No, I understand.

Lord Turnbull:—as to whether he resigns or someone asks him to stand down.

Mr Prentice: Thank you.

Q100 Mr Burrowes: Could you remind us of the diaries and memoirs in which you were involved for clearing purposes?

Lord Turnbull: I cannot quite remember whether Mo Mowlam was in my time or Richard Wilson’s. Certainly the ones I remember are Robin Cook, Clare Short, Derek Scott, and, amongst officials, Richard Packer—writing not so much memoirs as an account of the BSE history—Liam Donaldson—who has written a history of CMOs through the ages—and, interestingly enough, David Blunkett wrote memoirs about 2001, called *On a Clear Day*, and he updated it and reissued it and he sent me the manuscript of the new version. I think those are the main ones I have dealt with.

Q101 Mr Burrowes: In those memoirs we were involved intimately in terms of looking at changes.

Lord Turnbull: Yes. There are four components, really. One is national security: you should point out that anything would be damaging; that has not been contested. Relations with other countries. Confidences between ministers: that is quite difficult because people will say, “If I am disparaging about so-and-so, they can write their memoirs and be disparaging about me”. It is quite difficult to enforce that. The fourth one, to which I paid a lot of attention, is where an official with no right of reply is unfairly treated. If you are simply describing an official’s action, “Andrew Turnbull burst into the room with the news that . . .” fine, but, if it is around the advice given or “I thought the advice given was hopeless” but, equally, on another occasion when it turned out that they gave good advice, you ignored it, and all went wrong, and you never give them the credit.” The answer is that you should be revealing neither of these things. Relations with officials I have always sought to enforce. Then there is, I suppose, another category, which is that lots of people communicate with us, work with us, and their confidence needs respecting.

Q102 Mr Burrowes: Then there was a form of negotiation, looking at something—

Lord Turnbull: Yes, I would probably skim read it. My staff would go through it, they would come back and they would list the number of things which were questionable and we would go through them and say, “That’s probably all right,” and then we would either write a letter back or invite them to come in to talk to someone in the Cabinet Office, to go through it, and we would explain why we thought such and such a reference was inappropriate. You end up with a sort of negotiation and then an agreement.

Q103 Mr Burrowes: With those memoirs, diaries that you have listed, presumably you felt that the premise of those books was acceptable.

Lord Turnbull: “The premise . . . was acceptable.” I used the phrase “The premise . . . was unacceptable” in relation to Lance Price’s book because it is entirely based upon the chit-chat that goes on in the office, so, almost by definition, these are confidences.

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Q104 Mr Burrowes: Half of it was concerning his time with the Labour Party.

Lord Turnbull: The bit where he is working on a campaign in 2001. Yes. That is fine, but what the Prime Minister said about Cardinal Winning, for example, should never be in there.

Q105 Mr Burrowes: You distinguish the premise, but is there not also distinction in terms of your approach to the Lance Price book. I mean, he would say that he contacted the Cabinet Office on 12 May 2005 and he visited Cabinet Office on 23 June 2005 and he went through following the Civil Service guidance—in a way, probably more than Sir Christopher Meyer.

Lord Turnbull: I distinguished—

Q106 Mr Burrowes: But he says there was no negotiation; that it was simply unacceptable.

Lord Turnbull:—those things that were common to both books and those things that were different. The Price book was submitted. The biggest concern is that someone rattled on the deal and that the number of the excisions then appeared in the write-up of the serialisation.

Q107 Mr Burrowes: Can the other distinction not be the way that Cabinet Secretaries deal with these particular issues? Is there not some substance to Lance Price perhaps saying that when the new Cabinet Secretary came along there was then belatedly some negotiation and some give and take in terms of the editing, but, as far as you are concerned, you simply threw it up in the air and said it was unacceptable?

Lord Turnbull: I thought the basic book was unacceptable. Faced with an offer of some excisions, Gus O'Donnell decided that he would look at those. But there is still quite a lot in there that really should not be there.

Q108 Mr Burrowes: Is there not some substance to the charge that it is up to the Cabinet Secretary to be much more robust in terms of proper negotiating rather than simply saying the whole premise is—

Lord Turnbull: Where the Cabinet Secretary is asking for changes, it is quite helpful if there is a background of support for this. If, on the other hand, the Cabinet Secretary asks for certain excisions and then—as happened to me—is branded as “the man who did not want us to know the truth” it is quite difficult. The purpose of this whole inquiry is to change the terms of trade and embolden Cabinet Secretaries, saying “You’ve got to be tougher”. It looks as though we have passed some line that we should not have passed.

Q109 Mr Burrowes: The issue of being tougher is that you would say it is not so much the personality of the holder but the support and the enforceability of the rules behind you.

Lord Turnbull: The fact that you are taking evidence from two recent memoirs shows that the Cabinet Secretary has been fighting a lone battle here. You are actually signalling your support for that process and that is very valuable.

Chairman: We have a few brief final questions.

Q110 Jenny Willott: Given that you have said Lance Price’s book was completely unacceptable—the whole book—do you think it is ever going to be possible to do anything other than just edit? Is it not inevitable that if somebody has written a book based on their diary or their memoirs it is going to get published? Do you think there is anything that government can do to prevent publication? I am thinking of *Spycatcher* which in the 1980s was banned from UK sale. Now that we have the internet, it is completely impossible to do that—and, anyway, people would buy it in America. Is there anything that you think could be done to prevent books in their entirety being published?

Lord Turnbull: When you get to that point and the book has got to the publishers and the contract has been signed and it has all been printed, you are probably past the point of no return really. That is the difficulty. It has been advertised on Amazon and so on. One of the lessons I have learned from all this is that the intervention needs to start earlier around the intention to publish. Ideally, someone who wants to do it should come in for a conversation and say what kind of book it is. Maybe it is a serious piece of history, not that different from the official history programme, where someone really wants to write up something that they have worked on in a sort of historian style. Fine. Or is it the office gossip? At that stage, you can give guidance, but the die is cast if then the Cabinet Secretary is always presented as the censor, trying to take things out, rather than getting in earlier and saying, “This really is not a book that should be published at all,” trying to persuade someone that they should either not do it, do it in a different way, or let more time pass before they do it.

Q111 Jenny Willott: Have you been able to persuade anybody not to publish?

Lord Turnbull: I remember a Foreign Office case but I am not sure I am going to say . . . There was a Foreign Office case where someone was persuaded that he should not go ahead with a book. I think Jeremy Greenstock has realised that he needs to be quite careful, particularly as the director of Ditchley, he depends upon the cooperation of all sorts of people in the political world. So he has taken advice and delayed the project.

Q112 Jenny Willott: Could I ask one final question: if there were to be time delays which some way were enforceable, so that people were not able to publish either until after a certain period of time or after the main people that are involved or depicted in the book were out of the roles that they were in, which

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of those do you think would make it more acceptable to what was then published? Also, would it make Alastair Campbell's book more acceptable than Lance Price's.

Lord Turnbull: I think you have to bring into play all these considerations: the time, the people, the damage, et cetera. That is ultimately the judgment which the Cabinet Secretary or the head of the diplomatic services has to make. Simply saying "Five years"—some books, even after five years, would not be appropriate—or "When *x* has left" but all the people *x* was dealing with are still around. You have to bring it all in together. But you need to bring upfront what these criteria are. I think it would end up with something less than 15 years, but it would be something that was more robust and more defensible.

Q113 Jenny Willott: Do you think that Alastair Campbell's book will be more acceptable than Lance Price's as a result of the delay or not?

Lord Turnbull: I do not know what the book is going to be like, but it seems clear that it will come out after the results of this exercise, which is an attempt to build a coalition about a more robust set of principles and a more robust enforcement process.

Q114 Chairman: I think we should draw this section to a conclusion. Do you think Meyer should be de-gonged?

Lord Turnbull: People are de-gonged only for crimes of a certain severity. He has committed no crime.

Q115 Chairman: Is a gong not an honour? Is the man not dishonourable?

Lord Turnbull: There are established ground rules as to when someone forfeits an honour and I think you have to commit an offence with a custodial sentence.

Chairman: Give him time! Okay. Thank you very much indeed for that. That was very useful indeed.

Witness: **Sir Christopher Meyer KCMG**, gave evidence.

Q116 Chairman: Let us continue our session by welcoming Sir Christopher Meyer to tell us about his book-writing experience. This is like a stop on your book tour, is it not? We are grateful to have you along. Do you want to say anything by way of introduction?

Sir Christopher Meyer: Chairman, thank you very much for allowing me to take part in these proceedings. I am grateful for the opportunity to contribute to your review of political memoirs. I do not want to test your patience or that of the Committee too much, but I have about a minute's worth of comments I would like to say before you interrogate me, if I may do so.

Q117 Chairman: Yes, of course.

Sir Christopher Meyer: First of all, I do very much hope that by the time you have dealt with me I will have had the opportunity to respond reasonably fully to the Foreign Secretary's written answer to Mr Prentice of 28 November with particular reference, first, to what I consider to be the false inference that I delayed submitting my manuscript to the Cabinet Office until the last minute and, second, to the accusations which I reject of breach of trust and confidence. These latter, I believe, place a number of question marks over the process of clearance through which my book had just passed. Secondly, I would also like to say something straight away, if I may, in my capacity as Chairman of the Press Complaints Commission. After my publishers' correspondence with the Cabinet Office, it is fair to say that I did not expect the strength of reaction which the book has aroused, including criticism directed at my role as Chairman of the Press Complaints Commission. I have been gratified and sustained by the many expressions of support which I have received from a variety of quarters, but I accept that the situation

has given rise to concerns and to embarrassment to some of my friends and colleagues, including at the PCC. I have already expressed my sincere regret to this and I am happy to do so again today. Members of the Press Complaints Commission have met to discuss this criticism and they have agreed to work with me to strengthen further public confidence in our work. As an immediate step, the PCC has decided to review the rules and procedures relating to potential conflicts of interest incurred either by the Chairman, commissioners or the secretariat, so as to ensure that they are robust and transparent. The outcome of this review, although I cannot tell you when it will be, will of course be made public and the Commission will of course consider any recommendations which this Committee chooses to make in this respect. I would lastly like to say that I remain deeply committed to the importance of successful self-regulation of the press and to the independence of the Press Complaints Commission. As Chairman I will spare no effort in ensuring the continued achievement of these goals. Thank you.

Q118 Chairman: Thank you for that. Could I start by asking you how all this started. In the preface to your book, you say that you were sitting down one evening in the South of France, you had had a drink and you were talking about all the great stories that you were engaged in and so on, and then your wife said, "Why don't you write all this down." I was then expecting to read a bit which said, "I'm sorry, dear, I can't do that because I am a public servant. We don't do that kind of thing. The regulations that I live under forbid it anyway." There is no mention in your book at all of any considerations about the act of publication. You do not wrestle with it, you do not do the balancing. You just ignore it, as though there is no issue at all

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about it. You must have realised since you published it that that was a conversation that you never had that you perhaps ought to have had.

Sir Christopher Meyer: Chairman, if I may respond to that. It is chapter 5 of the Diplomatic Service Regulations that deal with the issues of publication. They deal also with interviews, speeches, lectures, press appearances and books and articles. DSR5 (which is what we call it in short) covers all of those. Those rules, either for people in service or for people who have retired, do not forbid the publication of books. They permit the publication of books under certain circumstances, the most important of which is that the manuscript should be submitted to the authorities for them to clear or not as the case may be. You have some of the details slightly wrong about the banal beginning to this book, but the fact of the matter is when I started down this path I realised that somewhere at the end of it it would have to go to the Cabinet Office or to the Foreign Office as the rules provide.

Q119 Chairman: I have not got it wrong about the book. I do not want to advertise it too much but I enjoyed the preface greatly, where your wife encouraged you to do this and then you got the novelist to help you with making it more racy, but what there was a complete absence of was any consideration of whether this was the proper thing to do or not. And you cite all these regulations. I have read them. They could not be clearer. “You should not enter into any commitment with publishers before authority to publish is obtained for any book or article for which authority is required under paragraph 7 above.” You did not do that.

Sir Christopher Meyer: Let me take that point head on, Chairman. The fact of the matter is that the Foreign Office applies those rules in one way for the service and in another way for those who have retired. It is a matter of custom and practice. That is what they do. If I can just set some context here: for example, when I returned from Washington at the beginning of March 2003, I went and paid my farewell call on the Permanent Under-Secretary Sir Michael Jay, and I said to him, “I have been offered a contract to comment on the Iraq war on Channel 4 television and on ABC Television.” Those appearances are captured by the same set of rules in DSR5 as are books. His only reaction was to say, “If you need any help with briefing, give me a call.” Now—as I say, I am setting context here—two and a half years later, whatever it is, two years and 10 months later, I have given speeches, given lectures, I have done goodness knows how many interviews, so on and so forth, and at no stage in this period has the Foreign Office said to me—and I have talked to people in the Foreign Office, in fact, to get briefing—at no stage in this period has anybody said to me, “Before you do Channel 4” or “Before you lecture the Ministry of Defence”—“Before you do this or before you do that”—“you must consult us first.” This has not happened. Of course, the Foreign Office I think in this is very sensible: it makes a pragmatic distinction between people in

service and people who have retired. I would hope, for example, that one recommendation that will emerge from this Committee—and I do not know whether this should apply to the Civil Service as a whole but it certainly should apply to the Diplomatic Service—is that the rules should be revised to make a practical distinction, where sensible, between those in service and those outside it.

Q120 Chairman: They all seem to me to be entirely straightforward. To go round claiming that somehow this book has been approved by somebody . . . I have looked at all the correspondence, closing with this letter from the Cabinet Secretary expressing his disappointment that a former diplomat should disclose confidence gained as a result of his employment. The idea that this can be sold as some kind of approval for the process is ludicrous, is it not?

Sir Christopher Meyer: I think there is something wrong with the process. I think there is something very wrong with the process, and let me explain why: I finished this book and handed in the last chapters on 13 September of this year. On 7 October the manuscript was given to the Cabinet Office as requested and as expected under the rules. It emerged from the Cabinet Office two weeks later, on October 21, with a phone call from the Cabinet Office to my publishers saying the Government has no comment to make on this book. I interpreted that, as did everybody else, that this was a green light to publish. You may laugh, Chairman.

Q121 Chairman: That is a laughable statement. That is why I laugh.

Sir Christopher Meyer: I do not think it is a laughable statement. If we go on further beyond 21 October and look at the Cabinet Secretary’s letter to my publisher, it embellishes what was said in the telephone conversation.

Q122 Chairman: People thought this was a wholly disreputable enterprise that you should not go anywhere near. You were going to publish this book anyway, were you not?

Sir Christopher Meyer: No, Chairman, I was not going to publish this book anyway and you have no basis on which to say that.

Q123 Chairman: If the Cabinet Secretary had said to you, “Look, this is not something that you should do,” you would have said, “Oh, sorry, I didn’t realise that. I’m not going to do it any more.”

Sir Christopher Meyer: I would have expected what Lord Wilson said to you, I think last month, in giving evidence, that in circumstances like that the Cabinet Secretary would invite the putative writer to come in and discuss the issues, the chapters, the words, whatever, in the book with which he disagreed. That is what I would have expected.

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Q124 Chairman: Lord Wilson thought you would suffer reputational damage for what you have done.

Sir Christopher Meyer: Lord Wilson is entitled to his opinion, Chairman. I take a different opinion here.

Q125 Chairman: You cannot cite him in one breath and then damn him in the next.

Sir Christopher Meyer: You can actually.

Chairman: I see.

Sir Christopher Meyer: And I do.

Chairman: I see. I see.

Sir Christopher Meyer: It depends what he says. There is a point I would like to make—or am I talking too much?

Chairman: No, do carry on.

Sir Christopher Meyer: Thank you, Chairman. Looking at the Foreign Secretary's written answer to Mr Prentice, what has interested me in that is that he cites the three Radcliffe criteria: harm to national security; harm to international relations; harm to confidential relationships. He appears to say in this written answer—and he used the word “cleared” because he talks about standard criteria for clearance—he appears to say in this written answer that the book was cleared against the first two criteria: harm to national security; harm to relations—with United States, he actually says a bit later on; but on the third criterion, against which one would have expected a judgment to be made, namely harm to confidential relationships, there is silence. Instead, he launches an attack on me for breach of confidence and breach of trust. The question I asked myself was: What did this process of clearance mean? If there had been breaches of confidence and breaches of trust, why did the process not pick them up? Why was the book not stopped? Why was I not asked to change things? I think there are very big question marks that hang over procedure.

Q126 Chairman: Let us assume that we have had the conversation about the process and you say it could be better and we can have the discussion about the regulations and so on—and colleagues, I am sure, will ask you questions about this—but all those things are only a way of stating what should be the blindingly obvious to public servants, are they not? This is what Radcliffe told us 30 years ago, but it all comes back, basically, to how people behave. One of your predecessors, Ambassador in Washington Lord Renwick, writing about your book said, “Sir Christopher has published the book we all would have loved to write about bumbling ministers, feckless royals and mistakes which, in retrospect, clearly should have been avoided. The difficulty in actually doing so is that it is liable to worsen the tendency he deplores of prime ministers relying increasingly on their personal staffs and political appointees, rather than the mandarins who are supposed to advise them behind closed doors.” Is that not really why this was so idiotic? It may make you some money, but it brings a whole tradition of public service down with it and simply

closes ever tighter the circle around those people at the centre who can no longer trust people on whom traditionally they have relied for impartial advice.

Sir Christopher Meyer: I disagree with you, Chairman. I am sorry to have to say this.

Chairman: Well, you are disagreeing with Lord Renwick, not me.

Sir Christopher Meyer: Well, I disagree with Lord Renwick. I take it from your remarks that you endorse what Lord Renwick has just said, so probably I disagree with both of you.

Chairman: It seems to me to be a shrewd analysis.

Sir Christopher Meyer: I am saying here that, looking over the last few years—and this is why I say there ought to be consistent rules for politicians, special advisors and civil servants—I have not noticed a great restraint on the part of special advisors in writing their memoirs also. The notion that, if you like, it is safer or more secure to employ a political appointee or a special adviser seems to me to be at the least dubious. But, to come back again to the central point, we have a procedure for clearing these texts, these books. It exists; it is there. It is now presided over by Sir Gus O'Donnell; it used to be presided over by Sir Andrew Turnbull. This procedure is supposed to tackle precisely these issues. In this case, if these allegations are true, it failed in its purpose.

Chairman: We have all read these regulations. They all seem to us to be conspicuously clear. I think what puzzles us is not only that you find them unclear but that you do not understand the purpose behind them, which is to preserve a tradition of disinterested public service from which we all benefit. You may have gained a private benefit from this but there has been a public disbenefit as a result from which we will all suffer. But let me bring Grant Shapps in.

Q127 Grant Shapps: You write that the Foreign Secretary is a pygmy; the Deputy Prime Minister thinks the Falklands are the Balklands; and you write that “Cook was having difficulty with a constituent who had a child abduction problem with the United States. If we could help on that, Cook would raise Catherine's case with the German Foreign Minister . . . This was, Catherine and I thought, as ethical as a £7 note. But needs must when the devil drives.” Do you think your reputation has been damaged by this publication?

Sir Christopher Meyer: I do not think my reputation has been damaged by this publication at all. There are some people obviously who do not like it, who disagree with it. I have to say on the basis of emails and postbags and doing book tours around the country, the reaction has been overwhelmingly positive. On the pygmy point, if I may, I do not think a single politician is identified in the book as a pygmy, or, indeed, as a Masai warrior.

Q128 Grant Shapps: You do feel a tinge of embarrassment about this book now, as you revealed in your opening comments, I think.

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Sir Christopher Meyer: The sort of “red-sock fop thing”, I mean, you know

Q129 Grant Shapps: Did it surprise you?

Sir Christopher Meyer: That? Yes, I think so.

Q130 Grant Shapps: The amount of pressure that you have come under from this publication. You are surprised by that.

Sir Christopher Meyer: Well, the amount of pressure that has come from certain quarters has caught me by surprise, because, in spite of what the Chairman says, I believe I played this by the rules, put it into the system and got clearance.

Q131 Grant Shapps: By “certain quarters” do you mean the Cabinet Secretary? When you say “by certain quarters” who are you talking about?

Sir Christopher Meyer: Well, all kinds of stuff has appeared in the press. There has been the red-socked fop business. This is the most salient, if you like.

Q132 Grant Shapps: So you are surprised by the press reaction, even though—

Sir Christopher Meyer: I am surprised by the political reaction, I am surprised by some of the press reaction. But, I mean, for God’s sake, this is a democracy.

Q133 Grant Shapps: You are the Chairman of the PCC. You are surprised by the reaction of the press? As if you do not know the way the press might react.

Sir Christopher Meyer: My job is not to represent the press. That is not my business.

Q134 Grant Shapps: No, but you know them inside out, do you not?

Sir Christopher Meyer: Yes, I suppose so. I would not claim knowledge quite as deep as that.

Q135 Grant Shapps: In publishing—

Sir Christopher Meyer: But there have been things that have surprised me, let me put it that way, obviously.

Q136 Grant Shapps: This Committee has spent a lot of time looking at the Radcliffe Rules, which, we have said before, for the time seemed to be very well written, brilliantly crafted and, in fact, have stood the test of time and essentially these rules work because people go along with them. You have pressed, though, I think the “good chaps theory” to the limit, to breaking point, have you not?

Sir Christopher Meyer: There are two things to be said here. Radcliffe and his three criteria are still relevant. The Foreign Secretary refers to them in his written answer to Mr Prentice. My point is that my book appears to have been judged on only two out of the three Radcliffe criteria, because if there are the objections that there are to the book, then I should have heard from the Cabinet Office who should have said to me, “Oi”, but they did not.

Q137 Grant Shapps: Your defence, if you do not mind me saying, seems to be something along the lines of saying, “I was slightly ignorant of the rules”, or, “They did not put the rules into place sufficiently robustly in the Cabinet Office.” That is your defence: “It is not, my fault, guv, I did not know”?

Sir Christopher Meyer: My deduction from this is that the system is not working or was not working in my case, because—I keep on having to come back to this—if there is an objection about breach of confidence then under the Radcliffe Rules, which I take it are still pertinent, I should have been contacted by the Cabinet Office and told, “We think you breach those rules”, and then there would have been a discussion.

Q138 Grant Shapps: Do you know what this is like? This is like going to a restaurant. You go out for dinner; you have a lovely meal; they forget to charge you for the main course. Do you walk out or do you tell them?” You walked out of the restaurant.

Sir Christopher Meyer: I do not quite get the culinary analogy.

Q139 Grant Shapps: It is not to do with food, it is to do with the principle, and it is as simple as this. You wrote a book which you thought was going to be challenged. It was not challenged. Somehow it slipped through the Cabinet Office with less challenge than you thought it was going to achieve. When they did not pick anything up. Rather than, perhaps as you might have done, going to them and saying, “I think perhaps we ought to have a meeting. I know there are some things in here which must cause concern”, you said, “Oh, that is all right, guv, they have left it off the bill. I will just walk out and publish this now”?

Sir Christopher Meyer: It is an imaginative analogy, but I do not think I will buy it: because if we are going to have rules they have got to be clear.

Q140 Grant Shapps: The Radcliffe Rules have been around a very long time?

Sir Christopher Meyer: The Radcliffe Rules are extremely clear.

Q141 Grant Shapps: You have named the three criteria.

Sir Christopher Meyer: Yes.

Q142 Grant Shapps: Do you accept you broke them?

Sir Christopher Meyer: No, I do not.

Q143 Grant Shapps: You do not?

Sir Christopher Meyer: No, because it appears now that the book, having been cleared, is now being uncleared after the process.

Q144 Grant Shapps: You think they broke the rules really. That is your accusation.

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Sir Christopher Meyer: Do not put words into my mouth, but the system did not work. If this is the case, the system did not work.

Q145 Grant Shapps: You present somebody like me with a huge problem. I do not want us to make laws to make this more complicated. I am not really even that keen on tightening up the rules that much. I want it to be a fairly liberal system where “the good chap theory” still works, but you stretch that to the limit. You make it difficult for people like me, who have read this massive documentation. I read your memoirs and looked for a reason that I could defend you, but you are making it almost impossible for somebody like me who thinks this way to defend your memoirs.

Sir Christopher Meyer: I am very sorry to hear that. Believe it or not, I am in your camp on the matter of regulation, because I think actually the answer is fairly simple. You basically stick with the present rules, I think you do have to make some practical distinctions between people who are in the service and people who have retired—that may be a matter only for the diplomatic service, I do not know—and my answer to you is it is not that we need the new laws or draconian rules or statute or anything like that, it is just make the blinking system that we have work—it did not work—if these accusations have a basis.

Q146 Grant Shapps: So you sort of accept that you have suffered reputational damage, not through your own fault but through the system’s fault?

Sir Christopher Meyer: Travelling around the country talking to people about this book, book shops and literary festivals and all kinds of funny places, one of the things you discover is how many different ways people read a book. That is one of the things that surprised me, going back to your earlier question, the extraordinarily diverse way in which books are read, and some people will think I am a charlatan.

Mr Prentice: Hear, hear.

Sir Christopher Meyer: There you go. I could go on. Some people might think I am a “red-socked fop”, and all that, but what I am saying is in the country at large I have had an astonishing amount of support. In some areas my reputation has diminished, in others it is enhanced.

Q147 Mr Prentice: We have just been listening to the Cabinet Secretary who talks of you sneering at people. He spoke about your patronising and derogatory comments. Press reports talk of you reeking conceit?

Sir Christopher Meyer: Reeking conceit!

Q148 Mr Prentice: Are you comfortable with yourself following the publication of this book?

Sir Christopher Meyer: Mr Prentice, I am very comfortable with myself.

Q149 Mr Prentice: Okay, if you are comfortable, let us just take the Committee through the correspondence, because you say if the process is

flawed it is not your fault it is someone else’s fault. When the Foreign and Commonwealth Office wrote to you on 30 June after your book *DC Confidential*, “all the revelations from Her Majesty’s Ambassador in Washington”, when that was posted on the Amazon website it elicited this letter on 30 June from the Foreign Office, and they said to you, “When can I expect to receive the draft manuscript for approval?” “When.” You never answered that. The Foreign Office went on, “Until then, it is clearly premature for you or your publishers to publicise the proposed book. I look forward to receiving an early reply.” There were then subsequent letters. On 12 July you said, in response to that earlier letter, “At no point in the last two years until your letter has the Foreign and Commonwealth Office seen fit to remind me of the Official Secrets Act, the Diplomatic Service code of ethics or the Diplomatic Service regulations.” That is just a lie, because we have the letter from the Permanent Secretary at the Foreign and Commonwealth Office, Sir Michael Jay, who talks about a conversation he had with you on 4 June 2004 to express the concerns that he had and the Prime Minister had and other ministers had that some of your public comments, and I am quoting, “appeared to be straying towards the revelation of confidences gained in conversations in which you had taken part.” So it was just a complete lie to say that the Foreign Office had never been in touch with you for two years.

Sir Christopher Meyer: I am afraid, Mr Prentice, that it is not a lie, and if you read the reply that I sent to Sir Michael Jay on 7 August, you will see that I sharply challenged his version of that conversation.

Q150 Mr Prentice: So it is your recollections against his recollections, and you are inviting the Committee to form a judgment about whose recollections they believe. Is that what you are saying?

Sir Christopher Meyer: Mr Prentice, I can only say what I think happened. You will have to form a judgment. When Michael Jay said in his letter to me that he had, indeed, invoked the DSR5, no such thing was said at the time.

Q151 Mr Prentice: You keep banging on about process, and yet, on 15 August, yet another letter from the Foreign Office. It says this: “We would like to be in touch in early September.” They would like you to get in touch with them?

Sir Christopher Meyer: Yes.

Q152 Mr Prentice: “To ensure that we can agree on a mechanism and timing for satisfying our concerns while avoiding and minimising any disruption to your plans for publication.” They were bending over backwards. Then they go on to say, “It is essential that we find a way to do this.” No reply.

Sir Christopher Meyer: Oh, yes, there was a reply.

Q153 Mr Prentice: There was a reply from your publishers to Gus O’Donnell?

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Sir Christopher Meyer: May I answer these multiple questions?

Chairman: I think you had better.

Sir Christopher Meyer: Thank you, Chairman. That series of correspondence, which started on 30 June and ended on 15 August, as far as I was concerned, came to a very satisfactory conclusion, because the letter from Dickie Stagg, Richard Stagg, Director of Corporate Finance—

Q154 Mr Prentice: That is 15 August that I have just quoted?

Sir Christopher Meyer:—of 15 August—he had telephoned me before he wrote that letter and I had thought that what he was proposing made absolutely eminent good sense, and we said, “Right, we will talk again in September”, and that was the conclusion of our conversation.

Q155 Mr Prentice: And did you talk?

Sir Christopher Meyer: No, we did not, because the Cabinet Office called me in early September when I returned from some leave, and they said to me, “We will take this over. Send the manuscript to us” (and it was Howell James, Permanent Secretary for Government Communications, who made the call to me) “and we will ensure that your manuscript is distributed to the Foreign Office and to anybody else in Whitehall that is relevant”, and that is precisely what happened. You see, these letters keep on saying, “You must hand your manuscript in”, and, “When are we going to see it?” The reason I could not give them the manuscript or tell them when the manuscript would be available was because I had not finished the book.

Q156 Mr Prentice: You told us earlier you had finished it on 18 September.

Sir Christopher Meyer: No, I said 13 September. At the time, and I do not know how much of this detail you want.

Q157 Mr Prentice: As much as is necessary?

Sir Christopher Meyer: You be the judge.

Mr Prentice: I will.

Sir Christopher Meyer: There was a time in the summer when I thought I was not going to finish the book at all because it was too difficult. I had no idea when this was going to finish, and I kept on telling them that. I kept on saying, “This book is not yet finished. I do not know when it will be finished. I am aiming for the autumn.” I think in one of the letters I refer to October.

Q158 Mr Prentice: You do?

Sir Christopher Meyer: Which proved not to be correct, because in the end it was more like November, and, I come back again to the basic point, the book is finished on 13 September. I am sorry, I hand in the final chapters on 13 September. It then goes through a period of editing, it then goes to the printers to produce page proofs and within three weeks it is with the Cabinet Office. Maybe I am not reading this right, but the notion

which I see emerging from the Foreign Secretary’s written answer to your question that I somehow withheld all this back until the last moment is false.

Q159 Mr Prentice: Maybe the Cabinet Office stepped in because the Foreign Office was getting absolutely nowhere. I have just quoted the correspondence asking you to submit manuscripts, giving them an indication when it is likely to be ready, and you just ignored that.

Sir Christopher Meyer: There was no manuscript to give them and, had I not had a phone call from Howell James, then I would have picked up the phone either to Jay or to Stagg and said, “The thing is finished and it will be with you, I hope, in about”, whatever it was, “two weeks, three weeks.”

Q160 Chairman: Where does it say anywhere from anybody that this has been cleared?

Sir Christopher Meyer: My reading—

Q161 Chairman: No, not your reading. It is on record, you have said it many times, that this book was cleared. Show us the point where it was cleared?

Sir Christopher Meyer: Let me quote you an e-mail, which the publishers received on the day before we got the message from the Cabinet Office, saying that the Government would have no comment to make on the book. I quote, and this is from the publishers to me, just to give you a sense of what we thought we were going through, ie a process of clearance: “At the close of play yesterday the Cabinet Office told us that there is still one official in the Cabinet Office whose comments are awaited and that the Palace must be consulted over the references to Prince Andrew and Prince Charles. I am expecting to hear from the Cabinet Office again this morning, but their best guess is that we are unlikely to have any problems from the Palace or from those officials who have already read the book.” If that does not describe a process of clearance I would like to know what does.

Q162 Chairman: When Gus O’Donnell writes to you at the end of all this messy process and says that he is disappointed that a former diplomat should betray confidences like this, and then at the end of this letter, after saying that it is not his job to check the remarks that you attribute to people, “You should therefore not imply from this response that the book has any form of official or unofficial approval”, you thought that meant clearance, did you?

Sir Christopher Meyer: I think that is weasel words, and I do not actually know what it means. Does it mean approval, because the context for that, Chairman, is a discussion of facts and accuracy in the first half of the sentence. What is extremely surprising in all of this, and I lay this before you, is we get the verbal message on 21 October and it takes until 8 November for a very brief letter to arrive from the Cabinet Secretary which actually embellishes that verbal message. The verbal message simply said, “The Government has no

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comment to make on the text.” I took that as clearance in the light of what was going on before hand—you may think I am naive, but there you are—and then, three weeks later, we get a letter from the Cabinet Secretary which says, “The Government has no comment to make on your book”, and it immediately makes a comment expressing his disappointment at the breach of confidence.

Q163 Chairman: The word that was in my mind was not “naive”. What the system was trying to tell you was that this was a thoroughly disreputable enterprise and you should not do it?
Sir Christopher Meyer: Then why did it not say so?

Q164 Paul Flynn: You are not claiming, are you, that in fact what you were trying to do was to test a rotten system and prove that it is rotten, it does not work, it does not protect people’s confidences? Can we look at some of the things you say in the book, this alleged conversation you had with Robin Cook where you say that he tried to do a deal with you. He was trying to help, quite legitimately, I would have thought, a constituent of his who had a personal problem with a matter involving a child, and you described the deal that he tried to do with you as “ethical as a seven pound note”. I am not sure why it was unethical for Robin Cook to act as a good constituency MP, but I understand why it was unethical for you behave in the way that you did. Did you normally behave in that way to use the might of the Embassy and try to use the whole of the Foreign and Commonwealth Office to solve a problem that was a private one involving a member of your family?

Sir Christopher Meyer: I do not think I quite get the thrust of the question.

Q165 Paul Flynn: You described the deal as “ethical as a seven pound note”?

Sir Christopher Meyer: Yes.

Q166 Paul Flynn: Why was it unethical then? If it was unethical why did you take it up?

Sir Christopher Meyer: I thought that the question of Catherine’s case went beyond doing deals in this sense.

Q167 Paul Flynn: Where was the deal? Robin Cook was behaving on behalf of a constituent?

Sir Christopher Meyer: It was put to me, “If you do this, I will do that.” I would have done this in any event, which was helping him with his constituent.

Q168 Paul Flynn: Is there not a degree of lack of credibility in this story? Of course you should have done it and of course any minister can approach you about a constituency matter. That is entirely right. What was the problem with the ethics of it?

Sir Christopher Meyer: The problem with the ethics of it was that in the end he did not discharge his side of the bargain.

Q169 Paul Flynn: Because Lady Scotland objected to it, quite rightly, that she should not be using the Foreign and Commonwealth Office to solve a personal problem that your family had?

Sir Christopher Meyer: But I am afraid that the Government had already accepted this because there was a unit in the Foreign Office dealing with international child abduction, as there was in the Lord Chancellor’s Department, as it was then called, and it was accepted in government that this issue, like all issues of international child abduction, went beyond personal matters and had become a factor in interstate relations, so is this not right, Mr Flynn, to say that this was a personal matter.

Q170 Paul Flynn: In one of the letters you wrote you state that you believe strongly in the enduring relevance of the diplomatic service at the beginning of the twenty-first century. Have you not damaged this in a more serious way than probably any of your predecessors? Would any Prime Minister in the future want to take an ambassador into his confidence, to invite him to dinners and that seemed to upset you very much when you were not invited to dinners. Have you not put a gulf now between politicians and diplomats in a very serious way that no-one can be trusted in future?

Sir Christopher Meyer: No, is the short answer to that question, and if there is any doubt about it, then I go back again, the Radcliffe criteria are there, the third criterion which deals with confidential relationships. If what you say is true, the book appears not to have been judged against that criterion and it should have been.

Q171 Paul Flynn: Let us not go on; we have spent a great deal of time on this?

Sir Christopher Meyer: And I am going to keep on coming back to it.

Q172 Paul Flynn: You seem to want to concentrate on this to blame other people for this very unpleasant book which, in the view of most people, most serious observers, including people in the diplomatic service, has done a great deal of damage to the future relationship between diplomats and politicians.

Sir Christopher Meyer: I disagree with that and would like to enter a contrary argument, if I may.

Q173 Paul Flynn: You take it up with Lord Turnbull and the other very distinguished people who have said this. Why should we have any confidence that we will not have a PCC confidential one day? Can you be trusted in your present job not to be collecting tittle-tattle to betray confidences that other people have? Are you really a fit person to be doing this important job?

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Sir Christopher Meyer: Entirely fit, and let me go back to your earlier point, if I may. There are a lot of people out there, as far as I can tell the majority, who do not think this book is just a matter of tittle-tattle, because one of the things it seeks to do, more or less successfully, is to explain at the beginning of the twenty-first century what exactly an ambassador does, what exactly an embassy is for and why, in an age of instant communication and at times when prime ministers and presidents can video conference with each other, it is relevant to have people on the spot. If that does not reinforce the diplomatic service I do not know what does.

Q174 Paul Flynn: It does not, it damages the diplomatic service, and we have a great deal of evidence on this from many of your distinguished colleagues who have not sought to reveal confidential conversations in the way that you did. You said to Mr Jay that he made a rather unpleasant insinuation that money might warp “my view of the public interest”, that is your view of the public interest. Can you tell me how much money you have made from this so we can make a judgment?

Sir Christopher Meyer: I have no idea. I have no idea how much money I will make from this.

Q175 Paul Flynn: How do we do something to stop people behaving like you in the future? Do we defer the gongs that they get? Do we take the gongs away from them? Do we make their pensions conditional on their respecting confidentiality? How do we do it?

Sir Christopher Meyer: I would come from a different starting point from you, Mr Flynn. You and I are never going to agree on this. I would say that in an age of the Freedom of Information Act, the ideology of open government, all that sort of thing, that people should write and then they should expect to have what they have written considered by a fair and consistent process, that does not exist at the moment. As for displeasing many of my colleagues, maybe I have displeased many of my former colleagues, but I have been surprised at the number of e-mails that I have received from people in the service all over the world who absolutely support this book; so I just do not agree with you.

Q176 Paul Flynn: There is popularity in gossip and gossip-mongers are very popular people if you reveal confidences, but I think you have been judged by your peers and their judgment is that you are guilty?

Sir Christopher Meyer: Well, I disagree with you, and I say no more.

Q177 Julie Morgan: Do you feel any pangs of conscience at all about this book?

Sir Christopher Meyer: I do not feel any pangs of conscience about this book. I stand by this book. I did say at the start of this session when I was allowed to make a brief opening statement that I

had certain regrets at the turbulence that had been caused for friends and colleagues as a kind of backwash from the book, but if you are asking me whether I regret publication, no.

Q178 Julie Morgan: I am asking you whether you feel any pangs of doubt that you did the right thing in writing this book?

Sir Christopher Meyer: I have asked myself the question have I done the right thing by writing this book, but I have been so sustained, so reinforced, by people who think the book does a valuable service, people both on this side of the Atlantic and on the other side, that those doubts have been quashed.

Q179 Julie Morgan: I cannot say that we have heard any of those supportive voices. Everything that has hit the public domain has been criticism of what you have done. You were entertaining people in your home. Many ministers stayed with you in the diplomatic residence. Do you not feel you had their sort of trust, that they put their trust in you and that you broke their confidences? They were staying with you as guests.

Sir Christopher Meyer: What I did in this book, among other things, was to give a series of pen-portraits of people who came to Washington. In almost every single case these portraits, as far as ministers are concerned, relate to ministers in the public discharge of their office, not in private living but in public, with plenty of other people being present as well, so these are not disclosures of boudoir secrets in the embassy, but they are comments on the way in which ministers did their jobs. If under the rules this is considered unacceptable today in a book, then let the rules say so.

Q180 Julie Morgan: Why did you say that you briefed John Major in his underpants?

Sir Christopher Meyer: I have never used the word “underpants”, boxer shorts, thongs, Speedos or whatever in relation to John Major. It was not I but Lord Armstrong who introduced underpants into the discussion, and, indeed, that very episode, trying to describe what it is like working in Downing Street, where the pressure is so great that you have to start before breakfast, the first description of going to the Majors’ bedroom to consult with the Prime Minister is, of course, to be found in the book co-authored by the Prime Minister’s wife *The Goldfish Bowl*, and who provides the description for the Prime Minister’s wife in *The Goldfish Bowl*? None other than Howell James, currently Permanent Secretary for Government Communications; so this whole thing about underpants and John Major is a complete canard because the Majors gave their approval for this to be in *The Goldfish Bowl*, so this is a complete red herring.

Chairman: I think we have heard enough. I think it would be very nice to get away, if we could, from John Major’s underpants.

Sir Christopher Meyer: Which do not feature. His shirt-tails are mentioned!

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Q181 Julie Morgan: Why did you involve Barbara Taylor Bradford in trying to make a transition from the *quid pro* of the Civil Service to something which you think is more entertaining to the reader? Could you explain that process?

Sir Christopher Meyer: Yes, I will. I did detect earlier on in a remark to the Committee a bit of an elitist reaction to this, but, yes, I wanted a book that was accessible. I was not writing for international relations experts, I was not writing for universities or academics, I did not want to produce a treatise, if you like, I wanted something that people would understand and relate to, and so when I started writing, after 36 years in the Government service I was pretty conditioned by that, and we are very good friends of Barbara Taylor Bradford and her husband, Bob Bradford, and, how can I put it, she helped me achieve a less uptight style, I think is what I am saying, no more than that, but on content she had nothing to do with it at all.

Q182 Julie Morgan: So you think she made the book more readable?

Sir Christopher Meyer: My wife also played an important role in this, because she read this and she said, "This is fine. This is dry as toast. Put more of yourself into it." In fact, one of the big decisions I had to take when writing, nothing to do with Radcliffe and all that, was how much of my own personal life to put into the book, and in the end I decided that because, certainly as far as my time in Washington was concerned, everything done was done in partnership with my wife, that we had to bring ourselves personally into the narrative, and I suppose Barbara Taylor Bradford helped with that.

Q183 Mr Liddell-Grainger: Can I ask you, Sir Christopher, about your view? I am now looking at the book. We have got it here. Politicians *per se* you think are a pretty bad bunch.

Sir Christopher Meyer: No, I do not actually. If I could start my life again knowing what I know now—

Q184 Mr Liddell-Grainger: You would not be an MP?

Sir Christopher Meyer: I would go into politics. I really would.

Q185 Mr Liddell-Grainger: Would you?

Sir Christopher Meyer: I really would. I think it is a fantastic game, I really do, and I regret that I am now too elderly to be able to do this.

Q186 Mr Liddell-Grainger: Oh, I do not know, there have been some in the Liberal Democrats at times! Sir Christopher (and I will not go for the Pygmies, but I am glad to see you are wearing red socks. I think that is a very reassuring British tradition), if you look at your comments about the Prime Minister, your comments about the way that our leaders grip briefs, et cetera—you went through this war, you have seen it from the other side, on both sides, from the Americans and from ours—

were you profoundly disturbed with the way this was handled, are you worried about what is going on and, lastly, were we as a nation led down the wrong path?

Sir Christopher Meyer: One of the things I tried to do in this book, to be rigorous, was to separate what I thought and experienced at the time I was in Washington from hindsight. I did not want that to be polluted by hindsight, which is why there is a chapter in the book called War and then there is a chapter in the book called Hindsight. I started from the position, which I still hold to, of being a supporter of the war and of supporting getting rid of Saddam Hussein one way or other, and I do not resile from that at all. It was apparent at the time that much more thought was being put into preparing for the war and the politics of preparing for the war, most of which was at the United Nations but not entirely, and it was clear that this was the greater preoccupation when compared with what do you do when Saddam Hussein is removed. I left Washington at the end of February 2003. It is only now, with the benefit of hindsight, that one can see that that greater priority given to the war itself, as opposed to after the war, is at the route of the difficulties that we have experienced since the fall of Saddam Hussein. It was not obvious at the time; it is very, very obvious now; and you can understand why. I am not in the camp of believing that the whole thing has been a terrible waste of time and we should get out as soon as possible. I believe that this has not been fully played out yet. We have the Iraqi elections today. It is possible, within a year, a couple of years, that we will have the kind of stability and democracy in Iraq that we have always hoped we would have. So it is not the end of the game yet.

Chairman: Can I say to Ian, I do not want to get into Sir Christopher's views on the war or anything else for that matter.

Q187 Mr Liddell-Grainger: I thought I would just take a pop. I come back to the premise that you have been dealing at the very highest level between two nations. You have had to deal with a lot of things that Bush and others have done. In your book you have glossed over a lot of stuff which you could have perhaps put in about the real relationship. You have talked about the tittle-tattle, but Bush and Blair, did it work? Does it work?

Sir Christopher Meyer: There is a lot of stuff which I could have put in the book and which is not in the book. If I had been as frank in the book as, say, Bob Woodward was, and other Americans, in writing about the preparation for the war as did Woodward's book *Plan of Attack*, which benefits from briefings attributable and unattributable from the President downwards, if I had written something similar over here I would be talking to you now by video conference from the Tower of London, I should think.

Q188 Mr Liddell-Grainger: You did not have strap lines on your dust jacket, though, saying, "This book could have been franker", did you?

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Sir Christopher Meyer: Why on earth would I have done that?

Mr Liddell-Grainger: Because it would have been honest.

Sir Christopher Meyer: That is precisely my question.

Q189 Mr Liddell-Grainger: Is there going to be DC Confidential 2?

Sir Christopher Meyer: No, there is certainly not going to be DC confidential, the out-takes or anything like, there is certainly not going to be PCC Confidential. Maybe when all this has washed through my system, and I am not quite sure when that will be, I will write a novel.

Q190 Julia Goldsworthy: Which brings me on to the point I wanted to ask, which is: what was your motivation for writing the book? When Lord Wilson of Dinton came to give us evidence, and you have heard his evidence, he said that there are basically three main motives for writing political memoirs: one of them is wanting to set the record straight, the second is to make money and the third he categorised as vanity or pride. I wonder which category you see your memoirs falling into.

Sir Christopher Meyer: God only knows. I have to go back to this very banal beginning for the whole enterprise. I did not leave the diplomatic service with a burning desire to write a memoir—I never intended to write a memoir, I did not want to write a memoir—but we did have this family dinner in the summer of last year where this came up. It was actually more my children than my wife who said, “For God’s sake write this stuff down before your mind goes, because each time you tell the story it is slightly different from the time before.” That was the genesis, and then, whatever it was, a month, two months later, I go and buy an exercise book in a French supermarket and a six-pack of Bic pens and I sit on the balcony of our little flat up in the French alps and I think to myself, “What shall I write?” The rough chronology is to begin with John Major and end with retirement, and off you go, and I did not have a structure, I had very unclear ideas where it would lead, so I cannot tell you. What I thought as I was going through it was: “At the most this will have some kind of niche success.” I never expected what happened.

Q191 Julia Goldsworthy: Is there not a difference between maybe writing those things down for your own personal record and making the decision to publish? You have talked about how there should be a difference between civil servants who are in office and those who have retired, but is there not a difference about publishing this recollection at a time when many of the key players are still in office themselves? Surely, if you want that distinction between whether you are in office or whether you have retired, should there not be a similar principle applied to whether you should publish when all of these key players are still in office themselves?

Sir Christopher Meyer: There is a real debate to be had here, and I recognise that, and I think the real debate is, and there are many aspects of it, but one of them, I was very interested in the Hennessey/Wilson exchanges when those two came before you last month. One of the big things is actually to decide whether it is more appropriate to write about people in power while they are in power, or do you let time go by and wait until they leave power? My personal belief, as is obvious from the book, is that it is right to write about people in power, because anything you write or comment on, and God knows this book is full of all kinds of favourable comments on British politicians, it is not just negatives, to put it mildly, but there is a debate to be had: because I can write anything I like, so can newspapers, but the reputation of politicians does not depend really on what people like me write, it depends on the view of them by the people with whom they interact.

Q192 Julia Goldsworthy: Which is the public?

Sir Christopher Meyer: In the case of the United States, for example, it is a question of who you deal with when you come over. I can say what I like.

Q193 Julia Goldsworthy: Ultimately they are publicly accountable and you are putting information into the public domain?

Sir Christopher Meyer: Yes.

Q194 Julia Goldsworthy: So you are directly influencing the view in which they are held and they are publicly accountable, whereas you are not, which is why very many ministers and special advisors take out all references to civil servants because they do not have the right to respond. A lot of what you said earlier is saying that there should be a universal code which should be applicable to ministers and civil servants and special advisors, but surely there is a difference in that ministers, at the very least, are directly accountable?

Sir Christopher Meyer: I think that you are describing a classic relationship, and I do not think the classic relationship exists any more, at least it has moved on a very great deal. I think politicians on leaving office tend to write their memoirs extremely quickly. In fact one authorised a biography of himself while he was still in the Cabinet. Almost by definition these will deal with formulation of policy, and if it deals with formulation of policy, by definition it deals with a policy that is submitted to the minister by civil servants. So, the field has changed, and I think the rules should recognise that, and that is why I talk about a level playing field.

Q195 Mr Burrows: So you are essentially saying if ministers can do it, if they can kiss and tell, then civil servants can do it likewise? How do you respond to Lord Turnbull’s charge that two wrongs do not make a right?

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Sir Christopher Meyer: The question you have to ask yourself here is are we talking about two wrongs? We are not necessarily talking about two wrongs. The political memoir has a very interesting, illuminating and honourable tradition in British literature, and I think by and large political memoirs inform and illuminate and this is a very good thing, but we need rules.

Q196 Chairman: We know that, but we are talking about a book like yours, written by someone like you at a point in time when you have recently been in office. Let us take Andrew Turnbull, who was here just now. If he was to now sit down and produce a book on life inside the Government, your kind of book, what people said, what he thought of them, do you think the tradition of public service in Britain would be well served by that?

Sir Christopher Meyer: It depends what he wrote.

Q197 Chairman: A book like yours?

Sir Christopher Meyer: Well, I mean, why not?

Q198 Chairman: You think it would be well served?

Sir Christopher Meyer: So long as it goes through the system.

Q199 Chairman: I just want to know?

Sir Christopher Meyer: You keep on coming back to this.

Q200 Chairman: With respect, this is the fundamental point. We are concerned with what this means for the conduct of government in this country. I am asking you whether you think that the conduct of government would be improved if a recently retired cabinet secretary wrote a book like yours?

Sir Christopher Meyer: The answer is, depending on what he wrote, it could be.

Q201 Mr Prentice: On this point, on page 77 of your book you say: "There was a minority of capable ministers"—that is ministers who went to Washington—"who stood out like Masai warriors in a crowd of Pygmies". If Andrew Turnbull wrote his memoirs and said the same thing, that would be okay. That is just par for the course. Things have moved on?

Sir Christopher Meyer: I can think of few things less likely than Andrew Turnbull writing a book like that.

Q202 Mr Prentice: He is a different person from you, is he not?

Sir Christopher Meyer: Yes. One has to say, he presided over precisely the system of Cabinet Office clearance—

Mr Prentice: I have gone through all that.

Sir Christopher Meyer: I want to go back to it, because for me it is primordial.

Q203 Mr Prentice: I asked you questions about the process and you responded and it is on the record. The fundamental thing is that there are lots of people out there who think this was a fundamental breach of trust, a breach of confidence, and you told the *Independent on Sunday* on the thirteenth of last month, and I quote, "Give me a break." That is what you said: "Give me a break about breach of trust. It is all about double standards." That is the point, is it not, that because politicians publish memoirs you think civil servants, diplomats, drawing huge pensions for their time in public service, should publish kiss and tell memoirs. You think it is okay?

Sir Christopher Meyer: I do not recall that my huge pension is on such as favourable terms as those of MPs.

Q204 Mr Prentice: Sixty thousand, is it, that you get?

Sir Christopher Meyer: That is my business. I have now lost track of the question.

Chairman: Confidential impact.

Q205 Mr Prentice: I was talking about breach of trust and double standards, just to remind you?

Sir Christopher Meyer: Yes. Okay. The purpose of that remark in that interview—it goes back to the point that you were just discussing—I believe that at the beginning of the twenty-first century in an age of the Freedom of Information Act, open government and memoirs spewing out of politicians, most of which are quite interesting, there has to be a level playing field, there has to be a consistent and clear set of rules. At the moment, based on my experience with the Radcliffe criteria and the rules, all I can say is it all seems to be confusion and inconsistency.

Q206 Julia Goldsworthy: So you think there is a public interest in the material that you published?

Sir Christopher Meyer: I do.

Q207 Julia Goldsworthy: So you think there is a public interest in us knowing that Tony Blair was wearing "ball-crushingly tight trousers"? Who is the judge of what public interest is? I notice in your letter to Michael Jay on 7 August you say, "I've spent much of my time at the Press Complaints Commission making judgments about the public interest. A powerful consideration in this process is the public's right to know. There is no intrinsic reason why a group of civil servants should be a better judge of it than one individual." Surely there is no intrinsic reason why one person should be a better judge than a group of civil servants in the Foreign and Commonwealth Office?

Sir Christopher Meyer: You have to remember the background to that debate, but let me take your first point, and I must not forget my second point. The first point in all of this—"ball-crushingly tight trousers"—is it really not possible, is it really considered unethical, is it really considered intolerable that a piece of clothing on public display noticed by God knows how many

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journalists at the time and I am forbidden from commenting on it. When we are talking public interest, it has got nothing to do with ball-crushingly tight trousers really; it has got something to do with this, and you may disagree with what I am about to say, but, if you are talking about Tony Blair, there are four conclusions that can be drawn from my book.

Q208 Julia Goldsworthy: When you were a diplomat there is no way you would have publicly commented on Tony Blair's dress?

Sir Christopher Meyer: Wouldn't I?

Julia Goldsworthy: You would not have made that comment.

Sir Christopher Meyer: Who would I have been talking to? I mean, certainly to the Downing Street retinue I said, "Cor, blimey, look at those trousers." I did. I remember doing that.

Mr Prentice: It gets worse.

Sir Christopher Meyer: Public interest. If you talk about Tony Blair and the Iraq war, and it goes back to your question, Mr Liddell-Grainger, Tony Blair did not lie in 2002, Tony Blair was not Bush's poodle, Tony Blair came to the war with a high moral purpose and Tony Blair in his actions in Sierra Leone and Kosovo probably saved thousands of lives. I think it is of public interest for someone like me to be able to say that. You want people to read the book, so that is where you throw in pieces of colour.

Q209 Chairman: Tony Blair particularly wanted you as our man in Washington, did he not?

Sir Christopher Meyer: He appointed me.

Q210 Chairman: No, he put in hand arrangements to ensure that it happened. He plucked you out of Bonn, did he not?

Sir Christopher Meyer: I was pulled out of Bonn, yes, after seven months.

Q211 Chairman: I have read your book; I know what went on. You tell us that he wanted you. You were his man. Do you think you have repaid that trust?

Sir Christopher Meyer: I think I have done something which, above all, needed to be said on behalf of the Prime Minister. The single most damaging criticism, in my view, levelled at him in the run up to the Iraq war was that he had deliberately misled the British people, that he had lied. You hear that accusation expressed even more sharply on the other side of the Atlantic, particularly in the light of leaks that have appeared in the *Sunday Telegraph* and the *Sunday Times* over the last two years. The most important thing I have done vis-à-vis the Prime Minister is to say that from my vantage point, from what I saw, he did not lie, and I think that is important.

Q212 Chairman: We have got to end there. Can I take you back to where we started. You are having that conversation in the South of France and I am still struck by the fact that you did not even raise

a question about whether it might be proper to write a book of this kind. The fact that people like us clearly have doubts about whether it was proper, those of us, indeed, who were most vociferous in wanting freedom of information legislation have doubts about the propriety of what you did, the fact that you did not even weigh these considerations in the balance, so that when people tell you afterwards, people who I imagine you would respect, that this was not a thing that you should have done, that its consequences will be bad for the business of government—

Sir Christopher Meyer: I think we can have an honest difference of view about this, and I do not agree with you. The conversation, which actually took place in South Kensington rather than the South of France, which was the launch of the book, almost immediately, when I started to think about it, the judgment I had to make was what should I put in and what should I take out? From the autumn of 2004 onwards I was talking to colleagues in the Foreign Office. I did not conceal my intentions. Some of them helped me with points of detail where my memory failed. This was all done in an entirely open way. When you write a book you get so close to the text, after a while it is very, very hard to judge whether it is sensational, boring or whatever, so you show it to other people, and you show it to the Cabinet Office, and the Cabinet Office has the Radcliffe criteria, and in this case I was led to believe that the book had been cleared. Now I have no idea whether the government considered the book was cleared and what is certainly true is that, if you read the written answer to your question, Mr Prentice, from the Foreign Secretary—

Q213 Mr Prentice: I have many times?

Sir Christopher Meyer: There you are, it is a lucid as mud.

Q214 Chairman: It is funny that it does not seem obscure to us. It seems absolutely straightforward what you were required to do if you contemplated writing about your time in office, and you did not do it.

Sir Christopher Meyer: What did I not do?

Q215 Chairman: You did not go and say, "I am planning to do this. What do you think about it? This is my publishing proposition." You did none of this, and to wriggle around suggesting that somehow all this fuss is because of the obscurity of the regulations just will not wash.

Sir Christopher Meyer: Chairman, you have to get into the real world here. There are plenty of people in the Foreign Office who knew I was writing a book. If you are in the service, you are actually working inside the Foreign Office, almost by definition, because it means you are going to have to go on a sabbatical or something, you will formally go to your head of department or the PUS, or whatever, and say, "I am writing a book", or "I want to write a book", and you will get authority or you will not get authority. When you

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are outside and you are planning to write a memoir, and I think you will get a very similar answer from Sir Jeremy Greenstock, who I believe you are calling next year, all you can say to people is, "I am going to write a memoir", and they will say to you, "Make damn sure you let us see the manuscript before publication", obviously.

Q216 Chairman: If someone had said to Lord Radcliffe 30 years ago, looking at all this in the wake of Crossman, that he might be dealing with a situation where a former ambassador, within a couple of years of leaving office, would write this kind of book about the people that he was dealing with, the politicians that came his way, the events that they were engaged in, in this kind of intimate personal way, he would have thought it unthinkable that a public servant would have behaved in that way, and therefore it would not be necessary to craft intricate regulations to stop them behaving in a way that would just be, as I say, unthinkable. Is that not the measure of what has happened?

Sir Christopher Meyer: No, it is not the measure of what has happened, Chairman, and I rather resent what you say. I think that Lord Radcliffe, God knows, I am no more able to get inside his head than you are, I think, but I think he will certainly recognise that things move on over a period of time which is more than a generation and I think that he would be disturbed that the very criteria which he himself established were not being used to judge publications that were being put into the system.

Q217 Chairman: What Radcliffe says is, "We asked ourselves very seriously the question whether, with all the pressure of the day in favour of openness of government and public participation in the formation of public policies, the principle itself which enjoins confidentiality in all that goes to the internal formulation of government policy ought to

be regarded as an outmoded and undesirable restriction. We always came round to the same answer. It is necessary and it ought to be observed?"

Sir Christopher Meyer: I agree.

Q218 Chairman: It ought to be observed because of the conduct of the Government itself. That is why he would have thought this behaviour unthinkable?

Sir Christopher Meyer: I do not know whether he would have thought his behaviour was unthinkable, but I do not dispute that you need confidentiality and that you need a duty of confidentiality. The problem, Chairman, lies in its definition and in its application. That is the problem.

Q219 Mr Prentice: Very briefly on the Press Complaints Commission, you told us that you are hanging on in there, that you have had thousands of expressions of support, that you are not going to be writing PCC confidential and that the PCC is reviewing the rules following the publication of your book. If there were a vacancy now as Chairman of the Press Complaints Commission, do you think you would be a credible candidate?

Sir Christopher Meyer: What an extraordinary question. I think, yes.

Q220 Mr Prentice: It is plain English?

Sir Christopher Meyer: Okay, I will give you a plain answer. Yes.

Q221 Chairman: Do you think that is an extraordinary answer to match an extraordinary question?

Sir Christopher Meyer: I think it is a very good answer to a very good question.

Chairman: Thank you very much indeed. Thank you for all your evidence this morning.

Witness: Mr Lance Price, gave evidence.

Q222 Chairman: Let us move on to the last section of our morning. Welcome, Lance Price, another diarist of recent events that has caused some controversy. Do you, like Sir Christopher, want to say something by way of introduction?

Mr Price: If you do not mind.

Chairman: Thank you for your memorandum by the way.

Mr Price: I submitted in advance of this session essentially a chronology of the events and discussions leading up to the publication of *The Spin Doctor's Diary*. To summarise that process very briefly, I submitted my manuscript to the Cabinet Office expecting a process of discussion and negotiation leading, with luck, to an agreed text for publication. I knew from the outset there were a number of principles in which I believe, which were likely to conflict, for example the legitimate interests of official confidentiality and the public's right to know how government is

conducted in its name. I, for my part, was prepared to try to resolve those issues as part of a sensible discussion. What I did not anticipate at the outset was being told that my book was completely unacceptable and that there was therefore no room for negotiation. That seemed unreasonable to me at the time, given the nature of previous books by special advisors, officials, ministers, prime ministers, given the fact that it was more than five years since I had worked at Downing Street, two general elections had passed, the Prime Minister had said he was not going to contest the next one as leader of the Labour Party, and given that much of what my book contained was already in the public domain. Hodder and Stoughton, my publishers, sought legal advice at that stage because they agreed with me that the judgment of the Cabinet Secretary did not appear reasonable. That advice supported the view that what I had been told, was unreasonable and, furthermore, was

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neither legally nor contractually sustainable. In the absence of the Cabinet Secretary's guidance, which I had sought, but mindful of the legal advice, I then took out a significant amount of material from the text, and when I submitted the revised manuscript the Cabinet Office expressed their gratitude for the cuts I had made and, in a new spirit of cooperation, suggested a relatively modest number of additional changes, some but not all of which I accepted. It was far from an ideal way to go about things, and I have to say that, as a result, material survived from the original draft that I may not originally have expected to see in the final version. I say this not to try to shift responsibility for my book onto anybody else—that responsibility is entirely mine—but it is nonetheless true that the published *Spin Doctor's Diary* was not the book that I had expected. Although I remain of the view that workable rules are desirable and necessary, those that now exist did not appear to work in my case. It was not simply a matter of defiance; I did not set out to break the rules, but I found myself forced into testing their legitimacy. If they are to work better in future, which I take to be the principal purpose of your investigations, people must not be put in that position again. The rules, once agreed, need to be much clearer and must be applied to all parties reasonably and responsibly. People will, in my judgment, continue to keep diaries and to want to publish books after working in government. Whether or not those books have literary merit, most will have some academic or historical value. It was a well respected, I think, contemporary historian, Anthony Seldon, who urged me to publish mine. If we really are to say that what may be of value to future generations is to be denied to those now living, then it must be on the basis of a very good and demonstrable argument. Despite what has been said on occasions, I did not rush into print, and nor did I abandon all sense of responsibility. I believed there was a public interest in what I published, and I have yet to see evidence that it has done any harm to the processes of government. This particular government has made big strides in the direction of freedom of information and, indeed, has put that freedom into statute. As a journalist, which is what I was before I went into government as a temporary civil servant and is what I am again, I have always believed in demystifying the process by which we are all governed. I think that is good for democracy. *The Spin Doctor's Diary*, whatever its faults, may have, I hope, furthered those principles a little, but there are undoubtedly lessons to be learnt from what happened and, if I can assist in the process of learning those lessons, I am delighted to do so.

Q223 Chairman: I thought in your earlier remarks you were advancing the Meyer defence, which was the rules are all very complicated, they are unsatisfactory, that somehow it is the fault of the rules that this happens, but the latter part of what you said was more of a clarion call for openness,

that these things should be out anyway so the rules fall away. Which of those defences do you want to put forward?

Mr Price: I think both arguments have merit. When I started the process I was unclear about what the rules were. Even having worked in Downing Street and been aware of books that were published during my time in Downing Street, I was not clear as to what the rules were. I do think, given that people are going to want to do again what I have done, publish diaries or memoirs or write books after they leave an advisory capacity within government, they do deserve to know the criterion by which they will be judged if they submit something so that there is at least some clarity about what the process will be and how the Cabinet Secretary, or somebody working on his behalf, will form a judgment about the contents of a book, and I do not think that is at all clear at the moment. I do feel that the system as it currently stands let me down in that I was not given the opportunity to engage in any discussions or negotiations about the kind of book that I might want to put forward, having submitted it to the Cabinet Office before there was any commitment on behalf of my publishers to publish it, and before any newspapers had seen it or anything like that. I felt at the outset of the process I was abiding by the rules as I understood them and sought clarification as to what those rules were, and then a rather substantial roadblock was put in our way. Had that not happened we would not have gone to the expense and bother of seeking legal advice to find out exactly what the legal situation was. That was quite an illuminating process. That resulted in the book appearing in the form that it did, I suppose, although there was subsequently negotiation with the Cabinet Office. They had the opportunity to request changes, they did request some changes, and we made some of those. At the same time, I think it is fair to make the more general point, because I suppose I was anticipating some of the questions you might want to ask, about whether or not books of this kind do damage, particularly given that a period of time had elapsed after my leaving working for the Government, and whether or not there is this balance to be struck between legitimate confidentiality and an equally legitimate process of seeking to let the public know how that is conducted on their behalf and give people an insight into government and demystify it a bit.

Q224 Chairman: People get suspicious, do they not, when public interest coincides with private advantage so perfectly? You tell us in your book, which I have read with great interest, that you learned how not to tell the truth. That was part of your trade, was it not?

Mr Price: I think that is a bit of an exaggeration.

Q225 Chairman: I do not want to embarrass you by reading the bits.

Mr Price: No.

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Q226 Chairman: This was what you learned.

Mr Price: In the book, which was very much what I wrote at the time and I made a decision early on that I felt it was better to publish a strict narrative as I wrote it rather than trying to colour it with hindsight and change the narrative according to any agenda that I might wish to impose on it—this book does not have an agenda—a lot of attention has been focused on the fact of what I consider to be a relatively small number of cases when I was part of a process of putting information into the public domain that was not strictly true.

Q227 Chairman: When you were doing the job, did you know that you were going to publish this?

Mr Price: No, I did not. I was keeping a diary because it was a fascinating period in my life. I certainly had in the back of my mind the thought that I might publish some sort of book, and I do not resile from that in any way at all. As I said in my opening remarks, I was a journalist before I went into government as a temporary civil servant and journalists tend to make their living by words. I know this strays into other areas that the Committee is interested in, but I think when special advisers leave they tend to go back into the professions they had when they started.

Q228 Chairman: I was trying to work this out reading the book because at the beginning you say that you kept the diary with no intention that it should be published and a bit later on you say you had a vague intention and then you quote Alastair Campbell in the context of someone else who may be disclosing information, saying that Alastair said as a result, “life is on the record, so I guess it will now be okay for me to publish my full and frank account of life at Number 10—exclamation mark”. This was in 1999. You clearly had a view that you were going to publish.

Mr Price: I hope I made that clear in my last answer. I kept a diary because it was a record of what was going on in government and in my life at the time but, yes, I always had in the back of my mind the thought that I might publish a book of some sort. I certainly did not expect it to be the book that is now in your hands, which is the actual diary I wrote when I went home. If I had done, I think I might have crafted my words a bit more carefully and I might have thought how they might appear in print and I might have used fewer exclamation marks.

Q229 Chairman: You heard Andrew Turnbull say this morning it was kind of office gossip and he thought that was something that was completely off-limits in terms of the kind of role that you were doing. I was struck by the bit where it says that people are getting very twitchy about Geoffrey Robinson producing his book: “Prescott fired a warning shot in his end of conference speech on Thursday saying, ‘Everybody from top to bottom’, which he repeated twice, ‘should not fuel the froth in books and the media’” and you say, “Quite right too”.

Mr Price: I think the principal point that I would come back to on that is the one of the passage of time. Had I left Downing Street and immediately published a book of this kind people would have had very legitimate criticisms about that. I think there comes a time, as previous witnesses to this Committee have acknowledged, when what is day-to-day gossip, or tittle-tattle if you like, the day-to-day events of politics become part of contemporary history. The question is at what point do you accept that it becomes acceptable to publish. My overall view on that is that within the initial period after leaving government, although I speak in this case as a special adviser, I am not sure whether you can apply the same rules to ministers or to career civil servants, during which there is a presumption that things should remain private and confidential unless there is a very good reason why they should be made public. That does not apply to everything and it certainly does not apply to material that was already in the public domain. I think there does come a point at which the argument almost flips over at which point it is fair to say that there is a presumption that there is no reason why stuff should not be published unless it can be demonstrated that it will do harm. I do not believe, as I said earlier, that anyone has yet been able to demonstrate that the book that I have published has done harm.

Q230 Chairman: But you were working in Number 10 for the Prime Minister, the Prime Minister is still in office, and obviously people will say that is a betrayal of trust. You were sharing in office confidences all the time and you have written them down and you have published them. Is it not the truth that in order to reap any reward from this you had to publish them before Alastair Campbell published his?

Mr Price: I would not deny that was a consideration that I bore in mind. People have repeatedly said it will be impossible for meetings to be conducted in Downing Street, or anywhere else for that matter, if people are aware that somebody around the table is keeping a diary. Throughout my time in Number 10 people were aware that Alastair Campbell—my boss—was keeping a diary; the Prime Minister was aware of that. At many of the meetings that I have recounted and events that I have described in the book, Alastair was present at the same meetings. It would not have been possible for me to have included them in my book if people had been intimidated from behaving and expressing themselves because of Alastair’s presence; they were not. I think it is a fact of life in government these days that everyone is aware of, that people may wish to write something after they leave government at some point, and it has gone on for a very, very long time. There has been a good and fine tradition of political memoirs and diaries. Anthony Seldon said to me: “The best of those books are the ones written by advisers because those are the most illuminating, they are not written by politicians who have an agenda or who wish to restore their credibility or set the record

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straight or enhance their own role in things". I do not think my book tries to do that on my part at all. I was also conscious, in the absence of advice from the Cabinet Secretary, of the precedent, if you like, of books that had previously been published. There were books published by special advisers, there was one published by Jonathan Hill and Sarah Hogg, who worked for John Major, which was published while John Major was still Prime Minister. That book was broadly supportive of John Major and what had been going on in government, but it did reveal what was going on behind closed doors. I was aware of that precedent and I was aware of other books that had been written. I was aware of Bernard Ingham and I was aware, as your question implies, that my boss, Alastair Campbell, might be writing a book as well.

Q231 Chairman: Your job was about managing news and managing events, including events like this. Just give us a flavour of what it would be like in Downing Street when your book was published?

Mr Price: What I think it was like when my book was published?

Q232 Chairman: Yes. There were incidents all the way along and your business was to manage the incidents. How would Number 10 have been managing the appearance of your book?

Mr Price: I think they managed the appearance of my book with the utmost skill. They did exactly what I would have done in the circumstances, which was they said virtually nothing and they were not spoiling for a fight. They were conscious of the fact that the more they reacted against it, the more publicity there would be for it, and I am sure my publishers would have been delighted if I had been condemned from on high for doing so. They did not do that. I hope that wiser heads in Downing Street would have recognised, although I am sure they regretted the publication of the book and did not think that books like this were always appropriate, that what it contained did not do any harm. There was not any big new scandal, no politicians were chased down the road by the television cameras demanding their resignation, and nobody had to make statements in the House explaining anything. It is a very frank and very honest book about how life in Number 10 goes on. It shows politicians not just as politicians but also as human beings capable of making mistakes and capable of learning from those mistakes. I think that the British people are adult enough to be able to see their politicians in that light without it doing any harm to their reputations.

Q233 Chairman: You do not think any damage is being done to the conduct of government at all if it is known that people working at the centre, sharing confidences, five minutes later will be publishing these to make some money out of it?

Mr Price: I have to take issue with five minutes later. Had I walked out of Number 10 every night and given my diary under a false name and published it in the *Evening Standard* or something,

of course that would be outrageous, that would be five minutes later. Had I published the book a year later or 18 months later when a lot of the issues that were being discussed in my book, or issues that were going on when the actual diary entries were written, were still live and had not been resolved—devolution, the London Mayor, whatever it might have been—there would have been serious questions to be asked. As I said in one of my earlier answers, I think there comes a point at which it shifts from a sense that absolutely everything must remain confidential, to "show me what harm this would do if it was put into the public domain and we can talk about it". The problem that I had in the process was that nobody was willing to engage in that process and show me what harm was likely to be done, so I had to make the judgment myself.

Q234 Chairman: Because they thought the project itself was unacceptable?

Mr Price: They did, and I disagreed with them, and I think I had the support of the legal advice that we then sought. If they thought it was unacceptable, we should have had a mature and sensible discussion about it, there should have been some explanation as to why, and we should have had some mechanism by which we could explore whether it would be possible to produce a book, whether now or at a time in the future, that was acceptable.

Q235 Kelvin Hopkins: Do you know who leaked the outtakes that appeared?

Mr Price: I have my views on that. One of my jobs when I worked at Number 10—not my favourite job—every Saturday was to ring round all the Sunday papers and ask them what was going to be on their front pages the following day, the critical stories they were covering. It astonished me that any respectable journalist ever told me an answer to that question, but most of them did. The one paper that never would was the *Mail on Sunday*. The Saturday before the first serialisation of my book, I smiled to myself and thought "For the first time in my life I am going to ring the *Mail on Sunday* and ask them what is in their paper tomorrow and they are going to tell me the truth", and they did not. They obfuscated and hummed and hawed and the right people to talk to were not there, someone was on holiday or playing golf. The first I knew that what you describe as the "outtakes" from the book, which is to say the parts I had agreed with the Cabinet Office to remove or to change, were to appear in print was when the *Mail on Sunday* sent by dispatch rider photocopied proofs of the newspaper on that Saturday evening.

Q236 Kelvin Hopkins: There is a suggestion in our papers that the outtakes were circulating in 10 Downing Street. Is it possible that somebody from Downing Street leaked them?

Mr Price: There are two possibilities in my view. The newspapers were invited to read the text that was being submitted to the Cabinet Office before that process of negotiation was complete, but they

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were invited to do so under a strict confidentiality agreement which made it clear that in the event of them becoming the serialising newspaper, the only material to which they had rights was the final agreed text. At the same time as this process was going on, the revised text that I had submitted to Downing Street, that is to say after the changes I had made on legal advice, was circulated very widely. It is not for me to say what rights the Cabinet Office have to circulate material. They sent it to people who were mentioned in the book but I had calls from people who were outside of government, and had been outside of government for some time, who clearly had been shown parts of the book. I was aware of the fact that a lot of people in Downing Street were reading it. There was a very short paragraph, which I think I mentioned in the memorandum that I sent to you before appearing, in the *Mail on Sunday's* coverage which sort of implied that there were lots of copies around and they might have got it that way. I cannot prove one way or the other how the *Mail on Sunday* got that material. All I can tell you is they did not get it from us. When Lord Turnbull said this morning that the Cabinet Office had been double-crossed, I hope that was not a reference either to me or to my publishers because it would be a very unfair reference.

Q237 Kelvin Hopkins: It suggests the whole thing is rather porous and, in fact, one might say poisonous, the fact that there are clearly people up to mischief at the highest level using these things for their own purposes.

Mr Price: The highest level of what?

Q238 Kelvin Hopkins: Is that not symptomatic of the kind of politics we live with nowadays?

Mr Price: I would take a judgment that what appeared in the *Mail on Sunday* on that first day of serialisation tells you more about the media and their ethics than it does about what you describe as people in high places.

Q239 Kelvin Hopkins: If people do not speak to the media they do not know.

Mr Price: I have given you two examples of how the *Mail on Sunday* might have got hold of that material. I am not persuaded that it was given to them by anybody who would have been shown the text from government. I cannot see what their motivation would have been.

Q240 Kelvin Hopkins: A much more important question in my view is this distinction, which I am certainly concerned about, between civil servants—technically you were a civil servant although I see you as a politician—and the political world. Politicians and the Civil Service have been fairly distinct and the image created by Sir Humphrey in the television series was of a Civil Service which was almost hermetic, the politicians could not really get into the world of the Civil Service, they were guarded by permanent secretaries or whatever, and, equally, civil servants knew their

place and they did not venture into the political world. With the alleged politicisation of the Civil Service—people like you have caused the problem because you were a civil servant but you became part of that overlap between politics and the Civil Service and confused the issue to an extent—the old Sir Humphrey image has gone. Isn't that a bad thing?

Mr Price: The whole role of special advisers within government is something I know you, Chairman, and your Committee have taken a keen interest in and will continue to investigate in the future, I am sure. I do think that special advisers are in a hybrid position. They are largely political and some special advisers, certainly in my case, play a very political role but they are also brought within the Civil Service for a short period of time, and our careers are as fickle as those of the ministers that we work for so we do not have all the benefits of guaranteed employment, pensions and so on that others perhaps do. Certainly special advisers in the past have published books that have explained their role. I do not think it is any bad thing that people understand the role of special advisers better than they do at the moment because there are an awful lot of myths around about them. There are two ways in which a special adviser can get his or her view across about how government is conducted and what is going on. We all know that throughout the time since Tony Blair has been Prime Minister there has been an avalanche of books published, largely by journalists, sometimes by contemporary historians, purporting to know what goes on inside Downing Street and often giving quite colourful descriptions of rows between the Prime Minister and the Chancellor or whatever else may have been going on. Insofar as they were based on fact at all, we know where those facts came from. Those facts came from people working inside Whitehall, working for government, either as special advisers, perhaps the protagonists themselves, perhaps even, God forefend, civil servants. It is one thing, in my view, to give information to others to write, whether they are ghost biographies, actual biographies or contemporary histories, under the cloak of anonymity, but what I did was write my recollections with my name on the cover. I took responsibility for it. I was not going round behind closed doors giving information to journalists. I think journalists found me a pretty lousy source when I was at Number 10 because I did not do what the Chairman was describing as going out and finding them straight after a conversation and revealing what was going on. I think there is an argument to be made that it is far more responsible to publish a book like this, with my name on the cover, than to participate in some of the processes that I have just been describing.

Q241 Kelvin Hopkins: Would it not be healthier to have a much deeper separation between the Civil Service, with their codes and their rules, and the political field, with people like yourself strictly in the political field and not in the Civil Service? You are fair game, you have to rely on politics, you

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would not have rules like the Civil Service. And it is not a career, you are either elected or appointed temporarily to advise politicians who are elected. It is a much different world from that of the Civil Service. If we had strict rules for the Civil Service and a high Code of Ethics for them, we expect politicians to behave badly, because that is what they are like, you—

Mr Price: You are lumping me in the latter category?

Q242 Kelvin Hopkins: Yes, indeed. We should separate the two very clearly.

Mr Price: There is this ambiguity about the role of special advisers and I do have my views on that. It falls slightly outside the remit of a discussion about memoirs but I suppose it could be brought within it. Personally, I am a supporter of the public funding of political parties and if you want a good democracy you have to be prepared to pay for it and if you were prepared to pay for it you might have a situation in which political appointments within ministries could be paid for by the public still but through the funding of political parties rather than through the funding of government.

Kelvin Hopkins: I would like to pursue this further but I fear I have had more than my fair share of time. Thank you for that.

Q243 Grant Shapps: I am interested in your statement and also your written statement where you describe this process by which authorisation or changes in the book are made. I wonder whether you agree it was perhaps the case that the changeover in Cabinet Secretary caused this very odd, uneven process as your book was essentially approved for publication after changes?

Mr Price: It was not helpful, I admit. I would have been much more comfortable working with one Cabinet Secretary all the way through although, to be fair, I think a lot of the initial decisions and advice given and so on is given in the Cabinet Secretary's name but actually by officials who are working for him.

Q244 Grant Shapps: This is a classic organisational cock-up, is it not? Sir Andrew Turnbull told you back in July it was completely unacceptable, it looked like a closed door, you were amazed and ran for cover, got legal advice and the rest of it. You then put in a pretty much unchanged manuscript and were told it needed a few changes by the then Cabinet Secretary, Sir Gus O'Donnell.

Mr Price: Sir Andrew, now Lord Turnbull, made his decision, said what he said, and he must stand over that. I think he was wrong to do that and I think some of the problems that people have about the book flowed from that. What I must take you up on is the suggestion that we barely made any changes. There were very substantial changes made to the original text that was submitted to the Cabinet Office, which I had done my best not to self-censor because I did not see it as my job to do the Cabinet Office's work of telling me what was and was not acceptable, although even at that stage

I had taken out everything I considered to be at risk of damaging national security or being anything to do with Official Secrets. I had also taken out any reference to the advice of named civil servants because I recognised that was something that was wrong to do because they cannot speak for themselves. Then, as a result of the legal advice that we took, which was mainly about libel and confidentiality and other matters like that, copyright and so on and so forth, we took out quite a substantial amount more. The Cabinet Office expressed their gratitude for the amount of changes that we made and then we discussed what was left. They had the opportunity to ask for changes to the resubmitted text, they asked for a relatively small number and we made some further changes.

Q245 Grant Shapps: What I am trying to drive at here is that if you had submitted that then amended text to Sir Andrew in the first place he would not have used words like "completely unacceptable". In other words, you think the process was more or less working here?

Mr Price: I am not sure.

Q246 Grant Shapps: I am confused because in your written statement, and your opening evidence, you suggest that the process is not working but what you are trying to tell me now is that it was sort of working.

Mr Price: It did not work because a complete barrier was put in our way. I regard the system, if it is to work effectively, should be one that allows for some give and take and applies fairly to all. If you choose to have a system in which it is possible for the Cabinet Secretary to say, "Absolutely not, no", then that is going to invite challenge, and it is going to invite legal challenge if necessary. I think we can all agree that these things are best not resolved in the court. That is why I say the system as currently set up did not work in my case. I am not saying it could not have worked, it could have worked, because I did not set out to defy it and I would have been happy to have worked within it. Even if it had worked in my case I think there are improvements.

Q247 Grant Shapps: I would love to pursue the extent to which it did or did not work a lot further but, in the interests of time, what happened was there were then the outtakes that were taken out of the final version and you were paid £150,000 purportedly for the serialisation in the *Mail on Sunday*. You must have been pretty annoyed about this because the outtakes could have got you a great deal more presumably and rather than taking legal action against them you could have been paid for the juicy stuff that was taken out.

Mr Price: I am not quite sure I follow your argument. I should have kept it in so I could have earned more from the book?

Q248 Grant Shapps: If you come to a deal with a newspaper, which you had done, and they are going to publish the book and pay £150,000,

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presumably you could have negotiated £175,000 or £200,000 if you had given them the really juicy bits which, according to this version of events, they took from somewhere, we do not know where—perhaps you have some suspicions—and published. You must feel hard done by. You could have had that extra cash surely.

Mr Price: I do not feel hard done by in the way that you are describing but I was very surprised, very disappointed and not a little bit angry to see in public print material that I had come to the conclusion should not appear in public print. It made a mockery of the process that we had been through.

Q249 Grant Shapps: Just to get to your motivation for the diary. I remember *Newsnight* covering this and then apologising because they had enabled you to plug the book rather more than editorially they meant you to do. Is this whole thing not really just about book sales? In your particular case there is no great desire to establish a public record. It is all very grand but actually £150,000 from the *Mail on Sunday*, goodness knows what for selling the book, *Newsnight* with plenty of coverage, this Committee indeed, the whole thing is just money driven, is it not?

Mr Price: I have not made any grand statements about wanting to play some sort of role in setting the record straight or having an historical record. I would disagree with you that it is just about the money. Your figures are not strictly accurate, the amount of money paid—

Q250 Grant Shapps: Do you want to correct them?

Mr Price: I will if you want me to. The amount of money paid was more than I ever expected it to be. When I first put this forward as a proposal at the suggestion of Anthony Seldon—this may just reflect my naivety—I thought people would say, “We have heard all this before. So much of this is in the public domain, you are telling us stories we have already read about in the newspapers, whether it is about Peter Mandelson resigning from the government or BSE, foot and mouth, the General Election that was so long ago now, people’s memories are very short”. I was surprised at both the commercial value the book attracted and the general interest that it attracted. I would have gone ahead with the book had those figures been far, far, far lower than they were because I find political memoirs, and in particular political diaries, fascinating. I found that when I read about previous administrations they had been the most illuminating and interesting way of getting underneath what goes on in politics and in government. I felt that I had a text which would contribute to that and I wanted to see it published because I thought it would be a good book.

Q251 Mr Prentice: Are there any areas, things that you witnessed, that you did not put into your diary because it was maybe just too personal, a no-go area?

Mr Price: Yes.

Q252 Mr Prentice: Would you like to tell us what they were?

Mr Price: Tell you what they were. Do you want me to tell you what they were?

Q253 Mr Prentice: Yes, please.

Mr Price: I will tell you what areas they covered. The things that I excluded from the book, apart from what I have already described which was, if you like, national security and the advice of named career civil servants, the principal stuff was about the Prime Minister and his family. If it was legitimately private about the Prime Minister, his family, his religious beliefs, that sort of thing, and some of the views that he might have expressed on those matters, I think they were absolutely legitimately private and they were never in any text that was submitted to anybody.

Q254 Mr Prentice: So you kind of self-censored then?

Mr Price: At the beginning of the process I took out things for broadly those three reasons, yes, but it certainly included matters that I considered personal to the Prime Minister and his family.

Q255 Mr Prentice: You are gay, are you not?

Mr Price: Yes.

Q256 Mr Prentice: What about your reference when the Prime Minister famously asked you, “Lance, does the sight of a beautiful woman ever do anything for you?”. You put that in because you thought people would find that interesting, did you?

Mr Price: I am astonished that people have made so much of that remark.

Q257 Mr Prentice: Are you?

Mr Price: I just found that amusing. I did not think it said anything about his views on homosexuality or anything else. It made me smile.

Q258 Mr Prentice: Did you have conversations with your publisher where the publishers would want to extract the maximum value from the text? You say you left stuff out but was there any pressure to include stuff when you were just talking about the text in order to increase its value?

Mr Price: Obviously in the process of getting a book ready for publication there are discussions between the publisher and the author and the publisher’s general view is always in favour of keeping as much in as possible, that is a statement of the blindingly obvious I would have thought. At no point did I come under what I regarded as unreasonable pressure from my publisher to include something that I was not prepared to stand by, no.

Q259 Mr Prentice: Why did you go to the *Mail*? You spent your whole professional life taking on the *Daily Mail* which is vitriolic, deeply hostile to

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the Labour Party and everything that Labour stands for. Why did you take your book to the *Mail*?

Mr Price: I think you ask a very valid question, not least because of my political friends who are less than pleased with what happened. The fact that it was published in the *Mail* probably caused more offence than the book itself actually. I took the view that I should stand back and allow the publishers to do what they always do, which was to conduct effectively an auction and to allow that to go on through its normal process. I am not sure whether I would have had a right to say, “We will have an auction but no newspaper with the word ‘Mail’ in its title need apply”. If I did have that right I did not exercise it. In the back of my mind was the thought that journalists are journalists and if there are stories in this book almost any newspaper is going to take up the same stories. With hindsight, perhaps I was wrong.

Q260 Mr Prentice: Would it be okay for a man who has spent his adult life in the Labour Party presumably for the *Mail* to offer a huge sum of money to someone in Downing Street who has been keeping a diary but is about to leave the government and then publish all this stuff at the most damaging time in the run-up to a General Election to destabilise the Labour Government? Would that be okay?

Mr Price: No, it would not be okay. If I can make the point that—

Q261 Mr Prentice: You made the point about the time lapse.

Mr Price: No, not that point at all. I still have enough concern, and it is not a concern for this Committee but it might be a concern of yours and it might be a concern of mine, for the political wellbeing of this Government to believe that publishing the book, as I did, immediately after a General Election, when any fallout that there might have been, and I did not anticipate much, would have been well forgotten by the time Labour went to the polls again, was more responsible than publishing it, which I suppose I could have done, in the run-up to the General Election or at a time when Tony Blair was on the ropes or, even, arguably closer to the next election when it could have done damage not necessarily to Mr Blair but to his successor.

Q262 Mr Prentice: One final question, if I may. Are there any areas in the public realm, loosely defined, which are off-limits? I am thinking about the Royal Household, and I think the Royal Household now insists on confidentiality clauses. Do you think it would be in the public interest for people working for the Queen to keep diaries and publish and be damned?

Mr Price: I think that if we are living in a modern democracy then the people we seek to work for, and in your case seek to represent, have a right to know how that democracy functions. They have a right to know more than just the views of the great

and the good who then move on, Prime Ministers, ministers and so on. I think you do have to ask yourself the question who writes history. Is history only written by former Prime Ministers and former ministers who wish to no doubt remind us all how talented and clever they were, and how successful they were in promoting their particular causes, or is history to be written by a range of people who had the privilege to see how government works? Provided that contribution to history does not do any harm, and I do not believe my book has done any harm, then I think it is legitimate.

Q263 Mr Prentice: I say this generously, but I am sure you will get a footnote.

Mr Price: I ask for no more.

Q264 Chairman: Do you not accept even for a second that an effective democracy requires some private space at the centre of government where confidential discussions can be had and confidences are kept and, far from that being damaging to democracy, it is essential for democracy? If we want to bring the system down—you objected to five minutes—we have the instant kiss and tells which means, as Geoff Mulgan has pointed out, there is a corrosion of trust across the system which makes effective government impossible. Democracy is not well-served by that, is it?

Mr Price: A book published five years after an adviser left Downing Street, after two General Elections have passed, and after the date at which the Prime Minister has announced that he does not intend to run another election, is not another kiss and tell.

Q265 Chairman: While the person you served is still in office.

Mr Price: The Prime Minister is still in office; just as when the book was written by Sarah Hogg and Jonathan Hill, John Major was still in office. It is very hard to set down hard and fast rules. If I had written a book which was called “The Winning Ways of New Labour” and was a long list of all the achievements of New Labour during the time that I was in government I would not be sitting here. It is not just about timing, it is not just about content. This is why I think if we are to find a system that works, we have to find a great deal more clarity about what is acceptable and when it is acceptable.

Q266 Chairman: What I was asking you was will you accept that government does require a private space in which—

Mr Price: Yes, I do.

Q267 Chairman:—confidential discussions can be had and that serves the purpose of good government.

Mr Price: Yes.

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Q268 Chairman: That will be eroded if people rush into print while those people are still in place, governments are still in office, and it will be corrosive of the kind of good government that we would all like to see.

Mr Price: Yes, I do, but I waited five years. It may be that it was to my disadvantage that I happened to work for a government that is so successful it keeps on winning elections and I have not had the opportunity to wait for them to leave office, and I hope I do not have to face that situation quite frankly. It comes back to one of the points I made earlier. You talk about kiss and tell and going out and telling secrets within five minutes or whatever it might be, but people do that all the time and they do it anonymously. I waited five years and I put my name on the dust jacket. I think there is a difference.

Q269 Mr Liddell-Grainger: I am intrigued because at the start of the book you make the point about the Cabinet Secretary saying that publishing the book is “completely unacceptable” and at the end of the book under “Acknowledgements” you say—I am sorry, I was reading a bit, I hope you will bear with me, this fascinating thing about William Hague going to Jordan and nearly falling over the coffin.

Mr Price: I am glad you find something to recommend it.

Q270 Mr Liddell-Grainger: Sorry, I cannot find it. Basically, in it you make the point that you were pushed to write this book. The mandarins, the guardians of the system, did not want you to do it. Is that not the argument where we come down to where you cannot trust the people within the system? Basically it is that the system itself is draconian, it has got no direction. We have talked about copyright today, permissions with Radcliffe, we have gone right across the spectrum. We cannot stop it anymore, can we? Are the brakes not off? You are the new breed of exposé.

Mr Price: Let us just stick to my book. I do not believe that the system has been destroyed by my book. I made an effort to work within the system. I think if the system were reformed to a certain extent then, as I say, I was happy to work with the rules as they are at the moment but I would certainly be happy to work with and recommend a system of voluntary discussion and consideration of books that could work perfectly acceptably, provided it is seen to be fair, so that people can see the criterion against which their writing is likely to be judged, they know that if they go into the system they will be treated equally and with equal responsibility as other people who go into the system. At the moment, I think probably the system is kept deliberately opaque. It is clear that you have to submit your text to the Cabinet Secretary but it is not explicit that he has to give his consent, that is the presumption that is made. The way in which the guidance that I was given was phrased I did find confusing. All the way through I was feeling my way. I think you have to give

people a bit more guidance than that if we are to reach a conclusion in which books are published by people—and I put myself within that category—who do not wish to undermine the good and effective governance of this country but may at the same time believe that there is a public right to know how they are governed.

Q271 Mr Liddell-Grainger: You obviously admire the Prime Minister and all that he has achieved and all the rest of it, and that comes out in the book, but do you think you undermined him by publishing a book like this when you did?

Mr Price: No, I do not. Nobody has yet demonstrated to me how this book has damaged either the Prime Minister or the conduct of government.

Q272 Chairman: In one of your answers just a few moments ago you talked about named civil servants who cannot speak for themselves. Of course, you were a civil servant, albeit a temporary civil servant, and you have clearly spoken for yourself. You would have heard Christopher Meyer this morning saying that the terms of trade have changed and essentially that civil servants now can and should speak for themselves. What do you think about that?

Mr Price: As I understood what Sir Christopher was saying, he was seeking to draw a distinction between career civil servants still in service and those who have retired from service or left service for whatever reason. I certainly have no objection to civil servants publishing books after they have left office, and they have done that.

Q273 Chairman: Do you think the Meyer book is acceptable?

Mr Price: I am not sure it is for me to judge whether the Meyer book is acceptable. I am not going to start criticising Christopher Meyer's book. The only distinction I would draw between Christopher Meyer's book and mine, apart from the fact that he was in a far more senior and far more interesting position, and I am sure there is much more interesting material in his than there is in mine, is that I waited longer than he did before I published. It is for others to judge whether that is a relevant distinction or not.

Q274 Chairman: I am interested that you will not pass comment on a book produced by a former senior diplomat soon after retiring from office. You would not have been coy about this before you wrote your book, would you?

Mr Price: I hesitate slightly simply because although I have read parts of Christopher Meyer's book, as we all have, I have not read it all.

Q275 Chairman: Knowing the kind of issue we are talking about, you do not have a feeling as to whether, in principle, this is the right thing to do or not?

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Mr Price: I certainly think it is right for former ambassadors, for senior civil servants, former Cabinet Secretaries, to write books and to write memoirs, the question is at what point does it become acceptable for them to do it and at what point does that shift that I was describing earlier between a presumption that things should remain confidential unless a clear case for publication can be demonstrated, to the other position where there should be a presumption in favour of publication unless real harm can be demonstrated has been reached.

Q276 Mr Prentice: But it is okay for Christopher Meyer to refer to Jack Straw as someone to be “liked rather than admired” and Geoff Hoon to be a “frigid panda”?

Mr Price: You had the opportunity to ask Sir Christopher about his own book. I am not a literary critic.

Mr Prentice: But Jack Straw was then, and is now, Foreign Secretary. I am just astonished that you do not have a view on it.

Q277 Chairman: I asked Christopher Meyer, if Andrew Turnbull produced a book now of your kind, about life at the centre, what went on in the office, would that be right.

Mr Price: I think there would come a point, and I don’t know whether Lord Turnbull has been out of office long enough for that point to have been reached, at which it would be acceptable for him to write a book about his experience as Secretary to the Cabinet.

Q278 Chairman: No, not a general book about being a Cabinet Secretary, but your kind of book about who said what to whom in the office.

Mr Price: I hope there would then be a process that he would go through as a former Cabinet Secretary, just as there could and should have been a process that I would go through, in which there would be a discussion and perhaps even some form of appeal procedure if there could not be agreement on what should and should not be included.

Q279 Chairman: But the current Cabinet Secretary would say to him, “Sorry, Andrew, this is completely unacceptable. The whole project is something that you cannot do”.

Mr Price: If a future Cabinet Secretary were to turn round to Lord Turnbull and say, “Your book is completely unacceptable”, I think he would have the same grounds for objection to that that I had, which is that it cannot be completely unacceptable because those bits that are already in the public domain have to be acceptable.

Q280 Chairman: The argument would be that it is the kind of book. This is not a reflective account about the life of a Cabinet Secretary, this is gossip in the office. That is the fundamental difference. That was what was said to be completely unacceptable, the kind of book that it was. Around that there could be no negotiation, either you believe it is an acceptable project or you do not, it is not something where you can say, “This little bit of gossip is all right, but that little bit of gossip is not all right”, the project was deemed to be unacceptable.

Mr Price: Yes, and I disagreed. I exclude the premise of your question that there is nothing in the book apart from office tittle-tattle, but maybe that strays into literary criticism as well. There have been political diaries in the past written by advisers as well as by ministers and Prime Ministers and I think they have contributed to our understanding of government and how it is conducted. I do not believe that a blanket ban on my kind of book would be legitimate in any form at all.

Q281 Kelvin Hopkins: Does this not all reinforce the point I am trying to make, that there should be a Civil Service separate from politics which has very strict rules and a Code of Ethics, on the other hand, you are an ex-journalist, a political activist, going to work for a political party. You are as dodgy as I am. You are a politician.

Mr Price: On that spirit of comradeship—

Q282 Chairman: I was struck as you were speaking just now that you also used the word “naïve”, which was the word Christopher Meyer used. You were both expressing your naivety in thinking that these books would excite any interest at all. Maybe that gives you a curious bond because, whatever else it was, it was a very lucrative kind of naivety, was it not?

Mr Price: It turned out to be a more lucrative kind of naivety than I had anticipated.

Chairman: Thank you very much for coming and telling us about it.

Thursday 19 January 2006

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
Julia Goldsworthy
David Heyes
Kelvin Hopkins

Julie Morgan
Mr Gordon Prentice
Grant Shapps
Jenny Willott

Witness: Sir Jeremy Greenstock GCMG, gave evidence.

Q283 Chairman: Good morning, everyone. I am delighted to welcome on behalf of the Committee, Sir Jeremy Greenstock, distinguished diplomat, the British permanent representative at the United Nations from 1998 to 2003, and then the UK special representative in Iraq from 2003 to 2004, but that is not why we have asked you to come. We have asked you to come because we are doing an inquiry into memoirs and you have been in the news with your publishing project, currently suspended, and we would very much like to ask some questions about this. We are very grateful for the memorandum which you have sent us, which is very sharp and to the point. Would you like to say anything by way of introduction or shall we just ask you some questions?

Sir Jeremy Greenstock: Let us let it flow, Chairman, that is fine.

Q284 Chairman: What I would ask you to start with is, when this idea of writing a book occurred to you, did you grapple with the problem of a very recently retiring diplomat at the centre of very currently controversial events writing an instant memoir? Did that strike you as a project which raised difficulties?

Sir Jeremy Greenstock: The business of writing a book comes to you, it came to me, in a series of stages, you do not go from one to 10 overnight. As I sought to explain very briefly in my written memorandum, I had begun with the idea of writing something about how the United Nations works because in my five years' experience at the UN there were very few people outside the system who do understand what happens inside it and what the various relationships are and what the political considerations are. I felt that could be done, even though the norm is for people to wait some years before they write about their official experience, in a way which would be helpful and not particularly controversial. That was before I was asked to go to Baghdad. The months leading up to the conflict in Iraq also took me into a different state of thinking about the issue and a different position in terms of my public persona. The issue of Iraq was extremely controversial, a lot of things were said about it which were wrong or under-informed. I felt the subject itself, the whole saga of Iraq, was rapidly becoming, and indeed has become, the seminal foreign policy issue of the era, and I gradually moved into a state of wanting to explain as clearly as I could within the rules what happened, how things turned out as they

did, in order to allow the public to have a more informed debate about it. But it was always my intention to seek clearance under the rules and see how it came out. So it was a progressive series of stages which led me—and you have to put on top of that my experience in Baghdad after the war—to think it might be worth setting out some things in public. While you are thinking that, all sorts of people are discussing things with you, are in seminars with you, you go on all sorts of programmes to talk about it in your public capacity with the support of your department, and you get into a habit of talking about these things in public, so it does not seem such a great step to setting these things down in writing.

Q285 Chairman: It is interesting as you describe it, but did you not see the red lights flashing earlier on at the implications of a just-retired senior diplomat, involved at the centre of currently controversial events, writing a book from the inside about those events, and the implication that would have for trust within the system?

Sir Jeremy Greenstock: Yes, but had they been red lights, I would have backed off. I clearly considered the context within which I would be doing it and there were orange flashes of realisation that you could only select certain things to say. All of us in public service, if we get into considering this at all, are aware that there is a huge amount that you just cannot say, but there are some things that you can say, and my hope is in this Committee's consideration of recent events and of the evidence you have heard that you will throw some light for us all on where the dividing lines are between what cannot be said and what can usefully be said in the public interest in an era where it is quite difficult to get at the truth in spite of the mass of information. It seems to me to be quite a broad spectrum, where at one end you have what the Government issues, which may or may not in the eyes of the public be credible, at the other end you have a whole welter of stuff coming out of the media, which may or may not be geared to be sensationalist and entertaining and critical and insulting or amusing, and in the middle there is not so much that everybody out there can put their trust in as informed comment about what is really happening underneath the frenetic surface. So I think there is a public interest, within certain

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rules, in those who have been part of and who understand the evolution of events making some comments on it, but there have to be limits.

Q286 Chairman: You think it is possible for someone who has only just left public service to intervene in current controversies from an informed, inside perspective, for the reasons you very properly say, there is a public interest in there, and you think that that is reconcilable with the public interest in maintaining confidential relationships inside the process?

Sir Jeremy Greenstock: I would not have necessarily used the word “intervene”, one is just writing something with some comment in it and telling the story. I think it depends on the circumstances. The difficulty we have had before and since Radcliffe is in making the precise judgments on a particular text under guidelines which allow some room for flexibility. I do not think that there should be an absolute prohibition in regards of timing so long as the proper people in the proper positions make a judgment on what can or cannot be set out in the text. So the rules are fine, as far as I am concerned, they should be gone through, but there is a case for not being absolutely inflexible.

Q287 Chairman: I understand the argument for flexibility. In the withdrawn catalogue entry for your book, it says, and indeed you say, “In the UK, retired public officials do not normally write books on events still current. I am breaking that convention because the lessons drawn from the saga in Iraq are too important to leave until later.” Assuming that is a correct quotation, this is a rather different approach from the one you are describing. This is not an argument for flexibility, this is you saying, “I am consciously breaking a convention that I know exists because what I have to say is important and needs to be said.”

Sir Jeremy Greenstock: I am going against the convention but I am not breaking the rules. Iraq is an unconventional issue. This is the point I am making, Chairman. In certain circumstances there is a public interest in certain things not going entirely to the norm. That is just the case I am making. I cannot remember exactly in what circumstances I wrote those words and why the publisher took them up, it is too far in the past now, too many things have happened, but I wanted to make the point perfectly openly, and I am happy to be open with you about it, that I did think Iraq was different.

Q288 Chairman: I am sure colleagues will want to pursue that. In your account of the process of trying both to break the convention and play by the rules, you submitted bits of your book as you did them to the Foreign Office and, as you describe it, you were getting co-operative responses and the system seemed to be working all right. Then, the Foreign Secretary intervened and said he did not like the whole enterprise and you went to see him. What did he say to you?

Sir Jeremy Greenstock: He said he thought I was going against the norm, that I was letting the system down and that he believed in quite severe restrictions in the whole area of publishing one’s official experience, and he hoped I would consider what he was saying and desist. That was the sum of what he was saying.

Q289 Chairman: But this had not been the view expressed hitherto by the Foreign Office machine itself, which had co-operated with the enterprise of looking at material submitted, commenting on it and you being prepared to make requested changes.

Sir Jeremy Greenstock: Yes, that is true. It is also the case, as I understand it, and the conversation with Mr Straw bore this out. He had not read my text.

Q290 Chairman: Is this not the point though, his objection was to the enterprise, not to the content, it was the enterprise of someone in your position publishing such a book at such a moment.

Sir Jeremy Greenstock: That seemed to be the case, yes, but it did not seem to be the reaction of those who were dealing with the text under the regulations in force.

Q291 Chairman: There is nothing in the diplomatic service regulations on this which talks at all about ministers having a role in this process. You simply submit it to a named person in the machine, the machine deals with it, that machine was ticking over, as you thought, quite nicely until there was political intervention. Do you think it is proper that a minister should be able to veto effectively, as happened in this case, a book of this kind?

Sir Jeremy Greenstock: Yes, entirely proper, and indeed a lot of the previous papers in Radcliffe and previously make it quite clear that in the view of those writing at the time it should be the responsibility of the Secretary of State, at times the Prime Minister, to make such decisions. Of course in the public system in any matter which affects policy or has to do with the public service, a minister can have the final word.

Q292 Chairman: In relation to the Home Civil Service, the Cabinet Secretary is the guardian of this system, and that is who the prospective memoirist deals with. They do not have sudden political interventions which seem to cut across the process that is in place. This is what happened in this case, is it not?

Sir Jeremy Greenstock: In terms of facts, yes. In terms of the sequence of events, that turnaround in the situation at the end of June I think, as far as I can see, was a considerable surprise to senior members of the Foreign Office.

Q293 Chairman: But having met the Foreign Secretary, you decided he was right, you were wrong, and that you would not publish the book.

Sir Jeremy Greenstock: No, that is rather too telescoped a version of it. I decided what he had said needed to be considered, that he was not correct in saying that I had gone beyond the rules in submitting

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a text to the Foreign Office. He was talking as if I had already published. If there was a proscription in principle against the writing of memoirs, there would not be the rules for clearing them, so I think he was making a point of principle which was not justified. On the other hand, he was very much against the exercise and he was my previous boss, he is the Secretary of State for Foreign and Commonwealth Affairs, and the fact he held those views weighed with me together with other considerations.

Q294 Chairman: And it trumped this great sense of public interest you had previously had in publication?

Sir Jeremy Greenstock: It is not for me finally to judge the public interest. I accept that. That is why I submitted my text for clearance. I did so in the expectation, which to some extent was borne out, that the process of discussion with the Foreign Office would refine my judgment on what could or could not be expressed against the standards which applied at the time, and that I would need to make some revisions. So that process was going on and I thought it was a perfectly fair one. The Foreign Secretary's intervention was rather a lot sharper than that, so it surprised both me and the people with whom I was discussing the norms which seemed to apply to what I was writing.

Q295 Grant Shapps: To continue, if I may, on this point, you just said that Jack Straw had a point of principle which was not justified. Can you elaborate on that because I am not clear.

Sir Jeremy Greenstock: I am only making the point that he seemed to be saying there should be an absolute restriction on diplomats, in this case, writing about their public experience, at least while most of the people who were involved in those affairs were still in public office. The point I am making is that that has to be judged in the discussion with your Department or with the Cabinet Secretary over the text you have written, it is a judgment on the specific rather than an absolute restriction in principle. That is where I differ.

Q296 Grant Shapps: So if I understand your point correctly, you felt he was wrong to say that but nonetheless you would take his point of view into account. Is that a fair summation?

Sir Jeremy Greenstock: Yes. I was a bit puzzled he was saying it without having looked at my text, partly I think because what I was writing was, in my view, in net terms helpful to the Government's case on Iraq rather than the opposite.

Q297 Grant Shapps: From the outside I suppose it could look like you caved into political pressure. You have been to see the Foreign Secretary, he has told you he does not want you to publish, he has not read it, you have said what he said was not justified, I am curious now whether you did in fact cave into political pressure or was it more that he made your conscience catch up with you, he somehow pricked something in your own conscience?

Sir Jeremy Greenstock: There are other considerations, of course. For a start, I think the effect of his intervention was to make the Foreign Office scissors and pen rather more active on my text than they had been previously, so it affected others as much as it affected me. Secondly, with other things which were going on and other books which were being published and public comment on all of that, the atmosphere was becoming considerably more febrile than it was when I started. There were judgments to be made against other considerations than just the Foreign Secretary's intervention.

Q298 Grant Shapps: Your memoirs are an interesting case for us because of all the people we have interviewed as witnesses on this subject, you are the only one who openly says, and it obviously did happen, that there was direct political influence as to whether or not you published. When do you think you might well publish your memoirs?

Sir Jeremy Greenstock: I have not made that decision. The book is not in the deep freeze, it is in the fridge.

Q299 Grant Shapps: That suggests three months, six months, and then you will have to throw it away.

Sir Jeremy Greenstock: That is, it can be quite quickly recooked if necessary. I have a gentleman's agreement with my publishers that I will come back to them. The original contract is set aside, there would need to be a new contract, but that was by mutual agreement, they did not end the association on their side. I will judge by events and by the atmosphere at the moment when it might be relevant to return to it. The possibility is never.

Q300 Grant Shapps: Never?

Sir Jeremy Greenstock: The possibility is never.

Chairman: In that case, the fridge may not be the right place for it!

Grant Shapps: It will go off.

Sir Jeremy Greenstock: Indeed.

Q301 Grant Shapps: To continue your metaphor, by saying it is in the fridge and not the freezer, you are saying there is no thawing time required, you can bring this out and publish it very quickly. Does that mean you have actually completed the book?

Sir Jeremy Greenstock: I had completed the book in July. The original publication date was the beginning of September, so by the middle of July the publishers would have had to have a final text to have copies on the bookstands by the end of August. We can go into the uninteresting detail of why I stopped at that precise moment, but you have to either proceed or cut at the point when the publishers had to go to press. If I return to the book, I would have to update it; it was set at a particular time with events in Iraq having reached a certain point, and there is a certain amount of comment at the end about what the whole saga of Iraq means which would have to be updated, so some fresh writing would be necessary.

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Q302 Grant Shapps: You now have a book which is complete, though will need a bit of updating, sitting in your fridge at home, and presumably you are going through some kind of internal conflict as to whether this should ever be put in the public domain at all. On the one hand you appeared to be about to say to me, “Actually I could publish this very quickly, which is why it is in the fridge and not the freezer”, but on the other hand you are telling me it may never be published. Is this because of an internal conflict for you or just because you genuinely do not know or because you fear political pressure? Why?

Sir Jeremy Greenstock: I just have not decided. Having been through the intensive business of getting these words on the page, revising them endlessly with my publisher on the one hand, with the Foreign Office on the other, pulling in different directions, it is all quite an intensive experience. When you stop that, the whole thing goes off the boil in your mind. I am sorry about all these culinary metaphors. It remains off the boil. I do not know whether I can regenerate the energy to return to it.

Q303 Grant Shapps: Does this feel like an unfinished project to you?

Sir Jeremy Greenstock: No. It feels like something I have been through and finished and it would be a considerable effort to return to it. This is perhaps a clearer answer about where it stands at the moment. It would need a lot of energy to return to, but having spent the time on it that I have, it would be a pity to waste it altogether, and the bulk of what is there is usable.

Q304 Grant Shapps: Have you read *DC Confidential*?

Sir Jeremy Greenstock: Yes, I have.

Q305 Grant Shapps: If you were to rate your text alongside, is this more or less sensational? Are you somewhat aggrieved that Sir Christopher Meyer managed to slip his book out and you have been stopped? How does it make you feel?

Sir Jeremy Greenstock: I am not thinking in terms of comparisons.

Q306 Grant Shapps: You are the only man who has read both, are you not, so you are the only person we can ask?

Sir Jeremy Greenstock: Together with a few people who have been through my text. After all, quite a lot of the Foreign Office has read both, and the Cabinet Office.

Q307 Grant Shapps: Though not the Foreign Secretary.

Sir Jeremy Greenstock: He may have done by now, I do not know. He may not have read *DC Confidential*.

Chairman: I think he has.

Sir Jeremy Greenstock: The two books are different. I am dealing with a much narrower and deeper area. I am talking about a saga of foreign policy as it evolved—a foreign policy story, if you like—

whereas Christopher is representing an experience over a number of years. I am not going to offer any adjectives about it or comparisons, they are different books.

Q308 Grant Shapps: Are you saying yours is a more serious, in-depth book?

Sir Jeremy Greenstock: I have not said that. I think Christopher has made a lot of serious points and has been very enlightening about what it is like to be ambassador in the United States, but I am seeking to explain a narrower and deeper range of events.

Q309 Grant Shapps: So the Foreign Office objection to your book is more based on the serious nature of the content than, as I think we suspect with Sir Christopher Meyer's, it was the tittle-tattle which made his unpalatable to the current administration?

Sir Jeremy Greenstock: I have not entered into the realm of value judgments of people in public office and their performance. I am though trying to explain why things happened, how things happened, what happened to some extent in the background, while not revealing confidences and secrets which may not be revealed. So a very careful judgment has to be made about how you can explain things when you cannot say everything that does explain them. It was necessary in my view to have a discussion, almost a negotiation, with the Foreign Office about where those rather fine lines were to be drawn, and I think I sensed in the Foreign Office a dichotomy of feeling, that they actually saw the point of having an explanation of this kind of how a very controversial piece of foreign policy was enacted, yet on the other hand they did not want facts to emerge which might affect the continuing diplomacy on Iraq. Where was the balance? Would Iraq policy from the UK interest point of view benefit from the deeper explanation or be damaged by the revelation of certain things that happened which have not yet come into the public domain?

Q310 Grant Shapps: I am interested in whether you think the Radcliffe rules et cetera and the Foreign Office rules have in your case worked or not worked when it comes to publishing your memoirs?

Sir Jeremy Greenstock: In my case I think so far they have worked. I have no argument with them. In re-reading Radcliffe, it seems to me to remain an eminently sensible report, and before you ask me the follow-up question, Mr Shapps, or anybody else, I think it did not work in the case of Christopher Meyer. That is my view.

Q311 Julie Morgan: You have touched on this already but you said earlier in your evidence that you thought Iraq was different, and I wonder if you could explain why you thought Iraq was different and why this would justify writing your book?

Sir Jeremy Greenstock: Iraq is an issue above all in this decade, or these few years which we are considering as an issue in which the foreign policy of the United Kingdom, the interests of the United Kingdom, have been very intimately engaged, which connects with most other areas of foreign policy:

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with politics in the Middle East and particularly the Gulf Region; with relationships with the United States, with the role of the superpower; with the role and capacities of the United Nations and what the United Nations can and cannot achieve in the area of international peace and security; with particular relationships that the United Kingdom has with others; with oil; with weapons of mass destruction and proliferation; all sorts of issues in a very complex way, which has changed the character, evolved the character, of almost all these issues. The interrelationship between those different things and the way in which we continue to look at them and act on them is an extremely important part of British foreign policy and British interests. It seemed to me what I had read up to the point I started writing on Iraq did not bring out some of the underlying truths of what had happened, and the distortions in what was being said, particularly in the media, were capable of distorting also the lines through to those other areas. So I felt there was a public interest in having the deeper explanation of what happened, so that the debate on all these things could be better informed.

Q312 Julie Morgan: So your own contribution to that debate, which you would like to have made, you saw as actually influencing events which were still evolving?

Sir Jeremy Greenstock: That was not the reason that I wrote.

Q313 Julie Morgan: But that would have been the effect?

Sir Jeremy Greenstock: What I was not trying to do was to write a comprehensive treatise on the whole business, a whole history if you like, of the whole thing. I really wanted to set down some of my experience on Iraq so that others, particularly historians at some stage but also people commenting contemporaneously, would have a better understanding of those bits on which I could say some things and make some comments. I was not writing in order to change anything or to influence policy.

Q314 Julie Morgan: But do you not think that if you had written, if it had been published, it would have influenced our view of what happened in Iraq, which is still an on-going saga?

Sir Jeremy Greenstock: Only marginally. Come on, it is just one civil servant in a huge team in a whole international arena. It would have been interesting for a short period of time and then people would have moved on. Look at the books which have come out in the United States with very considerable explanation, revelation, of what went on, the latest of which is Ambassador Paul Bremer's own account of his stewardship in Baghdad. Each of those books on their own probably would not have affected people's attitudes towards the policy decisions which were taken and the performance of the leaders who took them, if taken singly. Cumulatively, as we get from those books a deeper understanding of all the things which happened, people's minds do change

about what happened and about the sense of the decisions which were taken. So I was writing as a contribution to a whole series of comments on the Iraq war. But I was aware that there were probably very few, if not no other, senior British government servants writing on that issue and therefore I would need to be careful about my position in that respect.

Q315 Julie Morgan: I suppose because your proposed publication produced such a sharp response from the Foreign Secretary in particular, it is easy for us to imagine there were things in your book which would change our view of events more than you are saying at the moment. What you are saying is what you were going to write you do not think would have made that much difference to our overall view of the conflict but would have added to the understanding of contemporary historians?

Sir Jeremy Greenstock: I do not know, you will have to ask the Foreign Secretary why he reacted as he did. I think the news of Meyer and Greenstock hit him in the same week and he rather lumped them together and thought the dam was breaking, so I think there were particularities in his reaction. You would have to ask him.

Q316 Julie Morgan: So you do not think there was anything in what you were proposing to publish which would have caused major problems if it had been published?

Sir Jeremy Greenstock: For whom? For the Government?

Q317 Julie Morgan: For the Government, yes.

Sir Jeremy Greenstock: No, I do not. I really do not think it would have caused major problems for the Government. I think in net terms it would have been the converse.

Q318 Julie Morgan: I noticed you said earlier in your evidence it was more favourable to the Government than not.

Sir Jeremy Greenstock: Mistakes were made over Iraq and part of the whole point in writing about it is, in the public interest, the lessons to be learned from the true story rather than from assumed facts or distortions of the facts. We also have not mentioned, and we maybe will get on to it in further discussion, I think there is a value in some transparency about these things to the public interest. To answer your question, I believe that in explaining why decisions were taken rationally it would have been more difficult for careless accusations to be made against the Government of irrational decision making.

Q319 Julie Morgan: So do you think finally that the Foreign Secretary did overreact to your book?

Sir Jeremy Greenstock: I am not describing his reaction in any particular way. He had his point of view and that point of view had to be respected.

Q320 Julia Goldsworthy: A lot of the focus this morning has been on the decision whether or not to publish but you have made public statements about

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your time at the UN and the situation in Iraq since then, and I wondered what you saw the difference as being and if you had been contacted by the Foreign and Commonwealth Office subsequent or prior to that?

Sir Jeremy Greenstock: I have sometimes wondered whether the Foreign Office has seen any difference. Again, I did not jump out of one state into another, there is a flow of events, you evolve in these things. An ambassador only has limited public exposure in our times but sometimes an event jumps up and is talked about the whole time or you get into a crisis, you are asked by the government as part of your public duties to give public explanations and you go on giving them. I ended up after my period in the United Nations and then in Baghdad with a higher public exposure than is usual, therefore I got lots of requests from the media to go on commenting on what was happening, and regularly, as the Foreign Office will confirm, I would ring up the press department and ask what the line was on that day. The person running the Iraq desk in the press office happened to have been my private secretary in Baghdad so we had an easy and natural relationship, so I was aware of the Government line. I did not clear every request to go on radio or television with the Foreign Office. At no time, not once, did anybody contact me and say either, "You should have said something differently" or "You should have consulted us" or "Would you stop talking in public". So out of that flow, I assumed what I was saying was regarded by the Foreign Office as within the norm, within the rules, within what was acceptable for my department.

Q321 Julia Goldsworthy: Do you feel what you had written in your book goes beyond that and that is why there was a perceived problem, or is there almost a hang-up with the way that memoirs are published?

Sir Jeremy Greenstock: In submitting my text to the Foreign Office I was submitting the draft text, a draft which was for discussion and for changing if both sides agreed there should changes. So I was not plonking a text down and saying, "I am going to publish this but I am giving you a chance to change anything", I wanted to judge what could be said without a great fuss about breaking confidences, so that the story in the book, the text in the book, could be taken at its own value and not be distorted in its reception publicly by a great fuss over revelations or the breaking of confidences.

Q322 Mr Prentice: Did you self-censor when you were writing the book? Were there things you wanted to say, perhaps about individuals, but drew back because it would not have been appropriate?

Sir Jeremy Greenstock: Oh heavens yes! Enormously. You are self-censoring all the time—I am a diplomat, after all.

Q323 Mr Prentice: So there is nothing in the book that would cause politicians any embarrassment?

Sir Jeremy Greenstock: On the whole, not. There may have been one or two phrases which imply that I thought there might have been a different answer at some point, but it is not embarrassing in the sense I am criticising or I am saying something which is completely unacceptable. It is up to other people to have their own idea of whether they are going to be embarrassed.

Q324 Mr Prentice: Christopher Meyer took a lot of flak because he, to give an example, referred to Jack Straw as someone to be more liked than admired, and the late Robin Cook someone to be admired rather than liked, and his book is peppered with those kinds of observations. Do you think that politicians are fair game in that way?

Sir Jeremy Greenstock: I did not seek to make value judgments of that kind in my text.

Q325 Mr Prentice: Okay. Simon Jenkins compared the Meyer book and your book in a piece he wrote in the *Sunday Times* on 27 November and he talked about Meyer's book revealing "copious embassy confidences" and so on, but he says, "Greenstock's book was a different matter", and Simon Jenkins went on to say, "It is a high-minded case history of diplomacy in action, devoid of Meyer's dinner table gossip, but its account of dealings between British and American policymakers, notably during Paul Bremer's disastrous rule in Baghdad, drew blood." I suppose the thing that that raises is whether your book would damage or undermine the relationship between this country and the Americans.

Sir Jeremy Greenstock: I think not. Simon Jenkins was writing without having read the text of my book. I think he was using a reference to my book more to comment on the Meyer book than to say anything which might or might not be true about mine because he does not know my book. Let me answer your question about Anglo-American relations. On the whole not, but even less so now that Paul Bremer has written his own book, because that says far more about the tensions within the American administration and the mistakes that the American administration made than I did.

Q326 Mr Prentice: I have not read the Bremer book but would you challenge the veracity of Bremer's account of what happened in that period?

Sir Jeremy Greenstock: No. I have not read the whole book yet, I am just in the middle of it. Bremer is a man of considerable integrity, I would not expect him to be untruthful. I would expect him, like everybody else, to be selective in what he says.

Q327 Mr Prentice: So your book would not cause embarrassment to politicians, it would not undermine our relations with the United States, why is it then that the Government seemed to be so freaked out about its publication? Was it just, as you said, that Jack Straw had this double-whammy of the Meyer book and your book in the same week? Why block publication?

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Sir Jeremy Greenstock: I do not fully know because the conversation, the discussion with the Foreign Office, stopped half way through, but let me make a comment. There was a process with the system in the Foreign Office, going up to the Permanent Under-Secretary, which was clearing my book, and proposals were made for changes in the text which up to the end of June on two-thirds of the text were quite light. From the first week in July, which was the week in which I had my conversation with the Foreign Secretary, up to the second week of October, I did not hear a dickey-bird from the Foreign Office. So the process seemed to have started in one way and to have stopped. In the first week of October I got a much larger pile of comments on my book and requests to change passages. By that time of course I had taken the decision with my publishers not to go ahead, which was taken before the middle of July. So I am not sure—I had not gone through this with the Foreign Office or with Mr Straw—I am not sure of the interaction between the system and the Secretary of State.

Q328 Mr Prentice: And you did not have a separate meeting or any correspondence or discussion with Sir Michael Jay, the Permanent Secretary at the Foreign Office?

Sir Jeremy Greenstock: We exchanged perfectly amicable letters. I wrote in July after my meeting with the Foreign Secretary saying I would still like to complete the process of clearing the text to see where we had come out, and received no answer to that until late in September. I had to remind them I had written. I received an answer saying, "Right, we will complete the process but having sent you further comments it will still be necessary for us to submit to the Secretary of State."

Q329 Mr Prentice: We had this memorandum submitted to us by Sir Christopher Meyer, who came before us a few weeks ago, and he tells us that the rules are not applied consistently. He tells us, "What is missing is consistency and clarity in their application, and in the definition of the duty of confidentiality." I wonder if you agree with that, that the rules are there, we can read the Radcliffe rules and so on, but they are employed, if that is the right word, in a very haphazard way?

Sir Jeremy Greenstock: Obviously I do not know precisely the circumstances of the clearance of Sir Christopher's book, but it appears from what he has said and what the Cabinet Office have said that no changes were suggested. I find that quite surprising. In comparing his experience with mine, particularly in the third area of the three which are set out in Radcliffe and in the 1993 Cabinet Office note, the area of confidential relationships was going to be affected by Christopher's book. I have talked this over with Christopher and we both approached the business of clearance with the intention of hearing what those in the proper position had to say and making changes as necessary. I do not think that I

have said so much in my book that damages confidential relationships that it makes his book seem absolutely clean and clear by comparison.

Q330 Mr Prentice: Christopher Meyer would understand all that. He would say, "What is sauce for the goose is sauce for the gander" and there is a torrent of memoirs by politicians who have just left the Cabinet or left office recently disclosing all sorts of things, and he takes the view that the same rules should apply between politicians and diplomats and civil servants. In fact he says in this memorandum which I have just been quoting from, "There should be a level playing field for civil servants, special advisers and ministers on leaving government." I wonder if you agree with that? Why should retiring civil servants and diplomats be shackled when politicians can tell all?

Sir Jeremy Greenstock: That is a different point from your earlier one, the comparison between what our two books say in the area of confidential relationships. I think the rules should be roughly the same for both. I would only add that in my view elected representatives, elected officials, are more in the public domain in their career and have to some extent a greater right to defend themselves in public.

Q331 Paul Flynn: You chose the title, *The Cost of War* and it can be argued those who have paid and are still paying the greatest cost of this war are the families of the 98 servicemen who have died, and part of the process of coming to terms with their grief is searching for knowledge of how their loved one died and discovering whether the war was legitimate or not. Do you not think you owe a duty to those families to publish this book and inform them of the causes of the war, because it has been claimed that you have suggested the war was politically illegitimate. There are families who are not very articulate who are questioning the point of the war and believe their loved ones died in vain. Are they not entitled to have that information? You are probably the only person who can provide it. Do you not think it places a burden on you to publish the truth? You did argue what you had to say was too important to be left until a future date, is that not still true?

Sir Jeremy Greenstock: I have not said it is too important to be left. Obviously the world can do without my book. What I was trying to do was make the debate about the decisions which were taken, which have affected so many people, better informed, and the reasons for those decisions more intelligible. Within my idea of the public interest, in having a better informed debate, yes, there is the sentiment—it may not have been my prime reason for writing—that those who have suffered from the decisions taken over Iraq might perhaps have a better understanding of why it happened that way.

Q332 Paul Flynn: Your motivations come across from what you have said and what you have said today as entirely honourable, you were not seeking to make money out of this book, all the money was going to charity, but I cannot understand why you

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were dissuaded by a politician who had not read the book, did not know what you had said, speaking entirely in his own self-interests, from publishing the book when there are other issues. Apart from the grieving relatives, there is the interest of politicians, and those who are going to take decisions on possibly the next war which might be politically illegitimate. Do you not have a duty to publish on those grounds?

Sir Jeremy Greenstock: I clearly do not have a duty to publish. It is a personal thing in one sense, it is a public thing in another, in that I need to go through the clearance process. I think there is a difficulty for me. I found a difficulty in going ahead when the atmosphere had become so sensationalist and feverish, that on the one hand the media would have found, if and when they had read my book, that there was not so very much there that was sensational or revelatory or critical or headline-making, and they would have been disappointed, because my book is quite a sober record of what happened to some extent behind the scenes. On the other hand, Government or some parts of Government would still have been annoyed with me. So I was on a hiding-to-nothing in between those two considerations in publishing a book ahead of the time which is considered to be the norm. If it has become more difficult for me to affect the public debate on a relevant timing, then what is left for me is to leave something for the historical record, in which case it does not really matter when I publish and I might as well do it at a time which is less controversial.

Q333 Paul Flynn: Do you not feel there is an obligation as far as decisions which will be taken, possibly in the near future, on similar conflicts?

Sir Jeremy Greenstock: I have been talking quite publicly about the Iraq war, the evolution of events in Iraq, and I hope in that way I have helped to inform public debate about what is actually going on. So the book on its own is not necessarily the only contribution I can make.

Q334 Paul Flynn: If we cannot persuade you to recharge your creative batteries, could you explain to us why you think the war was politically illegitimate?

Sir Jeremy Greenstock: I think that is another issue, Chairman, and another subject and I would rather not start a complex discussion on events in Iraq.

Chairman: It was worth a try, was it not?

Paul Flynn: Yes.

Q335 Jenny Willott: You mentioned that you do not think Radcliffe worked with regard to Christopher Meyer's book. What is your understanding of the worst that the Foreign Office could have done to you if you had gone ahead and published without clearance?

Sir Jeremy Greenstock: There are two considerations. I do not think I broke the Official Secrets Act so I do not think I would have been prosecutable under the Official Secrets Act, I was quite careful about that. I would have taken advice

from the Foreign Office immediately if they felt I had strayed across that particular line. In terms of the judgment by the Foreign Office or by politicians or by anybody else as to whether I had strayed across lines of propriety which had been laid down by Radcliffe and others, I would have assumed that the Foreign Office would have left it at the tenor of public comment that came out. Christopher Meyer I think has had that experience. If he made misjudgments about things he put into his book, they are misjudgments he will have to live with. I do not think you can legislate against the fine print in that area. What is sensible is to make sure with your department that you are avoiding damage to the public interest.

Q336 Jenny Willott: That leads me to my next question. Radcliffe is based on voluntary principles that everybody is going to abide by the system, do you think it could or should be made compulsory that conditions around the publication of memoirs and diaries and so on would be included in the contracts of civil servants and diplomats?

Sir Jeremy Greenstock: No, I do not.

Q337 Jenny Willott: Both could and should?

Sir Jeremy Greenstock: I do not think you can legislate every case in fine detail. Judgments in the end have always got to be made. I think that Radcliffe, or something like it, is an entirely acceptable basis for making specific judgments from general principles. I think there is a case for transparency. Standards rise with competition. If there are more things out there explaining what has gone on then I think people are likely to understand more. We are in an era that is free with information, that has a lot of misleading information floating around, where control of information channels is becoming an art not just in government but elsewhere, where the media I think are less inclined than in previous eras to look for the precise truth. Therefore, transparency from a range of sources about public events of importance to national interest is a good thing. Where mistakes are made, where things seem to get a bit edgy, where there is controversy, let there be controversy. Our system is strong enough fundamentally to take it. They are only minor shocks for a short period. The health of the public interest will be greater if there is transparency and therefore I think there should be good general principles for proper behaviour. If people are judged to have behaved improperly, let that be a fuss for the moment. Let their reputations take it but let us not try and legislate against it.

Q338 Jenny Willott: Do you think Sir Christopher Meyer got what he deserved for publishing the book he published?

Sir Jeremy Greenstock: He got many things and he got a great deal of support. He published a lot of it in his book and he said a lot of interesting things about what it is like to be the American ambassador, which are usefully revealing. He will have to bear the cost of his misjudgments which I think he is gladly doing.

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Q339 Chairman: He runs the Press Complaints Commission; you run the Ditchley Foundation. Is it not the truth that had you been cold-shouldered by Whitehall you would have been dead in the water as the director of such an organisation?

Sir Jeremy Greenstock: As you put the question, of course, but I do not think I strayed so far into difficult territory that I was risking my responsibilities as director of the Ditchley Foundation.

Q340 Chairman: Did that consideration weigh with you?

Sir Jeremy Greenstock: A little bit in writing a book. Obviously, I wanted to remain within the rules. I wanted the book cleared by the Foreign Office. I did not want controversy over the publication of my book for the form of it. I wanted discussion of the substance of it.

Q341 Kelvin Hopkins: I suspect your book is much more interesting in historical terms than Christopher Meyer's book and therefore much more intriguing. One hopes it will be kept and published at some point. You describe yourself as "just one civil servant". Is that not over-modest? Were you not at the eye of the storm? You were crucially part of the discussions leading up to war at the United Nations. If one extrapolates from your modesty about your role, and you are implying your book is cautious and almost innocuous at times, the book could really be much more exciting than you are suggesting. Is that not the case?

Sir Jeremy Greenstock: I regarded the people in Number 10 as being at the centre, at the eye of the storm, as far as the British involvement in Iraq was concerned. I was writing about the United Nations where I was at the centre of Security Council action on Iraq and Baghdad, where I was trying to match Paul Bremer in his handling of Iraqi affairs. I did not in this text stray into commenting on or trying to imply that I had influence on the real centre of decision making in the British process.

Q342 Kelvin Hopkins: Is it possible that you were aware of some of those most crucial talks and events which flipped us into war, when it could easily have gone the other way? Public opinion was very sensitive at that time. There was massive rebellion inside the Labour Party, including from myself and several Members here. You may be able to illuminate what happened and people may look back, having read your book, and say, "I made the wrong decision. I should have voted against war because of what Sir Jeremy revealed." That is the kind of thing that might upset the Government.

Sir Jeremy Greenstock: No. I knew and saw a lot of things that went on but you never know, when you are in a satellite position of responsibility to the government, what you do not know. I never knew about the so-called leaked minute from David Manning to the Prime Minister of March 2002. I had no idea that those discussions were happening at the time. There were all sorts of things that were confidential to the Prime Minister's team, the

Foreign Secretary's team in particular, that I did not know so I wrote the book fully aware that I could only tell part of the story and aware that I should not pretend to interpret events of which I had no direct experience.

Q343 Kelvin Hopkins: Do you have any sense that if you had acted differently and commented differently privately, or even publicly, we might not in the end have gone to war? I am sure you are very honest in these matters but could someone interpret your book as saying *mea culpa*, suggesting that it would change our view of events in the Middle East? Could you look back to what you did yourself and think: "If I had acted differently, all of this might not have happened". Do you have that sense, and might that come across in your book, or am I pushing its significance too far?

Sir Jeremy Greenstock: I do not think there was ever a point at which, if I had acted differently, it would have changed the course of events. I do not think that I was ever in a leverage position of that kind.

Q344 Kelvin Hopkins: When politicians react to something, it is usually one core bit, one central element. Christopher Meyer's tittle-tattle was a lot of personal stuff but if there is one big problem about your book, in the middle of it if someone said, "Whatever you write, you cannot write that". Is there something of that nature in your book of which you are aware, and that the Foreign Secretary is aware of, that is really the problem?

Sir Jeremy Greenstock: No, I do not think there is.

Q345 Kelvin Hopkins: Is it just a general sense that this would be embarrassing, inconvenient, could provoke the anti-war people in Parliament, people like myself, and cause more damaging press comment, that kind of thing?

Sir Jeremy Greenstock: Probably. Again, you would have to ask Mr Straw. The sense of raking over the great controversy about going to war in Iraq is clearly something that will be uncomfortable for the Government.

Q346 Kelvin Hopkins: I am perhaps in the minority but I am uncomfortable about this blurring of the distinction between politicians and civil servants and that different codes should apply. I made this point to Lance Price when he came to see us. I described him as a dodgy politician like us. We are elected; we can make comment; we can be got rid of but civil servants have a standing and a code which is above all that and they ought to remain separate, discrete and have different rules applied to them. You suggested that we ought to have the same rules applied to us. Do you not think that politicians really are fair game for the media but that civil servants ought to stand back in a more traditional, less conspicuous role?

Sir Jeremy Greenstock: Gradually but increasingly senior civil servants can come into the public arena. It is very difficult to make a clear cut distinction between the two when public comment is so voluminous, when the press get their fingers into

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everything, where information is coming out. I do not know whether you are bringing this into your considerations, but where public inquiries like the Scott Report and the Butler Report bring things that civil servants have done very much into the public domain, which have an effect on the way people act, people keep their records, in public affairs. There is a huge difference between somebody who has been elected and somebody who is an unelected servant but in the business of publishing memoirs I do not see that there needs to be such great distinction in the principles that are laid down in either case. I think that the Radcliffe area appropriately applies to both categories of people.

Q347 Kelvin Hopkins: If politicians are increasingly aware that their civil servants are going to publish revelatory memoirs at a later stage, does that not change crucially the relationship between them, and possibly what is said and even decided by politicians because they are nervous about their civil servants so they cannot rely on them perhaps in the way they could in the past? That relationship is going to change the nature of our whole politics in Britain, I would say for the worse, although others might say differently.

Sir Jeremy Greenstock: It does. That is a consideration. But I am not sure that you can put what had already happened before Meyer or Greenstock put pen to paper, back in the box. It is much more of a pointer to these things as to whether somebody like Alastair Campbell is going to write a book or not than what a civil servant may say. The ripples that we can cause are too slight to be such an enormous consideration. This is now a public era. Everything becomes public very easily. I do not think that in practice it stops life going on. People have their advisers; they have their discussions; they get on with it. Knuckles will be rapped if people produce memoirs that stray beyond the lines. It does not stop the business of government.

Q348 Chairman: We have had some fascinating evidence from you. A phrase that you have used on one or two occasions is “on the whole”. That is probably a bit of a give away because when you were asked, “Would this embarrass the Government?” you said, “No, on the whole.” “Would it embarrass our relationship with the United States?” “No, on the whole.” I suspect in that phrase “on the whole” we get a clue to some of what is going on here. Having listened to you for an hour or so I still cannot understand why you did not publish this book. You have given us a very compelling case for why such books should be written. You have said our system is strong enough to take the little flurries that come out of books like this. The only thing that happened was that you went to see the Foreign Secretary who said he did not want you to. That seems to count for little in the scale of argument that you have given compellingly today. Why did you just keel over?

Sir Jeremy Greenstock: You put it pejoratively but what happened was that, by the time a decision had to be made on publication, I had not received the comments that had been promised from the Foreign Office. Was I to go ahead against the rules and publish without receiving clearance or was I to delay? Since I had started from the beginning with the intention of seeking complete clearance of the text, since I knew that there would be political controversy which I was not seeking if I went ahead without clearance, I was left with no choice but to delay publication.

Q349 Chairman: The Foreign Office never refused clearance.

Sir Jeremy Greenstock: They said they were going to offer comments. They delayed the submission of those comments. For what reason, I do not know. You will have to ask the Foreign Office.

Chairman: We are genuinely grateful for the evidence, not just because of the particular case that you describe but because of the general case that you have made for a flexible and transparent approach to this whole area. Thank you very much indeed.

Witnesses: **Lord Lawson of Blaby**, a Member of the House of Lords, **Lord Owen CH**, a Member of the House of Lords, and **Clare Short**, a Member of the House, gave evidence.

Q350 Chairman: We are delighted to welcome Lord Lawson, Lord Owen and Clare Short. You have in common the fact that you are all former distinguished Cabinet Ministers but also the fact that you have produced distinguished memoirs and it is the latter that we are particularly interested in. You know what we are about. We are very interested in drawing upon your experiences of being memoirists. Would you like to say anything by way of introduction briefly or shall we just launch in with our questions?

Lord Lawson of Blaby: You can launch in, as far as I am concerned.

Clare Short: I did not set off intending so quickly to write a book. Normally, more distinguished people have taken a number of offices a bit later and then will write a memoir, but there was a very sharp

attempt to muzzle me that came from a letter threatening prosecution under official secrets and being ejected from the Privy Council and then the Chief Whip threatening me with the withdrawal of the whip, which would mean I could not stand as a Labour candidate, which was a very serious matter. The threats were very crude and, I thought, inappropriate so I then decided to very quickly write a book. I needed to get in quick because I did not want it to coincide with the General Election. Mine was not a reflective, later memoir; it was a determination to not be muzzled, to get the truth on the page and get it out.

Q351 Chairman: Lord Owen, you have given us the detailed correspondence with Lord Butler as the Cabinet Secretary of the day, where you are

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absolutely playing by the rules, submitting material to the Cabinet Secretary who responds. You respond to him, correspondence goes on, you take some of the points; you do not take others. It is the negotiating process that goes on and it is fascinating to have observed it from the inside which you have given us. Clare, I am not sure whether you did that or not. Did you send your text in and did you go through a process?

Clare Short: Absolutely, I did. I had no intention of not going through the process but the minute Amazon puts out that your book is coming you get a letter saying that you have to go through this process. The manuscript is duly submitted. I dealt with a civil servant from the Cabinet Office, a very pleasant and reasonable woman, who brought a series of requests on behalf of the Head of the Civil Service 'C' and, one tiny one on behalf of the Department for International Development, and they wanted changes in words that I had written down in my diary at the time. We negotiated and I gave a bit but I resisted a bit—a similar sort of process, but we did it verbally. I did ask in the course of that what would happen if I did not agree and she said, "I am not sure but we would have a stand off." We did agree. Interestingly, there was none from Number 10. The bit about Tony giving a message to Gordon that he would let him take over if he let him join the euro was leaked to the media from the Treasury. *The Independent* had arranged to publish some of it and the money for that goes to the publisher, not to me, so that was in the contract I had. *The Independent* immediately chopped 10,000 off the price because of the Treasury leak, which I think is interesting. What are the mechanisms for controlling the book? The Treasury did not try to get a change or whatever but they did a leak to get the story out.

Q352 Chairman: I would like to ask all of you whether you think this process works, whether you think the existing rules as described in the Ministerial Code, drawing on Radcliffe, work well to handle memoirs now or whether in some ways the world has changed and we need to revise the whole system.

Lord Lawson of Blaby: Maybe the world has changed since my time. I did not submit any written evidence to you. I have read Lord Owen's and I agree with every word he has written, which does suggest that there have been some changes since my time. I resigned from government in 1989. I can tell you about my own experience in this area which might shed some light on what you are talking about. There is first of all an understanding, a *quid pro quo*, when a former minister wishes to write his or her memoirs. The *quid pro quo* is that you are given full access to any document that you may have seen when you were a minister. Obviously you do not retain all these in your head but if you can remember that there were these documents you can see them. If you are an ordinary minister, you have to go into the Treasury or to the Cabinet Office but you are shown the documents you ask for. They will not allow you to go on a fishing expedition but if

you say, "I think there is a minute of this meeting I would like to see to refresh my memory" or, "I think there was a submission on this I would like to see", anything you have seen when you were a minister you are allowed to see. If you are a former Prime Minister, the documents are sent to your home but if you are just an ordinary ex-Chancellor or ex-Foreign Secretary you have to go to the Cabinet Office or the Treasury. It is worth the detour. The understanding is that in return for this facilitation you will at the end of the day submit your manuscript or typescript to the Cabinet Secretary. Then the Cabinet Secretary makes a whole raft of comments. He will also discuss with the permanent secretaries who are relevant to the positions you have held and the story you are telling. I got from Robin Butler this huge raft: "You cannot say this. You cannot say that" and Terry Burns, who was Permanent Secretary at the Treasury at the time that I submitted my manuscript, said this, that and the other, quoting authorities for what I could or should not say. I had to exercise my own judgment. I read very, very carefully everything that Robin Butler had written. Where I thought he was making a good point, I took it. Where I thought he was making a bad point, I ignored it. The main changes I made were things which he was unhappy about but which were, I thought, not very important points to the story I was trying to tell and the sort of economic and political history I was trying to put on the record. If it was not really part of the main story, I was prepared to take it out. If it was something which I felt was important, I was not prepared to take it out except in one specific area. A lot of the remarks that came from Robin Butler were about protecting civil servants, protecting officials. That was the thing that seemed to concern him and Terry Burns, that officials cannot answer back and therefore they should remain in the background. Politicians are in the foreground. I had not intended anyhow to finger officials particularly but nevertheless in telling the story you know that Sir Humphrey Appleby is not a total cipher, so you do give him a role in your plot. But I did cut out a lot of that because there was considerable upset on Robin Butler's part. I used my judgment. When my memoirs were published, that caused a certain amount of consternation. It was during the Major Government and John Major, I believe, set up—I do not know whether it was at Robin Butler's behest or whether it was his own idea but I know that John Wakeham, Lord Wakeham, was involved—a small committee of senior ministers and officials inside government (it was never announced) to decide in the light of the Lawson memoirs what changes in the Radcliffe rules ought to come about. Although the Radcliffe rules are very sensible in many ways, they are clearly obsolete. The other thing that had caused problems for them was that the government of which I was a member had a few years previously liberalised the Official Secrets Act. If you avoid breaches of national security or anything of that kind there are very few things which are now a criminal offence

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under the Official Secrets Act, which used not to be the case. They felt a bit naked. They decided to have this inquiry and the inquiry strove for some time to decide how the Radcliffe rules should be rewritten but they were unable to decide and nothing happened.

Q353 Chairman: That is extremely interesting and no doubt we shall get access to those non-conclusions. Lord Owen, would you like to add your own experiences to this?

Lord Owen: I think it is self-explanatory in the submission I gave to you. It was perfectly amicable. He was right to criticise some of my references to civil servants and I took them out. On the question of whether it would injure the country's international relations, that is a judgment. I took account of it. On national security, I think you are pretty much bound to go along with their views even if you disagree. Finally, on the question of the overall nature of government, politicians have to make up their own minds.

Q354 Chairman: Most of the comments that appear in the correspondence that you had and that you describe, Lord Lawson, are to protect civil servants by name. If Sir Jeremy Greenstock is right in what he has been telling us this morning and which Christopher Meyer has told us as well, which is that they want a level playing field now between civil servants and politicians, surely those kinds of protections would fall away?

Lord Owen: That is dangerous if it happens. I think the most important thing is the underlying problem of what has happened. If all foreign and defence policy is to be decided by a Prime Minister, if the Prime Minister gets the feeling that his discussions when he goes to embassies or anywhere else are going to be revealed, he will just shut them out. They are shut out enough already as it is. I think that would be very damaging. There is enough concentration and personalisation of all these issues. There is a marked reduction in Cabinet discussion and circulation of papers. If we go even further into a narrow cabal, that would be very dangerous. If the price is the old system, broadly speaking, where civil servants do not criticise politicians and politicians do not criticise civil servants in their memoirs, call me old fashioned but I think it makes for better government and I strongly uphold that.

Q355 Chairman: The Meyer charge—some people say this is the reason that he wrote the book—is that it was precisely because he was a diplomat in Washington and felt he was being excluded from the relationship that now existed between Number 10 and the White House, cutting out the embassy; and that this was an act of revenge to tell the world that this is how things now were. In a sense, he is agreeing with your analysis and he might argue that provides justification for the book.

Lord Owen: I have no doubt you are right.

Q356 Chairman: Does it?

Lord Owen: Initially there was a great love affair. He was chosen by the Prime Minister effectively, pulled out of Germany and made American ambassador. Clearly, there was a breakdown in relationships. You see that personal breakdown in relationships in the book. That is unfortunate. If you are going to get at this issue, you have to go to some of the points which I tried to make. There has been a very dramatic change in the way foreign and defence policy is conducted. Most people will not focus on it. In 2001, the Cabinet secretariat that served the whole Cabinet on defence and foreign policy was totally destroyed. A secretariat was established on European affairs and particularly now in relation to Iraq on defence and security affairs inside Number 10. That is very different machinery to what we have ever had since the creation of the Cabinet during the First World War.

Clare Short: The proprieties that Lord Owen describes relate to a situation that is dead. When I was a private secretary in the Home Office in 1974 those rules were still there. The Civil Service had its role. Ministers were in their roles; the Cabinet worked. That is broken to a very considerable extent. We now have these mighty special advisers. When I was in the Home Office there were the first Rowntree chocolate soldiers, quite small scale special advisers with a political role. From that to Alastair Campbell having a role that was mightier than most Cabinet ministers and yet no accountability to Parliament. In the specific case of Iraq, there was the complete capturing of power and decision making into Number 10. The Foreign Office was marginalised and all those Arabists were not in it. The system is broken. There was a lot of deceit, as we now know. It is now a matter of record. Parliament absolutely failed to deal with the deceit and that is meant to be the core of the whole code of ministerial responsibility to Parliament. The rules are broken and it is very important for the truth to come out. The position that Lord Owen is taking is the respectable, old position but we are in a broken position. The rules break; books are needed and we need to get it all out so people can discuss and decide what is happening to our constitutional arrangements, how decisions are being made, where the flaws are and what we ought to do about it.

Lord Owen: I did not criticise the publication of these books. Personally, I hope Jeremy Greenstock publishes as soon as possible.

Q357 Chairman: You say in your memorandum, "I have never known a time in the last 40 years when there has been so much disillusionment, bordering on contempt, for politicians by civil servants and diplomats and vice-versa." Is the argument that is being made that the old conventions are so breached, the old boundary lines are so down, that now anything is possible? People rushing into print, including senior diplomats and senior civil servants are part of this new order of things.

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Lord Owen: It has been happening over quite a long time. It started with politicians. I remember a great moment in Cabinet when Denis Healey was talking. Tony Benn was writing away and Denis slowed down and said, "Tony, am I going too fast for you?" We knew he was writing his biography, but that was between politicians. If I had known that the Cabinet Secretary or the Prime Minister's Tom McNally or somebody like that was also writing his memoirs, I would have objected. I think the situation has broken down. I agree with Clare. I think personally it is damaging. To go back I do not think is ruled out and I would like that to happen but it would require some changes. The Prime Minister would have to get rid of the secretariats that he has established and go back to Cabinet government. He would have to remove a chief of staff who he has appointed—it is a political appointment—able to make executive commands to civil servants. We would have to go back to the power of the Cabinet Office. The Cabinet Secretary would also be in charge of intelligence. At the moment, the Cabinet Secretary is neutered. He does not have control over a very substantial part of government. The old Cabinet Secretaries were very much involved in relations with MI6 and MI5. That is no longer the case. Any of this can only happen if the Prime Minister decides to do it. Personally, I think he should. Then there would be a consequential movement back to the older system, but that should not stop civil servants writing memoirs. Anthony Parsons wrote about Iran. I have no objection to any of it. It was a serious contribution to understanding about the fall of the Shah. Sir David Scott who was ambassador to South Africa wrote about his period there and again it was a serious contribution to how we were dealing with apartheid, Namibia, Rhodesia and Zimbabwe but I think they write in a slightly different way. Politicians are used to the rough and tumble. There is going to be more personality stuff in political memoirs and as long as they keep it to their own political colleagues I have no objection. If they go into civil servants I do object.

Lord Lawson of Blaby: Things can change in different directions because it is the Prime Minister of the day who determines the way in which the government is to be run. Because Mr Blair runs it in a particular way which is quite harshly criticised by Lord Butler in his report of the intelligence leading up to the Iraq war, it does not mean that the next Prime Minister or the one after will. I do not take Clare Short's view that the genie is now out of the bottle and nothing can be done. There should be no question of a so-called level playing field between politicians and officials. As David Owen said, they are very different. It is quite obvious that it is ministers who are, very properly, held responsible for decisions. It is ministers who the House of Commons calls to account day in day out, year in year out. It is not officials; nor should it be. Because it is ministers who are responsible and exposed, ministers who have to take the rap and defend their policies, ministers after they have retired from office should be able to say exactly what they were seeking to do, why they were seeking to do it, how it worked

out and so on. Officials have that protection. They are behind the screen. So they should be. Therefore, the standards for officials' memoirs have to be quite different. In return for that, the minister will refrain, as David Owen and I did, from fingering particular officials. That is one important point. Another thing which has not been mentioned which I think is complicating the matter—I am not quite sure what the answer is—is the Freedom of Information Act. David Owen said he would have been very concerned if he thought that officials were writing diaries and so on which were going to be published later. What happens, as this Committee well knows, is that in Whitehall it is customary after every disaster, whether it is the Millennium Dome, the foot and mouth outbreak or Iraq, that the Permanent Secretary or the Permanent Under-Secretary of the department concerned will ask a senior official to write a *post mortem* purely for internal purposes so that they can draw the lessons and so that they might do better in the future. Why did it go wrong? What mistakes were made? That is regularly done. That was entirely confidential. Now, under the Freedom of Information Act, this is a public document. It is almost like the officials writing their memoirs while they are still officials. Knowing that this is now public and no longer private, the officials will tend to write it in a way that shows that the mistakes were all made by the politicians and not by the officials. That is human nature. Knowing that this is now going on, ministers today, following the Freedom of Information Act, are going to trust their officials far less than we used to trust them and they will certainly be anxious to get their memoirs out first.

Q358 Mr Prentice: Clare, I cannot remember if you said in your book or whether it was subsequently that Sir Andrew Turnbull allowed decision making to crumble in the run-up to the decision to go to war. Do you think Andrew Turnbull, now Lord Turnbull, should feel free to publish his own book on what happened and who said what, a kind of mirror image of the sort of book you published?

Clare Short: I personally believe there should be a pretty level playing field. I disagree with what Lord Lawson has just said. The appointment of permanent secretaries has been politicised. People are being told not to apply. People like Jeremy Greenstock are put on *Newsnight* and *The Today Programme*. The old rules that only politicians front are also breaking down. Therefore, to get the truth out, we need both to publish. There might be some rules about personal attack to protect civil servants who are not in the public domain but that is what I believe. On Andrew Turnbull, yes, I think a book from him would be very interesting. The crumbling of the authority of the Cabinet has been happening under the Blair Government since 1997. The two previous heads of the Civil Service did try to resist and use the old machinery. Defence and Overseas Policy never met. It was a stunning thing. I do not think Andrew resisted but I did change one quote in the book because he asked for it. Iraq in itself is a massive issue but if it is true that our constitutional arrangements are changing in such a big way and, I

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think, leading to very poor decision making in a whole series of areas, not just Iraq, this is monumentally serious and we have to have the books and the commentary to judge whether our system is breaking down and what we are going to do about it.

Q359 Mr Prentice: The internal wiring of the government is now bare after Butler and so on. We know who said what. We know you kept a diary because you told us but we have had evidence from Geoff Mulgan, who was the former head of the Strategy Unit at Number 10 and he said that all this diary keeping—I cannot remember the exact word he used—is something like corrosive to good government. If you know that the person sitting next to you is keeping a diary, that influences the quality of the decision that is made. You obviously do not subscribe to that view.

Clare Short: No. Let me tell you my Tony Benn story because he also used to be writing his diary at the National Executive Committee and we reached the point where he would write it in the diary and then say it. I kept a diary only in the crucial, last part.

Q360 Mr Prentice: Did people know you were keeping a diary?

Clare Short: No, I do not think so. I do not agree. I am perfectly happy for any of the officials in my department to publish anything that is said in the Cabinet. I think we should be sincere in what we do. The commentary might be unfair but if you mean what you say I do not mind anyone commenting.

Q361 Mr Prentice: People may hold back in expressing a controversial point of view because of a fear that this is going to appear in someone's diary.

Clare Short: Maybe it is just how one is temperamentally but I would not feel restrained in any way by that. We all know that Alastair Campbell was keeping a very detailed diary. I am not going to speak differently. I do not expect it necessarily to be a fair account but if you start doing that, what is the point of being there?

Q362 Mr Prentice: I wonder if I could ask Lord Owen and Lord Lawson the same question. Do you think this diary keeping, especially with the vast sums of money that are paid to the authors—Alastair Campbell is on record as saying his diary is his pension—has got out of hand and is affecting the quality of decision making?

Lord Owen: I personally do. I think diaries are very interesting and eventually should be published. You can look back at the war diaries of, say, Field Marshall Allenbrook, for example, who gives an incredibly important perception of how Churchill worked and how impossible he was in many respects. The timing for when you produce these things and who produces them is quite important. I believe Cabinet government broadly speaking is better for people arguing their case, losing the argument, and a period of time in which they do not reveal. What is that period? We used to have a 30 year rule. That is clearly obsolete and out of date.

We should in my view go down to 10 but certainly 15. We have to modify and change. The Freedom of Information Act, which I also support, also has an advantage. The chaos at the moment could be quite short lived. A very important piece of information has come out of what Christopher Meyer said. Throughout his whole time, the only time he was on the secret telephone was to Number 10. It was never to the Foreign Office. That must be the first American ambassador who would ever say that. That is a practical demonstration of the extent to which we now have a wholly personalised, Number 10 orientated, defence and whole security system.

Q363 Mr Prentice: The situation can change because I see in the memorandum that you gave us that the Cabinet was alive and kicking between 1990 and 1997, in John Major's time.

Lord Owen: I think John Major did return power to the Foreign Secretary. Douglas Hurd was given more autonomy than his predecessor, Geoffrey Howe. I think that was good and beneficial. You cannot deny a Prime Minister's right to have a different structure. It is a very different structure in terms of the relationship with the Chancellor of the Exchequer and the Prime Minister. I am not denying there will be times when there are inner Cabinets or anything but on this question of diary keeping nobody can object to somebody writing a diary. Barbara Castle who did shorthand used to write a very accurate and interesting diary. I am not against diaries; it is when and how they come out.

Q364 Mr Prentice: Lord Lawson, your memoirs were published three years after you left office?

Lord Lawson of Blaby: That is right, yes. One of the considerations I felt I should attach and did attach some weight to was the fact that, by the time my memoirs came out, the Prime Minister who was the principal player if you like in the particular drama that I was writing about, was no longer in office. My 10 years or so as a minister were during the Thatcher period. I did not serve under John Major at all but, by the time my memoirs came out, John Major was the Prime Minister.

Q365 Mr Prentice: You said some pretty choice things about John Major.

Lord Lawson of Blaby: It was a different administration. You do have to take into account the passage of time and whether it is the same administration or a different administration. Also, you do need to exercise a certain amount of judgment as to what you say and what you do not say. I think nearly every former minister does exercise judgment on what he thinks is fair. Going back to Radcliffe, the Radcliffe rules are very peculiar in a number of respects. One in particular is that if you have had an argument with the Prime Minister over a particular issue you are entitled to write what you said. You are not entitled to write what was said back. This would make the account of the conversation a rather peculiar, one sided one. There may be some former ministers who were only interested in what they said but I felt, since I wanted

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my memoirs to be of some lasting value and in a sense an accurate, historical record, that it was necessary to include both sides of the conversation.

Q366 Mr Prentice: Your memoir was published when John Major was Prime Minister of course.

Lord Lawson of Blaby: That is right.

Q367 Mr Prentice: You said of him he often came to you ashen faced. You thought you might have made the wrong choice of Chief Secretary and then you went on to say that John Major found the job as Chief Secretary far more difficult than anything he had ever done before and had to work very hard to try and master it.

Lord Lawson of Blaby: As I pointed out, he did eventually master it.

Q368 Mr Burrowes: You were aware of Alastair Campbell's diary. Professor Hennessy talked about the notion of competitive memoiring and effectively you wanted to get your defence in first. That was the prime motive rather than necessarily letting the truth get out?

Clare Short: I do not know whether you had joined the Committee when I made my initial remark. There was this very harsh and deliberate attempt to completely silence me. The Chief Whip tried to get me to agree to say nothing that was in any way critical of the Prime Minister under threat of the whip being withdrawn from me. Given what I needed to say and what I think is enormously important for the historical record and debate, I wrote the book because I thought I had to get out what I had to say. I still think that.

Q369 Mr Burrowes: In terms of the timing, if you had perhaps waited would there not be more inclination to say you wanted to get the truth out but nevertheless you were not following on perhaps in undermining the system you suggest was breaking down? The genie is out of the bottle and you perpetuated that rather than letting the truth come out.

Clare Short: I personally think that the way in which we went to war in Iraq, the amount of deceit that was involved in it and the disaster it is for the Middle East is much more serious than Suez. People keep comparing it to Suez. As a country, as politicians, as people who are concerned for the governance of the UK and the role of the UK in the world, this is an extremely urgent debate. It is not just something to wait ten years for and then talk about. Parliament is doing very badly at attending to it. Our political system is functioning very badly. This is my one postscript to some of the earlier remarks: if we had a much smaller majority again, Cabinet government would probably come back. Of course, if we had a hung Parliament, that is certainly so. It is not necessarily for ever but I do think that once power has been accredited to Number 10 without a jolt to the system, it will stay there. This broken system might well go on malfunctioning, but my view is that

we should have done a correction much earlier. I did not do a reflective log; I wrote this in four months, I did it deliberately and I still agree with myself.

Q370 Mr Burrowes: When you were doing the diary, did you always intend to publish?

Clare Short: No. I had no intention of doing the book. I was living through enormous turbulence and serious, historical events. It was a pretty scruffy diary and they were very heated times with late nights and all the rest. I was not writing a big, long diary. When I left the government I was intending to make speeches in the Commons, to go round the Labour Party to get this debate going, but then you cannot speak in the Commons any more. It is seven minutes and everyone has to go home at 10. It is very difficult to get the time to make any substantial speeches, especially when you are on the government's side with big majorities. It is a big change from when I was a back bencher when we were in opposition. The Labour Party is a very different creature.

Q371 Mr Burrowes: Away from the exceptional situation of the story that needed to be told, if you had come to the point of saying, "I want to put down a legacy of my memoirs", would you have considered it appropriate away from the exceptional circumstances of Iraq?

Clare Short: Yes, probably, but I did not get to that consideration because I was under this enormous pressure. We were approaching an election and the Chief Whip was saying, "I am going to take the whip from you" which would mean I could not stand as a Labour candidate. I have put my adult life into serving the Labour Party as an instrument of justice at home and internationally. This is a monumentally serious thing for my life and she is trying to tell me to be silent about things that I have already said in the House of Commons. I had to write something and I said, "Look, I have already made the speeches. They are on the record in the House of Commons. You are now telling me I cannot say what I have already said." That was the nature of the conversations that were taking place. This was a rather urgent matter for me and my life but also I think for the truth and the record of what took place.

Q372 Mr Burrowes: Away from those exceptional events, you had come to the stage where you had left office and you decided you wanted to do your memoirs. Would you have considered an appropriate time to be not the one but the three years or the five years?

Clare Short: If you wrote something in three years or so it would be different. It would be less raw and more reflective, especially if you had a change of administration. There is a place for those books too but I do thoroughly believe the truth should get out and we are living in a time when there is so much spin. Journalism is so tied into the sources in Number 10. Truthfulness and accuracy are diminishing in the discourse of public life so if books are a way for people to get their truths out they should happen.

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Q373 Mr Burrowes: Lord Owen and Lord Lawson, were you expecting publications by your former colleagues?

Lord Owen: All the time I worked for Barbara Castle, I expected that she was going to write a biography. I had no objection to it. It was very accurate. The only slight thing was that Barbara had a habit of wanting to toughen up any recommendation you made or to change it. In order to handle her, you would have to recognise that so you would pitch your representations where you felt she would end up. She was very fair to civil servants. She would not castigate them. She broadly followed the normal rules. Her memoirs contributed to an understanding of politics. Mine was much later. Also, I was a member of a happy Cabinet. Whatever arguments about Jim Callaghan can be made, nobody denies it was an extremely happy Cabinet. There were disagreements but even Tony Benn never disputed the fact that it was a happy Cabinet. There was no briefing against each other and, broadly speaking, we lived harmoniously within the collective rules despite the differences of opinion.

Q374 Mr Burrowes: Rather than the characters of individuals in terms of publishing memoirs at certain times, it is really a reflection on the system of government that has led the way for people to want to react to it by publishing their memoirs. The genie has come out of the bottle because of the way government has been led and run.

Lord Owen: I really think we are in a different situation. I honestly cannot think of any situation, other than in most recent years, where a very senior ambassador would make so many personal comments about ministers. You cannot just isolate it and criticise his memoir and I am not going to get into that. You have to look at the climate of the time and why things have deteriorated so that this can happen; then, what can you do to correct it. I do hope we do something to correct it pretty soon because we are suffering. I supported the war on Iraq and I still do but the incompetence with which that war was conducted is very damaging. I am a supporter of the European Union but the European Constitution was not well handled by that inner Number 10 secretariat. Interestingly, on neither occasion, both on Iraq and the European Constitution, was public opinion held. I honestly think younger Members of Parliament forget that for a very substantial period of time bipartisanship in foreign and defence policy was the norm and it was quite valuable to this country. It was very hard to be the Foreign Secretary with the partisan political debate conducted on foreign policy. It is much easier if there is a great measure of support and that means also a good deal of trust. Things like intelligence information people accept because they have not seen it. There is a sort of trust. If you break that down and if you have a very real problem with the armed services—the armed services are very unhappy about the Iraq war at every level—we have to address that problem. It is up to you chaps to do this but this is Parliament's job now. Things have gone very badly wrong. Irrespective of your view on

whether or not we should have gone into Iraq, things have gone very badly wrong and I hope you do address it. In a strange way, I think you are addressing it in a very fundamental way. By looking at these memoirs, you have the opportunity to ask, "Why has this situation occurred?". It does throw a very refreshing insight into what is happening.

Lord Lawson of Blaby: On diaries, I do not think there were any Cabinet colleagues writing diaries when I was in government. The only minister who it was well known was writing a diary was Alan Clark but he was writing purely for the purposes of entertainment and very entertaining it was too. He was never a member of the Cabinet anyway. He was a junior minister. We knew that a lot of people were going to write their memoirs in due time. I do not think that worried anybody at all and it has certainly never worried me. It is bad practice to write a diary because at times it does get in the way of your own effectiveness as a minister. The diary tends to become more important than the job you are meant to be doing. Even with diaries, and I think diaries and memoirs come to much the same sort of thing, it is a question of what you put in when you publish. As for the rather more serious point, the breakdown which has been discussed, I think it is a mistake to think of the problem as being a move from Cabinet government to Prime Ministerial government and that we need to go back to Cabinet government. This is an old chestnut. For a very, very long time, we have had a mixture of Prime Ministerial government and Cabinet government. It is not something new. Many people think, quite rightly, that Margaret Thatcher was a strong Prime Minister but there was a mixture of Prime Ministerial government and Cabinet government during her time. The big question is not whether it is Prime Ministerial government or Cabinet government but how the Prime Minister of the day conducts his or her aspect of the government and how he or she insists that Cabinet government is going to be conducted. It is the ground rules which are laid down by the Prime Minister of the day and these other *ad hoc*, institutional matters which David Owen was mentioning, which of course are far more acute in the field of foreign, defence and security policy than they are in the field of economic policy which I was chiefly concerned with, although as a member of the Cabinet you are also concerned with a lot of other things. Even in the area of economic policy there are a lot of important issues which have to be discussed and it is better if they are discussed in a reasonably orderly and rational way, a way that does not lead to a loss of trust between ministers and officials. One of the great joys of being a Cabinet minister is you have a back-up team of people who, for the most part—not always—are of exceptional calibre and who work very hard indeed and are, again most of them, extremely loyal. That is a great national asset and a great asset for the government. To allow that trust to break down is very serious indeed.

Clare Short: It is not just the breakdown of Cabinet discussion. It is serious not having an open discussion when Cabinet responsibility has gone. When all the decisions are made in Number 10, the

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expertise that is in the Foreign Office and the Department of Education and its linked practitioners in the field is not being brought to the table when policy is thought through. When the authority breaks, the departments are pushed outside and you get poor quality decision making because the places in our government system where expertise lies are being excluded and I think that is happening.

Q375 Paul Flynn: Lord Owen, one of the minor revelations that you made in your original text which was cut out was about a disagreement in the Jim Callaghan government on a relatively minor matter about the timing of the cancellation of a visit involving Iran. You say that Jim wanted to cancel the visit at an early stage but you wanted to hold on. Your view of that was influenced by the Queen. "The Queen did talk to me about her wish not to act too quickly and while the formal advice was against cancellation this was because, helped by knowing her view, I persuaded Jim Callaghan who wanted to cancel." That seems a fairly interesting and possibly very rare example of the Queen appearing to influence what is a political decision. Should that not have been kept in the book? Why did you decide to take it out? You were adamant that you were accurate on this, although the Palace, I gather, had a different view on it.

Lord Owen: Did I tell you that?

Q376 Paul Flynn: Page 19 is the reference to the Queen.

Lord Owen: Maybe I did. The Queen does not take political views but she has an extraordinary way of making clear what she thinks. It is a great skill. I cannot remember her ever making any political statement whatever to me but I can recall many occasions when I was left very clear on what her view was. I think that is her skill and why ministers have valued talking to her, travelling with her and gaining from her knowledge. She is extremely experienced about Africa. She knows many of the leaders. She has known them since they were very young presidents or prime ministers. On this particular issue it was pretty obvious that the Shah was crumbling and the question was do you let them make the cancellation themselves or do we do it. It was my view that, with the pace at which it was happening, it was going to come anyhow. It was my impression that she thought that as well. I do not think that changed my mind necessarily but it was a factor and I knew that Jim was pressing to do it too.

Q377 Paul Flynn: You say it was helped by your view. You and Her Majesty were on the right side. Jim appeared to be wrong and was proved to be wrong by subsequent events. The point is that if, on a far more serious issue, the future head of state decided to attempt to influence politicians, should we not know about it? Is this a matter that could be kept from us by the Radcliffe rules?

Lord Lawson of Blaby: The monarch is in a very special position. The Queen's views are always the product of a great deal of experience. She has been

on the throne ever since Winston Churchill was Prime Minister. She has more experience than anybody else. It is wrong to say that she is seeking to influence decisions. She expresses a view from time to time but it is very important for the position of the monarchy that that should never, ever be revealed in any memoirs or any published document of any kind.

Q378 Paul Flynn: One of the things that concerns us greatly on this is the fact that, unlike the three of you, there are very good reasons for distinguished politicians writing about their long careers. Some would say Lord Lawson and Clare were writing after you had a very rough time, I believe, with unfair criticism in the press and you wanted to put the record straight. The financial factor of making money was very minor, if it was a factor at all, in writing yours. We do know that making money from memoirs is possibly the main impetus for many people writing their memoirs and they know that, if they are going to get a great deal of money from them, they have to spice them up. They have to make sure they are interesting. Do you think there is a case for saying—and it has been suggested—that political memoirs of this type from civil servants or politicians even should be declared to be Crown copyright and that the money from them should go to the Treasury, to get rid of this incentive for people not only to spice up their memoirs but also possibly to act in a different way while they are doing their jobs in order to make sure that they have juicy, sexy memoirs to publish for their pension?

Clare Short: That is an interesting suggestion. You could ask how long did Lance Price take to write his book and what is a reasonable return and the rest he cannot have. I think it is much more important to get the truth than the spice and the money because that distorts the truth as well. If we tighten up the code or make it more explicit, particularly on the personalised abusive comment level, which I think we could do, you could use a fine system. You could have rules and, if they are breached, money is the penalty. That is worth thinking about. If we want to get books out but stop abuse and if financial incentives are distorting things, the obvious mechanism to deal with it is financial.

Lord Owen: I know you are in favour of boosting government revenue but on this basis Alan Clark's sexual revelations would be the best way of boosting revenue, so I do not think it is tittle tattle of government; I think it is more sex in all memoirs from politicians in future.

Lord Lawson of Blaby: Writing a decent memoir is extremely difficult. In my case, of all the jobs I have ever done, I found writing my memoirs the most difficult, partly because it is such a solitary business, whereas pretty well everything else you do in life you do as part of a team. It is reasonable that there should be some reward. There is an interesting question there and I do not know the answer to it. You have certain conventions as to what should and should not be published. You have this dialogue between the Cabinet Secretary and former ministers. The question is what happens if the ex-minister is

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unreasonable in a serious way. In the old days you could threaten them, though nothing ever was done about it because it was too much of a sledge hammer, but you could invoke the Official Secrets Act. People did not want to be in breach of the Official Secrets Act, even if they were not going to be prosecuted. That went away with the liberalisation of the Official Secrets Act. Now, it is really only ostracism. You might be ostracised from the establishment.

Clare Short: With the withdrawal of all patronage.

Lord Lawson of Blaby: Yes. The great thing about life peerages is that we do not need to bother about that. But the establishment will not look after you. Alastair Campbell said that his memoir was his pension. Whether you should say, "If you opt for that pension you do not get the other pension. Your ministerial or Civil Service pension will be withheld"—

Q379 Paul Flynn: I think we have followed that final point. One of the criticisms of Christopher Meyer's book is that it might permanently affect the kind of trust that has been there for a long time between ambassadors and politicians. Because of the revelations that he has made so soon after the event, while the same people are still in power, that could be permanently damaging. Do you think it is sensible to write into the contracts of civil servants bars on their publishing memoirs within a certain period after they retire or, as you suggest, having influences on the contract themselves? There are limits in their contract to restrict them from publishing matters that could be damaging to the national interest.

Clare Short: I think it would be wrong to muzzle civil servants when politicians are allowed to write, especially when there has been this blurring of roles. Jeremy Greenstock was a more central player than the non-foreign policy people in the Cabinet. He knew more; he was fronting things in the media, just to take one example. To have one set of rules for politicians and another for civil servants would be wrong. I think rules about revealing things about civil servants who cannot answer back still have to be attended to. I think we could tighten the rules on personalised, abusive comment. My view on Christopher Meyer is that, one, the trust broke down and, two, he submitted the book. It is astonishing they did not ask for changes.

Q380 Chairman: Surely there is a difference because the politicians take the flak. They are the publicly elected figures and they are fair game for everything. They want to vindicate themselves and answer back against colleagues. The deal with the Civil Service though is that they get anonymity but ministers get loyalty. That is the nature of the invisible contract, is it not? If we depart from that—you want to reassert the old conventions that have broken down—we are in deep trouble, are we not?

Clare Short: My argument is that the old conventions have broken down and therefore all the books are coming out. I agree with what Lord Owen said. You delving into this unleashes

this other monumental argument about our constitutional arrangements. If we could get back to the trust, rules could be made within that trust. There is enormous politicisation. You have Alastair Campbell and the chief of staff, Jonathan Powell, being political appointees. I know there are supposed to be fair rules about promotion for senior officials but, believe you me, the ones who are not wanted are squeezed out. There is a deep politicisation on who is promoted and that is a shift because if you are promoted because you are in with Number 10 as a senior official and increasingly put into the public domain to front things the lines have been blurred. It is no good just having firm, old fashioned lines on memoirs when they are blurred on decision making and public statements.

Q381 Chairman: Lord Lawson tells us in his memoirs that he was involved in appointments way outside the Private Office. You have a lovely little section about that.

Clare Short: You have a veto of power. It is much deeper interference now.

Q382 Chairman: "My personal involvement in Treasury appointments and promotion extended well beyond the Private Office." You go on to talk about individuals and so on. You are quite robust in proclaiming that you had quite a large role in appointments.

Lord Lawson of Blaby: The role was three fold. Two parts have already been mentioned. The Private Office is very important, as is having a Permanent Secretary you can work well with. I was involved with a change of Permanent Secretary at Energy, for example. Then there is the question of the resources you have at your disposal. It is sensible—certainly this is the way I played it—to discuss with the Permanent Secretary which were the most difficult policy issues and how where we could put the ablest people into the difficult areas. It seemed to be common sense. I am sure any enterprise of any kind would do that but it would have to be done with the Permanent Secretary. It was not a question of going behind his back and, say, appointing somebody as a Deputy Secretary.

Q383 Chairman: It is corrective to the idea that there was some sort of golden age of purity.

Lord Lawson of Blaby: There is a difference between ministers and officials which you very clearly and lucidly set out a moment ago in response to Clare Short. I think that is absolutely right and should remain. I think it is well known that there are a number of officials who are extremely unhappy with the Meyer revelations, with the fingering of politicians in the way that he did in his memoirs, because they realise that if ministers think that officials are going to be fingering them in that way in their memoirs all their reticence hitherto about fingering officials is going to go. If anything, they are probably going to try to get their retaliation in first.

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This convention did, very properly, protect officials. Officials are now concerned that it may have been weakened as a result of the Meyer book.

Q384 Chairman: You told us at the beginning that you thought the Radcliffe rules were obsolete. Clare has given us a very strong statement for why, in the heat of the moment, you want to get this stuff out while it is raw and you cannot go through a 15 year wait and the kind of things you were doing, Lord Owen, with Robin Butler back when he was citing 15 years at you. It has a kind of unreal feel to it now. If we are all saying something has changed but we somehow need to put it back together again and to mend these relationships that have broken, the evidence for the break is the memoir field. What we are saying is how on earth do we do it.

Lord Lawson of Blaby: That is what your report is for.

Clare Short: I have not really studied the Radcliffe rules. Christopher Meyer's description of the way in which the Washington embassy is not functioning in the way it used to is important to our constitutional arrangements. As to Mr Major in his underpants and the rest, I think we could tighten rules on personal abuse. One would have to think about the

phrasing. I think his book is important to what is going on and how the system is changing but we could tighten the rules so as not to permit the real spice in it.

Q385 Mr Prentice: His view is that junior ministers were political pygmies.

Clare Short: That is abuse too.

Lord Owen: As I understand it, the Cabinet Secretary did not raise with him or his Permanent Under-Secretary in the Diplomatic Service any of these points. That is just amazing. There is nobody who has gone through this process, I would suggest, who could possibly imagine circumstances when a book like that would not come back. Let us be realistic. If nobody comments on it and you are in the business of writing a memoir, you are not going to say, "I am surprised you did not take this out." The system has broken down and the then Cabinet Secretary has a pretty heavy responsibility for that particular area.

Chairman: Thank you very much for what has been a very useful session, not that you have had unanimity, but you have brought some very interesting observations to bear on this. As Lord Lawson said, it is up to us to make some sense of them. Thank you very much indeed.

Thursday 16 March 2006

Members present:

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Kelvin Hopkins

Mr Ian Liddell-Grainger
Mr Gordon Prentice
Grant Shapps

Witness: **Rt Hon Tony Benn** gave evidence.

Q386 Chairman: May I welcome Tony Benn, not for the first time, to the Committee. We draw upon you regularly, always to great effect and we are delighted that you are able to come to help us with one of our inquiries at the moment which is on memoirs. You of all people should be able to tell us about this as one of the great diarists of our time. Do you want to say anything by way of introduction or shall we go straight to questions?

Mr Benn: May I just briefly say, and I put it in my note, that the balance of information between the Government and the people is what determines whether society is democratic or not. Looking over history, the Heresy Act of 1401 meant that if a lay person read the Bible they were burned at the stake. That was an attempt by the Government to control people thinking out for themselves their religious beliefs. Then the Church of England was nationalised by Henry VIII because he wanted to control the Church. Charles II nationalised the Post Office because he wanted to open everybody's letters—I looked this all up when I was Postmaster General—and Luke Hansard was imprisoned for reporting what was said in the House of Commons. All of these related to the availability of information. The position at the moment is that the government want to know all about us. When I use my Oyster card the police know what station I went into, where I went and when I came out again. My phone is bugged, or can be bugged, quite legally now and everything about us is known, but we know very, very little about what the government do. Under the 30-year rule I shall be 111 before I know what the Cabinet minutes for yesterday say. I think that there is an imbalance and I am making a very, very simple point, which is that the argument about secrecy and so on confuses the convenience of ministers with the national interest. My experience, if it is of any help, and I was a departmental minister for 11 years, is that there are very, very few secrets in government at all. I once put this either to Burke Trend or Armstrong, I forget which, and they agreed with me. Some relate to security. For example, atomic matters are very, very secret, but even there I once had a document marked "Top Secret Atomic UK Eyes Only, page one of 20 pages, copy one of two copies", (so secret that we used to say "Eat this paper before reading"!)). It said that we could enrich uranium by the centrifuge. When I was reading this, *New Scientist* was publishing every week that it could be done. All I knew was that we could do it. They said they thought they could do it. I do not think that there are many secrets. The deployment of

the military in war is secret; I accept that. I used to be told the Budget the day before and I was terrified I would sleep walk. The Budget is secret until it is published. In the old days, if your name appeared on a list of possible peers you were struck off immediately, but that is no longer the case. Personal information: clearly there is a responsibility of government to keep secret what they know about people in terms of information they may have given to the Ministry of Pensions or something of that kind, but otherwise there are no secrets. One example came to me last week, arguing my case. I discovered that when I was Secretary of State for Energy, without my knowing, one of my officials was supplying plutonium to Israel. It was an outrage. I did not know. Once on another occasion when I suspected Pakistan had nuclear plans I took it straight to a Cabinet committee. That is something which even ministers do not know. Another example, when I was Secretary of State for Energy, plutonium from our civil power stations was sent to America for the weapons programme. I did not know that until afterwards and the man who reported it in a letter to *Nature* was sacked for reporting it. My argument really is that if you are talking about the interests of government, it is malice and not information which damages the confidence in public business and that flourishes in the media and gossip and so on. Really, knowing what goes on is not damaging, with the limited exceptions that I gave, and therefore I do not see why anyone should not publish what they know. I know of two Foreign Office officials: Sir Jeremy Greenstock is not to be allowed to publish his diary. Why? I believe Craig Murray, who was the ambassador in Uzbekistan, has been told that he cannot publish his diary. I think this is just in the interests of ministers; it is nothing whatever to do with the public interest, indeed quite the opposite, it makes it hard to hold people accountable for what they do. I have summarised the argument. The note I sent about my diary is only interesting because you have two accounts of the same meeting and that may or may not be interesting. I cannot think it did any damage, but obviously I could not have published them when I was in the Cabinet because then I was part of a collective and I should not expect a permanent secretary to publish a blog every week on what happens in his department. However, when they retire they become citizens again and I think what they learned ought to be in the public domain. That is my argument, very, very simply, no complexity about it and I have very briefly given you the reasons why I take that view.

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Q387 Chairman: Thank you for that; it is very useful for us to have someone make the case for openness with such force and clarity. What you are really saying to us is that here we are worrying about what the rules should be about publication. Are you telling us that really we should not worry about this and we do not need any rules?

Mr Benn: I do not believe that anyone who has retired from public service should be restricted from writing what they remember, what they know and what they think. There is a way round it actually, which I have used in the past though I do not know whether it applies here. Whistleblowers got on to me because if they published their allegations they would be sacked. I told them to tell me about it and I would put down a question in the House of Commons, the information they had given me would be covered by the privilege I had in Parliament. If an attempt was made to sack them, I would take it to the Standards and Privileges Committee. I did once save a man from dismissal in Birmingham: they threatened him with dismissal because he was an official and he objected to the road race in Birmingham. He wrote to me and I took it up and took it to the Standards and Privileges Committee and, believe it or not, the Birmingham City Council was charged with a potential breach of privilege. That is a way round it, but it would not exactly cover memoirs.

Q388 Chairman: We know that there is a public interest in openness, which you have made to us strongly. Is there a public interest in confidentiality too?

Mr Benn: You have a duty of confidentiality when you are working in the Cabinet; you have collective Cabinet responsibility, you have responsibility to your constituents, to your conscience and so on and so on. I do think that really people are entitled to know what is done in their name.

Q389 Chairman: One of the questions is: when are they entitled to know? Are they entitled to know the next day, the next month, the next year, the next century? This is the heart of the rules issue. When Lord Owen came to see us some weeks ago he made the little joke that in Cabinet Denis Healey would lean over and say to you "Tony, am I going too fast for you?", a joke about your diaries. When is it proper to publish a diary or an account of a confidential meeting?

Mr Benn: If you have retired from the position which you occupy, you must be free. Within the Cabinet we once had a vote. Wilson asked those who were keeping diaries to put up their hands. Dick Crossman put up his hand, Barbara put up her hand and I put up mine. Barbara wrote shorthand, so her contemporary diaries were rather better on the Cabinet. Dick used to write at the weekend what he wished had happened in the week, and mine I did in the lunch hour from notes I made during Cabinet. I cannot believe that any of that was damaging to anybody, but clearly you could not publish while you were in the Cabinet, only when you were no longer in the Cabinet. They tried to force me to

submit my diaries to the Cabinet Office, not that my diaries matter. I said I would not. My accountability is not to the Cabinet Secretary of the day; my accountability is to the people who elected me and my conscience. That was my position and I would apply that to everybody. Advisers can write their diaries but civil servants cannot. What is the difference between Alastair Campbell and Jeremy Greenstock?

Q390 Chairman: So the test is whether you are in office or not.

Mr Benn: Yes, it must be that. You could not have everyone in the Cabinet blogging the following day because you have a collective responsibility; you are part of the Government. When you are not a part of the Government, as a backbench Member, even if you have been, you must be absolutely free.

Q391 Chairman: You are saying that there is a limit to openness then; there is a limit, if you cannot do it the following morning.

Mr Benn: You cannot do it while you share the responsibility you have taken on for government. A Member of Parliament is not a member of the Cabinet.

Q392 Chairman: Even when you have gone and your colleagues are still there, surely they have the expectation that the confidences they shared with you and you shared with them will remain private at least for a period.

Mr Benn: I was only ever in office and out of office with my party, so it never applied to me. If I had been sacked from the Cabinet . . . Take the case of people like Clare Short who resigned from the Cabinet. I do not believe there should be any limitation on what she should write and indeed there has not been as far as I can make out. I am only saying that while you are part of the Government, whether you be a civil servant or a minister, then you are responsible by the nature of the obligation you have taken on. It is always presented as the national interest. It is nothing to do with the national interest at all. But it is very embarrassing to ministers if it is known that there are different arguments going on.

Q393 Chairman: I am sorry to labour the point, but the argument that we are wrestling with and which has been put to us many times and is generally accepted is that there is a public interest in people being able to have a space in which private conversations can take place and that if people know that that space is not private, they will not say things they would otherwise say and therefore the quality of collective decision making will diminish.

Mr Benn: That was the case for locking up Hansard. They said that if people knew what was said in Parliament, then no-one in Parliament would ever dare speak their mind. This raises much more fundamental questions than you recognise. On the malice and the gossip, I used to open the papers every day when I was a controversial figure years and years ago and find my colleagues had leaked nasty things about me. You live with that and the

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media are full of it. Truthfully I think the electors are entitled to know what is done in their name. You asked about the 30-year rule. In America they have a 30-second rule: as soon as it has happened it is out. America is much better at freedom of information than we are. I am really incensed about these two plutonium stories I mentioned, that I was in the dark as a minister. If any civil servant had written about plutonium to Israel or the United States they would have been in prison even though I would not have known about the plutonium.

Q394 Chairman: Why not hold Cabinet meetings in public?

Mr Benn: I have wondered actually. I used to say that Cabinet was the best committee I ever attended in my life and the most interesting committee. In those days it used to meet for a full day; in January 1968 it had eight full days of meetings, morning and afternoon. Now it lasts for about half an hour, to give the Prime Minister time to tell the Cabinet what he has decided. In those days the Cabinet discussions were absolutely riveting. To give an example of confidentiality, at the end of the IMF discussions where we had a very big argument, Jim Callaghan, the then Prime Minister, announced publicly that we had discussed a number of options and the conclusion we came to was this. I was in a very fortunate position. People would ask why I had not applied import duties and I would say that the point was discussed in the Cabinet who took a different view, and as a member of the Cabinet I am committed. I was able to reveal the fact that there had been a discussion. Now, even to reveal that there has been a discussion would be held to be a breach of confidence.

Q395 David Heyes: I wonder about the corrosive effect on participants in key decision making—ministers, senior civil servants and the like—of knowing that all this is going to go into the public domain and, on your agenda, fairly rapidly. Does this not prevent people being honest and open? Does it not prevent a proper, full, private debate to thrash through all the issues, to have some grit in the discussion because of this anxiety about how it might be portrayed very soon after the event?

Mr Benn: I do not think so on reflection. Take some of the issues which come up, enormous issues, the question of the development of nuclear power is a really big issue and one in which I was involved, the development of industrial policy, what you should do when Rolls-Royce goes bankrupt, what you should do when British Leyland goes bankrupt, these are really big issues and the nature of your debate with your colleagues or with civil servants is a very mature debate. The fact that later it might come out that you disagreed with your permanent secretary does not make any difference at all, but it would be very inconvenient for ministers. The real point is that a minister would not want it to be known that he had acted either under the instructions of his permanent secretary or against the advice. He would not like it. It would be in his

interest: it would not be in the national interest. I think you have to differentiate between the convenience of ministers and the national interest.

Q396 David Heyes: Apart from having to précis it, did you ever leave key events and issues out of your own diaries?

Mr Benn: My uncut diaries, if you are interested, are 17 million words and what is published is only 10% of it.

Q397 David Heyes: For reasons other than those obvious time constraints and the limits on the number of words you can use, did you ever sit and make a decision along the lines of it being too sensitive, too difficult or something you could not put in your diary?

Mr Benn: No. A lot of material which was not likely to be of public interest was excluded. The rule I had with my editor Ruth Winstone, an extremely competent woman, was that every mistake I ever made had to be reported because otherwise the thing would lack credibility and people would remember the mistakes, but also that we concentrated on the things which had long-term interest. I would have been happy to publish the lot, except that there are probably a few small libellous statements, because I must admit that though I do not believe in personal attacks, at night I did sometimes find that releasing my feelings on to tape helped a bit. I never let those be published.

Q398 David Heyes: Did you comply with the Radcliffe rules which would have required you to submit them to the Cabinet Secretary for vetting?

Mr Benn: No, I did not; I refused. It is very, very interesting. We had a discussion in the Cabinet about memoirs and when the minutes came out it said that ministers agreed to submit their memoirs to Cabinet. I wrote to the Cabinet Secretary and said that I did not think that was the conclusion, but he said it was. At that moment Wilson resigned and then he wrote to me and said he wanted to see my diaries and I asked whether Wilson had submitted his. The Cabinet Secretary said he had not because he had resigned before it came into effect. So he exempted himself. I got on to Roy Jenkins and we agreed that we would not submit our memoirs or diaries to the Cabinet and I never did.

Q399 David Heyes: Are you saying that no-one should?

Mr Benn: I do not think I should have been asked to. Nobody ever suggested that anything I said damaged the national interest. It may have irritated colleagues, but that is not necessarily the same as the national interest.

Q400 Chairman: Did you not get a letter from the Cabinet Secretary of the day saying he had heard that you were going to publish?

Mr Benn: Yes, I did; yes. I had a letter from him saying that it was agreed that all Cabinet ministers would do it as a Cabinet decision. I disputed that that was a decision and I never submitted it and

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would not under any circumstances because my obligation was to my constituents, my colleagues and my conscience but not to an appointed official.

Q401 Chairman: So the whole idea of having a set of rules is . . . ?

Mr Benn: Nonsense.

Q402 Mr Liddell-Grainger: May I just ask you about Peter Wright's diaries, which came out and then Lord Armstrong had to go to scrutinise them. Peter Wright did have information which may or may not be right—we shall probably never know—but it was certainly devastating at the time where there was a potential plot against the Prime Minister and many others. You would say that we should know about that.

Mr Benn: Yes.

Q403 Mr Liddell-Grainger: I think there were parts of that we should not have known about, which was the burglary and all the rest of it. Is there a balance where national security has to do things? You have talked about uranium and certain securities.

Mr Benn: The Wright case is a very interesting one. I used to listen on shortwave radio to the book *Spycatcher* being read. The Danish radio read it in English and I used to listen with earphones thinking that it was like living in occupied Germany during the war. I then decided to read from *Spycatcher* myself in Hyde Park. I consulted a lawyer who said I might be in trouble. I went to Hyde Park and I read it. When I read it, every television camera was switched off for fear that they might be blamed for having broadcast it. What he said, which I had known for a long time, was that everyone was bugged and burgled. My rubbish was collected every morning in a Rover car. I know the Kensington Borough Council are very efficient but . . . My son constructed a bell so when the black sacks full of rubbish were lifted the spring lifted and the bell rang. My phone was bugged. I know that because my daughter picked up the phone and heard what I had just said to somebody else. When I wrote to the Home Secretary and asked whether my phone was being bugged, he did not reply. He did not reply three times, so I went to see the Prime Minister who said "Well it's not being bugged now". I knew what Peter Wright was saying was absolutely true, but they did not want us to know it was going on because it would have been inconvenient for the ministers who had authorised it.

Q404 Mr Liddell-Grainger: Can we talk about one other diary, that of Stella Rimington? She could have written a potentially very damaging diary about her experiences down the road. She submitted them; there were changes; they came out fairly boringly. Do you think the things she agreed to hold back on should be kept in abeyance for a period of time and then published regardless? Obviously there is a lot in there which could be very interesting.

Mr Benn: I met Stella Rimington; she was busy bugging us all. If she was ready to talk about it, it would have been a good thing for us to have known

it. Let me put it like this: if you do not know what goes on, that is by banning these memoirs, then the public are in the dark and ministers cannot be held accountable. Mind you, in many cases I do not think ministers knew what the security services were doing any more than I knew that plutonium was being sold. This idea that ministers always know is a great mistake. I raised this with Northern Ireland ministers once or twice and I got the feeling that they had not the slightest idea what was going on.

Q405 Mr Liddell-Grainger: You talked at great length about the uranium being sent to America, which you had no idea about. Nowadays, given the power of the press, the persuasion of the press, freedom of information, obviously things go on which ministers do not know about, that is the nature of it, but would you in your guestimate say that it has got less or more because the state has to hide more because it is being scrutinised more, or do you think it has got better? I cannot base it on anything other than just a question.

Mr Benn: The role of the free press is of huge importance and nothing I would want to say would go against that, although increasingly the press are embedded correspondents; they all go to Number 10 at eleven o'clock in the morning and they come out at twelve and tell us what they have been told, rather like the embedded correspondents in a war zone. I think the press are less free in their judgment than they should be and perhaps used to be, but you could not rely on the press doing it when there are people who do know and describe it. What is wrong, for example, about Sir Jeremy Greenstock writing an account of his period in Iraq at this particular moment? Would it not be beneficial for us to know his judgment on the matter?

Q406 Mr Liddell-Grainger: I do not agree or disagree, but let us just look at one other one which is Christopher Meyer. He wrote about his experience in Washington and called the ministers "pygmies", he was fairly scathing about the Prime Minister and his ability to understand the issues, et cetera. How he quite came to that compared to Bush I have no idea, but never mind. That could be damaging potentially not because of what he said, but because the Americans in this case would say they were dealing with a bunch of has-beens or half-wits or whatever. That in its own way is damaging because it is undermining the credibility of the nation, is it not?

Mr Benn: That is malice and gossip and I agree that malice and gossip is damaging, but there is no rule against malice and gossip. There is a rule about publishing, but to be malicious and gossip Meyer could have gone to the *Daily Mail*.

Q407 Mr Liddell-Grainger: He did.

Mr Benn: I am talking about writing a book. He could have gone to them and said he thought the Foreign Secretary or whoever was a pygmy and that gets out all the time, but that is used as an excuse for denying us the knowledge of what he actually thought at the time about his role in Washington.

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Q408 Mr Liddell-Grainger: He has sold a phenomenal number of books on being a red-socked fop and telling everybody that the Cabinet were pygmies basically and the Prime Minister really did not have a grasp of matters. I think that was really what he was trying to say. That was him making a commercial decision to sell as many books as he could regardless. The tittle-tattle is damaging because it makes us look ridiculous. Surely there has to be some mechanism—I do not know what and maybe you disagree totally—that we can say that after that period. It does not matter whether Jack Straw has retired and the Prime Minister has gone; it is irrelevant, but it is rather nice to know they are pygmies. However, at the moment it is not good, when we are in the middle of a situation which is fairly unstable in Iraq and Afghanistan; it is not bringing confidence to a nation with which we are working at the moment.

Mr Benn: It is very embarrassing to a minister to be described as a pygmy by a permanent secretary; I accept that, but I cannot say it isn't in the national interest. It may be in the interest of the electorate to know. I did not read the book actually. I thought it was the source of a great deal of trouble. I should have thought it was in the interests of people to know how permanent officials saw the role of government in Washington. Walter Wolfgang said one word at the Labour conference "Nonsense" and he was charged under the Prevention of Terrorism Act. When we have an ID card, until the day he dies his ID card will say that he was interrogated under the Prevention of Terrorism Act and that is an example of the Government wanting to know all about us. When you examine these arguments, and you put them with very great skill, they are old and familiar arguments; it is embarrassing if the Americans discover that Sir Christopher Meyer thought a minister was a pygmy. I should think the Americans have thought that of many British ministers over the years without the help of Sir Christopher Meyer; a view no doubt reciprocated by British officials who have seen Bush and Cheney in action.

Q409 Chairman: You have made good points in response, but I think Ian's point is that the world in which we live wants malice and gossip. The money is to be found in malice and gossip. That is what publishers want, that is what newspapers want. Once you say there are no rules because the public interest requires openness, it is not because people are after high-minded truths, but after this kind of stuff. The question then is whether it is actually in the public interest to have that happen.

Mr Benn: I think malice and gossip go on on such a scale that it has very little bearing on the issue I am raising which is the right of people who have held responsible positions to write and report what they learned when they were there. You say that malice and gossip sells. I suppose that may be the case; I do not know. The important thing is to know, for people to read it and if I read a book of the kind Meyer wrote, I should not be interested in what he said about ministers, I should want to know when

the decision was taken to go to war in Iraq, who took it and when. I do not think you can use malice and gossip.

Q410 Chairman: The former Cabinet Secretary came here—

Mr Benn: Who was that?

Q411 Chairman: Sir Andrew Turnbull. He said they spent all their time trying to persuade ministers when they went on foreign trips to stay in embassies so that the whole diplomatic side of the things can kick in. The effect of Meyer is that no minister will stay in an embassy any more; they are going to stay in a hotel. If they know that the ambassador is going to publish a book giving these personal accounts of these visiting ministers, why would they?

Mr Benn: I do not think that is a valid argument at all. Mind you, the only time in my life when I stayed with an ambassador they unpacked my bag and took out my toothbrush and squeezed toothpaste on it. It was a level of support I had never even dreamed of, but I prefer to stay in a hotel myself. I think these are totally invalid arguments where the establishment cover it up themselves and that is wholly undemocratic.

Q412 Chairman: I do not think Sir Christopher Meyer was dispensing toothpaste for ministers.

Mr Benn: I do not know whether he was. I had better read his book. I cannot believe that it did any serious damage.

Q413 Mr Liddell-Grainger: We had Simon Jenkins before us who has negotiated to buy serial rights and he more than intimated that the thing that sells it is the gossip and tattle; that is what they are after, that is what they want. If you get a good story about the Prime Minister not being able to understand what you are talking about, it does not matter which Prime Minister, that is secondary. Surely it is the commercialism now. I accept that is not fair at all: you wrote yours because you wanted to do it and you wanted to make a point. Nowadays it is commercialism; it is blatant commercialism. We have Campbell about to come out, negotiating vast sums of money. We have had other people in front of us who made an enormous amount. It has just become a commercial circus. Surely we have to control it.

Mr Benn: If you examine what you have said, think about it: if malice and gossip is damaging you are not actually using the rules to protect malice and gossip but to prevent the real information from coming out. I do not think you can say "We have strict rules to prevent us saying malicious things about each other". The rules are there to see that information about what Government are doing does not come out. I should have thought that if people buy books for malice and gossip, then they will not be interested in why we went to war with Iraq, if you see what I mean.

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Q414 Mr Liddell-Grainger: I do admit that these Cabinet minutes of 1975 about the EU and the things which were said are fascinating, but I am a sad old anorak. I am not going to buy this as a story. I like what it says. I am just fascinated by what you and Jenkins and everyone else said in these minutes; it is fascinatingly interesting stuff. If you actually then said in the middle that you thought the Prime Minister was gay, it would have been the most fantastic seller; it would have been an absolutely brilliant piece of tittle-tattle. This is great as an historical document of enormous interest at the time. There is a lovely quote from you which says "... he was not inflexibly opposed to Britain's membership of the EEC" which is wonderful.

Mr Benn: That was not me; that was Eric Varley, was it not? It says the Secretary of State for Energy; I was not Secretary of State for Energy at the time.

Q415 Mr Liddell-Grainger: I thought it was you. That is even more interesting.

Mr Benn: You thought that was me and so did I until I realised the date!

Q416 Mr Liddell-Grainger: It is fascinating history but it is a document, a very interesting document. If you want to cause the mischief and the trouble, you would spice this up in today's terms. I am using today's speak. Surely that cannot be right.

Mr Benn: I think you are helping my argument by saying actually what this is all about is to stop nasty stories getting into the public debate and I think that is what you are really saying, that is what it is really about and that is totally and absolutely contrary to the public interest. I accept the view that it was the sneers from Meyer about ministers which really annoyed them and actually what should have worried them, if the rules were being applied on high principle, would be what he described as what happened at the time. They do not bother about that; it is the malice and the gossip. You have to live with that in public life. I do not know what your party is like, they must be terribly friendly, but the Labour Party is known on occasions to be spiced up in conversation with a degree of malice and gossip which is unpleasant, titillating and entertaining.

Q417 Mr Liddell-Grainger: You have sat in the tearoom, we have all sat in the tearoom and we gossip like mad; you know that as well as I do. There is a slight difference between us lot having a jolly good gossip, which we all do, we love it, and potentially damaging revelations in a larger context. You obviously disagree totally. We are going to beg to disagree on this one, I am sorry.

Mr Benn: People are mature. Do not underestimate the intelligence of the electorate. One of the great problems of the establishment is that they think people are so ignorant that they cannot distinguish between malice and gossip and real information. The longer I live the more impressed I am by the incredibly high level of intelligence of people who are all on Google and the internet, they know, they read,

they can discount and distinguish between the information which would be helpful to them and the gossip which titillates and sells books.

Q418 Kelvin Hopkins: The important thing, is it not, is to get truth out and particularly truth for the purposes of history. Is it not worrying that in the run-up to the Iraq war—and Lord Butler focused on this—a lot of the crucial discussions were deliberately not minuted, so we shall never have information even under the 30-year rule? This is precisely what happened; we shall presumably only have the accounts of the Prime Minister when he writes his memoirs. Is that not deeply worrying?

Mr Benn: The new form in which government is conducted—it was not the case when I was there—using e-mail and so on may mean that the basic information is not permanently in the records to be studied afterwards. The more informal the nature of government decision making—and I was last a minister in 1979 and it was quite different then because the technology had not developed at all—the more it becomes like that, the more important it is that people's recollections of what was said should be available.

Q419 Kelvin Hopkins: Is it not also worrying that the Cabinet appears just to have taken really very little part in these discussions and to have had very little role in making the decision and, as you say, they just had reports from the Prime Minister? Will the 30-year rule record show a pathetic performance compared with what discussions went on about the EEC as recorded in the documents you have presented to us?

Mr Benn: Of course I have not seen Cabinet minutes since I left the Cabinet in 1979, though these have come out. I do think that the nature of Cabinet government is totally transformed from what it was: short Cabinet meetings where announcements are made rather than discussions and debate. We outvoted the Prime Minister. Can you imagine circumstances where you went round the table and the Prime Minister was in a minority? I think that was a genuine democratic debate and I was proud to be a member of a committee where it was possible. They were formidable people: Jenkins, Crosland, Crossman and so on. I thought the Cabinet at the time was very high quality: Jim Callaghan, Wilson, Elwyn-Jones; very, very interesting. I used to sit in Cabinet with three sheets of blank paper: on one I wrote what was going on; one was for what I should say if I were called; thirdly, what I had to do after the Cabinet. I kept these three bits of paper and then if it was interesting I missed my lunch and went and dictated my diary straight away. Looking back on it now I find it riveting because I can go back on a CD-Rom of my diaries and pick any Cabinet, any issue and follow it right the way through. It helps me now to be a sensible and useful citizen.

Q420 Kelvin Hopkins: In future, when memoirs are written, there will not be a formal record with which they can be compared.

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Mr Benn: No, there will not be.

Q421 Kelvin Hopkins: There will not be formal records of many of these crucial discussions. Is that not damaging for our democracy?

Mr Benn: It is and I'll tell you something else. I have come to this conclusion and I offer it to you. I am a Privy Councillor. The Privy Council has not met since I joined it; I was appointed in 1964. It only meets when the Queen dies. The thing about a Privy Councillor is that your allegiance is personal to the Crown. The oath for Privy Councillors was secret until I published it. When they read it to me I said I did not agree with it. They said that I did not have to agree. I said "What do you mean?". They used a word I never understood until that moment. They said "We have administered the oath". It was an injection; I had been injected with the Privy Councillor's oath. The point I am making is that advisers today are now in effect Privy Councillors. Their allegiance is to the Prime Minister, not to the party, nor to Government, nor Parliament, nor the public, in the way that my obligations as a Privy Councillor are simply to the Crown. I find that very interesting, because it re-interprets what is happening now in terms of mediaeval government. We are drifting back into a mediaeval form of government, just as the House of Lords has been modernised back to the fourteenth century. When it began there were no hereditary peers; they were all life peers and the King appointed them. We have modernised it back and I think our form of government is getting increasingly mediaeval. You have extended me beyond what I meant to say, but you did ask me.

Q422 Chairman: May I just bring you back to base? May I ask you about civil servants? What you are arguing, as I understand it, is that for ministers there can and should be no rules, at least the only rule you have suggested is that you should not publish this stuff while you are still a member of the Cabinet, but once you have gone, you think anything can happen; even if your colleagues are still there, if you have gone, you can do it. Does this apply to civil servants too? You seem to suggest that it does, but the traditional deal inside government is that ministers take responsibility for things which go on. In return they get loyalty from civil servants, who in turn get anonymity. Once we say that civil servants can publish, presumably when they leave their post, immediately, that they can record what advice they gave, what ministers said to them, what they said to ministers, have we not completely changed the relationship which is at the heart of government?

Mr Benn: I think two things. First of all, advisers have been brought in now who are in effect civil servants and they have the power to give civil servants orders, which I think is outrageous, but they do, and they can publish their memoirs. So why should civil servants be at a disadvantage to advisers? The second thing is that I used to argue and

loved arguing with my old permanent secretary, with whom I had flaming rows, Otto Clarke, who was the father of the present Home Secretary. I knew what his view was. He did not retire before I did, but if he had and had published a book saying what he was saying and what I was saying, it would have opened up the nature of the argument. If he had been malicious about me, which I do not think for a moment he would have been, any more than I would want to be malicious about him, it would have been part of the public debate. There is in the back of all these questions which you put the idea that somehow the secrecy of the nature of the decision-making is in the public interest, whereas my argument, as you will appreciate, is that the openness is in the public interest because citizens will know better how to cast their vote and ask their questions.

Q423 Chairman: I think it turns, as many things do, on this question of balance.

Mr Benn: Yes; of course.

Q424 Chairman: Many of us here have been ferocious in our support for freedom of information legislation.

Mr Benn: Yes; I know.

Q425 Chairman: Of course that does protect certain confidences under criteria. We may argue whether we have the right ones or not, but all such freedom of information legislation anywhere in the world seeks to strike a balance between the public interest in openness and the public interest in confidence. All we are trying to explore with you in relation to the publishing of memoirs is where that balance is to be struck, whether you believe there is a balance to be struck and how then it might be enforced.

Mr Benn: I think truthfully you just have to leave it to the common sense of the matter. If somebody leaves office and then writes a lot of malicious stuff about those with whom he previously worked, it will not do him a lot of good.

Q426 Chairman: It will make him a lot of money.

Mr Benn: Not necessarily. I do not think malice makes an awful lot of money; I do not know, maybe it does. Certainly diaries do not. You could have argued that in this select committee today I would not have been able to be candid with you if I thought it was going to be reported. However, I have been as candid as I could and you have been as candid with me and I do not think publicity damages candour.

Q427 Chairman: We precisely wanted you because of the fact that you would test our inquiry—I shall not say to destruction—by giving us a robust statement of the case for maximum openness. You have done that and in reflecting on these things we shall have to respond to what you have said to us.

Mr Benn: Thank you very much indeed. I am always available as I have retired.

Chairman: Thank you so much for coming.

Wednesday 29 March 2006

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
David Heyes
Kelvin Hopkins
Mr Ian Liddell-Grainger

Julie Morgan
Mr Gordon Prentice
Grant Shapps
Jenny Willott

Witness: **Rt Hon Jack Straw**, a Member of the House, Secretary of State for Foreign and Commonwealth Affairs, gave evidence.

Q428 Chairman: Foreign Secretary, it is very good to have you amongst us to help us with our inquiry into political memoirs. I think you wanted to make yourself available to us because you had some views on this in the light of recent events. I do not know whether you would like to make a statement by way of opening, or whether you would just like us to ask you some questions?

Mr Straw: I am very happy for you to ask me questions in view of the time.

Q429 Chairman: In that case, let me start off briefly, and I apologise for the fact that we shall be interrupted. When you last came in front of this Committee you were introducing the Freedom of Information legislation and you were the purveyor of openness. My sense is that you have now come as the purveyor of closedness, that is that you take a dim view of these former diplomats and former civil servants who rush into print with their memoirs. How can one approach be reconciled with the other?

Mr Straw: I think it is easy to reconcile, and indeed I am still a purveyor of openness. Let me say that I spend far more time in the office seeking to expand on answers to parliamentary questions than ever I do in seeking to restrict them. I remember Norman Baker, when I was in the Home Office, although we had some disagreements on policy, complimenting me for openness. So I am very keen on openness and being as open as possible, but you will recall, Chairman, during all the debates which you and I personally had on the Freedom of Information Bill that all sides accepted there was a balance and the balance is built into the Freedom of Information Act itself between openness on the one hand and a public interest which actually requires that information in some cases should be kept secret, in some cases should be wholly exempt and in other cases should be confidential for a period. This particularly arose in discussing the exemptions to cover the business of government and it was accepted on all sides, the politicians and officials had to have a private space within which to be able to examine issues in frankness without the possibility that their views (as decisions were being formed, not at the point where they were ready to be promulgated) and that that debate would be made public. There was a very clear understanding that if that debate was going to be made public it would actually make the quality of decision making in government much more difficult

and would actually undermine it. So far as these memoirs are concerned, let me say this: I served, 30 years ago now, as a special adviser in government for three and a half years, I served for two years from early March 1974 until April 1976 as special adviser to Barbara Castle and then for fifteen months from April 1976 until July 1977 as special adviser to Peter Shore. I formed the view then that I could not do my job unless there was complete confidence in me not only by the ministers I was serving but also by the officials alongside whom I was working. You have to live by your deeds and you have to be judged. I never ever thought it appropriate, as it were, to lift the veil on the private advice which I was giving to the ministers I was serving, nor to expose the views of the officials, because if I had been of that mind and I had said to both the ministers and the officials, "Look, here, you need to know I am keeping a diary and the moment I can I am going to write this up and publish it for money," both the ministers and the officials would have said, "Thank you very much, but you can't do your job in that way and we can't do our job either if everything that we are saying to you is going to be published very shortly after you leave this job, so there's the door." The test that I apply, for example in respect of Christopher Meyer, is that if any of those who had been dealing with him at the time (whether they were ministers, the Prime Minister, officials, his own colleagues or foreign diplomats) had thought then that he was writing a diary and was going to publish it with no regard effectively for the Diplomatic Service Rules nor for confidences that he had been offered then everybody would have said, "Thank you very much, Christopher, but we are not willing to have a relationship with you on that basis, and indeed you are incapacitating yourself from doing the job." That is a very different issue from general openness in government.

Q430 Chairman: One of the issues which we shall want to discuss with you is whether the rules for former ministers are the same as the rules for former civil servants, but your reference to Barbara Castle is interesting and I know that you were a special adviser to Barbara Castle in the 1970s, because we have been looking at the history of all this and we have had in here some of the people from that period. We have had David Owen and Bernard Donoghue in and we had Tony Benn in a week or

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two ago, and they took us back to the Cabinet records of those days and of course when, in the wake of the Crossman diaries and then the Radcliffe report, Harold Wilson wanted members of that Cabinet to sign undertakings that they would follow the rules and not rush into print, Barbara Castle said no, Tony Benn said no, Roy Jenkins said no and so did one or two others, so it is quite difficult, is it not, making this stick?

Mr Straw: I do not think it is so difficult to make it stick, and let me say that I think there are two obligations on ministers, but they are in some respects (not all respects) different from those on officials, and I will explain why in a moment, if you wish. That was a particularly difficult period and Richard Crossman had been determined to try and breach the rules. In those days, in any event, let me say, there was far too much secrecy. I have been refreshing my memory of the Radcliffe Committee Report in preparation for this session and I had actually forgotten that in those days just the fact of who was on a Cabinet Committee was an official secret, so I have no doubt that 30 years ago I would have been breaking the Official Secrets Act just mentioning, as I did earlier, that I have a Cabinet Committee meeting which I am chairing at 4.30, and the level of classification of documents, say in the Department of Health and Social Security, which does not have that many secrets, was absolutely extraordinary. There is not only more openness now, but in practice and in law many more powers are available to parliamentarians and to the public to get at truths which ministers or officials may wish to cover up, and there have been recent controversies to prove that. That is a different issue, in my judgment, from keeping diaries. I have said what I said about diaries. I do not keep a diary myself. I am uncomfortable about the idea of diaries. Barbara Castle was very nice about me on every page where I appear, so I have no complaints personally about her diary keeping, but I do just say that if people are going to write a diary quite swiftly after the time they leave then it can be very difficult in terms of personal relationships.

Q431 Chairman: Can we just try to unravel some of the points as we go along, because I asked you about the Freedom of Information Act to start with and you said it was designed to protect certain categories of information, and of course it was, but if you go back to those debates I remember we had these very exchanges and you were adamant that it was not designed simply to protect politicians from embarrassment, that there had to be proper criteria, yet when I look at the Diplomatic Service Regulations—

Mr Straw: The new version or the old version?

Q432 Chairman: I think both actually—the criteria which are given for things that should not happen, one of them is publications that “create the possibility of embarrassment to the Government in the conduct of its policies”.

Mr Straw: Which paragraph is that?

Q433 Chairman: I am on paragraph 2.4. Surely that is quite inconsistent with what we argued about freedom of information?

Mr Straw: No, it is not. First of all, because this is talking about responsibilities on officials. What this third tier does is to reflect the fundamental relationship between civil servants and ministers. What you have in this country, and I happen to think it is a good system, is a permanent civil service who serve successive governments of different political persuasions and there is essentially a bargain between the civil service and ministers and political parties. The bargain is that we, as ministers, we collectively as a government, take on trust those officials who appear before us. Even after all these years in government, apart from my own private office and very senior officials, I have no say whatever, nor do I think I should, over the appointment of officials. You take them on trust both as to their professionalism, their integrity, their ability to keep confidences and their general trustworthiness. In return, as a minister, you offer them trust and agree that you will not seek to know their political opinions, provided they reciprocate in terms of loyalty to the Government, and also you do not gratuitously criticise them because they cannot answer back. It is not for officials to create the possibility of embarrassment to the Government in the conduct of its policies, that is for parliamentarians, it is for the use of powers under the Freedom of Information Act. It is for parliamentarians, and I have spent 18 years in opposition, so every day of my time in opposition I would try and embarrass the Government, and quite right, too. It is for journalists and for members of the public these days under the Freedom of Information Act, for which I am proud to say I was responsible.

Chairman: I think we will settle for that as the opening exchange. There may be one or two votes, but we will resume once we have done that.

*The Committee suspended from 2.47 pm to 3.11 pm
for a division in the House*

Q434 Chairman: We will continue our session, and I apologise again for the disturbance. We were having an opening exchange about this balance between freedom of information generally and the provisions to do with controlling publications by former civil servants and also former ministers. Just one last point I would put to you on this is that when Sir Jeremy Greenstock came to see us, our former man at the UN and our former man in Baghdad—and I am sure colleagues will want to ask you about some of the details of that case—he put a very, very strong argument about where the balance of public interest would lie in a case like his. He said, “Mistakes were made over Iraq and part of the whole point in writing about it is in the public interest, the lessons to be learned from the true story rather than from assumed facts or distortions of facts. I think there is a value in some transparency about these things in the public interest.” Is that not a strong argument?

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Mr Straw: I think it is a strong argument. I do not think it is a conclusive argument, and it has to be balanced against other considerations. Could I just make it clear that I have absolutely no criticism to make of Sir Jeremy Greenstock. He observed the rules, he submitted his book. I had a discussion with him and that would have been preceded by some correspondence. We had a difference of view, but he accepted that the rules were such that in the end it would be my view which would prevail, and let me say that he is a diplomat whom I hold in the highest regard, and also on a personal level I have got very great affection for him. I just want to make that clear. As it happens, what I read of the book was rather helpful to the Government's case in respect of Iraq rather than unhelpful, so there was no suggestion of seeking to stop its publication because of embarrassment. Could I just say in respect of that, Chairman, because you asked me about that in the truncated discussion, the rule in DSR 5, paragraph 2, is "create the possibility of embarrassment to the Government in the conduct of its policies". We are not talking about embarrassment to the Government generally or embarrassment to individual members of the Government because something has been said personally disobliging, and it is quite important to say that that rule is qualified by "in the conduct of its policies". Of course, above all with issues of war it is crucial that there are records and that these records are in due course available for scrutiny by historians, by parliamentarians and by the public. That has always been the case and that is absolutely fundamental because in war, more than anything else, ministers should be fully accountable, responsible and answerable for the decisions which they have advised Parliament of, and they have put men and women in harm's way and some of them will have been killed and injured, which has been the case in respect of Iraq. Coming to this discrete issue about Sir Jeremy Greenstock's book, he was only able to gain those insights that he had because everybody around him, including me, assumed that he was following the same rules and conventions of confidentiality as everybody else in the room, everybody else who was receiving in writing minutes and memoranda. So he had privy access, confidential access. I think in that situation—and this is a point which in the end without very much debate he accepted—it cannot be for one individual to determine whether those conventions and rules should or should not be broken because the system simply cannot operate in such circumstances. It has to be some kind of objective set of rules and objective criteria.

Q435 Chairman: The problem is, he went through all the processes. As you said yourself just now, he played exactly by the rules, submitted the manuscript, was getting all the clearances and then you saw him, I think, and told him he should not do it?

Mr Straw: No. There was one thing which he might have done, and I think we now make it very clear in the new rules, which is to seek approval in principle

before entering into a contract with a publisher. As I say, I have no criticism of him in respect of that, but it happens to be the case that if he was applying the rules to the letter then he should have sought prior clearance for the writing of the book and that may have saved a lot of difficulty. In any event, there was correspondence with Jeremy. I then had submitted to me an extract, not the whole book, and I know that he made the point to you when he saw you that I had not read the whole book. I have got a huge amount to do, but what I did do was to read all the extracts which had been flagged up for me which were relevant and got a sense of it, and I felt that it should not be published because it breached a number of the criteria laid down by Radcliffe and reflected in the DSRs. In the end—and I do not know whether you are complaining about this—ministers have to make decisions. If you are saying to me he felt strung along by officials, that is simply not the case. As I recall, officials were in no different a position from me, but in the end these things are matters for ministers in any event.

Q436 Chairman: But the Diplomatic Service Regulations say: "The final authority for all members and former members of the Diplomatic Service is the Permanent Under-Secretary"?

Mr Straw: Yes, and the Permanent Under-Secretary agreed with me as well, let me say, so there was not an issue between Michael Jay and myself, but I am entitled to have an opinion in that situation, I would have thought.

Q437 Paul Flynn: What we heard in evidence from Mr Greenstock was, "At the end of June 2005 Sir Michael Jay informed me that the Foreign Secretary had just become aware that I was intending to write for publication and had expressed strong objections, though he had not read the text." Greenstock told us that the writing is clearly written for publication and all the signals were that it would be okay and that you personally had intervened before you had read the book and said you did not want it published. Is that true?

Mr Straw: I had been given a synopsis of what was in the text, I had not read the text at that stage, but I took exception in principle to the idea of a very senior diplomat publishing a record of events which were as fresh as they had been in such circumstances. I just come back to the point I made right at the beginning—

Q438 Paul Flynn: Rather than repeat the point, could I carry on as there is a number of questions I want to ask in the limited time? Is not the difference that your attitude to Christopher Meyer's book (which was tittle-tattle and of no great consequence) was that you were happy to see that go ahead, offensive as it might have been to you personally, but that you had strong objections to Craig Murray's book about Uzbekistan and Greenstock's book because they were in a different category, because they talked about something serious, which was the relationship between Britain and America, and that

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was something which might embarrass you and embarrass the country and you wanted to stop them being published?

Mr Straw: There is a complete consistency between the decisions which were taken in respect of the Meyer book and those taken in respect of Jeremy Greenstock's book, and also which have been taken in respect of the Murray book. In the end, a judgment was made in respect of Meyer's book—and this was spelt out by Lord Turnbull when he gave evidence—that we were unlikely to succeed in obtaining an injunction to restrain publication because it was mainly tittle-tattle. It was fairly inoffensive tittle-tattle, but Meyer was disobliging about me, amongst many other people, but that seemed to me to be not remotely a reason for seeking to prevent publication. For that reason, Meyer was written to on behalf of the Cabinet Secretary to explain that we were not going to seek to restrain publication, but neither were we approving it. In respect of Jeremy Greenstock's book, it was different and the reason it was different was because we judged that it did breach those criteria laid down in Radcliffe and which successive governments have followed.

Q439 Paul Flynn: But the criteria which you were worried about, surely, was the personal embarrassment to yourself as Foreign Secretary?

Mr Straw: No.

Q440 Paul Flynn: The name of the Greenstock book is *The Cost of War* and would you not agree that the cost of war in Britain was born by the 102 families who lost their loved ones as a result of that decision to go to war in support of Bush, and is it not more plausible that the reason you wanted to stop the book was to prevent the full truth of the war and its aftermath being published?

Mr Straw: No, not remotely the case, Mr Flynn. You are right to say that those individuals and their families have borne the very high cost of war. As it happens, from the extracts I read I do not think the book by Jeremy Greenstock is remotely disobliging about me at all and on the whole from what I saw it was actually supportive of the Government's case rather than not supportive. But I come back to this key issue, which seems to me fundamental for the Committee and to be behind the whole of these rules, which is that if either Jeremy Greenstock or Meyer had said to us when they were in meetings with us, "Look, you need to know that I'm writing all this down and I'm going to publish a nearly contemporaneous record of confidential discussions in which I am participating," we would have had to have said, "Well, thank you very much, but you cannot do your job." They could not have done their job, is the answer. So there is an issue here not just about the publication of memoirs, there is an issue here about how you obtain and maintain good governance in the interests of the country.

Q441 Paul Flynn: Craig Murray's book—and you would agree, I believe, that Craig Murray worked in a country with an odious regime which he alleges

routinely murders and rapes its own citizens using the agents of the state, and in fact he alleges that they boil prisoners alive. He was distressed by what he saw in his period as our Ambassador in Uzbekistan and he wants to get that information in the public domain. He claims that he was strung along by the officials. At the official level he had no trouble, it was the exchange of emails, messages and letters, and he withdrew many parts of the book to accommodate the Government's objections, but when he got to your level, the political level, he was stopped and he lays the charge that he was stopped entirely by you, personally by you. Is that right?

Mr Straw: First of all, let me make this clear in respect of Craig Murray: we supported Craig Murray in the position which he took in respect of the abuse of human rights by the Uzbekistan Government. That is not just in private, it is true in public as well. If you look through the human rights reports which we have published over the years, they clearly supported what he was saying, not least based on his own reporting. As for the decisions which are currently being taken in respect of Craig Murray, how it works in government is that submissions come up to ministers and where a permanent secretary may, by the rules, have technically the final decision, it is rare for a permanent secretary to act without seeking the opinion of the Secretary of State. In the case of Craig Murray, he has been a deep embarrassment to the whole of the Foreign Office at an official level as well as of concern to ministers. I made the final decisions and I can provide the Committee with a note of the sequence of those decisions, but I am responsible for those decisions.

Q442 Paul Flynn: Craig Murray claims to have under the Data Protection Act and Freedom of Information Act detailed documents which consist of minutes about the handling of the disciplinary procedure against him, and in particular he says they give irrefutable evidence of the detailed personal involvement of the Secretary of State, Jack Straw, both in holding minutes and in writing minutes in the setting up and detailed conduct of the disciplinary charges against him. This evidence is included in the text of his book and he says that you have repeatedly denied that you have any connection with the action taken against him. Is that true?

Mr Straw: I would have to see the details. Of course the Permanent Secretary kept me informed about the disciplinary processes which were to be begun against Craig Murray, but were subsequently withdrawn, a decision with which I had nothing whatever to do, neither with setting up the disciplinary process nor its withdrawal, let me say. It is also quite important to bear in mind that Craig Murray in the end left the service on medical early retirement, he was not sacked.

Q443 Paul Flynn: He argues that the laws of defamation, libel, the Official Secrets Act, Data Protection Act, Freedom of Information Act, the lot, give enough protection to make sure that he does

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not overstep the mark so far as the publication of his book is concerned. His legal advisers approved the publication of the book.

Mr Straw: His legal advisers?

Q444 Paul Flynn: Yes. The only reason it has not been published—and we do not know what is in it—is that your Department and you personally threatened to use Crown copyright against him, which would involve his publishers in an expensive legal action and effectively gag Mr Murray. Is that true?

Mr Straw: We have made our position clear to Mr Murray and that has been laid out in correspondence. I do not have a copy directly here, but I can get one in a second. That has been made clear to him. Of course, if you come into a service—and I do not believe that even you, Mr Flynn, are suggesting otherwise—you sign up to a contract in that service, accept all the privileges which go with being members of the Diplomatic Service, but obligations too—

Q445 Paul Flynn: What are the obligations which apply to Christopher Meyer?

Mr Straw: Allow me to finish, please. If you then break those obligations, or appear to break those obligations, then of course you must bear the consequences.

Q446 Paul Flynn: But why do they not apply to Christopher Meyer? Christopher Meyer almost certainly broke those obligations and you did not act against him because what he was writing was tittle-tattle, but when someone is writing something which has serious consequences about our relationship with America you ban the book?

Mr Straw: No. As I say, there is this fine but rather important distinction to be made between, as you describe it, tittle-tattle—and much of Meyer's book was tittle-tattle of the salacious kind—where the advice was (and it was pretty clear) that there was no point pursuing Christopher Meyer through the courts and other circumstances where the potential damage to the national and the public interest appears to be more substantial. You have a particular view of our relationship with the United States, but I think there is a general principle here which does not only apply to our relationship with the United States but with Germany, the Russian Federation, the People's Republic of China and any other country with whom we have diplomatic relations, which is that those relations cannot be properly conducted unless the core part of them can be conducted in confidence. I may say that that was agreed by Parliament when we were taking through the Freedom of Information Act. So what we are seeking to do in this is not very different from policies agreed by Parliament not very long ago after very extensive debates on the Freedom of Information Act.

Q447 Paul Flynn: How can we be certain that you are acting in the national interest, or by seeking to ban these two books acting in your own personal interest to avoid embarrassment to yourself?

Mr Straw: No, I am not acting in my own personal interest.

Q448 Paul Flynn: Would that be a legitimate thing to do, would you say?

Mr Straw: In any event, if I were to, that would come out in any court action which may take place. In the case of the book by Sir Jeremy Greenstock, as I say, I have no criticism of the way he has conducted himself. He was a very fine diplomat who provided excellent advice to the Government. I regard him as a friend as well and, as it happens—and I have already said this—so far as I know, the book was not remotely disobliging about me in any event and on balance supported the Government's position. In respect of the Craig Murray book, let me say that Mr Murray has already published an awful lot of his position on websites, and that has been very well known, and were there to be legal action I am sure that one of the points Mr Murray would take would be that there was some kind of personal interest by me, but there is not and the record books show that.

Q449 Mr Prentice: Is the Foreign Office going to take legal action against Craig Murray's publishers if they go ahead and publish the book?

Mr Straw: We have written to Craig Murray setting out the legal position. I am afraid I am not, Mr Prentice, going to anticipate decisions we make. We do not know precisely what the book will contain and where there is any consideration of legal action it is not wise to air one's options in public, and I am not going to.

Q450 Mr Prentice: Apparently, there is going to be a film made with Alan Partridge, *Our Man in Tashkent*!

Mr Straw: Yes, so I see.

Q451 Mr Prentice: What are we going to do about the film?

Mr Straw: Let us cross that bridge when we get to it, is the answer.

Q452 Mr Prentice: Craig Murray says that because you have an interest in all these matters, you should not be the person who has the final say, it should be an independent disinterested body of people. There is some force in that, is there not? If books are being published and they mention Jack Straw, Foreign Secretary, doing this, that or the next thing, it would be better if someone other than Jack Straw decided whether the book should be published?

Mr Straw: First of all, I am told—and I have not read the Murray book—that it does not contain much detail about me. There is no suggestion in the book that I was personally concerned or involved in his dismissal, and I was not personally concerned or involved in the disciplinary proceedings, which in the end were aborted; nor was I involved in the decision to agree early medical retirement for him, I

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want to make that clear. He did, as you know, decide to stand against me in Blackburn. That was his democratic right. I am sitting here because I won the election and he is not sitting here because he did not, so I do not feel any personal animus towards him and we both conducted ourselves in the way in which people conduct themselves in elections, and it is his democratic right. The position is that we have not approved the book, we are not going to pursue legal remedies to prevent publication, but we have reserved our rights and we will actively consider our legal options if he publishes. I think that is entirely reasonable.

Q453 Mr Prentice: Can I go back to Jeremy Greenstock, whose book is in the fridge at the moment! He was our man in Baghdad in 2003 and 2004 and he cannot tell the world about his experiences, but Paul Bremer, who was the head of the Coalition Provisional Authority, has just published a book. Have you read Paul Bremer's book?

Mr Straw: I have not read Paul Bremer's book.

Q454 Mr Prentice: I do not want to sound impertinent, but you are the Foreign Secretary. Why have you not read the book, or had someone in the Foreign Office do a little précis of it and boil it down?

Mr Straw: I do not want to sound presumptuous here, but I guess I know a good deal of what is in it anyway and, frankly, he is not on my reading list.

Q455 Mr Prentice: Does it shock you that you are not in the index, not one reference?

Mr Straw: No, not at all.

Q456 Mr Prentice: This was in 2003 and 2004, and yet there are lots of references to Jeremy Greenstock.

Mr Straw: Good. He was working alongside Jeremy.

Q457 Mr Prentice: And Bremer is describing events which Greenstock presumably would describe if his book was available for publication! It is a funny old world, is it not?

Mr Straw: Let me just say this: first of all, of course there will be loads of references to Jeremy Greenstock in the book because they were working alongside each other in Baghdad, so it would be astonishing if he wrote a book about his experiences in Baghdad without mentioning Jeremy Greenstock. As far as I recall, I only went to Baghdad once during the period when Bremer was there. The other point, and it is a very important point, is that you are suggesting that the rules or lack of rules which apply in the American system should apply to the British system. Okay, but the two are not cognate and in the American system, as we all know, the whole of the senior staff of the administration are politically appointed. So the conventions and rules which apply in respect of those staff are completely different from those which have to apply if you are to have a permanent civil service which serves successive governments. Mr Prentice, you know that to be the case, and it is absolutely fundamental. If we were to have a system in this country where everybody at a

senior level in the Foreign Office, all 460 members of the senior management service of the British Foreign Office, bar a few, or even the majority, were political appointees who went through the same kind of system including agreement in Parliament (as happened in the States), then the conventions and rules which should apply in respect of both simply would be different. But our system is not that system and our conventions and rules have to be established to take account of ensuring that our system can operate properly. Since you are the Public Administration Committee, I just say to you that public administration would collapse if we had a permanent civil service which simply could not be trusted by ministers. It would not work.

Q458 Chairman: We are testing both sides of this argument, and it is a real argument.

Mr Straw: I know you are, and it is a serious argument and if I may say so, without being impertinent, it is a really important question which he raises.

Q459 Chairman: But the point is, we tend to think here the sky is going to fall in if things happen, and then we find the sky does not fall in. Paul Bremer publishes his book and the sky does not fall in. The Americans do not say, "We can no longer conduct our foreign policy because these people write books like this," and you get Greenstock, as you say, a very responsible figure, who thinks he has got something to contribute to public debate, no tittle-tattle, very responsible, and yet you say he cannot do it, despite the fact that he has been through all the clearing process?

Mr Straw: He has not gone through all the clearance process because he did not get clearance, and he did not get clearance for a very good reason.

Q460 Chairman: That is because he met you!

Mr Straw: It was not just because he met me, but I have a role in that. I happen to be the Foreign Secretary and he was working with me, and yes, he did have something important to say. Of course he has something important to say, as I have already complimented him, but what he had to say arose from his admission to confidential discussions and his acceptance of confidences. That was the basis upon which he received that information and you cannot receive information on one basis and then unilaterally decide you are going to change the basis upon which you received the information, otherwise, to come back to my point—and you are right, it is a really important debate—public administration will break down and the confidence of ministers in officials who are part of a permanent civil service (whether it is the Home Civil Service or the Diplomatic Service) will start to evaporate, and that is an issue not just for the current government but governments of all parties and at all times.

Q461 Mr Prentice: But Christopher Meyer would say that what is sauce for the goose is sauce for the gander, and there has been a whole stream of memoirs published by politicians still around today,

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our colleague Clare Short, the late Robin Cook, and so on and so forth. So that is what Meyer would say, that is it quite wrong that retired diplomats should have constraints put upon them, quite onerous constraints, which do not apply to others?

Mr Straw: First of all, let me say that I saw from Christopher Meyer's evidence that he was trying to make some distinction between being a serving officer and then a retired officer. The Diplomatic Service Rules as they were at the time when he retired were very clear that these responsibilities and obligations continued on him. Also—and I think you flushed this out—it simply was incorrect for him to claim that he was unaware of the Diplomatic Service Rules or that they had not been drawn to his attention, because they were explicitly drawn to his attention when we first got wind of his book by the head of the relevant department on 30 June 2005. I have two things to say on ministerial memoirs. First of all, ministers are in a different position because ministers are publicly accountable. This is reflected in Radcliffe and in the evidence of Lord Turnbull and Lord Wilson. Ministers are publicly accountable for their actions, so there has to be a point at which they can be brought to account or offer account, particularly if they resign from government as, for example, Clare Short and Robin Cook did under this administration and Nigel Lawson and Geoffrey Howe did under the administration of Mrs Thatcher. But that said, rules should apply to ministers, and they do, and in both Clare Short's case and Robin Cook's case they submitted their text in accordance with the Ministerial Code and got clearance. My understanding is that in each case, certainly Robin's case, he changed some part of the text.

Q462 Chairman: Geoffrey Robinson, your colleague from Coventry?

Mr Straw: I am aware of Clare Short, but I am not aware of –

Q463 Chairman: He just published, he did not go through any of the rigmarole.

Mr Straw: He may get that, and I think there is an obligation on ministers because it cuts both ways. There is a particular obligation on ministers because it cuts both ways. There is a particular obligation on ministers, in my view, not gratuitously to criticise officials who cannot answer back. That was one of the reasons why there was such concern about the Crossman diaries, and that is reflected in the Radcliffe Report.

Q464 Mr Prentice: Meyer is very, very critical of the process. In fact, I called Meyer a liar.

Mr Straw: You did.

Mr Prentice: Yes, and there was a dispute between Christopher Meyer and Sir Michael Jay about what happened at the conversation which took place on 4 June, I think, 2004. I have now received a letter from the Foreign and Commonwealth Office dated 21 March which tells me, because we sought clarification from the Permanent Secretary, "Michael Jay has been consulted"—this is from

Heather Yasamee—"and his recollection is that while he may not have cited [the Diplomatic Service Regulations] formally, he believes that he delivered a clear enough message of concern that Christopher Meyer was getting close to crossing the line protected by the Regulations." That is a point which Christopher Meyer was making, that the process was just all over the place. He maintains he was not told about these Regulations in June 2004.

Mr Straw: In 2004, I think that was in respect of something he had said on the television or radio, not in respect of the publication of a book. It was later, as I recall the sequence, that we discovered. I think it was something on the internet.

Q465 Mr Prentice: Yes. I am just going to refresh your recollection. This was the letter from Sir Michael Jay to Christopher Meyer on 7 August 2005. I do not want to get submerged in the detail, but he says, "As to our conversation on the telephone in June 2004, we have, on the basis of your letter, sharply different recollections." This is from Meyer to Jay. "You called me to say that people 'over the road'," presumably Number 10—

Mr Straw: Yes.

Q466 Mr Prentice: — "as well as Jack Straw and Patricia Hewitt, were concerned about things that I said or been reported to have said. You added that I should myself be concerned to have disturbed such major figures. Jack Straw," he said, "may even call me." So that is what it was all about.

Mr Straw: Can I just say that two things happened. Back in 2004 there was concern about things which Meyer was saying or writing, and I cannot actually remember the basis of that. It certainly was not a book at that stage. I was concerned about it and there was also concern in Downing Street. I did not know Patricia Hewitt was concerned, but evidently she was. As a result of that and also concerns in the office—let me say the Diplomatic Service as a whole (if I may offer this on their behalf) were actually very angry about Meyer's behaviour. The result of that was that Michael Jay spoke to Christopher Meyer in June 2004. Michael has set out his recollection and apparently he did not directly draw attention to the DSR, but what is the case is that back in December 2002 when he was sent a pre-retirement letter by the then Head of the Human Resources Department, Alan Charlton, on 2 December, he was told on page 13—this letter, I think, is before the Committee, a copy of the letter from Heather Yasamee of 30 June 2005—"After retirement you remain bound by the duty of confidentiality under the Official Secrets Act. You should consult the Head of Personnel Policy if you are considering taking part in any activities (including writing for a publication) in ways which may disclose official information or use of official experience or which may affect the government's relations with other countries". So he was very clearly on notice, and he was reminded back in 2002, and then when this letter was sent in June 2005 when we had got information that he was going to publish a book, he was reminded explicitly of the terms of the Diplomatic Service Code. There is no question

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about it. So for him then subsequently to say that he did not know anything about it or that in subsequent conversations Michael Jay failed to say, "I am calling you in respect of DSR 5," is, frankly, risible, laughable.

Q467 Chairman: Let us not get lost in the detail, but why did you not just get Meyer in like you got Greenstock in and say, "Be a good chap"?

Mr Straw: Because it was clear from the conversations which Michael Jay had reported to me that that was not going to work.

Q468 Chairman: Because he was not a good chap, he was a cad, was he not?

Mr Straw: Well, that was your description rather than mine, and I have already said, as I said on the *Today* programme at the end of November when I was first asked about this, he broke very clear trust, no question about it.

Q469 Chairman: But if the conclusion is that the good chaps do not get to publish and the cads do get to publish, something has gone wrong, has it not?

Mr Straw: As I said to Mr Flynn, there is a difference in the case of Meyer and that of Jeremy Greenstock. Meyer's book is mainly tittle-tattle. Yes, if you pitch your book at that sort of level the chances are that it will not be subject to legal action, but what has happened in the case of Christopher Meyer is that he has destroyed his reputation and actually the sanction which he suffered, including from this Committee, is far greater than any sanction he is likely to have suffered in court. He has destroyed his reputation. I think Richard Wilson or Andrew Turnbull said to this Committee that one of the sanctions was ostracism. The guy has been completely ostracised. He has also raised huge questions about the credibility of the Press Complaints Commission. So the legacy of his publication and his betrayal is a very substantial one and a very poor one for him.

Q470 Mr Burrowes: In relation to these memoirs, such as Sir Christopher Meyer's and others, you talk in the context of the issue of trust in public administration and good governance. Is not the problem, though, and in a sense the mess that is around in relation to these memoirs, not so much the issue of publication but ironically what those who are publishing are seeking to expose, which in the words of Lord Owen (who gave evidence to us) concerns the separation between impartial administration and political decision making, which has become blurred, and in his words has led to disillusionment bordering on contempt for politicians by civil servants and diplomats, and vice versa, and indeed in Sir Christopher Meyer's case he seeks to expose a fiction that Foreign Office and its diplomats are being cut out of the loop between Number 10 and the White House, and others have similarly probably expressed displeasure as well. It is that fundamental concern within the administration that they are seeking to expose which has led to the problems we are in now?

Mr Straw: I do not think that is the case, as a matter of fact, and here I am *parti pris*, but I do not believe that there is any difficulty in relations between ministers and officials in the Foreign Office, and equally there was none when I was Secretary of State for the Home Office, the Home Secretary. Also, I was not aware that David Owen had said that, but I have to say that in many ways I think the relationship between civil servants and ministers is healthier than it was 30 years ago when I worked alongside David Owen, when he was the Parliamentary Under-Secretary to Barbara Castle. Of course, there is going to be creative tension between ministers and officials, for sure, precisely because officials are permanent and are going to take a long view. Officials will also wish to ensure that ministers do not cut corners, and ministers will be impatient, trying to get themselves and their government re-elected, and so there is that tension; but it is also the case that government these days is infinitely more accountable than it was 30 years ago, much more accountable. All sorts of things were covered up, and could be covered up, 30 years ago which could not possibly be covered up today. There were no Select Committees to speak of 30 years ago. The Departmental Select Committees did not get going until late 1979. The level of the number of parliamentary questions which were put to ministers was a handful compared with today. There was no Freedom of Information Act, no Human Rights Act. So the level of scrutiny is very substantial and, what is more, on the precise point, Mr Burrowes, you are raising, or I think you are implying, where an official believes that a minister is acting improperly, there are, first of all, proper procedures for dealing with that and there is legal protection (provided those procedures have been followed) for whistle-blowers which were not there 30 years ago.

Q471 Mr Burrowes: Yes, but I just take it a bit further, whether the culture has changed, particularly for civil servants. I recognise, perhaps, to some extent the accountability issue in relation to politicians, but as far as civil servants are concerned, when they see themselves used, abused or disused—two senior civil servants have been removed recently, Nigel Crisp, Johnston McNeill—they may see that their accountability can only be shown eventually in being forced to seek to publish their own accounts and there may be a sense of grievance now which Lord Owen himself says was not there previously, that the way an administration deals with its civil servants can lead to that grievance, which leads ultimately to people wanting to publish?

Mr Straw: I regret any situation where individual civil servants are subject to severe public criticism and I do not think it is right either. I am happy to criticise officials who I do not think are doing their job, but I think part of the responsibility that rests on ministers is that they are not party to exposing that criticism on officials publicly because they cannot answer back. I am very clear about that. Can I also say that the fact that one or two permanent secretaries may have resigned early or taken early retirement is nothing new. There were cases in the

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sixties and seventies, and they continue as well. It is a feature of all governments that from time to time people in such senior positions may not see eye to eye and may feel that they have, as it were, served their time and their purpose and will then take early retirement, but I do not think that is evidence that the conventions are being undermined.

Q472 Kelvin Hopkins: Specifically following what David was saying, these memoirs—and there are going to be more of them—do give the very clear feeling that morale in the civil service was lower than it was and that Meyer may have been a lightweight, a bit of a smart Alec and so on, but he did feel he was being marginalised. He was a senior Ambassador who was marginalised in a very serious situation. Others are trying to publish and not being permitted to do so, and others, no doubt—Sir Nigel Crisp and others (Lord Crisp as he is going to be now)—will publish in due course. They are obviously unhappy and frustrated and this seems to fit with an article today by Michael Binyon in the *Times* suggesting that all power is actually being taken by Downing Street, the Foreign Office is now no longer the glory it was and that it could be replaced by a fax! That is a quip of his, but on the other hand, he is making a point. Is it not the case that government is changing significantly, that power is being more concentrated and that ministers are now seen by the civil servants to be Downing Street's representatives in their departments, not their representatives in Cabinet, which is what they used to be?

Mr Straw: No, I do not agree with that analysis. First of all, on the issue of morale, there is no evidence whatsoever that Christopher Meyer or Craig Murray are exemplars of morale or anything else in the Foreign Office, indeed the anger that is felt by the vast majority of people in the Diplomatic Service about what they see as a personal betrayal by people whom they treated as colleagues is absolutely intense. Also, if you happen, Mr Hopkins, to have been to the leadership conference, which we held in the Foreign Office yesterday, I think you would get a sense that morale is pretty good. This has been a very tough period, the last three or four years, because of September 11 and everything else which has gone subsequently, and the financial circumstances, because of those pressures, have been difficult, but the Foreign Office has come through that, in my judgment, with flying colours. On this old saw about power shifting to Downing Street, it is the case that where you have a strong Prime Minister he will seek to exercise authority over individual departments. That is not just true for the present Prime Minister, it was true for Margaret Thatcher and it is true for any Prime Minister down the ages who feels in a dominant position. But secretaries of state who are doing their job acknowledge the authority of the Prime Minister, but also ensure that they argue with the Prime Minister, argue in Cabinet and argue bilaterally. That has always been my approach, certainly not to spill the beans publicly but to be very robust in what I think is the right judgment, and sometimes the Prime Minister may agree with me, sometimes he may not. Let me say in

respect of the Foreign Office—I have not seen that article and it is actually a parody of the situation—what happens is that where you have a country moving to war the decisions have always in respect of that shifted to Downing Street, and that is right because the ultimate responsibility for leading the recommendation to Cabinet and to Parliament has to be a matter for the head of government because there is no more serious issue than whether a country should go to war. I have actually seen this over the last four and a half years, but as that decision is implemented and other issues move onto the agenda of the Prime Minister then the focus, in this case the foreign policy, shifts back. If you take, for example, the most dominant issue of the day today, which is Iran, the whole of that dossier is being run in the Foreign Office by me and by my officials. Of course, I have kept the Prime Minister informed and his officials, but it has not remotely been a dossier which Downing Street has in any sense been initiating, and the Prime Minister has been very happy indeed with that. I could go through a whole list of other dossiers as well.

Chairman: I do not want to get too wide if we can avoid it. I am anxious to get you away by the time you need to be away, so perhaps we could rattle it along a bit.

Kelvin Hopkins: I will come back another time.

Q473 Jenny Willott: You seemed to suggest earlier that you believe it is fundamentally wrong for a diplomat to publish memoirs of any kind, no matter what the content is?

Mr Straw: No. If I have given that impression, I have not meant it. Diplomats have often published memoirs. I thought this was a joke when I read it in my briefing and it turns out that one diplomat recently published a book about his memories of bird-watching as a diplomat. It would be absurd to try and have any control over that. It was called *A Diplomat and His Birds*. I will get it for Mr Prentice! But I do not say that, and provided diplomats are willing to submit to the rules, that is fine. Quite a number have published memoirs, but the fundamental issue here is the issue of time. Plainly, after 30 years people publish books and that is very different from three years or three months.

Q474 Jenny Willott: I was going to ask about that because what we have been looking at as part of this inquiry is whether the current rules work, and if not what should be done to change it. Do you feel that the current rules are working at the moment or that they do need alterations?

Mr Straw: They are working up to a point. I think it is wrong to suggest, either in respect of officials or ministers, that they have totally broken down. Most officials understand the obligations on them very clearly and observe them, which is why they are so angry about what happened in the Meyer case, and I think most ministers do, but there can be some who push things. The codes did work in respect of Clare Short and Robin Cook, two very high-profile people who resigned. The 15 year rule of Radcliffe has plainly broken down, in my judgment, and also so

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far as the Diplomatic Service Rules were concerned, it was clear that there were some ambiguities; not enough, in my view, to allow Christopher Meyer to excuse his behaviour, but there were some ambiguities, which is why I issued a change of rules recently. I said, I think in a letter to this Committee, that I thought it was necessary to do that immediately but I wanted to take account of the recommendations this Committee had to make about whether they ought to be changed for the future.

Q475 Jenny Willott: With Christopher Meyer's book, since he was not asked to make any changes to it, was the process done correctly or not? He was not actually asked to make any changes, which appears from the evidence that we have taken to be unusual, if not unique. Do you not think that he could be justified in actually considering that therefore he was okay to go ahead and publish?

Mr Straw: No, not remotely, and he was told explicitly and in writing that the fact that he was—

Q476 Jenny Willott: Before or after?

Mr Straw: At the time, as I recall. Yes.

Q477 Jenny Willott: At the time meaning before or—

Mr Straw: Just bear in mind that he played a game and he sought to avoid his obligations under the rules for weeks and weeks and weeks. He has plainly written the book well in advance of what he said. He then kept writing these hysterical letters to officials in the Foreign Office, complaining to one of the Director-Generals about the pompous and bureaucratic way in which he had been treated when in fact he had simply been asked to abide by obligations. I may say that as the head of one of the largest missions in the world, he was himself requiring all the people who worked for Her Majesty's Government to meet them themselves, so he knew very well what the rules were and he was playing around. It is only very late in the day and as a result of this informal intervention by Howell James that he came to submit the book at all.

Q478 Jenny Willott: Some of the things which we have been looking at as possible alternatives have been looking at the use of Crown copyright to make it less profitable for people, which would clearly help, time limits, whether it should be actually specific time limits or whether it should be dependent upon whether some other key players have left their particular roles, and so on, and also whether it should be a contractual obligation within people's contracts of employment that they seek clearance. Do you think that those would have helped in the recent case?

Mr Straw: Certainly this was a point which was put rather forcefully by members of this Committee. There is concern about the way in which people may profit, and profit rather handsomely, from breaking confidences which they have obtained in the course of what are actually rather well-paid jobs, which they could only undertake because they had said

they had accepted confidences. So I think looking at issues of profit, holding them to account and contractual obligations are very important and I think the Cabinet Office has submitted a memorandum to you today setting out the proposed changes in the Civil Service Code, which has some of those in mind. Could I just say, Ms Willott, that the publisher of Christopher Meyer's book was written to on 4 November to be told that we have no comments to make on the proposed book, and then going on to say it is not my responsibility to check whether remarks attributed to individuals were accurate or complete and that he should not therefore imply from this response that the book has any form of official or unofficial approval. As I say, this point was made by Lord Turnbull. First of all, he said that courts have, over history, been more or less unusable in terms of enforcement and these obligations are ones which are there partly in law but partly in convention, because that is the way our institutions work.

Q479 Jenny Willott: Yes. Could I just mention the motives which might be put in place if the rules were going to be beefed-up. Going back to what Tony said at the beginning, which is that when there was the hoo-ha into the Crossman diaries back in the 1970s, most of the Cabinet seemed to refuse to sign up to or agree a lot of the recommendations. Do you think that your ministerial colleagues would agree to new rules this time around?

Mr Straw: I cannot speak for my ministerial colleagues, but I think they are more likely to than not these days.

Q480 Jenny Willott: Do you think most of the spin doctors of Number 10 would?

Mr Straw: If you are asking me about special advisers, I think that special advisers are much more in a position of civil servants than they are of ministers. I served as a special adviser for three and a half years and you gain confidences from other civil servants as a special adviser doing your job which you would never ever gain as a minister, so I happen to believe that similar rules should apply to special advisers.

Q481 Jenny Willott: So as to civil servants rather than to ministers?

Mr Straw: Yes, broadly the same as to civil servants rather than as to ministers, and special advisers are not accountable for their actions. Although they are political appointees, in terms of their accountability they are in a more similar position to civil servants than they are to ministers.

Q482 Chairman: Just on Jenny's point there, if the Prime Minister came forward with the proposition, "Look, it is time to put a line in the sand here, boys and girls. We have now decided that we are going to have some new rules. You cannot publish for so many years. No more of these instant books, diaries. It must go through the Cabinet Secretary and there must be prior approval for anything you want to do," you would be there first signing up?

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Mr Straw: If the recommendations were sensible, yes, I would.

Q483 Chairman: Of the kind that I have described?

Mr Straw: Yes, I would.

Q484 Chairman: Do you think your colleagues would also?

Mr Straw: I cannot speak for all my colleagues. As I say, I actually think the atmosphere in Cabinet these days is much more collegiate and collective than it was at the time of Crossman, Jenkins, Barbara Castle, Tony Benn, significantly more. Could I just say this about timescales, because Jenny asked me about that: similar issues have arisen in respect of freedom of information. Whether information should be made public is always a matter of time. There is some information which comes out sometimes 100 years later which was highly secret but there is no point in keeping it quiet after 100 years. Most information we publish at 30 years. What we agreed in the House—and the Chairman will remember this—in discussions in respect of the Freedom of Information Act was that the 30 year rule was too crude. There is quite a lot of information which can be published and made available under the FOI almost contemporaneously. You have got to make a judgment about where the public interest lies.

Q485 Chairman: You said 15 years is dead in the water. If Jeremy Greenstock comes to you this year and says, “Okay, last year I couldn’t, this year can I?”—

Mr Straw: The 15 years has plainly not been followed.

Q486 Chairman: When could he?

Mr Straw: I was just about to make the point, Chairman, that it depends on what exactly he is talking about. To use an example which would not be in his book, but if there were a compromise of intelligence then 15 years would be too short in most cases, but if it is the normal run of the mill, well after the particular administration has left office—

Q487 Chairman: That is the test, you think?

Mr Straw: I think it is part of the test. It is not conclusive, but it is part of the test.

Q488 Jenny Willott: Do you think Alastair Campbell is behaving in an honourable way?

Mr Straw: Yes, I do, from what I have seen, and he actually let me have a copy of the letter which he had written to this Committee where he has made it clear that he is intending to stick by the rules, and that is in character as well.

Q489 Grant Shapps: Foreign Secretary, we were actually privileged to have Sir Christopher Meyer in here as part of his world book promotion tour for *DC Confidential* and, to be honest, I did not really particularly take to him, a slippery sort of character, hard to pin down, and very difficult to lay a glove on, as the media pointed out afterwards. I can

understand why he really gets up your nose actually, but can you actually name one element, something he wrote, which is actually damaging?

Mr Straw: His book was not stopped, and if it had been directly damaging to the public interest we would have sought to stop it. I read your evidence, Mr Shapps. I thought the press were very unfair, actually. I thought you had laid a glove on him, but there we are.

Grant Shapps: You will not get round me that way!

Mr Straw: But it was because he did not appear to have breached the key criteria for legal action that we did not stand in the way of its publication, but neither did we approve of it, and that needs to be made clear. It was a breach of trust, no question about it. As I have said, as a result of the publication, I think he has suffered reputationally far more than if we had pursued a legal action, whether he won or lost in his particular case.

Q490 Grant Shapps: He may have suffered reputationally but probably not financially, I should imagine, in this particular case, but could you name me one element which was actually damaging, or are you conceding there are none?

Mr Straw: What I concede—and I have not got the book in front of me—is that there was no case for seeking legal action or to prevent him from publishing it, which there could have been and have been sometimes in respect of other publications. Nonetheless—and this is the point about this—the law is a very restrictive facility in these circumstances. The fact that there was not a basis for taking legal action against him does not mean that we approved it. We did it because it was plainly and very significantly a breach of confidence.

Q491 Grant Shapps: So really actually what you have experienced is what we have all experienced, that he is the sort of guy who gets under your skin? He is annoying? You do not approve of his book, but actually there is nothing that he did that was wrong?

Mr Straw: No. Let me say that when I was dealing with him day by day, from time to time, when he was Ambassador in Washington I rubbed along with him because I actually think (to come back to my point about the permanent civil service) that that is what you have as a duty as a minister. You take the collective civil service as is and get on with it. I have got no particular views on that.

Q492 Grant Shapps: So the problem is actually, as you have described it, that really he has just been unprofessional? That is the complaint, that he has been unprofessional, but he did not do anything illegal?

Mr Straw: Plainly, he did not do anything which caused us to take him to court, and I have answered that, but he had been unprofessional. He had broken the trust which was fundamental to him getting the job and keeping the job.

Q493 Grant Shapps: Did you, whilst you were working with him, suspect that he might be the kind of cad that he has turned out to be?

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Mr Straw: No. If I had thought that he was going to write a book of this kind, then I would have said to him, "I don't think you can carry on doing your job."

Q494 Grant Shapps: So whilst as an Ambassador he may have thrown exceedingly good parties, you would not have thought there was any reason not to stay at his residence, for example?

Mr Straw: No, I always stayed at his residence. Let me also say that I asked him to stay on because he was due to leave, and did leave, at the end of February 2003. That meant there was going to be a six or seven month hiatus between him leaving office and David Manning taking over, because it was important that David Manning should stay as the Prime Minister's diplomatic adviser for that period of six months or so leading up to the summer. I asked him if he would carry on, but in the end he refused to do so, for reasons which he has sought to explain to the Committee, and I respected his decision.

Q495 Grant Shapps: So would you now go and stay at the residence of the Ambassador, knowing what could happen?

Mr Straw: I do stay at residences, is the answer. I know this was an issue raised by Andrew Turnbull. I do stay at residences. I have got direct responsibility for Ambassadors and it would be absurd if the Foreign Secretary chose to stay in hotels rather than using the opportunity to stay in the residences –

Q496 Grant Shapps: It is good to hear this experience has not put you off!

Mr Straw: No, no, and going back to Mr Hopkins's point, what the Meyer book has done, I think, has been to re-enliven these conventions in the minds of officials. I think there will be very, very few members of the Diplomatic Service doing a Meyer in the foreseeable future.

Q497 Grant Shapps: I see, so actually in your mind not only has he damaged his own reputation by disgracing himself and therefore it has been extremely detrimental to him, but it has also done the job of reminding all the other civil servants that they cannot do the same thing? So this is rather a satisfactory outcome?

Mr Straw: I think he has reminded them. These conventions have enforcement behind them, but they cannot work unless people voluntarily sign up to them and follow them. It has just made the service as a whole very angry, and this again was a point brought out by Andrew Turnbull, that if you end up in a situation where trust breaks down significantly between ministers and officials then you will have to move towards the kind of system which you have in the United States, which I happen to regard as satisfactory.

Q498 Grant Shapps: I am pleased you mention this, because this is what I want to come on to. Could I just cover this last point. We have talked about Paul Brenner's book which Gordon brought up and you

mentioned the idea of the American system which means that civil servants are actually political appointees. In fact on another investigation we had your brother in here, I think peddling the same line. Is this something you would favour, perhaps?

Mr Straw: My brother is my brother and he must be responsible for his own views. Personally, I am signed up broadly to the current arrangements because I happen to think they work and I think that if you go down the path of the American system or, say, the French system you end up with more problems than you solve.

Q499 Chairman: May we have five minutes?

Mr Straw: Could we make it three, because I am really pushed for time.

Chairman: I want to try and make sure that everyone has had a go, but we will be very quick.

Q500 David Heyes: I just want to ask one question, which is, are you planning to write memoirs of your own? When you eventually retire from office, will you publish your memoirs or diary?

Mr Straw: Probably, and I shall ensure that I follow the rules. Andrew Turnbull made the point that political memoirs serve a very important purpose, and they do, but they need to be balanced in their writing against the rules.

Q501 Mr Liddell-Grainger: This is all fine, it is brilliant, but let us look at Wright. Wright went out to New Zealand, he wrote a very damaging book which did an enormous amount of damage. Nothing could be done. We had the embarrassment of the Secretary to the Cabinet beating people over the head with beakers. It was an appalling episode. You can be forthright, you can write as many pieces as you want, and letters, paragraph 10 in the letter we have just had. If they do that, you are stuck?

Mr Straw: There can always be hard cases, Mr Liddell-Grainger, but hard cases do make bad law. That is not an argument for not having these provisions, even though some people, of course, can get around them.

Q502 Mr Liddell-Grainger: The second part of that is that Simon Jenkins was in here and he said, "Look, if we sensationalise this in the press, it is big money. It is great for us." So if somebody publishes in, say, New Zealand and then it is picked up here, it is a massive amount of money for the papers and they do very well out of it. Grant said that about Meyer. This is fine, but you are never going to stop it. The genie has gone, it has flown, it has disappeared.

Mr Straw: I do not accept that and I think that overwhelmingly both civil servants and ministers want to see the conventions and the rules followed because it is a way of achieving good governance.

Q503 Mr Prentice: The Honours system is in the news very much. Given that Christopher Meyer behaved dishonourably, should he be stripped of his Knighthood?

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Mr Straw: I have got no proposals to do so.

Q504 Chairman: Let me just ask you, as we end, why are we having all this trouble with diplomats? The only civil servants we are having trouble with are these three ex-diplomats. What is it about the Diplomatic Service which is causing this problem?

Mr Straw: Let me offer you an answer on that. It is because diplomats are closer as a breed to politicians than are the normal run of domestic civil servants and when they are representing the government abroad they are Her Majesty's Ambassadors or High Commissioners representing the government as a whole, having to speak publicly and with a

public profile that no equivalent domestic civil servant has. In most cases, they are able to cope with that. Sometimes, I think they get rather attracted to the idea.

Q505 Chairman: It turns out that this slippery cad Meyer has performed a great public service by administering a shock to the system, reminding people of the standards and, as Gordon says, "It's a funny old world"?

Mr Straw: And an even greater public service by prompting this Committee to hold this inquiry!

Chairman: And we are very grateful to you for coming along and helping us. Thank you very much indeed.

Written evidence

Supplementary memorandum by Lord Turnbull KCB CVO

The letter of 7 October from Sir Christopher's publishers referred to the page proofs i.e. after the manuscript had been sent to the publisher, and after it had been type set. It also said that Sir Christopher might want to make minor editorial changes. But there was no acknowledgement of the fact that the Cabinet Secretary would want to comment. This was not, in my view, a genuine attempt to seek approval.

January 2006

Supplementary memorandum by Sir Christopher Meyer KCMG

The purpose of this memorandum is two-fold:

firstly, to address issues arising on 15 December from Mr Prentice's questions and Lord Turnbull's evidence. Mr Prentice's unfounded allegations of lying are sufficiently serious to warrant a more comprehensive rebuttal than I was able to give at the hearing; and I did not, of course, see Lord Turnbull's evidence until after the session;

secondly, to underline the deficiencies and contradictions in the clearance process to which I submitted my book—and to suggest a remedy.

It needs to be repeated that Chapter 5 of Diplomatic Service Regulations (DSR 5) requires permission to be obtained before publishing books or articles; taking part in broadcast programmes; doing interviews with the media; writing letters for publication in the press; giving lectures or speeches; and taking part in conferences or seminars—if any of these draw on information or experience gained in the course of official duties. In other words books are grouped with everything else.

These rules have been constructed primarily for those still in service. But they are also supposed to apply indefinitely to retired diplomats.

In practice the FCO appears to make a pragmatic distinction between those still serving and those who have retired. That at least has been my experience. On returning to London from Washington on retirement in March 2003, I informed the Permanent Under-Secretary, Sir Michael Jay, that I had been offered contracts by Channel Four News and ABC News to comment on the Iraq war. Sir Michael did not ask me to clear my lines in advance with the FCO. His only comment was to offer help with background briefing should I need it.

In the next two and a half years or so, I gave many speeches, lectures and interviews; wrote a couple of articles; and sent a letter to the press. Though from time to time I sought briefing from Foreign Office contacts, at no stage did the FCO invoke DSR 5 in relation to this activity and request me to seek clearance in advance. This included an occasion on 4 June 2004 when Sir Michael called me to convey the displeasure of Ministers at remarks on UK-US relations I was alleged to have made to the media. Sir Michael disputes this and claims that he did, on that occasion, invoke the rules.

It appears to be this difference of opinion between Sir Michael and me that prompted Mr Prentice to make his first allegation of lying. It is a false allegation. The essential reference material is the correspondence¹ between the Foreign Office and me between 30 June and 15 August 2005, which the Committee has in its possession and which appears to have been given to the press. The correspondence includes an exchange of letters between Sir Michael (26 July) and me (7 August). In my reply to Sir Michael I set out my version of our 4 June 2004 conversation, based on contemporaneous notes. I stand by this version. Sir Michael did not reply to my letter.

Mr Prentice's second allegation of lying is equally without foundation. He asserted that it was a "complete lie" for me to have said that the FCO had never been in touch for two years. I never said any such thing. This is obvious from the very correspondence between the FCO and me that Mr Prentice cited. The point at issue was not the fact of a contact between me and the FCO in 2004; but what Sir Michael Jay and I said to each other.

However, none of the above was reason for not clearing the manuscript of my book in advance of publication; and at no stage in these exchanges did I say that I would not show it to the Government. But it did set a context. In the correspondence referred to above, I pressed the FCO to explain the discrepancy between their approach to books and that to other forms of public expression by retired diplomats. It was

¹ 1. Yasamee to Meyer 30 June

2. Meyer to Yasamee 12 July

3. Jay to Meyer 26 July

4. Meyer to Jay 7 August

5. Stagg to Meyer 15 August

also notable that, until the end of June 2005, the Department had shown no interest in the book despite my publishers' having announced very publicly in April 2005 that they had signed me up; and despite my having discussed the book with senior FCO officials from the autumn of 2004 onwards.

Following the exchanges with Sir Michael Jay described above, Richard Stagg, the FCO's Director for Corporate Affairs, telephoned me in the second week of August to ask, among other things, where matters rested with my book. I explained yet again that the manuscript was still not finished. Mr Stagg followed up what had been a very reasonable conversation by writing to me on 15 August, the last piece of correspondence between the FCO and me and, again, in the Committee's possession. Mr Stagg's letter offered a fair basis on which to proceed and to submit my manuscript when finished. It said that he would be in touch with me again in early September.

In the event it was not Richard Stagg, but Howell James, Permanent Secretary for Government Communications at the Cabinet Office, who called me in early September. He asked that I submit my manuscript to the Cabinet Office. This I agreed to do once it was finished. It was understood that the Cabinet Office would show the manuscript to interested Departments, notably the FCO. I finished the manuscript on 13 September. The page proofs were sent by my publishers to the Cabinet Office on 7 October.

In his evidence to the Committee, Lord Turnbull alleged that I had made contractual arrangements for the publication of my book, which, in effect, presented the Government with a *fait accompli*: that publication had gone beyond the point of no return by the time I submitted the manuscript. There is a similar inference to be drawn from the Foreign Secretary's written answer to Mr Prentice of 28 November, where it is suggested that I withheld submitting my manuscript until the last minute before publication.

These allegations are false. They are based on a misunderstanding of how publishing works. I handed in the last three chapters to my publishers on 13 September. As soon as the manuscript had been edited and turned into page proofs, it was, as stated above, submitted to the Cabinet Office on 7 October. Two weeks later, on 21 October, the Cabinet Office telephoned my publishers to say that the government had no comment to make on the book. Following this clearance, the publishers decided on 24 October to make 10 November the date of publication.

My publishers were, of course, extremely keen to publish before Christmas and were organised to do so. They pressed the Cabinet Office to conduct the clearance process as fast as possible. But, had the Cabinet Office raised objections, or sought extensive changes, the publication of the book would almost certainly have had to be delayed; the publishers could not have pressed ahead against my wishes. There would have followed the process of negotiation described to the Committee by Lords Turnbull and Wilson, both of whom presided over the publication of numerous memoirs by politicians and special advisers.

It has to be understood—and I would be surprised if this were not the case in the Cabinet Office—that entering into a contract with a publisher is an elastic transaction (it has also to be said that it makes no sense for former civil servants, as opposed to those still serving, to submit to the Government anything other than a manuscript edited by a publishing house for publication). My publishers were aware from the beginning of the requirement to show my manuscript to the Government and the question mark this could put over the publication date. I myself completed the manuscript two months later than stipulated in my contract. I thought it more than likely publication would be put back to the spring. Sir Jeremy Greenstock has been reported in the press as saying that he has put his manuscript in the “fridge”, despite his having signed a contract to publish his book in 2005. There was, therefore, no question of the Cabinet Office being confronted with a *fait accompli*: the button to publish was pushed after the process of clearance was completed.

Finally, there is the question of what constitutes “clearance”. In my own case the Government have surrounded the issue in a fog of confusion, which makes a mockery of the system. This goes as far as Lord Bassam's saying in the House of Lords that “it would be wrong to say that they [the memoirs] were cleared”, a notion echoed by the Chairman's apparent incredulity that I should believe my book to have been cleared. If the book was not cleared, then what exactly was the process to which I submitted it at the invitation of the Cabinet Office?

It took more than two weeks before, on 8 November, my publishers received a four-sentence letter from the Cabinet Secretary confirming the 'phone message of 21 October that the Government had no comment to make on the book. But in the very next sentence Sir Gus O'Donnell made a comment: to the effect that he was disappointed that a diplomat should disclose confidences gained as a result of his employment. The nature of these alleged confidences was not disclosed.

Mr Straw's written answer to Mr Prentice of 28 November takes a similarly contradictory approach, replete with comment. He lists the criteria for assessing texts: harm to national security or defence; harm to international relations; and harm to confidential relationships within government. He says that the book was judged against the “standard criteria for **clearing** [my emphasis] publications under the rules”. He then goes on to say that no changes were sought to the book because it did not offend the first two criteria: harm to national security and harm to relations with the US.

As to judging the book against the third criterion—harm to confidential relationships within government—Mr Straw takes a different tack. Without providing any detail, he levels the charge that I breached trust and confidence, a most serious accusation. If that is the case, a number of questions need to be asked. What were the breaches? Why did the clearance process not pick up them up and request that I

make changes? If, as the Foreign Secretary asserts, the book “undermines the key relationship between civil servants and ministers”, why was it allowed to pass? Why is it that the government, having said that it would make no comment, has commented extensively since?

To eradicate the inconsistencies and deficiencies currently surrounding the publication of political memoirs does not call for radical surgery such as new legislation or the placing of material under Crown copyright. The Radcliffe criteria at the heart of the present system remain perfectly serviceable. What is missing is consistency and clarity in their application and in the definition of the duty of confidentiality. There should be, for example, a level playing field for civil servants, special advisers and ministers on leaving Government.

But the machinery for reviewing political memoirs may need strengthening: for example, by a small committee, chaired by the Cabinet Secretary, comprising some permutation of publicly appointed lay members, special advisers and civil servants, who will read and rule on manuscripts. The Committee would decide both on content and on where the public interest lies as to the timing of publication. This case-by-case approach would seem preferable to setting an arbitrary and universal timescale before memoirs can be published.

As for enforceability, a requirement to submit manuscripts to, and respect the judgement of, the committee should be written into civil servants’ and diplomats’ contracts. The work of the committee would be made easier if Civil and Diplomatic Service rules made a distinction between those still working and those in retirement, where this is sensible.

12 January 2006

Memorandum by Lance Price

1. I have been invited to appear before your committee on Thursday 15 December and am delighted to do so. The Committee Secretary has further invited me to submit a written memorandum in advance of my appearance and I hope the following observations will be of some assistance to the Committee.

2. I was a Special Adviser at 10 Downing Street from June 1998 to June 2000 when I left to become an employee of the Labour Party until the General Election held on 7 June 2001.

3. *The Spin Doctor’s Diary*, which contained material that I recorded in my personal diary at the time, was published in September 2005. More than five years had passed since my employment as a temporary civil servant ended. Two General Elections had been held and the Prime Minister had indicated his intention not to contest the subsequent election as leader of the Labour Party.

4. During my time as a Special Adviser I subscribed to the view that rules governing the publication of memoirs and diaries by former ministers, civil servants and special advisers were both necessary and desirable. I have not altered my opinion.

5. I first contacted the Cabinet Office on 12 May 2005 to seek their advice on the rules as they now stand. I was sent two documents. The first was an extract from the Civil Service Management Code (Section 4.2). The second was an extract from the Directory of Civil Service Guidance referring to “Memoirs and Books: Publication by Civil Servants”. As a former civil servant I took particular regard to two paragraphs, 4.2.5 of the Code which states that “The permission of the Head of their Department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the service”, and paragraph 3 from the Guidance which says that “Former members of the Home Civil Service . . . are also urged to seek the advice of the Head of their former Department before entering any commitment to publish or broadcast personal accounts of their experience in Crown Employment.”

6. I visited the Cabinet Office in person on Thursday 23 June 2005 and handed in a copy of the manuscript. I was at that stage anticipating a process of discussion and negotiation over the contents. For that reason I had not made significant changes to the diary entries I wrote at the time of my employment other than to remove reference to the advice of named career civil servants and references to the Prime Minister’s family and private affairs. At this stage there was no commitment on behalf of Hodder and Stoughton to publish the Diary and the text had not been shown to newspapers with a view to serialisation. So far as I could tell, I was acting in accordance with the advice I had been given.

7. Only 1 July 2005 the then Cabinet Secretary, Sir Andrew Turnbull, wrote to me saying he could not agree to publication and that he found the whole premise of a book of this kind completely unacceptable.

8. It was only after receipt of this letter, which appeared to rule out any further discussions, that Hodder and Stoughton decided to seek clarification of the legal position with regard to publication.

9. On 26 August Hodder and Stoughton wrote to the new Cabinet Secretary, Sir Gus O’Donnell, explaining that changes had been made to the text on legal advice and expressing the hope that these changes would allay any concerns the government might previously have had. At this point the Cabinet Office indicated for the first time a willingness to discuss the contents of the proposed book and to consult with a view to proposing changes where necessary.

10. There then followed a period of negotiation, most of it by telephone, during which a relatively small number of changes were requested by the Cabinet Office. This was done in an entirely positive, constructive and indeed friendly fashion. Not all of the changes requested were accepted but a significant proportion were.

11. Given that more than three months had elapsed since contact was first made with the Cabinet Office, and confident of their position following the legal advice they had received, Hodder and Stoughton were now keen to press ahead with publication. Newspapers who had expressed an interest in serialisation were invited to read the text having first signed strict agreements not to divulge any of its contents either verbally or in writing. This was intended to ensure, *inter alia*, the confidentiality of any changes subsequently agreed with the Cabinet Office.

12. Discussions with the Cabinet Office were concluded on 7 September and the page proofs were sent to the printers shortly afterwards.

13. On 18 September the *Mail on Sunday* began the serialisation of *The Spin Doctor's Diary*. On their news pages they also carried extensive coverage of many but not all of the changes agreed with the Cabinet Office. I was aware of their intention to do so only late the night before when copies of the papers were sent to me by despatch rider. The paper gave no explanation of how it had come by the sections that had since been removed other than to say that "copies of the deleted sections of Price's manuscript have been circulated around No 10". The newspaper had also obtained two letters from the Cabinet Office to which it referred. One was addressed to government departments warning of the forthcoming publication and serialisation. The other was addressed to my editor at Hodder and Stoughton, Rupert Lancaster. At the time Mr. Lancaster had not himself received a hard copy of the letter and when it did arrive several days later it was in an unsealed envelope.

14. I have taken this opportunity not to justify or to defend my decision to publish *The Spin Doctor's Diary*, but merely to explain the sequence of events that led to its publication in its present form and to the publicity that surrounded its serialisation. The process clearly did not operate as it should have done and there are undoubtedly lessons to be learnt from my experience. I look forward to discussing those lessons with the Committee in due course.

5 December 2005

Memorandum by Sir Jeremy Greenstock GCMG

INTRODUCTORY REMARKS

It might be helpful for the Committee at the start, though of no particular public interest, if I give a brief account of my approach to writing a book on my experiences on Iraq and set out some of the steps and timings relevant to seeking clearance from the Foreign Office.

The idea of writing something on the United Nations arose when it looked likely that I would have a gap between retiring from the Diplomatic Service at the end of July 2003 and taking up the position of Director of the Ditchley Foundation, which was set for August 2004. My wife and I had decided to travel and relax in the intervening year, but also test what flowed from the pen in recounting some of our career experiences. I particularly wanted to describe what it was like to work at the UN, since so few people seem to understand how that organisation works on the inside. By May 2003 we had made provisional arrangements to spend a few months in France and then in South Africa up to the spring of 2004, but I was a long way from taking a decision to publish anything.

Those plans were knocked on the head when in June 2003 I was asked to serve in Baghdad as UK Special Representative from September 2003 to March 2004. That timing was agreed personally with the Prime Minister and, contrary to some misplaced reporting in the media, I was never asked to extend it. The experience in Baghdad increased the motivation to write, both because I felt the subject-matter was of cardinal importance to UK interests and because the public debate seemed to me to be under-informed and distorted. Over the late summer of 2004 I consulted and then appointed a book agent and, during the autumn, began to sketch out a framework and synopsis. In mid-October 2004 I asked the Foreign Office to send me the text of Diplomatic Service guidance on the publishing of memoirs by retired members of the Service. That served as a form of notice that I was considering writing, while also conveying the (correct) impression that I intended to seek clearance of anything I wrote about my official work.

I began writing in earnest in January 2005. In April, understanding that my interest in writing for the record might be misconstrued, I told my London publisher, Random House, that I would donate all personal proceeds from the book to a charity working in Iraq, and we agreed that this would appear on the book cover. On 19 April, when I had completed some two thirds of an initial draft text, I contacted the Office by e-mail to give specific notice that I would be submitting a text. Having agreed with my publishers by then that we should aim at a publication date of September 2005, this seemed to give plenty of time for an exchange with Whitehall on the details. The officer in charge of the FCO section handling clearance responded helpfully and said that the Office normally aimed to clear texts within a month or so. We agreed

that I would send in groups of chapters as they emerged, even if they were unpolished drafts, to make work on them easier to organise. I submitted four of the six parts on 23 April and we both fully expected the process to be finished by June. The final two parts were submitted at the end of May.

I received reasonable comments on the first four parts in June, and incorporated most of the amendments suggested. I was told that the last two parts, mostly comprising my account of the Baghdad months, would take a bit longer and might cause a few more headaches, but the tone of these exchanges, and of other conversations I had with colleagues in the system, were largely encouraging and sympathetic.

At the end of June 2005 Sir Michael Jay informed me that the Foreign Secretary had just become aware that I was intending to write for publication and had expressed strong objections, though he had not read the text. I went in to see Mr Straw in early July and he confirmed his opposition to a book as a matter of principle. I said I would take account of what he had said, but would wish to finish the clearance process.

At that point I warned my publishers that publication might have to be delayed. They encouraged me to complete the process. The FCO, however, went silent for the next two and a half months. Speculation in the media as to what was going on, mixed in with comment on the other books attracting public interest, was fairly constant throughout this period, though it was usually inaccurate on my situation. In early October I finally received a further set of comments from the FCO, but was told that even the rather more comprehensive amendments they had proposed would need to be cleared by Ministers. Given the heightened public focus on the whole area, I decided that it might be wiser to go for a longer-term postponement.

I therefore agreed with my publishers in London and New York that publication should be delayed *sine die*. Part-advances received were returned in full. Contrary to the impression gained, as I have read, by some members of the Select Committee, the final decision was mine and the relationship with the publishers has not been broken. It remains my decision whether to return to the book in the future.

These are the basic facts. I am happy to discuss further details if the Committee has questions.

January 2006

Memorandum by the Rt Hon Lord Owen CH

In May 1991 I submitted the manuscript of my autobiography, *Time To Declare*, to Sir Robin Butler, then Secretary of the Cabinet. I felt bound by the guidelines set out in the 1974 Radcliffe Report but as will be clear by the correspondence, which I attach (Annex), there was a negotiation between myself and the Cabinet Secretary. This correspondence is already in the public domain as part of my papers held by the Special Collections and Archives Department at the University of Liverpool, of which I am Chancellor.

As you will see I reserved the right to make the final decisions on the guidelines in the light of advice from Sir Robin and did not consider his judgement absolute. Of course, I gave great weight to his views on whether they contravened the requirements of national security. On whether they injured the country's international relations, I gave his views serious consideration. On whether they undermined confidence in relationships within Government I made largely my own political decisions. Broadly speaking, I considered it right to delete all named criticisms of members of the Civil Service or Diplomatic Service since I think it is a good rule of thumb that politicians should keep named criticism to that of their political colleagues who are in a position to defend themselves.

It seems now, from the outside, that the undoubted mess we are in over political memoirs or diaries from politicians and civil servants is that the traditional separation between impartial administration and political decision making has become damagingly blurred. The Committee will see evidence from the enclosed correspondence that this was starting to develop in 1991. This blurring has, in my view, become much worse in recent years because of three factors:

1. The appointment of two political appointees, Alastair Campbell and Jonathan Powell, by the Prime Minister in 1997 with executive power over members of the Civil Service and Diplomatic Service.
2. The creation in 2001 of two new Secretariats in 10 Downing Street, the European Secretariat and Overseas and Defence Secretariat, which have contributed to a level of incompetence in the Prime Minister's handling of the proposed European Constitution and the invasion of Iraq in 2003.
3. The diminished role of the Cabinet Office, Cabinet Secretariat, Cabinet Secretary and Cabinet itself from 1982–1990 and from 1997–2006.

I have never known a time in the last 40 years when there has been so much disillusionment, bordering on contempt, for politicians by civil servants and diplomats and vice-versa. Hopefully the next Prime Minister will restore the separation between political advisers and civil servants, abolish the two Secretariats in No 10, and restore the authority of all four aspects of Cabinet Government. If that happens there is a good chance that mutual trust and respect can be restored and the UK governed with much greater competence and far more public support, whether at home or abroad.

9 January 2006

Annex

Letter to Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service from Rt Hon Dr David Owen MP

I enclose a few sections of my autobiography which is due to come out in the autumn and which covers some areas which you may wish officials to check out. I do not think there is anything here I or others have not already put into the public domain in various forms. If you could let me have any comments before 24 May I would be grateful as I have to give it to the printers by 29 May.

10 May 1991

Letter to Rt Hon Dr David Owen MP from Sir Robin Butler KCB CVO, Secretary of the Cabinet and Head of the Home Civil Service

Thank you for your letter of 10 May enclosing some chapters of your autobiography. These clearly need to be very carefully checked and I have put that in hand. I will try to meet your deadline but it is a tight one and I have to ask you—especially following my recent experience with Bernard Ingham!—not to give this section to the printers until you have had my comments on the security aspects.

You will of course know that the Radcliffe Report recommended that all memoirs by former Ministers should be shown to me so that I can advise whether they comply with the guidelines set out in the 1974 Radcliffe Report, namely that they do not:

- (a) contravene the requirements of national security;
- (b) injure the country's international relations; or
- (c) undermine confidence in relationships within Government.

I hope that you will be willing to let me see the other sections of your book which cover your time as a Minister. I believe that, contrary to the constant dripping away fostered by the media, it is important that Ministerial memoirs uphold the Radcliffe principles but, as other memoirs writers will confirm, I do try to comment in a constructive, and not a destructive, way.

14 May 1991

Letter to Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service from Rt Hon Dr David Owen MP

I enclose chapters on Navy Minister, Health Minister and my time in the Foreign Office apart from the chapters that you already have. I would be amazed if there is anything here which causes any problems but you asked for it and so you have got it!

I am afraid my publishers do want to be able to send it all off to the printers by the end of next week. But there will not be a repeat of the *Sunday Times* affair. They will not get a set of these chapters until you have commented and I have decided whether or not to go along with your suggestions. They will not therefore have the opportunity to compare two different versions. That is a marketing device I leave to people who have only just left the Civil Service.

23 May 1991

Letter to Rt Hon Dr David Owen MP from Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service

Thank you for forwarding with your letter of 10 May sections of your forthcoming memoirs which have been read in accordance with the guidelines in the Radcliffe Report. I also received today your letter of 23 May with remaining chapters and I will ensure that any comments on these will reach you before the end of next week. The Radcliffe guidelines cover three main areas: national security; confidential relationships within Government on which our system of government is based; and relations with other nations. On this basis, I have a number of suggestions to make. Because of the tightness of your deadline, I have had to prepare these in some haste.

“MI6—GCHQ and the Falklands”

I should prefer that, as a former Foreign Secretary, you should not acknowledge the existence of SIS or refer by name to Cabinet Committees. But I cannot claim that either of these are damaging to national security, and I must therefore leave the matter to your judgement.

However, the requirement in Radcliffe that memoirs should not disclose information affecting national security would apply to the following instances, which are considered very sensitive and potentially damaging. [***]

- In relation to the strike at GCHQ, I am advised that the references on pages 3 and 4 to the release of sensitive information are not correct and that while the withdrawal of Trades Union rights at GCHQ brought considerable unwelcome publicity, it did not result in highly sensitive information

being divulged. In addition, you might want to amend the reference to the “no strike agreement” in the lower part of the main paragraph on page 4 since the membership of at least one of the Unions subsequently rejected such an agreement.

Rhodesia

In this chapter, on pages 2, 4 and 8, there are a number of comments, mainly unfavourable, on officials. I think that these do contravene the requirement in Radcliffe that the ex-Minister “should not make public assessments or criticisms . . . of those who have served under him” especially since those concerned could be identified by the references to the positions they occupied. This could be avoided by:

- on page 2 omitting from “The Foreign Office officials concerned . . .” to “Edmund Dell, Denis Healey and Harold Laver . . .”. This would also avoid personalised references to the views of political colleagues;
- on page 5, the direct reference to Michael Palliser could be amended as follows:
 - omit “Michael Palliser, who . . .” to “at this time”. Substitute “I was warned that George Thomson might be implicated in the Bingham investigation. It was also believed that, given the sensitive mood about sanctions in Carter’s Administration, for an incoming British Ambassador to be in any way linked to possible sanction-busting would have been very embarrassing”.

Iran

On page 12 of the Iran chapter where you write “. . . the Shah made what our Ambassador, Sir Anthony Parsons, felt was a critical mistake.” Sir A Parsons’ account in his own book was milder. I suggest that you should delete the words “what our Ambassador, Sir Anthony Parsons, felt was”.

On page 13, I should be grateful if you would delete the second sentence of the second paragraph describing the views of Frank Judd and FCO officials on the supply of CS gas.

There is one reference to the views of Her Majesty on pages 19–20. I normally ask that references to views of the Queen should be omitted. While I see no substantial difficulty about these views, Buckingham Palace, who have been consulted on this, do not believe that the reference is absolutely accurate, in that advice had been consistently given to the Palace that the visit should not be cancelled until it was actually cancelled by the Iranians. I have no difficulty with the quotation from Elizabeth Longford’s book at the end of the chapter on Rhodesia, which is secondhand.

Foreign Secretary 1978

While I do not need to ask for any amendments to the discussion of nuclear or other weapon matters on security grounds, on page 21 there is an account of the vies and motives of other Ministers. This falls within the fifteen year period proposed by Radcliffe for protection of the views of Ministerial colleagues and I should therefore be grateful if you would remove the personal attribution of views.

I hope that these comments are helpful: I would of course be prepared to discuss these or any other points if that would be helpful.

24 May 1991

Letter to Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service, from Rt Hon Dr David Owen MP

Thank you very much for your letter of 24 May and the speed with which you have responded. My apologies to those officials concerned for putting them to all this effort at such short notice.

As to the chapter “MI6-GCHQ and the Falklands”. I have reconsidered carefully your request on SIS and Cabinet Committees but my judgement is that the text should remain unchanged. I have made the deletions you suggested in full on page 2 and on page 9. On page 3 I have phrased it so that it is my opinion that revelations have been made about GCHQ and for what it is worth I think the advice on this is badly wrong. I have deleted any reference to revelations stemming from the ABC Trial. I phrased this badly meaning to imply that we avoided revelations by abandoning the case. I was unaware that one of the unions subsequently rejected a no-strike agreement and I have amended that accordingly.

The real reason for writing so quickly back however relates to how I interpret Radcliffe’s guidelines. I agree that I should not criticise in any way any identifiable civil servant. I have erred from the path of righteousness from time to time and I will be very favourably disposed to any corrections on that score. By and large too I accept that I should not identify advice though sometimes when it is particularly sensible I think that civil service morale should be boosted. I am unlikely however to remove all references to an official view. For example I will retain all references to officials in the chapter on Rhodesia on pages 2, 4 and 8. Some of the actions were actually unlawful and that needs to be stated. I have removed in that chapter the reference

to Sir Michael Palliser on page 5 and in the chapter on Iran on page 12 to Sir Anthony Parsons and on page 13 to CS Gas and on page 19 to the Queen. Incidentally for the record the Palace is wrong. The Queen did talk to me about her wish not to act too quickly and while the formal advice was against cancellation, this was because, helped by knowing her view, I persuaded Jim Callaghan who wanted to cancel weeks before we did.

As to Cabinet Ministers they are well able to look after themselves and in fact I think Radcliffe's guidelines have been made obsolete by so many books, radio and television interviews that I doubt you can even justify a ten year guideline certainly not a fifteen year guideline. The thirty year rule is also hopelessly out-of-date and the sooner it is changed the better.

I hope this indication of my likely reaction will help you and your officials.

24 May 1991

Letter to Rt Hon Dr David Owen MP from Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service

Many thanks for forwarding the remaining chapters of your memoirs and for your letter of 24 May responding to the suggestions I made on the earlier part of your book. I can understand why, seen from your position, the 15 year guideline now looks excessive. But in principles of general application I think that you would agree that there must be some time limit and for members of the present Government of whom some are still in office after 12 years and therefore vulnerable to political embarrassment, 15 years does not appear to me to be too long a deadline.

Turning to the chapters of your book, I have no comments on the chapter about your time as Navy Minister, which is outside the 15 year period. But I have to ask you, on strong national security grounds, to delete the paragraphs starting at "Denis Healey" on line 7 of page 12 and going to line 15 on page 13: this can be done without damage to the account. [***] The reason for omitting the passage about command and control procedure for Polaris is that knowledge of these arrangements is highly secret for the obvious reason that, in the event of impending hostilities, a potential enemy would have a clue about the essential decision-takers on nuclear release and therefore whom it would be advantageous to eliminate. Similarly, the chapter on your time as Minister of Health is outside the 15 year period; but you might like to consider omitting the reference to Sir Philip Rogers on page 6, particularly since not much turns on it. If you decide to keep this in, the present Permanent Secretary of the Department of Health, Sir Christopher France, would like to warn Sir Philip Rogers.

On page 20 of that chapter, there is a passage which reads:

"There are many murky rumours surrounding Wilson's surprising resignation in 1976. Some of them were perhaps fed by the same people involved in misinformation and denigration that did undoubtedly stem from MI5 in the early 1970s in relation to Northern Ireland. I was also named in this campaign as was Merlyn Rees."

No evidence has been ever found to link MI5 to such denigration, and in my view it is much more likely that it came from the IRA. But if you want to keep this reference in, I suggest that you make clear that it is your belief rather than your knowledge and that you refer to the security authorities, since MI5 was not the only Service operating in Northern Ireland in that period.

The chapter on The Foreign Office does fall within the 15 year period, and you may want to reconsider the references to named individuals—John Fretwell, Michael Palliser and Michael Butler—on page 2. I do not ask you to remove the general point, and I think that these references to specific names could be removed without destroying the general point. Similarly, while I do not want to press you to remove the tribute to Sir Donald Maitland on pages 2 and 3, it could be made without the reference in the first line of the last paragraph on page 3 to Michael Palliser.

On page 9 of that chapter, there is a description of the attitudes of named people in the Cabinet to the Government's position in the IMF discussions which I would prefer to see omitted; but I acknowledge that the 15 year deadline only just applies to it and much of what is said there has been made public already. The same cannot be said, however, for the description in pages 13 and 14 of that chapter of the advice which you received on Rhodesia from Ivor Richard, Ted Rowlands and Sir Antony Duff; and you might like to consider whether these references should be omitted.

In the chapter headed "Foreign Secretary—The First 32 Days", you say about [***], and I think that this comment might be omitted. A strict interpretation of Radcliffe would involve removing other references to personalities (including Stephen Wall, now in No 10), but, since they are so kind, I do not feel that need to press you on this. The same goes for the references to Junior Ministers on pages 14–17 (although I would prefer that you omitted the reference to the European Cabinet Committee—EQ—on page 15).

On pages 25 and 26 of that chapter, there is a description of a Cabinet meeting about direct elections, in which you attribute views to a number of people, including Michael Foot, Tony Benn and Merlyn Rees. Conformity with the Radcliffe principles would involve removing these personal references.

I would be particularly grateful if you would remove the references to Nico Henderson on pages 27 to 29. Sir Patrick Wright and I are having a good deal of trouble at present in restraining him from publishing a diary containing observations made of Ministers and others behind closed doors, which Sir Patrick and I think that it would be entirely inappropriate for a former official to publish in contravention of the Radcliffe rules; and your own to Nico himself would make that task much more difficult.

On page 37 of that chapter, I realise that you will have to make some reference to Jim Callaghan's view of Peter Ramsbotham in order to explain the subsequent appointment of Peter Jay, but this passage could be made a little gentler by leaving out the sentence beginning "I asked one person close to Jim . . .".

On page 38, I must ask you to leave out the reference to the nuclear consultation agreements, for the reason implied by the description "very secret" in the text. The Americans would be very surprised to see this sentence. I suggest that nothing would be lost if you ended at ". . . Oval Office".

On page 48 of this chapter, it would accord with the Radcliffe principles if you were to avoid attributing views to other members of the Cabinet by name in discussion about the Lib-Lab Pact. I should also be grateful if you would avoid giving the voting numbers.

In the chapter headed "Foreign Secretary—1977", it would be preferable if you could tell the story of the announcement of Peter Jay's appointment without the explicit criticism of [***].

On pages 17 and 22 of that chapter you give an account of a Cabinet discussion with attribution to named people. Even though this is done by quoting from Tony Benn's diaries, it would be preferable to avoid the named attributions.

In the chapter "Foreign Secretary—1978", on page 17, it would be better if you avoided attributing the advice on joining the EMS but not the ERM by name to Michael Butler.

On page 24, there is the personal attribution of Ministerial views on Chevaline to which I referred in my previous letter.

In the chapter entitled "Foreign Secretary—1979" the final paragraph on page 5 both describes the advice given to you by the Governor of Hong Kong on the police corruption case and your own scepticism about the advice. I suggest that you delete the two sentences from "I was very dubious . . . ignore his advice".

I hope that these suggestions are helpful. I think that they can all be accommodated with only minor amendments to the text and without damage to the general structure or themes. I hope that you will feel able to make amendments in the sense which I have suggested.

6 June 1991

**Letter to Sir Robin Butler KCB CVO, Secretary to the Cabinet and Head of the Home Civil Service,
from Rt Hon Dr David Owen MP**

Thank you for your letter and again my gratitude to everyone who has read through the chapters.

As to the chapter on Navy Minister, I agree to make the deletion that you have requested. As to Minister of Health I would like to keep the present reference but if Sir Christopher France finds that it upsets Sir Philip Rogers I will delete his name at proof stage to refer to senior officials but I think the reference is important, demonstrating well on both Sir Philip himself and the principle of independent advice to Ministers and after 15 years I think it would be beneficial to reveal it.

On page 2, dealing with your letter, paragraph by paragraph:

First, I have deleted the words "that did . . . MI5".

Second, I have deleted any personal criticism implied or otherwise relating to Michael Butler and Michael Pallier and deleted the reference to John Fretwell but kept the tribute to Donald Maitland.

Third, I have deleted any reference to advice by either Ivor Richard or Sir Anthony Duff. I was tempted to keep Ivor Richard in since he was really a political appointment but I have decided to treat him as a civil servant. Since Ted Rowlands is a Minister I consider it perfectly acceptable to give his advice after this period, as with other Ministers, on the IMF.

Fourth, I have deleted the reference to Ewen Fergusson and for reasons I have explained kept references to Junior Ministers and the Cabinet Committee.

Fifth, I have kept the description of Cabinet meetings.

On your page three, first paragraph, I have removed all references to Sir Nicholas Henderson apart from his leaked despatch in the Economist. I agree basically with your point that it is not reasonable to expect civil servants to restrain from publishing their diaries if we breach the guidelines.

Second, I have reduced the criticism of Peter Ramsbotham. in the ways you suggested.

Third, I have made the deletion as you suggested.

On your fourth paragraph, for reasons I have explained I have kept in references to Ministers and the Cabinet vote

Fifth, I have deleted the reference to Tom McCaffrey.

Sixth, I have kept the references from Tony Benn's Diaries.

Seventh, I have deleted references to Michael Butler.

Eighth, I have kept the Ministerial views.

Ninth, I have made the deletion you suggested in relation to the Governor of Hong Kong.

Again, many thanks for your helpful suggestions and I hope you will not be too upset where I have found it impossible to take your views.

7 June 1991

Memorandum by Rt Hon Tony Benn

I understand that this issue is now before your Committee and would like to submit a few points for your consideration:

- (1) Information about what Governments do is essential in democracy, which depends on voters being informed.
- (2) Very few real secrets exist, relating mainly to Security, the Budget, before it is opened and personal information held.
- (3) It is malice, not information, which damages the conduct of public business, malice which flourishes in gossip and the media.
- (4) Ministers and political advisers publish diaries and memoirs and I do not see why retired civil servants should not do the same, subject to the laws of libel and within security limits.

I would be glad to meet your Committee to present this case in person but understand that this will not be possible.

I am therefore enclosing just one example which I hope will make my point, relating to the Cabinet held on 18 March 1975 when a decision was made to recommend a YES vote in the Referendum on British membership of the EEC.

The Cabinet minutes for that meeting have now been released under the Thirty Year rule and I enclose a photocopy of them (Annex A).

Also enclosed is my full, uncut and unedited diary of that Cabinet which I wrote that day from notes I made at that meeting (Annex B).

Your Committee may like to compare the two and consider whether the diary, (an edited version of which was published in 1989), in any way damaged the public interest or whether it provided a different but interesting perspective of a key government decision and how it came to be taken.

Other accounts written by ministers or civil servants attending that same meeting would, I believe, also be of interest, as would accounts of most meetings that take place.

The truth will make us free and truth has many sides to it.

January 2006

Annex A

SECRET

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CC(75) 14th
Conclusions

CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on

TUESDAY 18 MARCH 1975

at 9.30 am

PRESENT

The Rt Hon Harold Wilson MP
Prime Minister

The Rt Hon Edward Short MP
Lord President of the Council
(Items 1 and 2)

The Rt Hon Lord Elwyn Jones
Lord Chancellor

The Rt Hon Denis Healey MP
Chancellor of the Exchequer

The Rt Hon Michael Foot MP
Secretary of State for Employment

The Rt Hon Shirley Williams MP
Secretary of State for Prices and
Consumer Protection

The Rt Hon Anthony Wedgwood Benn MP
Secretary of State for Industry

The Rt Hon Roy Mason MP
Secretary of State for Defence

The Rt Hon William Ross MP
Secretary of State for Scotland

The Rt Hon Merlyn Rees MP
Secretary of State for Northern Ireland

The Rt Hon Harold Lever MP
Chancellor of the Duchy of Lancaster
(Items 1 and 2)

The Rt Hon James Callaghan MP
Secretary of State for Foreign and
Commonwealth Affairs

The Rt Hon Roy Jenkins MP
Secretary of State for the Home Department

The Rt Hon Anthony Crosland MP
Secretary of State for the Environment

The Rt Hon Eric Varley MP
Secretary of State for Energy

The Rt Hon Barbara Castle MP
Secretary of State for Social Services

The Rt Hon Peter Shore MP
Secretary of State for Trade

The Rt Hon Reginald Prentice MP
Secretary of State for Education and Science

The Rt Hon John Morris QC MP
Secretary of State for Wales

The Rt Hon Fred Peart MP
Minister of Agriculture, Fisheries and Food

The Rt Hon Lord Shepherd
Lord Privy Seal

The Rt Hon Robert Mellish MP
Parliamentary Secretary, Treasury
Minister for Planning and Local Government

The Rt Hon John Silkin MP

SECRETARIAT

Sir John Hunt

Mr P D Nairne (Items 1-3)

Mr B C Cubbon (Items 1-3)

Mr E J G Smith (Item 2)

Mr J S Scott-Whyte (Item 1)

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PARLIAMENT AND EEC LEGISLATION

1. The Cabinet had before them a memorandum by the Lord President of the Council (C(75) 32) reporting on the consideration given by the Legislation Committee to the role of Parliament in the context of the renegotiation objectives.

THE LORD PRESIDENT OF THE COUNCIL said that the Legislation Committee had thoroughly considered this matter at a series of meetings over the past 12 months. The essential question was the extent to which membership of the Community entailed limitations on the sovereignty of Parliament and how far any such limitations could be removed or lessened consistently with continued membership. This issue arose from the unique character of the Treaties of Rome and Paris, which involved the acceptance of certain types of Community Instrument as directly applicable law in the member states, Parliament could undoubtedly exercise its ultimate sovereignty by repealing the European Communities Act 1972, thereby taking us out of the Community. Indeed the commitment to the referendum demonstrated this. The continuance of the direct applicability of Community law in the United Kingdom depended ultimately, therefore, on the continuing assent of Parliament to our membership of the Community. The Luxembourg Communiqué, on unanimity within the Council of Ministers in matters of vital national interest, provided a safeguard for the United Kingdom; and it was for the Government to decide how far to allow its exercise of the veto to be subject to Parliament's instructions. The Legislation Committee were agreed that it was essential not to obscure the fact that Parliament's control of day-to-day legislation in some areas had been diminished by accession to the Community. This situation could be dealt with in one of two main ways. The first was to eliminate directly applicable Community legislation for the future by amendment or of derogation from the relevant Treaty provisions or by agreement within the Community that the use of these provisions should be renounced. A minority in the Committee had felt that this objective should be pursued as a condition of continued membership. The majority did not favour this course since it would represent a major departure for the Community from its established methods of working; and it would hinder the rapid and effective implementation of agreements arrived at in the Council, jeopardising in certain cases the continuance of common policies. Moreover, to embark on this course at this stage would amount to a new renegotiation demand which was likely to be considered by other member states as inconsistent with membership. The fact of directly applicable law as an essential part of the Community's operation should be made clear to the electorate before the referendum, thus in effect enabling a decision on this issue to be taken through the medium of the referendum. The Committee were agreed that, whatever the outcome on the main issue, the Government should strengthen the arrangements for Parliamentary scrutiny and debate of legislative proposals before their adoption by the Council.

The Legislation Committee were divided on the desirability of enacting a statutory declaration of the ultimate sovereignty of Parliament. The majority considered that such a declaration would be a misleading nullity which would be contrary to normal constitutional practice and would give rise to suspicion in the Community and to misconception at home. Another supplementary option was to tighten the conditions in Schedule 2 to the European Communities Act for the use of subordinate legislation to implement non-directly applicable obligations, though Parliamentary time would then have to be found for additional primary legislation. A limited amendment of this kind would be peripheral to the main debate on sovereignty and would not provide an amending Bill of any substance. Finally, there was the suggestion that the scrutiny procedures should be put into a statutory form. In his view it would be unsound to attempt to frame Parliamentary procedures in a statutory form.

In the circumstances he had come to the view that the right course was to concentrate on improving the arrangements for Parliamentary scrutiny of Community proposals and the arrangements for debates in Parliament before the Government entered into decisions or commitments in the Council of Ministers. Work could be urgently pursued to this end, though it would be necessary to have regard to the recommendations of the Select Committee on Procedure.

In discussion it was argued that consideration of the issue of Parliamentary sovereignty should not have been separated from the handling of other renegotiation issues; the Cabinet was only now considering fundamental questions which might otherwise have been raised with the Community at an early stage in the process. The right of the Community to impose directly applicable legislation and to impose taxes under the "own resources" formula were the most serious of all the changes involved for the United Kingdom in Community membership. Directly applicable regulations were an obsolete feature of the Community related to a period when it was regarded as potentially a supranational organisation; the directive, which allowed more scope for Parliamentary initiative, was the form of legislation more suited to the Community's modified aspirations. The system of directly applicable law, made by the Community was a gross

infringement of sovereignty in the sense that political sovereignty rested in the power of a nation to make its own laws. The application of the veto was not relevant to the role of the Commission; and we had had to accept the existing laws of the Community on entering into membership. The transfer of Parliament's legislative powers to the Council of Ministers, and even more so to the Commission which was not elected and not accountable to the people of the United Kingdom, represented the most serious attack on Parliamentary democracy with which this country was faced. The relationship between Parliament and the Government in relation to European Community business would result in a dismemberment of the authority of the House of Commons. Moreover the threat to Parliament from Community membership was compounded by the prospect of a directly elected European Assembly; and it would be aggravated by the establishment of directly elected Assemblies in Scotland and Wales.

On the other hand, it was pointed out that the issue of sovereignty had been considered by the Labour Cabinet in 1967 and that the implications of Community membership had been spelt out in detail in the White Paper "Legal and Constitutional Implications of United Kingdom Membership of the European Communities" (Cmnd 3301). The renegotiation process had been conducted in full knowledge of these implications. It had been essentially concerned with the revision of the terms on which we should be able to display our national sovereignty within the Community in dealing with the policy issues which concerned us. Many of the changes secured were directly related to the protection of United Kingdom sovereignty in regional and industrial matters. The Commission had no power to impose direct taxes outside the limits already laid down in the "own resources" system. Despite the Treaties of Rome and Paris our power to make our own laws remained; Parliament could, if at any time it so wished, repudiate all our obligations under the Treaties and recall the powers which it had delegated to the Community institutions. The exercise of sovereignty was a political rather than a juridical issue; and, if Parliament was dissatisfied with the performance of the Government within the Community framework, it could exercise its powers to criticise Ministers or even to enforce a change of Government. It was desirable to allow the Parliamentary procedures for Community business to continue to be developed with a view to achieving a balance between the power of Ministers to act and the power of Parliament to hold them to account. This meant developing arrangements which would enable Parliament to express its view on the right issues, in the right form at the right time. For this reason, and on wider grounds, it might be desirable to initiate a major review of the conduct of Parliamentary business in the early future.

In further discussion there was criticism of the way in which the Commission had promoted unnecessary harmonisation in comparatively minor matters (though the Commission had recently behaved more sensibly in this respect) These were not matters suitable for the exercise of veto powers. If we remained members of the Community, it was desirable to direct Community energies away from these channels. We could also seek a number of other changes in the role and structure of the Commission, including a reduction in the number of Commissioners (and consequently in the activities of Commission staff) and in the scale of Commission expenditure. Certain other member states had similar ideas.

THE LORD PRESIDENT OF THE COUNCIL, invited to reply to the discussion, said it was clear that Parliament could not divest itself ultimately of its sovereignty and was in a position to bring the United Kingdom out of the Community at any time by repealing the European Communities Act 1972. His own view remained that, while we remained members, any proposal we might contemplate making in order to change the concept of directly applicable Community law could not be expected to succeed since it would alter the essential character of the Community. None of the other possible amendments of the European Communities Act would be satisfactory. A statutory declaration of the sovereignty of Parliament would be seen to be purely cosmetic. To restrict the power to implement Community directives by subordinate legislation would not meet the real concern which had been expressed and would unnecessarily involve the Government in finding time for additional primary legislation. To embody the scrutiny procedures in statute would import an unsound and unnecessary rigidity into Parliamentary arrangements. If the referendum decision were to remain in the Community the Government should however continue to strengthen the scrutiny procedures, and it might shortly be desirable to give a reconstituted Procedure Committee of the House of Commons a wide-ranging remit which would cover the European Community field in the context of examining the whole of the arrangements for conducting Parliamentary business.

The Cabinet—

Took note, and agreed to take this discussion into account in their consideration of the outcome of renegotiation as a whole.

EEC RENEGOTIATION

2. THE PRIME MINISTER said that the Cabinet must now reach a decision on the outcome of renegotiation. His own recommendation, in which he was joined by the Foreign and Commonwealth Secretary, was that the United Kingdom should remain a member of the European Economic Community (EEC). In their view the objectives for renegotiation of the terms of British accession to the EEC as set out in the Labour Party's Manifesto for the General Election of February 1974 had substantially been met. The decision whether or not to remain members of the EEC should however take into account not only the renegotiated terms but changes which had occurred and for which we could claim some of the credit—in the working practice of the Community. It was now operating much more under the political direction of

the Governments of member states, It was also very relevant that the Commonwealth countries, some of whom were diversifying their trading pattern in the light both of British entry to the EEC and of other political factors, almost unanimously believed that their interests were best served by the United Kingdom remaining a member of the EEC. If we were to leave the Community we would obviously seek to negotiate a free trade arrangement with it but the experience of Sweden showed that onerous conditions would be attached to it. In our case, given the nature of our trade, the conditions might be more onerous and we should of course be in no position to influence them from within. We had great power to continue to change the Community, and in all the circumstances he had come to the decision that it would be best for Britain, for Europe, for the third world and indeed for the whole world for the United Kingdom to remain a member of the EEC.

In discussion it became evident that a large majority of the Cabinet agreed that they should recommend that the United Kingdom should remain a member of the EEC. They agreed that the Ministers concerned had succeeded in securing marked improvements in the terms of our membership of the EEC. While it was not claimed that the objectives set out in the Manifesto of February 1974 had been fully met, there had been considerable and unexpected success in many fields and further improvements could be pursued in the course of continuing EEC business. The improvements were in marked contrast to the terms obtained by the previous Administration. The fundamental principles of the Common Agricultural Policy (CAP) had not been changed, but many improvements had been made in the way it operated and the new arrangements for beef, though instituted only for the current year in accordance with Community practice, represented a considerable breakthrough. The Government's objectives on the import of sugar from the developing Commonwealth had been met in full, and the improvement in the EEC's attitude to the Commonwealth and the developing world had been one of the principal successes of renegotiation. Similarly the position was now much improved in relation to the Community budget, capital movements, and Value Added Tax. The Government's regional, industrial and fiscal policies were in general well safeguarded, but the marker we had put down on the control of private steel investment would need to be followed up.

The following reasons were also advanced in support of this view:

- (a) Although we wanted to strengthen the "one world" framework, we had to recognise that regional groupings existed. We should use our membership of the EEC and our influence on its policies, to move away from the sterile confrontation which had been taking place in United Nations bodies between the blocs of the developing and the developed world. Under our influence the EEC had already become more outward looking, particularly towards North America and the developing world.
- (b) The cohesion of Western Europe might well be disrupted if we were to leave the EEC; and the British people might be misled into taking the view—which had bedevilled British policies for decades after the Second World War—that we remained a major world power in our own right. The Union of Soviet Socialist Republics, though it would not say so publicly, did not consider our membership of the EEC hindrance to detente and probably judged that it would help to restrain any aggressive tendencies in West Germany.
- (c) The Community was not now developing in a federalist direction; as long as we remained members we could prevent it developing in that way. The written texts of the Community had not kept pace with developments in practice. Although the texts might indicate that the Community was based on free market concepts, this did not reflect reality. A number of the member states had mixed economies and progressive social policies, which were at least as advanced as the United Kingdom's. We were only now at the beginning of our own relationship with the Community and we could bring important influence to bear in its development.
- (d) A decision to withdraw from the EEC would be very different from a decision not to join in the first place. While membership of the Community could not be expected to solve our economic problems and it would not necessarily be disastrous if we were to leave, this would be a risky economic course. Indeed it was argued that we might only survive in such a situation by adopting policies, for a siege economy. There was no alternative economic grouping available; previous suggestions that a Commonwealth economic bloc or a North Atlantic free trade area could be formed would not now be practicable. Great uncertainty would be caused during the protracted negotiations for withdrawal from, and determination of a new relationship with, the Community; this would have particularly serious implications for investment.
- (e) The concept of directly applicable Community law, which was novel to the British constitution, had to be accepted as essential for the operation of the Common Market. It would have been easier to have ensured that its structure and political philosophy were more consistent with the British political character and constitutional practice if we had been involved in the Community from the beginning. But the powers of national Governments to restrain the Commission, and of national Parliaments to influence the Community, should not be underestimated. For example, British and German objections to unwise proposals by the Commission on the harmonisation of standards had prevented those proposals from making progress and the Commission had had to adopt a different and more acceptable approach. Parliament retained considerable powers in these fields by

its general political control of Ministers. Nevertheless improvements in procedures, as had been proposed, to enable Parliament to exert more influence on Community legislation should be pursued urgently. It would also be necessary to consider, if we remained members, how best to curtail the unnecessary powers and enthusiasm of the Commission.

A number of Ministers said that they would wish to dissent from a Cabinet decision to recommend that the United Kingdom remain a member of the EEC.

THE SECRETARY OF STATE FOR INDUSTRY said that he would not repeat all the arguments which had been put forward in the discussion of individual items in the package. The Cabinet could however be on the verge of a tragic decision. The objectives set out in the February 1974 Manifesto had not been achieved; all the difficult points had been deferred until after renegotiation. It was wrong to think that Britain's economic problems could be solved within the EEC; too pessimistic a view had been taken of Britain's prospects, and we would be better placed to solve our problems outside the Community. The EEC would inevitably develop in a federalist direction (though this was for the present being disguised) and the power of the British Parliament and electorate had already been reduced. He feared that continued membership of the EEC would lead to the break-up of the United Kingdom. Moreover the Labour Party would be placed under considerable strain if the Cabinet were to go against the view of most of the rest of the Labour and trade union movements.

THE SECRETARY OF STATE FOR EMPLOYMENT said that he too did not consider that the Manifesto objectives had been achieved in several important respects. The consequences of withdrawal from the EEC had been exaggerated; he did not accept that Britain's problems could be solved only by our accepting an alien system, whose legislative basis—the European Communities Act 1972—it was not proposed to change. Policies which had stood Britain in good stead, for example on agriculture and the Commonwealth, had already been destroyed by attempts over the last decade to join the EEC. Continued membership would lead to the dismembering of the United Kingdom, and of the authority of Parliament which had already lost much of its power in EEC affairs. If we remained in the Community the seat of power would lie in future in a permanent coalition in Brussels.

THE SECRETARY OF STATE FOR ENERGY said that he was not inflexibly opposed to Britain's membership of the EEC; he acknowledged the improvement in our terms of membership, in particular as regards the Commonwealth. Nevertheless too much had to be taken on trust, since the fundamental changes in the Community which we required had not been achieved in renegotiation. He was particularly concerned about the situation on energy. North Sea oil would be an asset of great value to us and would be a considerable help to our survival outside the Community; but there were already moves to apply the EEC Treaty to the Continental Shelf. If we remained a member, we should be exposed to pressure for Community policies, for example on depletion. While he would vote in the referendum against continued membership, and believed that Britain could survive outside the Community, he would work for the success of Community membership if that proved to be the referendum result.

THE SECRETARY OF STATE FOR TRADE said that he was opposed to continued membership of the EEC because it was disadvantageous to us materially, to the powers of Parliament and the unity of the United Kingdom, and in relation to the kind of world we wished to see. The EEC was not an effective regional grouping, as their failure in the energy crisis and the current French attitude towards International Energy Agency had shown. The British people did not have the community of feeling with Continental Europe which would be required to make a genuine Community, and our membership of it did not assist the "one world" concept. If we withdrew, there would be problems though they should not be exaggerated; we could still prosper and make a better contribution to the world as a whole from outside the Community.

THE MINISTER FOR PLANNING AND LOCAL GOVERNMENT said that the present occasion was the country's final opportunity for settling the issue of membership, and he would accept the outcome of the referendum. But the logic of the EEC pointed it towards the destination of a federal structure for a United Europe. The February Manifesto set out only the minimum objectives in the renegotiation; a significant element in them had not been met and had been left over for the continuing business of the Community if we remained members. He felt therefore that the country should decide to withdraw.

THE SECRETARY OF STATE FOR SOCIAL SERVICES said that the Labour movement did not believe in the basic principles of the EEC. These could not be dismissed as mere theology. We had accepted that we could not challenge these principles, for instance in relation to the CAP, and the Commissioner responsible had made it clear at a recent meeting of the Council of Ministers that national agricultural regimes were outside the Treaty and could not be allowed. The veto was not something which could be exercised simply on the basis of the Government's dislike of a particular proposal. Experience had shown that our whole bargaining position on current Council issues had to be taken into account. The Council of Ministers was in effect an institutionalised system of coalition government, and the Labour Party had always been united in its opposition to the notion of coalition government. Our virility as a nation would be weakened if we remained a member of the Community.

THE SECRETARY OF STATE FOR SCOTLAND said that although certain changes, some of which were temporary, had been agreed in the operation of the CAP, it was clear that the basic principles of the CAP had not been changed; and the common fisheries policy would mean that other EEC countries could eventually fish in our waters, notwithstanding the extension of fishing limits which it was expected would

shortly be agreed internationally. The renegotiation of our budgetary contributions had only been partially successful. Although active progress was not immediately being made towards economic and monetary union, the idea remained a long-term Community goal. The Community's regional policies involved some Community oversight of our regional plans. The position on steel was admitted to be unsatisfactory. On the issue of sovereignty, the Government would be accepting the permanent curtailment of the powers of Parliament if the European Communities Act were not amended, and the powers of the Commission could not be radically attacked within the present Treaty framework. This transfer of power from Parliament to Brussels would strengthen the internal pressures towards the break up of the unity of the United Kingdom. Thus we had failed to achieve the fundamental renegotiation to which the Government were committed.

THE PRIME MINISTER then asked those members of the Cabinet who had expressed views against the United Kingdom remaining a member of the EEC whether they would be ready to support the majority view or if they wished to exercise their right—which had previously been agreed in the unique circumstances of the referendum—to differ from the Government recommendation. All the Ministers concerned said that they wished to exercise this right.

THE PRIME MINISTER, summing up the discussion, said that by a significant majority the Cabinet agreed that the United Kingdom should remain a member of the EEC. This would therefore be the Government recommendation and he proposed to make a statement to this effect in the House of Commons that afternoon.

The Cabinet—

Took note, with approval, of the Prime Minister's summing up of their discussion.

EEC REFERENDUM

3. THE PRIME MINISTER said that it would now be necessary for the Cabinet to consider the guidelines within which those members of the Government who could not support the recommendation that the United Kingdom should remain in the EEC should exercise their right to differ from it. Draft guidelines had been prepared for handing round, and they would be circulated for fuller consideration at the next meeting of the Cabinet.

In the course of a brief discussion it was suggested that particular difficulty would arise in connection with the proposals about Ministers appearing on platforms either with Members of Parliament of a different political Party or with Labour Party supporters who took a different view on this issue. It would be impossible to avoid an active debate: what mattered was that members of the Government should conduct it in a comradely spirit with each other.

THE PRIME MINISTER, summing up this brief discussion, said that the Cabinet could not reach conclusions on the proposed guidelines in the time remaining. They would be circulated for fuller consideration at their next meeting. In the meantime members of the Government should abide by the draft guidelines.

The Cabinet—

Took note, with approval, of the Prime Minister's summing up of their discussion

Cabinet Office

18 March 1975

Annex B

THE BENN DIARIES

Tuesday 18 March 1975

The day of the Cabinet decision on Europe and the day of the parliamentary decision, the day of the dissenting Ministers' declaration, of the signature of the motion on the order paper, and indeed probably one of the key days in the history of Britain.

[TAPE TURNED OVER HERE—MAYBE A FEW WORDS MISSING]

It was the first time that this key question had ever been discussed, and it came after the end of renegotiation because it had been referred to a different committee from the ECS which had considered our renegotiation strategy. He[?] said it posed the whole question of whether the Community is to be supranational or a community of sovereign states.

Jim Callaghan said, "Now, how many laws were passed last year that had direct effect in Britain? Does anybody know? Douglas Jay had said Three thousand." Ted said he didn't know but it was certainly over two thousand last year, so Willy Ross said, "Well, when we get statutory instruments, at least the Secretary of State signs them."

Crosland said that he wasn't concerned with sovereignty because he thought sovereignty had passed anyway to the power workers and the hospital workers, but he was concerned about the cost of gratuitous harmonizations which he found he had to deal with. He said he would like this matter put to Ministers to try and stop it.

Alf Morris said he was concerned about the powers of the Commission.

I said, "Sovereignty is not the same as omnipotence, nobody is omnipotent. The Americans aren't sovereign, they were actually beaten by the Vietcong, they can't do what they wanted. Sovereignty means democracy in the sense of power to make your own laws, not even the power to enforce them, because that might depend on circumstances not within your control."

I said that there were three options open to us. One was to protect our parliamentary democracy, which would offend the Community; another was to abandon parliamentary democracy which would offend the Manifesto; the third option was to fudge it.

I said that this was the most important constitutional document ever put before a Labour Cabinet. The whole political history was contained in this paper. It recommended a reversal of hundreds of years of history which had progressively widened the power of the people over their governors. Now great chunks were to be handed to the Commission. As to the Commission, it was theological. There certainly wasn't the sort of argument that occurred when Conference only asked for its views to be respected by Cabinet. Yet we were quite happy to give it to the Commission. I said I could think of no body of men outside the Kremlin who had so much power without a shred of accountability for what they did.

I said that the Community would destroy the whole basis on which the labour movement was founded, and its commitment to democratic change. That was one of the reasons why we had a small Communist Party, why the ultra-left was so unimportant, it was because you could say to people "Change your MP and you can change the law". That was where the attack on democracy was coming from. If we accepted this paper, we'd be betraying, in a very special sense, our whole history.

Michael said, "We're being asked to accept everything we opposed when we were in opposition. Take the tachygraphs, these little machines you put in lorries to measure mileage. We'd opposed that in opposition, but it was imposed on us. The theology of the Common Market is written into the whole centre of their Treaties. We are conniving at the dismemberment of Parliament. We are destroying the accountability of Ministers to Parliament, and if we have a European Parliament elected by 1978, it will destroy our Parliament. It will encourage Scottish and Welsh separation because they'll say "If you can do that, what about helping us to govern ourselves?" This would dissipate the powers of the British Parliament, people think we're crazy to dismember our Parliament at the most dangerous moment in our history.

Jim said that it wasn't the first time that a document of this importance had been before a Labour Cabinet. It was all set out in the 1967 White Paper. Sovereignty of Parliament was not an issue, it wasn't even in the Manifesto.

This led to a protest from Michael who said that it was a draconian curtailment of the powers of Parliament. Harold said that that was from the first manifesto. Michael said that the authority of Parliament was used in the October Manifesto. "Well," said Wilson, "these are the differences between the old and the new testaments."

Jim said, "Sovereignty is not new, nor should we say we should have raised it when we didn't. As to taxation, the limit is 1% by the Commission." He disagreed most strongly with me when I said that there was more of a danger from the Commission than from Mick McGahey, certainly the International Socialists. He said, "Well, the Communist Party may have gone over the top, but the International Socialists are penetrating the authority of Parliament".

Jim said he too was worried about things like the "standardisation of rear-view mirrors which he said was offensive, he thought there may be too many commissioners, but the time to study the Commission would be after the referendum. "We don't want to give Parliament the power to hold things up." (This is typical of Jim who regards the power of Parliament as something derived from Ministers instead of the other way round.) "Sovereignty was destroyed by interdependence," said Jim and he was confident in what Elwyn Jones, Lord Chancellor, had said, that the power was there if the people felt strongly enough.

Harold Lever said, "Tony Benn is a legal pedant," and as for Nick McGahey versus the Commission, he didn't share that view. He said that debates on whether this was irrevocable were silly. The decision to come out would be even more disastrous.

Harold Wilson said, "The British Parliament has the power to come out at any time." I asked if he'd be prepared to say that publicly. "Well," said Harold, "we can discuss that later when we come to the handling of the statement."

Elwyn Jones said, "Political sovereignty is the power to make our own laws and Parliament could repudiate the Treaty at any time. Parliament has handed over part of its law-making powers already. In opposition, it was the exercise of the power that we had ceded that we criticised. British influence can be exercised in future by the Foreign Office. Government can continue to declare war. Parliament can continue

to throw out the Governments that fail. We have given limited powers to the Commission, Parliament can take away what it has given. A legal framework is difficult and disturbing. The practice is more important than the legal machinery. (This coming from the Lord Chancellor, I might add)

Reg Prentice said that he accepted Paragraph 2b, ie. the surrender of sovereignty and improved scrutiny. "We need to strengthen the power of Parliament over the pressure groups at home," he said, "and we must institutionalize our external interdependence, but of course, the juggernaut lorries can and must be stopped, but we mustn't be too neurotic about a seepage of powers away from Parliament."

Barbara Castle said that it was because she knew about this that she had opposed it in 1967. The philosophy and theology of the Common Market was to remove the distortions to competition, and that is what the free movement of capital and labour were all about.

Bob Hellish said that Parliament was completely inadequate. He knew as a Party manager that the statutory instruments were frustrating, we needed a review of parliamentary procedure. He couldn't believe it would affect our sovereignty. The powers of the Commission were strong but Parliament is a farce, it will have the final say, and Britain will always have the veto over laws they try to pass over it.

Peter said, "There is anxiety, and I regret there haven't been earlier discussions. Sovereignty is the right to make your own laws, and the minutiae are not the real issue. Freedom of movement of labour is very important, and the Courts will enforce our law at the moment but they won't later."

"Well," said Harold Wilson, "the free movement of labour had never been an issue."

By then it was just after 11.00 and we went down and had tea. I had my coffee and I had my mug of tea and I thanked Harold for it, and it was then he told me that he had sent over to get it. We went back into the Cabinet.

Ted Short said that Gunderlach, one of the new Commissioners, had cut down on harmonization. He said that Parliament could not divest itself legally of its own sovereignty. He said Parliament has the right to bring the UK out at any time, and if we tried to change the sovereignty, it would change an essential feature of the country, of the Community, namely the direct applicability of their law in Britain. Could we amend the Common Market Act? He said, as to the sovereignty, statutory declaration of sovereignty would be purely cosmetic, therefore we couldn't do anything because it would have no effect. We could strengthen our procedures, and, therefore, he would favour radical proposals for strengthening Parliamentary procedure.

That was the end of that discussion. It was quite clear that it was going to be absorbed and wrapped up in a later discussion, and I learned nothing about the views of my colleagues. But as is already evident, the effect of a referendum and the Common Market discussion is to produce some very deep discussion about the meaning of Government. I really wonder whether many of my colleagues have thought about it. I've had so long to think about it, with the experience of the peerage battle and all that, that I feel I am a jump ahead.

Harold said, "Well, we now come to the main question. Should we accept the terms or not? I recommend that we should stay in and that is the view of the Foreign Secretary though he will speak for himself. We have substantially achieved our objectives. The Community has changed de facto and de jure, and the attitude of the Commonwealth has changed too. The Commonwealth wants us to stay in, and the Commonwealth trade patterns have changed; though I regret it. If we had a free trade area for the UK, the conditions upon us would be even stiffer or as stiff, and I am only persuaded 51% to 49%, indeed I had anxieties right up to the last few days, but I recommend that we stay in."

Jim Callaghan said, "In supporting you, I would like to say something about the development of Europe. I am unashamedly an Atlanticist, but we are living in a regional world and we must use the regional organisations. The Soviet Union does not find our membership of the EEC a hindrance to detente. Indeed, I think secretly, they might like us in to control the Germans. The 77 non-aligned countries who are now banded together at the United Nations could destroy the UN and we are better in a regional group to withstand them. As to the prospects for democratic socialism in the Community, four of the countries are Labour, or have labour representation in the Government: Holland, Denmark, Germany and the Republic of Ireland, and now Britain. The market economy is really as an idea quite fly-blown, and the withdrawal of Britain would strain our relations with Ireland."

He quoted Benjamin Franklin who said something like this, "When I first looked at the terms for this Constitution I was not persuaded of it. As wisdom came, I came to see that I was wrong."

Willy Ross said, "We cannot ignore the Manifesto, Parliament has lost its power, the only power left would be to come out. Anything less than that, the Courts would decide. The Commission is still completely independent, and we have not changed their power at all. In 1967 the Cabinet did not accept membership. It just decided to apply to see what the terms of membership might be. The Manifesto only listed our main objectives, and we didn't change the CAP and the power of the Commission is unaffected. On fishery policy, the anxiety in Scotland was that under the Common Market rules, people would be able to fish right up to the shore. The Scottish National Party has won all the constituencies round the coastline on fishery policy grounds."

Harold Wilson said, "Well, that has never been raised at all in the last twelve months."

On the terms, Willy quoted the Foreign Office paper. "Regional policy is another problem, once in, it will grow. The greater degree of oversight from Brussels is being urged and we read from an article in the Times in which George Thomson said he had a development plan for Scotland, and it would all be monitored. As to steel, the cost of coming out, it could be argued, might be serious but it sounded like the story of the lady in the brothel who was told it would be more expensive if she came out," a most improbable comment I might add from Willy Ross. He went on, "I am not satisfied, though it's a matter of balance."

Ted Short said, "I've been awarding points as a schoolmaster on the eight matters of renegotiation. CAP 3 out of 5, budget 4 out of 5, EMU 3 out of 5, regional and industrial policy 4 out of 5, steel 1 out of 5, fiscal policy 4 out of 5, capital movements 5 out of 5, Commonwealth 5 out of 5. So 29 out of 40, or 72.5%." He thought Jim Callaghan should be awarded a doctorate in renegotiation. He wants us to stay in and we'd take advantage of the agreement to differ if Cabinet decided to come out.

Harold Lever said, "You know, this is not a great divide. This is the beginning of a new relationship with Europe." He favoured staying in.

Shirley Williams favoured staying in, and said "We could stop the Commission, and indeed we did when they tried to harmonize our milk and beer . . . The Prime Minister and the Foreign Secretary have achieved a great deal in the Third World." "And with Judith" said Harold. He's always trying to implicate her. "Oh yes," said Shirley.

She went on, "On the market economy, in fact they had gone much further on the continent than we had, and in industrial democracy, they had gone much further in Germany than in Britain. They spend more on the public services, all higher than us. On the mixed economy, France and Italy have a larger public sector than us and they see it not as an ideological matter but as a practical advantage to their country. On democracy, they're doing well too."

Bob Mellish said that the Common Market was here to stay and we should stay in. Then it came to my turn to make my main final speech. I said, "Prime Minister, I fear that the Cabinet is about to make a tragic error. It recommends that Britain stay in. I recognize that Jim has done his best and probably got the best terms that are compatible with continuing membership, but we have not achieved our manifesto objectives and indeed we did not even try."

"We deferred the real issues, the really difficult issues, like the authority of Parliament and regional and industrial policy until after the renegotiation was over. We have confused the real issue of parliamentary democracy for already there has been a fundamental change. The power of electors over their law-makers has gone, the power of MPs over Ministers has gone, the role of Ministers has changed. I hope we won't be told this is all theology and not law because the history of the world has been written by theologians and not pragmatists, and as to the law I remember the efforts I had to spend, ten years of campaigning to get the courts to accept the supremacy of the Commons over the Lords at a time when two judges said that a peerage was an incorporeal hereditament affixed in the blood and annexed to posterity. That was a huge battle just to establish a simple democratic point."

I said, "The real case for entry has never been spelled out. It is that there should be a fully federal Europe in which we become a province, and in fact it hasn't been spelled out because people know it isn't acceptable. We are at the moment on a federal escalator, moving as we talk, going towards a federal objective we do not wish to reach."

"In practice, Britain will be governed by a European Coalition Government that we cannot change, dedicated to a capitalist or market economy theology. This policy is to be sold to us by projecting an unjustified optimism about the Community, and an unjustified pessimism about the United Kingdom, designed to frighten us in. If Jim quotes Benjamin Franklin, let me quote what Benjamin Franklin said. "He who would give up essential liberty for a little temporary safety deserves neither safety nor liberty." The Common Market will break up the UK because there will be no valid argument against an independent Scotland with its own Minister and Commissioner, still enjoying the Common Market with the rest of the UK and England. We shall be choosing between the unity of the UK and the unity of the EEC."

"It will impose appalling strains on the labour movement, however responsibly we may argue it. No-one in this whole discussion has mentioned the TUC with whom we signed the Social Contract, or the National Executive, or Conference who are joint partners in the Manifesto and to whom we should report back. It will block off the path to peaceful change with consequences we cannot foretell. It will create a new myth that the future of Britain can be solved by others. In fact we all have to build the new Britain ourselves. I feel strangely cheated that after each colony has escaped from the British Empire, when only the English are left, we are handed over to Brussels to govern. I believe that we want independence and democratic self-government and I hope the Cabinet in due course will think again."

Michael came after me and said, "We've given up so much. The Commonwealth view is not our view. We shall dismember Parliament and the UK. Western Europe is a coalition system, and we shall be caught adopting it. It will permit the operation of coalition policies over party, and the British don't want coalitions. We must present this fundamentally, the cost of coming out is used, but it is a defeatist movement. Gaitskell said that we should make that clear."

Denis Healey said that it would be a mistake to present the issue as Michael and Tony Benn had suggested. The consequences outside would be serious, and economic problems are more important. He said this is a matter of judgement and choice between evils on a balance. In real life it was a mistake for the British not to have gone to the Messina Conference which started the Treaty and the movement to European unity. The Commission was set up with the Treaty of Rome and it would have been better if we'd been there at the start. Leaving now would not end the matter and there would be pressure for reversal of the decision and for our continued entry later. That's why I approved the application.

As to the renegotiation, he said we have improved it in practice, and there's growing support in the Common Market for our approach. The decision to leave now would be more damaging than the decision not to join. We had no sympathy from the White Commonwealth if we left, we'd have no sympathy from the US which is turning inwards, and the idea of a North Atlantic Free Trade area is out. Europe is a bargaining counter with the US and there'd be a long period of uncertainty if we decided to leave, and industry needs certainty. We'd have to negotiate with a hostile Common Market and even EFTA and the Commonwealth and the USA. It would not be a disaster but a risk, and he hoped we wouldn't overplay the disaster if we leave, or we would have no credible posture with the British people to vote for withdrawal. The consequences would be too dangerous, and therefore he hoped the people would vote to stay in and improve it from the inside.

Tony Crosland said he agreed with Denis, he was an agnostic, sceptical about large markets, he thought there were strong arguments for staying in, partly because the Common Market was going anti-supranational, partly because of the effect on investment, partly because we would be deceiving the country, and partly because the psychology of the UK would go back to a sort of Churchillian myth that we were the greatest and most important country in the world. Therefore he had to accept the Common Market exists, and it's going to concern us, it is an important force for good and it would be crazy to come out.

Reg Prentice said, "I was against and now I am for staying in. The onus of proof has shifted. We have to consider the investment effect. There would be a disastrous effect on the economy if we came out, political matters mattered most. I am a one-world man and regional groupings help the third world. The EEC exists and we're in it. It would be a danger to detente if we came out. The third world with the world food crisis was our great problem and we would make a bigger effort to deal with it if we were in."

Eric Varley said, "I was against in 1967, never inflexibly, and I'm sure that the improved terms will help the UK if the referendum goes for membership. I would certainly hope to make it work if it did, but for my own part I shall be voting no. We are being asked to take too much on trust. There have been no fundamental changes in the Common Agricultural Policy of the Economic and Monetary Union. I'm worried about Parliament, but my main worries are about energy and oil, because if the Treaty of Rome is applied to the Continental Shelf, and the Community have asked to study the application, then we'll be in difficulties. I asked the officials at the Department of Energy to look at the pros and cons and the North Sea Oil is under study. The Treaty may apply, and then in 1990 we'd have to look at our depletion policy and then we couldn't resist Common Market pressure to maximize production."

He went on to say, "We can survive outside. I regret the long campaign which will strain the Party, but I am opposed to our remaining in."

Peter Shore said that the balance of advantages was unfavourable. "Parliamentary institutions would suffer, the unity of the United Kingdom would suffer, the relationship with the world as it is nearer to the Commonwealth, the English speaking world than to the continent. That is how the British people feel."

As to the regional and national argument, Peter said, "The EEC disintegrates when it comes up against real issues like the energy problem. Our base is not in Western Europe. It is too weak, too small and too old fashioned. In real instances it makes the problems worse. France is no friend, she has frustrated our approach to the world energy problem through the Agency. I do not think you can have this degree of intimacy without a real community, we are friends and allies with our neighbours on the continent but we don't have that degree of intimacy with them. We can survive without, and prosper and contribute more."

Malcolm Shepherd said, "It has been a privilege to listen to the debate and I hope the same spirit will illuminate the referendum, and the Government and the Party would come out of it stronger." He said he had always been a supporter of entry, he had lived abroad a lot of his life, he did not like the old terms but he was 85% for the new terms. We were now in and the price of leaving would be too great.

Fred Peart said his attitude was obviously coloured by agricultural matters. The deficiency payment scheme had not even been in the 1947 Tom Williams Agricultural Act. France also, looking wider, will contain Germany. He had attacked entry in the old terms but we had achieved a lot, beef and lamb subsidies, we've defied the Council, we've liberalised sugar, and we should stay in on grounds which had been most influenced by Denis.

John Silkin said only Harold Wilson could have kept us together over this period. It was an irrevocable decision to be made and to suggest we could change it would be like suggesting we could repeal the Treaty of Paris 1789 and bring the United States into colonial status again under Britain. It was the last chance either way. He said he would accept it as binding, we should leave the EEC because the logic of a federated Europe would involve a fundamental change in the Common Market if we wanted to stay in, our Manifesto contained minimum terms. He would vote no.

Elwyn said he was agnostic and still had doubts, renegotiation had been beneficial, there was no leap in the dark if we stayed in now, the Commonwealth, America and the Common Market wanted us in, he didn't want a confrontation with the Common Market, the consequences of withdrawal were disturbing. If we left, our practical freedom of action would have gone, we can contain the risks to parliamentary democracy, he thought our law was more threatened at home.

Merlyn Rees said he was not a federalist but he noticed that the French and the Germans were working better together and the youngsters today in Europe don't think nationally at all. He'd read every paper he could find and he'd come out for yes. He said the Commission worried him a bit and the Party and the Conference and the unions might take a different view but there were many Labour voters off the emotional hook now and he thought that was to the good.

Roy Mason said, "You know my views. We have succeeded in getting some substantial changes. The awareness of a series of successes is well known, regional groupings are here to stay. We have changed the face of the Common Market, we've helped in the Third World. To begin to unravel Europe beginning with Denmark would be terrible, it would mean the UK withered on the vine. Our balance of payments, and he had spoken to the former President of the Board of Trade, would be badly affected. It would be traumatic for Britain, an embarrassment for the City, and he was for staying in."

Barbara said, "You know my view, I've given my reasons, it is bad to ask people to stay in an organisation whose principles we do not share. As for pragmatism we have accepted that we cannot challenge the theology so we have not really tried on parliamentary control, on steel and the Common Agricultural Policy. The power on council to veto, to safeguard national interests sounds attractive but it is not as simple as that. The EEC works by compromise. Everything is a bargain, and this is a charter for coalition which would destroy the Labour Party. The EEC is an institutionalized coalition."

Roy Jenkins said he was in favour of staying in. He agreed with Denis and said we should have gone to the Messina Conference. He himself had been wrong to underestimate the scope there had been for improving the terms. He thought it was a remarkable achievement but it would be a terrible blow if we left. He was an Atlanticist too, more at home in America than on the Continent. But Europe is a pillar of Atlantic cooperation.

Willy Ross said he believed in the maximum strength for the UK, to prevent the division of the UK. He was unconvinced about the terms and he would vote no. If we conceded powers to Brussels we could not resist conceding them to Scotland and Wales.

John Morris said that on forms and principles, he thought the Common Market was frightening. In practice it was more acceptable. We should try to change the Commission, we must meet the needs of Parliaments. He regretted the entry but could we do anything now but stay. It's too late to get out, he would recommend we stay.

It was 16 to 7 for staying in. Harold said, "I hope nobody will think that has anything to do with the way I composed the Cabinet because when I formed it a year ago, there were eight for Europe, 10 against and five wobblers. Now I want to know who, of those who have expressed their view, intend to take advantage of the agreement to differ?" The replies were as follow:

Tony Benn—Yes.

Barbara Castle—Yes.

Michael Foot—Yes.

Willy Ross—Yes.

Peter Shore—Yes.

Eric Yarley—Yes.

Thus it was that the Cabinet reached its view.

Then the guidelines were passed round, very rigid saying no debating with Labour Ministers or appearing in constituencies with MPs or taking a different view without their permission, no appearing on platforms with others.

I said, "Well, as you know Harold, I had set myself these targets but they've got to be done sensibly and it's the spirit rather than the detail."

Harold said, "I based them on what I heard you were going to do."

Shirley said, "What about appearing with Geoffrey Howe on the Tory side?"

Harold said he didn't want to discuss them today "and anyone who says anything between now and then, perhaps we could discuss them again on Thursday."

So with that the Cabinet left, it was about 1.30. I went out into Downing Street which was very crowded. I walked to the end of Downing Street, down Whitehall and back to the office.

Letter from Alastair Campbell to the Clerk of the Committee

Thank you for your letter dated 12 January, asking me to explain why I do not intend to publish my diaries, or any books relying upon them, whilst the Prime Minister remains in office.

I do intend to publish a series of books about my experiences in politics at some time, but I would consider it wrong to publish in a manner, or at a time, detrimental to the interests of the Government or the Party I served. With our media and politics as they are, I am in little doubt that publication would be used to try to damage the Government, the Labour Party, the Prime Minister and others. For that reason alone, I have decided against early publication.

I know that the committee has looked in detail at specific recent publications. It is clearly the case that political events are under greater media scrutiny than ever before. Events as they happen are now subject to far more coverage, and far more is revealed to the public, than was the case even a few years ago. This is an inevitable consequence of a more voracious 24 hour media and the internet, which alongside other political and cultural change have led to greater openness including Freedom of Information, and higher expectations of public disclosure.

All that being said, whatever the rules that are in place concerning the publication of political memoirs, ultimately it will remain the responsibility of the individual to handle such issues sensibly.

22 January 2006

Memorandum by Peter Riddell, Chief Political Commentator, The Times

The Radcliffe rules on the publication of political memoirs had been comprehensively breached well before the publication of “DC Confidential”, or the Lance Price diaries. In many ways, the outcry over Sir Christopher Meyer’s book has muddled, rather than clarified, the problem.

If the core principle—as set out by Lord Radcliffe—is that memoirs should not reveal national security, international relations, confidence between ministers and confidential advice from officials, then it has been breached several times in the past two decades—both by politicians and civil servants. The Alan Clark diaries named several civil servants, including his fantasies about one of his female private secretaries. These were published only just over a year after he ceased being a minister. Geoffrey Robinson also named civil servants in his memoirs, less than two years after he resigned. Both could be dismissed as unimportant since they were peripheral figures, never in the Cabinet, or ever likely to be there. But they breached the Radcliffe principles. On a lesser, and more innocuous level, Nigel Lawson named some Treasury civil servants in his memoirs, despite pleas from the Cabinet Secretary (Lord Butler of Brockwell) to remove the names.

On the other side, there have been several cases of officials commenting on private discussions and on ministers, from the Alanbrooke diaries onwards (appearing in a bowdlerised form within a dozen years of the end of the Second World War and including highly critical comments about Sir Winston Churchill). An earlier British Ambassador to Washington, Sir Nicholas Henderson, published diaries which revealed a full account of the Falklands war and about his meetings with ministers. These came out within 12 years of his time in Washington, less than the 15 year embargo set out in the Radcliffe rules. At the time of publication in 1994, Sir Nicholas said he had decided to go ahead after earlier being asked not to publish because “now everybody seems to be publishing memoirs. Many ministers and civil servants have also disregarded the rules”.

That is apart from the increasing number of memoirs/diaries by special advisers—Bernard Donoghue, who names several senior civil servants, but deliberately waited 30 years; Sarah Hogg and Jonathan Hill (published during the Major premiership, though generally supportive); and in the Blair years, Derek Scott, Lance Price and Peter Hyman.

How is Sir Christopher Meyer’s book worse than these cases? His offence lay in making personally disparaging remarks about serving ministers and revealing some mildly embarrassing anecdotes about Tony Blair and other ministers while they are still serving in office. This was a serious mistake, and did breach trust. Yet was the real outcry because Tony Blair and Jack Straw are still in office? But this section only accounts for five or six pages of the book. If these were omitted, would the book have provoked comment and objections? Obviously much less. But, in theory, his discussion of the run-up to the Iraq war breaches the Radcliffe guidelines. However, in practice, as Sir Christopher has acknowledged, there was nothing new in what he wrote about Iraq. Virtually all has appeared either in television programmes or in other books (for some of which he was an acknowledged source, including my own *Hug Them Close*). There have been far greater revelations in books published in the USA, including two by Bob Woodward, which had the assistance of President Bush and other members of the administration. Otherwise, the Meyer book is a racy, highly personal account of life as an Ambassador, which you can take or leave according to taste, but which includes some astute observations about the British role in the USA.

How much damage has been done? Or, rather, damage to what and whom? I have seen no evidence of any damage to transatlantic relations, and certainly not to national security. It is more a question of breach of confidence and political embarrassment, or good taste perhaps. Should ministers feel able to be candid

in front of their officials and Ambassadors? Yes. Equally, civil servants should feel able to be open and candid when advising ministers rather than worried that their opinions will appear in memoirs while they are still serving in Whitehall, probably under a government of another party. As Geoff Mulgan has suggested, good government may be weakened by the fear among special advisers, and civil servants, that someone else in the room is keeping a diary. But in the more open political culture at present, it is unwise to assume—regardless of memoirs or diaries—that anything will remain secret for long. It is certainly in the public interest for some policy discussions to be held in private, and on the assumption that they will remain private. A wider range of options can then be aired. There is the danger that senior ministers will rely more on a small coterie of advisers. But that does not mean that much damage will necessarily be done if such advice is published.

Can anything be done? Clearly, the letter of the Radcliffe rules, about a 15 year bar on memoirs, is dead. And the words of the Civil Service Code about civil servants observing “their duties of confidentiality after leaving Crown employment” are not precise enough. Is it just memoirs? How about TV interviews or newspaper articles? After all, retired civil servants often contribute to public debate on policy—and they are listened to precisely because of this past experience and insider contacts.

In order to be credible, the Radcliffe rules need to be updated and made more specific. Various procedural improvements on ensuring earlier sight of drafts should also be set out. Above all, the rules need to be applied to ex-ministers and former special advisers as well as retired civil servants. Of course, politicians are in a different position from civil servants in terms of public accountability, but that does not mean they should be free to discuss confidential advice, or to identify civil servants who cannot answer back. For civil servants, and particularly special advisers, the ban on revealing confidential discussions could be enforced by a specific clause on the Civil Service Code, or in contracts, on the Crown Copyright principle floated by Sir Gus O’Donnell.

More generally, however, the original Radcliffe view—reaffirmed by Lords Wilson and Turnbull—seems right: the main sanction is that people who break the rules should be condemned for breaching acceptable norms of mutual trust. The loss of reputation—and the cold shouldering by former colleagues now being suffered by Sir Christopher Meyer—are perhaps the most effective sanction. But that will only work if it is enforced against politicians as well as civil servants.

Overall, despite all the huffing and puffing about DC Confidential, much of the row is overdone. Sir Christopher was wrong to breach confidence in five or six pages. But he is neither the first nor is likely to be the last. His book is an occasional exception to the general keeping of confidences by retired civil servants. His book has been deplored. The rules need to be clarified and made more credible. There are many more important issues for the committee to consider.

January 2006

Memorandum by Craig Murray

I write to you as a former Civil Servant who has submitted his memoirs, “Murder in Samarkand”, for approval to the Foreign and Commonwealth Office, and who has been refused that approval. I am nonetheless determined to go ahead and get the book published. The FCO have warned that they will take legal action if I do. I believe that places me in a category of person of particular interest to your Committee’s current enquiry.

I was British Ambassador to Uzbekistan from August 2002 to September 2004. For over six years I was a member of the Senior Civil Service, (or its Diplomatic Service equivalent). I had a career of over 20 years in the Diplomatic Service.

I believe it is important that the committee consider my category of case, which is very different to that of other former Ambassadors such as Jeremy Greenstock and Christopher Meyer. They left after long and distinguished careers drew to a natural close. They then took jobs in organisations which are close to, or related to, government.

By contrast I left the FCO on (very) early retirement after a long and well publicised dispute with my employer. This had drastic effects on my health. I am currently without work at 47, I believe in large part as a result of the damage to my reputation caused by false accusations brought against me by the FCO. At the moment my future looks bleak.

It is the contention of my book that I was both mistreated and traduced by the FCO as the result of an internal policy dispute over our attitude to the government of President Islam Karimov of Uzbekistan, and over cooperation with his security services allegedly in pursuit of the War on Terror. It is a fact that I faced a lengthy investigation into 18 allegations made against me, which were leaked in detail to the media. It is also a fact that I was formally cleared on all 18 charges.

My name was cleared, despite the standard of proof being balance of probability, not beyond reasonable doubt. I am sure many of your committee will understand that makes a major difference. It also lends weight to the question of how such a huge raft of charges, none of them probable, could come about. That is much of the story of my book. I was, incidentally, found guilty of a nineteenth charge, that of talking about the charges.

The FCO would deny that I was in any way mistreated. They are perfectly entitled to argue that. But do the Select Committee really believe that the government should be able to use an all-enveloping definition of Crown Copyright to prevent me from setting out my side of the story? It does not matter if you side with me or the FCO on what happened. You do not have to support me in the dispute, to support my right to freedom of speech.

I ask the committee whether, in this context of what might be termed an employment dispute, an employer which happens to be a government department should be able to stop by diktat an aggrieved employee, who lost his job, from publishing his account of events?

I would argue that in these circumstances the laws of defamation and libel, the Official Secrets Act, the Data Protection Act and the Freedom of Information Act provide proper and secure boundaries of law within which an employee ought to have the right to air his grievance. For the employer to simply ban the book by refusal to clear it, and the threat of arguing in court that the area of dispute is subject to Crown Copyright, cannot be fair. It is an unjustified limitation of freedom of speech.

My publisher has received formal legal advice that, even if a document has been obtained under the Freedom of Information Act or the Data Protection Act, the government may still prevent its publication by exercising Crown Copyright. If upheld, this would mean that a newspaper, which obtained a document under the Freedom of Information Act, could nonetheless be arbitrarily prevented from publishing it.

That seems to me to obviate much of the purpose of the Freedom of Information Act. I would request the Committee to consider this problem and resist the temptation to endorse the government's musings about making more vigorous use of Crown Copyright. I would further suggest that the Committee recommend that the Government should state that, as a matter of policy, it will not use Crown Copyright to suppress publication of material obtained under the Freedom of Information Act or Data Protection Act.

Allow me apply this to my own case. I received a large number of documents pursuant to a formal application under the Data Protection Act. The documents consist largely of minutes about the handling of the disciplinary procedure against me. In particular they give irrefutable evidence of the detailed personal involvement of the Secretary of State Jack Straw, both in holding meetings and in writing minutes, in the setting up and detailed conduct of disciplinary charges against me. This evidence is included in the text of my book. Mr Straw has repeatedly denied he had any connection with the action taken against me.

One purpose of the DPA is to enable the citizen to get at the truth of what government is doing in relation to them personally. Does the Committee believe I should be prevented from publishing those minutes about me, obtained legitimately under the DPA, because of Crown Copyright? I do not expect the Committee necessarily to take a view on the individual case. I point out what I believe to be the unfair hazard for freedom of speech of an aggressive use of Crown Copyright.

I have been informed by senior FCO officials that in my case the submission on whether to give permission to publish was put to Mr Straw. That seems to me to open questions on whether politicians should be permitted to ban information about their own conduct. The committee may consider such decisions might be better taken by an independent body enforcing agreed rules.

Let me be quite plain about the current situation. The FCO has stated that it will not "Ban" the book, but that if it is published it will sue under Crown Copyright. That is an effective deterrent to any publisher, whose purpose is to run a business publishing books, not to conduct extremely expensive litigation. So in fact their aggressive attitude does amount to a ban.

I should also like the Committee to consider the ability of Government departments to use process to frustrate an author. In my case I spent hundreds of hours over some eight months in detailed discussion with the FCO on the text of my book, including meetings, letters, emails and numerous long phone calls. I made scores of textual amendments, some of them very major, to try to meet their concerns. Only at the end of this process did they turn round and say that they opposed in principle the entire publication of the book.

After reviewing this large raft of correspondence between the FCO and I, the publisher's lawyers, most distinguished in this field, commented:

I agree with the author when he accuses the FCO of delaying tactics by playing him along, implying certain consents and then objecting in principle to the publication of the book. However, there is nothing particularly unusual in this . . . Government departments are capricious and that is their nature.

Perhaps the Committee might consider whether we ought to have to resign ourselves to capricious behaviour in this regard. From my long knowledge of FCO process, my expectation is that I was negotiating with civil servants who were diligently applying rules, before the book was finally submitted to a politician who simply wanted it banned.

I would conclude that, if the government or an individual wishes to take legal action against me over my book over alleged libel or a breach of the Official Secrets Act, that is a perfectly legitimate course of action and to be decided in court. But I do not view the aggressive use of Crown Copyright or confidentiality, in effect to block publication, to be legitimate in the case outlined above.

Book banning is in itself pernicious and should always be specifically justified. Where there are two parties to a dispute, for one party to use an arbitrary authority to suppress a book about the dispute by the other party, leaves a nasty smell.

I am at the disposal of the Committee if I might be of any assistance.

5 March 2006

**Letter to the Committee from Heather Yasamee, Information Management Group,
Foreign and Commonwealth Office**

PASC: 2 QUESTIONS

1. Thank you for your e mail letter of 2 March in which, on behalf of PASC, you ask for clarification of two points arising from evidence given by Sir Christopher Meyer. To take your questions in turn:

Did Sir Michael Jay invoke the Diplomatic Service Regulations in his dealings with Sir Christopher Meyer over his television appearances on 4 June 2004 or at any other time?

2. In a telephone conversation with Sir Christopher Meyer on 4 June 2004, Sir Michael Jay told him that Ministers were concerned that he was straying towards the revelation of confidences gained in conversations in which he had taken part. Neither Michael Jay's letter of 26 July 2005 to Christopher Meyer nor his Private Secretary's contemporaneous record of this conversation written on 8 June 2004 say that the DSRs were specifically invoked by name in this conversation. However this is clearly implicit in the record of the conversation (relevant sentence quoted verbatim in the subsequent letter). Michael Jay has been consulted and his recollection is that while he may not have cited DSR formally, he believes that he delivered a clear enough message of concern that Christopher Meyer was getting close to crossing the line protected by the Regulations.

3. Although Sir Christopher Meyer has a different perception as to whether the rules were specifically drawn to his attention by the FCO prior to my letter to him of 30 June 2005, there is evidently no disagreement between us that he was aware at the outset of the rules and the requirement in them for clearing publications. He acknowledges this in his reply to Question 118.

4. Our position on this rests with Michael Jay's letter of 26 July 2005. We do not ourselves wish to pursue the point further, since to do so risks getting drawn into an dialogue on semantics, which we do not feel would serve any useful purpose.

Is it the case as Sir Christopher states, that the FCO makes a pragmatic distinction about the implementation of the DSRs between those still within the diplomatic service and individuals who have retired from the service?

5. Turning to your second and related question, the FCO makes no distinction between serving and retired officers as regards the requirement to get permission to publish books which draw on official information or experience, but we do make a pragmatic distinction in the case of less formal activities such as speaking engagements and contacts with the media. It is neither practical nor reasonable to require that no retired FCO officer may speak publicly on a matter with a bearing on his or her past employment as a Crown Servant without first clearing lines with the FCO. We work on the assumption that all retired staff are aware of their continued obligation for continued confidentiality and rely in the first instance on their good sense and judgement as to how much they can say without reference to the FCO. When they are in doubt or need guidance as to where to draw the line, we expect them to refer to us and in practice they do. When we are aware of any retired staff getting close to or crossing the line, then we take the initiative to contact them. Michael Jay's conversation with Christopher Meyer of 4 June 2004 is an example of this.

March 2006

Memorandum by the Cabinet Office

INTRODUCTION

1. This memorandum sets out the Government's proposals for strengthening and clarifying the position relating to the rules for civil servants on the publication of political memoirs. The current rules are at Annex A.

2. In considering the options, we have been mindful of the need to strike a fair balance between allowing former officials the freedom to write their own accounts of their time in Government which can help inform public understanding and debate, the right to freedom of expression under the European Convention on Human Rights and the implications of Freedom of Information legislation, while at the same time seeking to protect official information which should remain confidential for reasons of national security, international relations and trust and confidence within Government.

CONTRACTUAL PROVISIONS

3. Civil servants and former civil servants are already bound by duties of confidentiality in relation to official information received during the course of their employment. The *Civil Service Management Code* states:

“Civil servants must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their department or agency. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information.” [paragraph 4.2.4]

“Civil servants must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, whilst in Crown employment. The permission of the Head of their department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the Service.” [paragraph 4.2.5]

The *Civil Service Code* also states that “civil servants should continue to observe their duties of confidentiality after they have left Crown employment”. [paragraph 13]

4. In addition to these rules, we believe there would be merit in making it clearer and more explicit in the *Civil Service Management Code* that former civil servants must seek the permission of the Head of their former Department, and the Head of the Home Civil Service, before entering into a contractual commitment with a publisher. The Code will also be amended to make it clearer and more explicit that former civil servants must submit in good time before any proposed publication, a copy of the proposed text which they intend to publish and which draws, or appears to draw, on official information or experience. Civil servants will also be reminded of these obligations at regular intervals to ensure that the rules are not forgotten. We will also be including reminders of the rules on appointment and on retirement/resignation.

CONFIDENTIALITY AGREEMENTS

5. The vast majority of civil servants observe the rules on the disclosure of information and clearance of books pre-publication. In future, staff in sensitive areas will be asked to sign an undertaking that they have read and understood the rules relating to the disclosure of official information and the publication of memoirs and other publications and that they will abide by the rules.

6. It would be for Permanent Secretaries to decide which posts within their departments are “sensitive” but this is likely to include for example private office staff, special advisers, press officers, officials who regularly have contact with Ministers. Departments will issue regular reminders to staff highlighting the rules.

COPYRIGHT

7. We are also proposing that in the letter of undertakings—described in paragraphs 5 and 6—individuals will be asked to assign copyright to the Government of future works (including newspaper serialisations) thereby targeting action at those employees with most access to sensitive information.

8. This proposal would have the advantage of depriving an individual of the profits of any work based on official information and experience, and so removes one of the incentives to publish. However, in implementing this proposal we recognise that we need to strike a fair balance as a number of former officials write accounts of their time in Government which can help inform public understanding and debate, therefore, action to assign copyright needs to be proportionate.

9. In summary, the following changes will be made:

- The *Civil Service Management Code* will be amended to make it clearer and more explicit that former civil servants must seek the permission of the Head of their former Department, and the Head of the Home Civil Service, before entering into a contractual commitment with a publisher.

The Code will also be amended to make it clearer and more explicit that former civil servants must submit in good time before any proposed publication, a copy of the proposed text which they intend to publish and which draws, or appears to draw, on official information or experience.

- Civil servants will also be reminded of these obligations at regular intervals to ensure that the rules are not forgotten. Letters of appointment and letters on retirement/resignation will include reminders of the rules relating to confidentiality and the need to submit proposed books which draw on official information and experience prior to publication.
- Staff in “sensitive” posts will be required to sign an undertaking that they have read and understood the rules relating to the disclosure of official information and the publication of memoirs and that they will abide by the rules. Permanent Secretaries will decide on “sensitive” posts within their departments.
- The letters of undertaking will also include assignment of copyright.
- Departments will issue regular reminders to staff on the rules relating to the disclosure of official information.

March 2006

Annex A

CIVIL SERVICE MANAGEMENT CODE

Civil servants must not, without relevant authorisation, disclose official information which has been communicated in confidence within Government or received in confidence from others. [Paragraph 4.2.2]

Civil servants must continue to observe this duty of confidentiality after they have left Crown employment. [Paragraph 4.2.3]

Civil servants must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their department or agency. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience. [Paragraph 4.2.4]

Civil servants must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, whilst in Crown employment. The permission of the Head of their department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the Service. [Paragraph 4.2.5]

CIVIL SERVICE CODE

Civil servants should continue to observe their duties of confidentiality after they have left Crown employment. [Paragraph 13]

Letter from the Cabinet Office to the Committee

Thank you for your letter of 21 December asking a number of questions relating to the process for commenting on Sir Christopher Meyer’s book. First, I must apologise for the delay in replying to your letter which had unfortunately, been overlooked owing to an administrative oversight. Taking the questions you raise in turn:

1. Heather Yasamee’s letter to you of 21 March covers this point. I can confirm that the Cabinet Office has no other records.

2. No changes were sought by the Cabinet Office or the FCO—please see the Foreign Secretary’s reply to a Parliamentary Question from Mr Gordon Prentice on 28 November 2005.

3. Sir Gus O’Donnell’s letter of 4 November set out the views of both the Cabinet Office and the FCO. The dialogue between the Cabinet Office and the publisher’s representative was very much at the level of keeping the publisher informed about how things were progressing in terms of collecting comments, and where necessary seeking an extension to the deadline for submitting comments.

4. No other letters or emails are held by the Cabinet Office. There may have been an email updating the publisher on progress with collecting responses, but we do not now have any record of such an email.

5/6. Howell James became involved in September on a personal basis to help elicit assurance from Sir Christopher Meyer that he would submit a text—this was in the context of advertisements trailing the book, and the fact that the FCO had not been able to secure a copy of the proposed book.

7. The book was sent to the FCO on the day it was received by the Cabinet Office (7 October). The FCO worked with us throughout the process and were fully consulted throughout.

8. The Cabinet Secretary informed Sir Christopher's publisher prior to publication on 4 November that it was disappointing that a former diplomat should disclose confidences gained as a result of his employment. The Cabinet Secretary went on to say that it was not his responsibility to check whether remarks attributed to individuals were accurate and complete. Therefore, the Government had no comment to make on the book, but this did not constitute any form of official or unofficial approval.

9. The Foreign Secretary's reply to Gordon Prentice of 28 November made clear that nothing was specifically identified that was considered so damaging as to require consideration of legal action. Therefore, consistent with the Cabinet Secretary's letter to the publisher, the Government had no comments on the proposed book, but it did not have any form of official or unofficial approval. Learning from this experience, future letters of this kind will make the position on clearance more explicit.

10. The Cabinet Office propose to amend the Civil Service Management Code to make it clearer and more explicit that former civil servants must seek the permission of the Head of their former Department, and the Head of the Home Civil Service, before entering into a contractual commitment with a publisher. The Code will also be amended to make it clearer and more explicit that former civil servants must submit in good time before any proposed publication, a copy of the proposed text which they intend to publish and which draws, or appears to draw, on official information or experience see the memorandum submitted by the Cabinet Office on 27 March. The Foreign Office has already clarified obligations and process in their amended Diplomatic Service Regulations and new Guidance (copies sent to PASC on 8 March. Jack Straw's Written Ministerial Statement of 8 March).

11. In addition, the Cabinet Office set out its proposals to introduce letters of undertaking for staff in sensitive posts in its memorandum to the Committee on 27 March. FCO letters of employment and letters issued on retirement or resignation now explicitly draw attention to the rules on publications and duties of confidentiality. All FCO senior staff have been asked (2 March) to sign an undertaking that they have read and understood the rules and agree to be bound by them.

Once again, I am really sorry for the delay in getting this reply to you. Please pass on my apologies to the chairman and members of the Committee for this oversight.

28 March 2006

Memorandum by Professor Patrick Birkinshaw

PREVENTING AND CONTROLLING PUBLICATION

1. It is often said that we live in the information age and that freedom of information has altered the political culture. It is a culture that justifies a more liberal approach to memoirs—so authors of memoirs assert. Freedom of Information is disclosure under terms; the problem addressed by the Select Committee is disclosure without approval. The following advice addresses the problem caused by indiscreet, ill-judged or improper revelations by former public servants, including Ministers, which do not amount to breaches of the criminal law and which may be difficult to frame within the law of confidentiality. It will be necessary to say something about confidentiality to set the context. I will also address the problem by suggesting a generic approach although the problems posed by the various groups may differ, as does their legal status. One of the arguments pressed by the witnesses before the Committee was the difference in treatment meted out to Ministers and civil servants. Since this advice was drafted, the Diplomatic Service Regulation 5 (and HSR4) which address the question of publications by existing and former members of the diplomatic service have been revised. The Cabinet Office has also sent a memorandum on *Publication of Political Memoirs*. These new developments are addressed in an addendum to this advice.

2. There are four groups of individuals whose activities may cause problems from the perspective of unauthorised publications: Ministers, civil servants, private advisers working under short-term contracts and diplomats. I ignore police and military personnel. Unauthorised disclosures may lead to a breach of the OSA if disclosures are within the terms of that Act although prosecutions for breaches of the 1989 Act and its predecessors have never been brought against ex Ministers as far as I know (?). The special position of security and intelligence officers has been dealt with exhaustively in case law and legislation which has emphasised their unique position.

3. In general terms all four groups would fall under the terms of the law of confidence in their employment relationships with each other, and in their relations with Ministers in the case of the latter three groups. Basically, the law of confidence seeks to protect information from publication, or to award compensation where a duty of confidence has been breached. To be confidential, information must have the "necessary quality of confidence about it" something which is not "public property" or "public knowledge". Lord Greene MR *Saltman* [1948] 65 RPC 203. Or the protection may be extended to items which are in the public domain but which are assembled in such a way that they are only known in that form to the mind of the

confider or to those in whom he or she has confided. Secondly, the information must have been imparted in circumstances importing an obligation of confidence. Thirdly, there must be an unauthorised use of that information to the detriment of the party communicating it. (*Coco v A N Clarke* [1969] RPC 41 at 47)

4. Two situations must be distinguished: prevention of publication by injunction and seeking damages or compensation after publication where that publication has resulted in a breach of undertaking.

PREVENTION

5. Let me deal first of all with prevention of publication. It was accepted in *Att Gen v Jonathan Cape* [1975] 3 All ER 484 that confidentiality does apply to public secrets, specifically to protect communications between Ministers and between civil servants and Ministers (p.494b) in order to protect collective responsibility of Cabinet discussions. In terms of Cabinet confidences Lord Widgery said: "I conclude therefore that when a Cabinet Minister receives information in confidence the improper publication of such information can be restrained by the court, and his obligation is not merely to observe a gentleman's agreement to refrain from publication." (p.495b) He found no ground on which a court could restrain publication by a Minister of their views on civil servants' advice or their competence: neither the Crown nor an individual servant "has an enforceable right to have the advice which he gives treated as confidential *for all time*" (emph. added p.496g). The words "for all time" might lead one to infer a duty limited by time. This was not how Radcliffe read it. But the period in question in relation to Cabinet meetings is the subject of the diaries of Richard Crossman, referred to periods over 10 years prior to the litigation. To succeed in his pursuit of an injunction the Att Gen had to show that publication was a breach of confidence; that the public interest requires that publication be restrained; and that there are no other facets of the public interest contradictory to and more compelling than that relied on (ie a wider and greater public interest in knowing). Too long a period had elapsed to justify an injunction covering Vol I. Injunctions were not sought by the Attorney General subsequently to restrain publication of Vols II and III although the latter volume contained information predating the litigation by five years. Where a legal duty of confidence is owed, the confidee may be restrained from publishing even where the material has been published by others eg by the press who are simply reporting what is publicly available. (*Att Gen v Guardian Newspapers* [1988] 3 All ER 545 (ChD, CA and HL)). The *Guardian case* (*Spycatcher*) held that the test for restraining publication was damage to the public interest.

6. The jurisprudential basis of Lord Widgery's judgment and the application of principles of law fashioned in private law and their extension to the governmental sphere were given further elaboration in *Commonwealth of Australia v John Fairfax Ltd* (1980) 147 CLR 39 (51-52) by Mason J. This case has been influential in subsequent English litigation and is worth quoting at some length:

"The equitable principle has been fashioned to protect the personal, private and proprietary interests of the citizen, not to protect the very different interests of the executive government. It acts, or is supposed to act, not according to standards of private interest, but in the public interest. This is not to say that equity will not protect information in the hands of the government, but it is to say that when equity protects government information it will look at the matter through different spectacles.

It can scarcely be a relevant detriment to the government that publication of material concerning its actions will merely expose it to public discussion and criticism. It is unacceptable in our democratic society that there should be a restraint on the publication of information relating to government when the only vice of that information is that it enables the public to discuss, review and criticise government action.

Accordingly the court will determine the government's claim to confidentiality by reference to the public interest. Unless disclosure is likely to injure the public interest, it will not be protected."

Intriguingly, the judge added:

"If, however, it appears that disclosure will be inimical to the public interest because national security, relations with foreign countries or *the ordinary business of government* will be prejudiced, disclosure will be restrained" (ibid, emph added).

7. The italicised phrase could include a failure in civil servants to advise candidly and without reservation because of a fear of being quoted and a similar apprehension in Ministers to expressly themselves candidly. Revelations may inhibit the ordinary business of government. Be this as it may, I know of no attempt to apply this dictum to restrain judicially unapproved memoirs. And a degree of robustness would be expected. In short, courts are reluctant to award injunctions restraining the publication of memoirs of the type under discussion unless there is a continuing duty of confidence and a prospect of damage to the public interest. Where such damage is in prospect, the courts have restrained publications in the widest of terms but these have been in cases involving security and intelligence officers who owe a life-long duty of confidence or secrecy to the Crown (*Att Gen v Punch* [2003] 1 All ER 289 (HL); *Blake v Att Gen* [2000] 4 All ER 385; *R v Shayler* [2002] 2 All ER 477 (HL)). Our groups do not owe duties in such absolute and general terms although durable duties of confidence may be owed in respect of particularly sensitive information. An additional factor to consider is the question of Article 10 ECHR rights of freedom of speech within the

Human Rights Act 1998 (see below). S.12 of the HRA gives considerable protection against interim injunctions to those who wish to publish information to safeguard their right to freedom of speech. (*Cream Holdings v Bannerjee* [2004] 4 All ER 617 (HL)).

CONTROLLING PUBLICATION: APPROVAL AND REMEDIES FOR WRONGFUL BREACH

8. The alternative approach is not to pursue injunctions but to ensure that members of the four groups seek permission to publish memoirs, or when they fail to request and obtain such approval, to remove the profit from the wrongdoing.

9. Employer/employee relations are those of a confidential nature and whether in the private or public sectors. What caused some confusion in the case of the groups under discussion was that conventionally Crown servants were not considered to be under contracts of employment. I avoid a complex analysis by simply saying that treating signed and express clauses in agreements between Ministers, civil servants, diplomats and private advisers on the one hand and the Crown on the other would, in principle, be legally binding and enforceable. The nature of the legal duty would be spelt out (below). The position in relation to intelligence officers was discussed in *Blake v Att Gen* [2000] 4 All ER 385 where the legally binding nature of a contractual undertaking “not to divulge any official information gained by me as a result of my employment, either in the press or in book form” [media was not mentioned] was accepted without question by the Law Lords as a continuing contractual duty. The undertaking was in the signed declaration for the OSA. The breaches of duty by Blake were exceptional and devastating, and called for exceptional remedies, but the principle of a binding contractual duty is accepted. I doubt that in principle its application to Ministers or Crown servants etc would be questioned although these persons are not under the life-long duty of secrecy that binds SIS officers. I say ‘in principle’ but the difficulty of detail will be dealt with below. I can see no public policy reason that would negate at the threshold a legally binding agreement of this nature.

10. In terms of political memoirs the position is presently addressed by the Radcliffe Rules and by the *Ministerial Code* (2005—under revision). For civil servants and diplomats the relevant provisions of the Civil Service Code and the diplomatic analogue (DSR) set out restrictions on publishing materials based on their experience in office. In the case of special advisers the model contract for special advisers states that: “You must comply with the rules on the publication of personal memoirs and books based on official experience set out in the [Departmental/Staff Handbook] (15f).”²

11. Using official documents for quotations and as a basis for publications could fall under the provisions of Crown copyright under the Copyright etc Act 1988. Copyright is not the same as confidentiality. . . . Copyright protects the property (simply expressed the “words”) of an author of original literary works in which original skill and labour were expended in their creation. Copyright does not protect information. Confidentiality does. Copyright cannot prevent access to information. But copyright can prevent copying or re-use of that information. S.163(1)(b) of the 1988 Act gives the Crown a broad basis of copyright protection. The section states that where a work is made by Her Majesty or by an officer or servant of the Crown in the course of his duties Her Majesty is the first owner of any copyright in the work. ‘Course of his duties’ is a critical phrase in this context—what precisely does it cover? The claim would be brought by the Attorney General. For the ambit of those engaged in the executive branch of government see Laddie, Prescott and Vitoria *The Modern Law of Copyright and Designs* 3rd ed para 36.4. A copyright can be assigned to another party (assignee) by an author. The assignee may then exercise the rights of copyright. Assignment would avoid the difficulties in determining “course of his duties”, but assignment would present other difficulties. I discuss assignment in paragraph 14 below in the context of the present discussion. That officials may hold copyright on a constructive trust for the Crown has been mooted in the *Spycatcher* litigation in the courts at all levels of jurisdiction (above at pp.567, 621, 643, 654-55) and by Scott VC in *Blake* ([1996] 3 All ER 903 at 912). I say “mooted” within the English jurisdiction. The constructive trust device has been used successfully in the USA [see para 17 below].

12. Since the Crossman diaries litigation there has been no reported case law on attempts either seeking to restrain judicially publication of memoirs or to obtain compensation for publication in breach of guidance or administrative rules in cases other than those relating to SIS officers. The Blake litigation in the House of Lords shows that compensation is possible but the special facts of Blake make the case easily distinguishable from the present concerns. To what extent might it be feasible to impose legally binding undertakings and what problems might be presented by such a course are questions dealt with below.

² 27. Civil servants, including Special Advisers, must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, while in Crown employment. The permission of the Head of their Department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the Service. They must submit any manuscripts for comment to the Head of the Home Civil Service in advance of publication.

28. Under the terms of the *Civil Service Code*, Special Advisers should continue to observe their duties of confidentiality after they have left Crown employment.
http://www.cabinetoffice.gov.uk/propriety_and_ethics/publications/doc/model_contract_special_advisers.doc

LEGALLY BINDING AGREEMENTS

13. We have moved on a great deal since Radcliffe reported but his observations on the limits of law and its utility in this area are still germane. He wanted a system in which the “habits of reticence” were honoured. I would, however, suggest that the only possible way to improve upon the practice recommended by Radcliffe and which most, if not all, agree has broken down is to incorporate agreements not to publish into legally binding agreements between Ministers, civil servants, special advisers and diplomats on one hand and the Crown on the other. In sum, I see no reason in law why legally binding agreements could not be entered into by the respective bodies. The pressing questions then become: what would such agreements cover; what remedies could be invoked; and what are the prospects of such agreements being enforced? This latter point necessarily involves discussion of procedures to ensure compliance.

14. **The Undertaking:** An agreement signed by the relevant parties would state that it was a legally binding undertaking not to publish any material or information possessed/acquired/used or relating to [a minister’s/civil servant’s etc . . .] employment in, or experience derived from, Crown service in book/media or other form unless the material had been approved by responsible authorities. The Minister/civil servant/adviser/diplomatic member would agree that until such approval is given, the copyright in any such material will be owned by [assigned to] the Crown and the material would be regarded as confidential. Where the material is approved, copyright will revert to the author and any confidentiality will come to an end. Where publication takes place without authorisation, the Crown will pursue any available remedies by way of an account of profits or damages—standard remedies for breach of copyright—as well as other remedies. If there is a question of a breach of the OSA then any appropriate prosecution may have to be considered. This makes legally enforceable an arrangement which Radcliffe saw operating voluntarily and without legal nicety—that ‘continuity of a general understanding between a succession of people that counts’ (para 59). It adds the support of copyright (which is crucial), and contract law. The views of those responsible for its operation would have to be sought for their opinion on its operability. It should also be borne in mind that the prospective author may by-pass any proposed procedure agreed to by the undertaking without consent forcing the Crown side to seek reparation through the courts for breach of the undertaking. The author would wish to invoke a public interest in publication overriding the undertaking (below).

15. **The Procedure:** The undertaking would specify that consent to publish will not be withheld unreasonably nor for an unreasonable period of time. Anything that smacks of unjustifiable censorship or oppression will be legally fruitless, and deservedly so. There would be maximum encouragement for negotiation around acceptable details. Details of parameters and time schedules would be explained in published guidance. A procedure involving the Head of the Civil Service and relevant Permanent Secretaries seems appropriate. One might wish to note that in March 2006 an independent adviser (the former Comptroller and Auditor General) was appointed to adjudicate on Ministerial conflicts of interests, a post recommended by the Committee on Standards in Public Life. There might advisedly be a right of appeal to a body independent of those officials. This might comprise a mixture of Privy Councillors as Radcliffe suggested—but how independent would such a body be seen to be? Furthermore, to take on board the presence of the Human Rights Act and art 6 ECHR, such a body, if created, would have to have a statutory basis and operate judicially and independently. There is in existence an Information Tribunal now established under the terms of the FOIA to hear appeals on disclosure under that Act and under the DPA (there is also in existence a Copyright Tribunal). The Information Tribunal’s existing frame of reference is statutory. It would require statutory authorisation to act as an appeals panel in memoirs’ cases. Its statutory remit would also have to be addressed carefully: it would not be dealing with a FOIA jurisdiction covering exemptions and disclosures under FOIA, although aspects of that jurisdiction might interconnect with memoirs’ cases on, for example, the public interest in disclosure. The very broad range of ss.35 and 36 FOIA protecting policy formulation and protecting against prejudice to the effective conduct of public affairs should be considered. These provisions, seen by many as too broad for their purpose, are subject to a public interest test. An appellate tribunal would be hearing appeals on highly charged and sensitive matters of judgment often involving combative or aggrieved individuals. One might seriously question whether the Information Tribunal would be suitably positioned to hear such appeals. Might it be possible to co-opt special members for such cases? Might a senior judge, a former Cabinet Secretary unconnected with the case and a ‘disinterested’ newspaper editor be an appropriate mix? One could argue it is getting a little top heavy. Nevertheless, I remain of the view that if an appellate body is deemed necessary, it will have to satisfy human rights requirements under Art 10 ECHR—there is *prima facie* an interference with freedom of expression by the contract clause and any body hearing appeals would have to determine whether the restriction was for a pressing social need, necessary and proportionate. As I show below, these are very demanding tests. If this statutory appellate route were adopted, an appropriate moment for legislation would have to be chosen.

To sum up a statutory procedure would involve: a stipulation that the Crown owns copyright as specified above in written agreements; a procedure involving the Head of the Home Civil Service and [. . .] in giving approval for publication and releasing the copyright to the author; an appeal to a tribunal against a refusal to permit publication either in whole or in part; a right of appeal on a point of law to the High Court.

16. In the absence of such an appeal mechanism, there would be the fall back of a challenge to the courts to determine the legality of any restriction or refusal to publish. Such a challenge would involve the “anxious scrutiny” of the Human Rights Act and the closest of judicial attention (see Lord Bingham in *R v Shayler* [2002] 2 All ER 477 (HL) paras 29–36). Nobody on the government side would wish for dirty washing to

emerge from this process. Indeed, even with such an appellate body judicial challenge of its decision would be available if there was not a statutory appeal to the courts. The prospective author will be contesting the nature of his contractual rights and their judicial determination. This is ultimately a matter for the courts. There is a question of which procedure applies—public or private law as contractual matters involving government are usually determined by private law process.³

17. The Remedy: I have already stated the remedy from this breach would be an account of profits. This was the remedy that was employed by the law lords in *Blake*. In America, a breach of constructive trust has been used to extract compensation for wrongful publication in breach of an agreement by a former CIA operative to engage in prior review of the manuscript (*Snepp v. US*, 444 US 507 (1980)). The agreement, made at the beginning of the agent's employment, covered all information—classified and otherwise—but the court only dealt with unclassified information). *Blake* broke new ground in English law because it was a remedy usually reserved for copyright or breach of confidence claims and not for breach of contract. Despite the outcry from contract purists, the reasoning in the case in relation to the remedy has been supported in subsequent case law. Scott VC recoiled from stating that Blake was a fiduciary because of the total control this would give to government over officials in his position—it could prevent such a person from ever using their experience gained in office for perfectly proper purposes. For Lord Steyn, however, Blake's position was akin to a position of special trust and that relationship and undertaking had been betrayed by publication. Blake's actions as a spy had led to the deaths of many agents. It was difficult to assess any damage to the Crown by publication of the book—the information was no longer confidential and was widely known (had it been confidential then *Attorney-General v. Guardian Newspapers Ltd* (No. 2) ([1990] 1 AC 109) shows that an account of profit would be permissible). In the circumstances, the remedy by way of an account of profits in *Blake* was most appropriate—if somewhat creative and its exceptional nature was emphasised. It is 'exceptionally' available where general remedies for breach of contract are inadequate and the claimant has a legitimate interest in preventing the defendant profiting from a breach. The past and future activities that attract the concerns of the committee in this inquiry are not of this order. Without such an agreement as drafted above the courts might be reluctant to extend *Blake* to the publications of the present group of authors absent the most egregious breach of duty. The agreement as drafted above makes *specific and express* provision for an account of profits or damages and would state that the agreement is legally binding. Where a remedy in damages would be more appropriate this could be claimed as an alternative or in conjunction with an account.

18. Prospects: The difficulties in this procedure are obvious from past practice. It seems to me that a weakness in approach to date has been the limp-wristed or confused reaction seemingly taken against those who breach their trust. The Crossman litigation has not encouraged a robust approach. The "old state of indeterminacy" criticised by Radcliffe (61) before that litigation has persisted since that time. And quite simply, one is not going to stop publications by former Ministers and senior officials where they remain resolutely determined to publish. In the case of Ministers, evidence has been given of outright refusal to sign such undertakings of non publication—Radcliffe recommended that Ministers should sign a declaration of notice of the contents of his recommended rules (para 71). The point is of course that refusal is easier when one is in office. Is it likely that such refusal would be as steadfast before ministerial appointment? Most officials, civil servant or diplomatic, would not wish to breach guidance, whether administrative, legal or otherwise, and there is a dramatic recent example of that in Greenstock's memoirs. If an individual feels impelled to justify him or herself from a sense of grievance or if they wish to inflict harm on opponents and loss of profits is not a concern, there is little that can be done unless the memoirs are in breach of OSA and a criminal matter, or defamatory and might possibly meet with exemplary damages. Even then, the prospect of a civil or criminal trial would be unlikely to deter action. Unless sensitive national security or diplomatic information was involved the prospects of secret trial would be unlikely. The picture could be deeply embarrassing. There may well be a significant public interest factor present in what is written.

19. The Public Interest Factor: The public interest in disclosure has been afforded a widening interpretation. Originally confined to wrongdoing, it would now apply to information which it was genuinely in the public interest that it should be publicised. It would include a public interest in not being misled; or publication of that which is a matter of public concern. To give further illustration, a revelation might expose the truth about government operations and constitute a more candid public record of events than the official record would suggest. It may be of a very high public interest to reveal the feet of clay of governors, their lack of judgement or errors from an insider's perspective. Publication may be justificatory as an aspect of self defence. Prevention of publication may amount to an unjustified interference with a right to freedom of speech and signing of declarations or undertakings may be regarded as possessing an unlawful 'chilling effect' on such a right. Furthermore, one must face the fact that what is being sought is an opportunity to see and if necessary attempt to influence the scope and tone of what is published and to give that opportunity a more realistic chance of success. Unless the content showed clear damage to the public interest, it may be difficult to argue with confidence that such an undertaking would be enforceable to obtain an account of profits after publication. If the courts would not prevent publication by injunction, they may well be reluctant to enforce agreements that have a chilling effect on freedom of speech. In other words, if an agreement were tested there would have to be the clearest of public interest grounds not to publish for

³ Involving as the problem does questions of public entitlement and human rights, it may be that public process via judicial review is more appropriate. It is unlikely that the choice of procedure would prevent a full ventilation of relevant questions.

it to withstand scrutiny. Contrariwise, the courts may not stop publication, but they may make an order for an account of profits because the author has acted in breach of an undertaking but not in any sense that upholds a public interest in publishing. The courts have emphasised that contractual obligations of confidentiality are no more resistant to public interest disclosure than other duties of confidentiality—see Sedley LJ (with whom Aldous LJ agreed) in *London Regional Transport & Anor v Mayor Of London & Anor* [2001] EWCA Civ 1491 [2003] EMLR 4:

“55. Whether or not undertakings of confidentiality had been signed, both domestic law and Art. 10(2) would recognise the propriety of suppressing wanton or self-interested disclosure of confidential information; but both correspondingly recognise the legitimacy of disclosure, undertakings notwithstanding, if the public interest in the free flow of information and ideas will be served by it.

20. Robert Walker LJ in the same case at para 46 stated :

“No authority has been cited to the court establishing that an apparent breach of a contractual duty of confidence is more serious, and is to be approached differently (as regards injunctive relief) than other apparent breaches. Indeed in many cases (of which *Lion Laboratories* [1985] QB 526) is an example) the defendants include ex-employees who had been in contractual relations with the claimant, and representatives of the press who were not bound by contract, but the court adopts the same approach to both. That is in line with the principles stated in the judgment of Bingham LJ in *Spycatcher* (above); and see *Saltman Engineering Co* (above).

21. **Copyright and the Public Interest:** It should be recalled that the agreement outlined above (para 14) assigns copyright to the Crown and does not simply provide for protection of confidentiality. However, a public interest test applies to overrule copyright as well as confidentiality (*Ashdown v Telegraph Group Ltd* [2001] 4 All ER 666 (CA): s.171(3) Copyright etc Act 1988—although the precise scope of the public interest in relation to overruling copyright and its similarity to the public interest in confidentiality await fuller clarification).⁴ In *HRH Prince of Wales v Associated Newspapers* [2006] EWHC 522 Ch, there is a discussion of various defences against a breach of copyright claim under the ‘fair dealing’ provisions of the Copyright etc Act 1988, s.30 (1) and (2) and the public interest provision in s.171(3). This discussion is hinged upon the usual context of a breach of copyright claim where a newspaper is seeking to justify a breach of copyright owed by the original author. If assignment were to take place, then the dispute would be between the author (assignor) and the Crown (assignee) whereby the latter would seek to prevent publication by the original author. This adds an interesting complication, given the freedom of expression and public interest factors that could easily be involved, to the usual dispute between an author and a publisher in breach of copyright. The case law suggests that while repetition of original extracts may be permissible for criticism, debate on current affairs or a possible wider public interest, wholesale verbatim repetition is unlikely to be justified to the detriment of the author.

22. **Freedom of Speech:** I think particularly pertinent to public interest discussion and the tests applied by judges is the following from *Shayler* [2003] 1 AC 247, where Lord Bingham said at para 21:

The reasons why the right to free expression is regarded as fundamental are familiar, but merit brief restatement in the present context. Modern democratic government means government of the people by the people for the people. But there can be no government by the people if they are ignorant of the issues to be resolved, the arguments for and against different solutions and the facts underlying those arguments. The business of government is not an activity about which only those professionally engaged are entitled to receive information and express opinions. It is, or should be, a participatory process. But there can be no assurance that government is carried out for the people unless the facts are made known, the issues publicly ventilated. Sometimes, inevitably, those involved in the conduct of government, as in any other walk of life, are guilty of error, incompetence, misbehaviour, dereliction of duty, even dishonesty and malpractice. Those concerned may very strongly wish that the facts relating to such matters are not made public. Publicity may reflect discredit on them or their predecessors. It may embarrass the authorities. It may impede the process of administration. Experience however shows, in this country and elsewhere, that publicity is a powerful disinfectant. Where abuses are exposed, they can be remedied. Even where abuses have already been remedied, the public may be entitled to know that they occurred. The role of the press in exposing abuses and miscarriages of justice has been a potent and honourable one. But the press cannot expose that of which it is denied knowledge”.

23. And in *Mersey Care NHS Trust v R. Ackroyd* [2006] EWHC 107 there is an emphatic judgment in support of freedom of speech. The truth is that memoirs by star “insiders” are often of interest to the public as political soaps and publication may additionally be in the public interest.

24. That said, the right under Article 10(1) is not absolute. It is qualified by Article 10(2) which expressly refers to accompanying duties and responsibilities and the right may be subject to formalities and restrictions “prescribed by law” (a binding agreement would satisfy that requirement) and which are *necessary* to protect the reputations of others (defamation) or to prevent disclosure of information received in confidence (see

⁴ See eg *Beloff v Pressdram Ltd* [1973] 1 All ER 241; *Lion Laboratories v Evans* [1984] 2 All ER 417.

below). “Necessary” is a very demanding test.⁵ The pressing social need would be to protect the integrity of advice given and received in office, to ensure that those still in service are confident that they can advise candidly and honestly. This would not arguably include title tattle, gossip, bad taste or opinion. The restraint agreed to would have to be proportionate.⁶ Crown bona fides might be enhanced by an undertaking to donate any litigation gains to a good cause.

ARTICLE 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

TIMING

25. A crucial factor is the timing of a publication. Radcliffe’s fifteen years for confidential relationships seems hopelessly unrealistic although he did not recommend a legally binding procedure. It was ultimately voluntary—based upon “rules of reticence” (para 65). As Radcliffe also recognised questions of timing are also fact sensitive and do not easily accommodate arbitrary limitations. Perhaps it is better to place no limit in rules but to offer detailed guidance as suggested above on what should be avoided. To most what should be avoided, and which is not presently proscribed by law, is pretty obvious: that which is salacious and marketable; the very thing publishers wish to publish.

BROADCASTS

25. Radcliffe also commented upon broadcasts as well as publications. Where these do not contain a prepared written text it is difficult to see what limitations can be placed on them unless the broadcast amounts to a serious breach of confidentiality which simply begs the question.

DIARIES

26. A ban on taking personal diaries into Cabinet or official meetings does not seem disproportionate. Attempting any further restriction on diaries would be risible.

CONCLUSION

27. If the contractual route will not operate successfully and if the self denying ordinance has broken down in too many cases for comfort then quite frankly it is difficult to see what might work. What else can be offered apart from “Let them publish and let the public make their judgement.” Any action must avoid the appearance of oppression or victimisation. Guidance would have to make a convincing case that what is proposed is in the legitimate interests of efficient and responsive government and is not an unjustifiable attempt to muzzle freedom of speech. I leave unexplored any disciplinary action that might involve diminution of pension rights.

Addendum: The Revised Diplomatic Service Regulations and the Cabinet Office Memorandum of March 2006: *The Publication of Political Memoirs.*

(i) After the above advice was drafted, a revised DSR5 on *Use of Official Information or Experience etc* (2 March 2006) was sent to the Committee together with a Memorandum from the Cabinet Office on *The Publication of Political Memoirs.*

(ii) The text of DSR5 appears to be in final form. The revisions are described as adding “nothing substantially new”. The Cabinet Office memorandum is a statement of policy and intent. The Guidance on application of DSR5 states that the amendments “bring DSR5 . . . into line with Cabinet Office rules.” A statement on the DSR revision was made by the Secretary of State for Foreign Affairs on 6 March 2006. This statement refers to the amendment of individual contracts of employment and notices to take on board the revisions and that staff will agree to be “bound” by the undertakings. This sounds like an intention to

⁵ See Sedley LJ in *Interbrew* [2002] EWCA Civ 274 para 47; Lord Bingham in *Shayler* above para 22 at para 23; Lord Woolf CJ in *MGN* [2002] 4 All ER 193 paras 61-62.

⁶ See Lord Steyn in *R (Daly) v Secretary of State for the Home Department* [2001] 3 All ER 433 (HL).

create a legally binding agreement. All officials who are sent a copy of the revised regulation (SMS and non SMS Heads of Staff) will have to click a “Read and Agree” button attached to the message to confirm that they have read and understood the message and that they agree to be bound by the terms of DSR 5 as revised. The notice on publication and confidentiality will be repeated at important stages of career development. The latter provisions on undertakings and notice are new.

(iii) This method of agreeing and confirming the terms of the notice would appear to satisfy objective requirements of evidence of agreement and would be legally binding. However, the CO memorandum speaks of relevant staff “signing” such undertakings.

(iv) The DSR makes no reference to assignment of copyright as outlined in the advice above. The Cabinet Office Memo contrariwise explains that “individuals will be asked to *assign copyright* to the Government of future works”. Given the statement about the effect of the amendments and the bringing of them into line with Cabinet Office rules quoted above, is DSR5 to be amended along these lines? One may ask why such an important point has **not** been incorporated within the existing revision of DSR5?

(v) DSR5 as revised pays no attention to what remedies are available to the Crown where an official or former official acts in disregard of the regulation although it does refer to misconduct procedures summarised at DSR 27 in the case of existing officials. Para 9 does refer to Crown copyright but to the provisions of the 1956 Copyright Act which is repealed and now superceded by the 1988 Copyright etc Act (see above), although the substance is the same. This is a reference to the Crown as first owner of copyright not as assignee. The reference to the old statute is perplexing. It might indicate a lack of familiarity with copyright law. The paragraph explains the role of the Controller of HM Stationery Office and the Office of Public Sector Information where copyright is involved. The reference is to copyright by virtue of s. 163(1)(b) of the 1988 Copyright etc Act and not to assigned copyright which is dealt with in the above advice. In other words, it will raise the very difficult question of what precisely is covered by Crown copyright within s. 163(1) (see **para 11** above).

(vi) Unless there is a breach of criminal law or the civil law of confidentiality or copyright as outlined above in the first advice, it is difficult to see what advantages may flow to the Government legally where an individual is intent on publishing memoirs in purported breach of an undertaking. If an agreement is breached by a former official (the most likely scenario) then there are remedies for breach of a legally binding undertaking. But these remedies are unlikely to be anything other than nominal damages where the information itself does not attract the law of confidentiality (see above). The remedy fashioned by the House of Lords in *Blake’s* case (above paras 12 and 17) was described by the Law Lords as ‘exceptional’. Furthermore, the new provisions can only cover existing officials; former officials will not have signed the revised undertakings and will be governed by the existing regime. DSR5 has been tightened up in its revision. Its efficacy is likely to operate on the strength of its intimidatory character rather than its strictly legal effects.

(vii) There is, to repeat, a tightening up of the substance of the regulations. The revisions in DSR5 cover in addition to areas where the public interest is likely to be damaged by publication (national security, international relations) areas which were addressed by Radcliffe but where legal restraint has not been effective or non-existent—“a never precisely definable area of government confidentiality” (para 69). These include publications that:

- would be destructive of the confidential relationships between Ministers and between Ministers and officials
- Create the possibility of embarrassment to the government *in the conduct of its policies* (as opposed to embarrassment brought about by Government’s own deficiencies)
- That would bring into question the good name and impartiality of the Diplomatic Service

(viii) There is a legitimate ground for believing that publications outlined in bullet form may well be damaging to processes of government but the inability of the law to deal with such publications has been indicated. The areas highlighted attempt to protect that trust and professionalism that should be at the centre of relationships between Ministers, and between Ministers and senior advisers, but on which the law has proved ineffective unless a disciplinary framework exists to provide a sanction over existing diplomatic or civil servants and advisers. The ability of the revised regulations to deal with such publications where the author is intent on publication has to be questioned. In the vast majority of cases authors will not wish to publish in breach of the regulations and the revised format will give emphasis to the restrictions and reinforce inhibitions.

(ix) The revision also includes a reference to media programmes, lectures, interviews and so forth. This repeats the substance of the former DSR5. In reality, as the FCO acknowledge (PPM 10) it is “neither practical nor reasonable to require that no retired FCO officer may speak publicly on a matter with a bearing on his or her past employment as a Crown Servant without first clearing lines with the FCO.”

(x) The revised regulations do emphasise that permission has to be sought before any commitments are entered into with publishers **and** clearance has to be given for any text with specified periods of notice. The two stage process is spelt out.

(xi) Where material is “confidential” as set out in the revised DSR5 (not where it breaches a legal obligation of confidentiality), Radcliffe’s suggested period of embargo of fifteen years is repeated, although this period is context sensitive and specific. Depending on circumstances, a shorter period or longer period

may suffice, the revision states. Even with an undertaking as envisaged in DSR5, I find it difficult to see why this time constraint should be any more effective than the Radcliffe limitations. Radcliffe did not envisage a legally binding undertaking; *ministers* would sign a declaration that they had notice of the rules on confidentiality. Their application would depend upon good form. Departments would devise their own procedures for civil servants (para 71). A strong public interest in publication and human rights' considerations are unlikely to be defeated by such time constraints. Everything depends on context.

(xii) I have already outlined the provisions in the CO memorandum in relation to assignment of copyright for future works and serialisations and my advice above addresses this point. The memorandum says that the CS Management Code will make it "more explicit" that permission must be sought by former civil servants from the Head of their former department and from the Head of the Home Civil Service before commitments are entered into and that a copy must be submitted "in good time" of any proposed text which draws or appears to draw on official information or experience. Staff in "sensitive posts" (as defined by Permanent Secretaries for their departments) will have to **sign** agreements that they will abide by the rules and that they assign copyright. Reminders will be made at regular intervals of these obligations. To repeat, the revised DSR5 makes no reference to assignment and this is a serious weakness from the Government's perspective.

(xiii) The Committee may wish to consider that there has been little public discussion by the authorities of any comparable revision of rules relating to Ministers—the focal point of Radcliffe's inquiry and report. This matter was given added importance by the evidence of Ministerial intervention in decisions affecting former diplomats (Jack Straw, 29/03/06) although no formal locus is given to Ministers under the regulations.

27 April 2006
