
LOOSE LIPS SINK SHIPS

When it comes to government, our obsession with transparency is misjudged, argues historian **Andrew Roberts**. Instead of openness and accountability, it can have the opposite effect

Every CEO will be acutely aware of the constant tension between the need for confidentiality in protecting vital information from competitors, and the increasing transparency demanded by the media, the public and corporate communications firms. The power of social networking sites to brand a company secretive and even sinister is mirrored in the political world by WikiLeaks and other whistleblowing websites that thrust government secrets into the public sphere in the name of freedom of information. Do we still have secrets worth protecting in this new age of total transparency?

As a historian I have continually rubbed up against Britain's "30-year rule," by which the decision-making process behind every major government policy is kept rigidly secret until the first day of the year three decades after the decision was taken. It can be fabulously frustrating, of course, to be following a historical trail only to see it disappear behind the granite edifice of the 30-year rule. I have also had to face 50-, 75- and even 100-year rules, the last of which operates in the case of some files relating to Northern Ireland terrorism or Britain's royal family. Absurdly enough, files are sometimes kept closed in the UK even though identical ones are available under the US Freedom of Information provisions in the United States.

Nonetheless, the excitement at the National Archives in Kew, southwest London, is palpable every January when dozens of journalists descend on the hitherto secret papers of three decades before. Next January, for example, we will be finding out the thought processes of Margaret Thatcher's government in 1981, a tumultuous year in British and world politics.

In 2009, an official commission headed by Paul Dacre, Editor of the *Daily Mail*, one of Britain's top-selling newspapers, recommended that the period for official secrecy should be reduced from 30 to 15 years. "The existing rule seemed to condone unnecessary secrecy rather

than protecting necessary confidentiality," Dacre reported. "This perception of secrecy was breeding public cynicism." The whole issue has since been put on hold by a change of government, quite rightly so in my opinion.

For although it would make my job as an historian easier and more interesting, I believe that halving the period of official secrecy would fundamentally alter the way government works, for the worse. At present, civil servants advise ministers in memoranda that they know will not be made public until after they retire. Under a 15- or 20-year rule, however, they might be nearing the top of their departments when the National Archives start to reveal the advice they gave, which at the time they thought would remain secret. The potential for embarrassment, even humiliation, would be immense and could even destroy careers. It might mean that civil servants would simply not give their honest advice but only that which would look safely sanitized when it appeared in the newspapers 15 years later.

Even more worryingly, civil servants might only communicate controversial advice personally, in unminuted meetings or untaped phone calls. Historians would never be able to discover how the decision makers arrived at



An Enigma cipher machine, used by Germany during the Second World War to keep its communications secret. The machine's rotors created billions of combinations of letters to scramble messages. The Germans believed in the absolute security of the Enigma, but with the help of Polish mathematicians, British codebreakers cracked the code. The intelligence gathered by intercepting coded messages – and keeping secret the fact that the German code system had been broken – was vital to winning the war. These events were kept secret until 1974. Photograph: Getty Images

the policies they did. Furthermore, there would be no record for government itself to learn even what decisions had been taken, never mind how they had been arrived at. What was nicknamed “sofa government” in Prime Minister Tony Blair’s years in power, because so many important decisions were taken privately on his sofa in Downing Street rather than around the Cabinet table, would become the norm.

Of course none of this matters if a civil servant’s advice is made public 30 days after giving it – as was the case with some of the US ambassadors humiliated in the WikiLeaks *imbroglio* – rather than 30 years later. I believe that the British laws on treachery, hacking, extradition, and unlawful disclosure of confidential information need to be tightened up, along the lines of the very tough and effective 1911 Official Secrets Act. Far from being more liberal, forgiving and tolerant in our digital information age, the demands of national security during the “war on terror” actually require us to be tougher.

The 1911 Act was passed during the period of pre-Great War spy fever, but has served its purpose on numerous occasions ever since. It only applies to those who voluntarily sign a copy of its provisions, but the catch-all phraseology of its first section, covering any activities “prejudicing the safety of the state” and passing information to a foreign government, gives it wide powers. Its second section was overtaken by a new Act passed in 1989, another usefully wide-ranging piece of legislation.

The whole idea of there being “official secrets” stemmed from an incident in 1878 when the secret clauses of an important treaty were taken down by a Foreign Office copying clerk, who sold them to *The Globe* newspaper, which published them in full only a matter of days before the treaty was due to be signed, causing enormous diplomatic embarrassment to the government of the day. It turned out that the clerk had broken no laws because he had not actually removed any documents from the building, and he owed no contractual duty of confidentiality to his employers. Nonetheless, despite this absurd anomaly, it took 11 years to close the loophole with the passing of the first Official Secrets Act in 1889. There were further Acts passed,

including the draconian one of 1911, another in 1920 and then a third just as the Second World War broke out in 1939.

To sign the Act is a serious moment. I signed it in the 1980s when I was being interviewed for a job in MI6, Britain’s foreign intelligence service. A decade or so later I wrote a newspaper article about the process of positive vetting, the official checks on a person’s background and political persuasion before they are given a job, in order to protect national security. The former MI6 spy Richard Tomlinson – then in exile in France – insisted that I should be investigated under the Act. A few days later, two Special Branch detectives arrived at my door and then grilled me for an hour about my statements, writings and actions, albeit in a very civil manner. They decided there were insufficient grounds to prosecute, but there are provisions for sentences of up to 14 years in prison for those found guilty of breaking the secrecy laws.

Britons’ ancient liberties are protected by the fact that occasionally a jury will acquit, as happened in 1985 in the case of the UK Ministry of Defence whistleblower Clive Ponting, who was charged with leaking documents about the sinking of the

Argentine cruiser *General Belgrano* three years earlier. Of course for civil libertarians, the very concept of the state having secrets to which the public have no right of access is anathema, but in wartime – which the struggle against terrorism effectively is – they are essential. Equally, although the concept of allegiance to the Crown, and of treachery to it, seem to hark back to medieval times, in fact they are ideas whose time has come again, especially with British citizens being captured in Afghanistan and elsewhere in the act of bearing arms against Crown forces.

Whether the general rule applies to business in general and CEOs in particular is debatable, but when national security is at stake, we should always err on the side of confidentiality over transparency.

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Dr Andrew Roberts is a historian, journalist and broadcaster. His latest book, *The Storm of War: A New History of the Second World War* won the British Army Military Book of the Year Award for 2010. He is a Fellow of the Royal Society of Literature and lives in New York with his wife, Susan Gilchrist, Brunswick’s US Managing Partner.