

**Written evidence submitted by the Rt Hon Lord Owen CH to the 30-year Rule Review**

There are three aspects of my practical involvement with the 30 year rule which may be of interest to the Review.

1. Writing two books, an autobiography *Time to Declare* and *Balkan Odyssey*, which drew on my experience as EU Co-Chairman of the International Conference on the Former Yugoslavia. I gave evidence on this to the Select Committee on Public Administration chaired by Tony Wright MP on political memoirs, the evidence of which has been published. (See Annex A)
2. Establishing, as Foreign Secretary, in 1977 the Enquiry conducted by Thomas Bingham QC concerning the operations whereby the supplies of petroleum and petroleum products had reached Rhodesia since 17 September 1965. This is described in *Time to Declare* published by Michael Joseph (1991), pp 292-297.
3. Making a Freedom of Information request in 2007 relating to papers on nuclear strategy during the Labour Government of 1974-79. (See Annex B)

Taking the three aspects mentioned above in order:

1. In my oral evidence to the Public Administration Select Committee Fifth Report of Session 2005-6 *Whitehall Confidential? The Publication of Political Memoirs* I mentioned that I thought the 30 year rule should be reduced to 10 or certainly 15 years. I think there is a case for a time limit on the disclosure of Cabinet documents. Whatever period is chosen it is also reasonable for official historians and major enquiries to sometimes have access to these documents earlier and be able to draw on the information as background. If they wish to draw on the conclusions or quote from the Cabinet papers I believe they should obtain the permission of the individual quoted and be authorised by some independent source, such as the Information Commissioner, so as to prevent revelation and quotation becoming the rule rather than the exception.

I enclose in Annex A correspondence with the Cabinet Secretary in January 2006 showing that they had no record of their earlier correspondence with me in 1991 over my autobiography. It seems

to me odd that this correspondence should have been destroyed two years before my papers would be normally disclosed under the 30 year rule. In fact because I have a fairly good filing system of my own I was able to find copies of the correspondence which was published with my written evidence to the Public Administration Select Committee in July 2006 (also included in Annex A). I would not ask that such correspondence should be permanently preserved in the National Archives but I think it is a matter of public interest to know what censorship was exercised in the past over Ministerial biographies, at least for a few years after the relevant 30 year rule expires. After all, we are dealing effectively with censorship here and the extent of it needs to be assessed and monitored.

I hope your Review will make recommendations on policy for keeping or pulping Ministerial papers and Cabinet meetings. For example, when I came to look up my records as Minister for the Navy when writing *Time To Declare*, 20 years later, the papers had been shredded. When I asked the DHSS, in 1986, to look up my papers from 1974-6 in relation to deciding to give evidence about the failure to reach self-sufficiency in blood products, that I had announced to Parliament in 1975, I was told that all my Private Office papers had been pulped. When I asked to see my Private Office papers as Foreign Secretary there was no standard practice with regard to their release or retention. For example, the FCO have informed me they cannot make available the official diary of appointments kept by my diary secretary during my tenure as Secretary of State because they have not been retained. In my view the diaries are an essential reference point for meeting key people.

One aspect of the 30 year rule relates to my book, *Balkan Odyssey*, when it became clear in 1995 that, as a former EU negotiator, there were no EU rules or regulations then which applied to the situation and I was left by the British Government to make my own judgement as to what was appropriate to publish. I have also had to make my own rules for access to my papers which are held by the Department of Special Collections and Archives at the University of Liverpool and make my own decisions as to the appropriateness of any quotations which researchers may wish to make. This EU aspect may become more of a problem in future years.

2. In essence, what the Bingham Enquiry demonstrated was that even when a public enquiry was being held, the Cabinet Office believed Thomas Bingham should not have access to the Cabinet

papers and it is only because I had instructed that all papers in the FCO were to be shown to Bingham and they had inadvertently retained the Cabinet Minutes on file, and not returned them to the Cabinet Office, that they came to his notice. When this became apparent to the Cabinet I was instructed to persuade Mr Bingham not to quote directly from the information he had seen. Yet it was this information that was absolutely crucial as to whether the oil companies, BP and Shell, would be taken to court for breaking British law. Only when it became obvious from the Cabinet papers that Ministers had been aware in 1968 that the law had been broken from 1967 onwards and that there had been no reference to the Director of Public Prosecutions did it become obvious that there had been a major cover up inside Government. Any prosecution of the oil companies ten years later would have involved revealing this cover up. I hope your Review will make it clear that in practice, and if necessary in law, any such inquiry in future must be able to see and quote Cabinet documents regardless of any overall rule on disclosure.

3. In relation to the correspondence from 2007 (Annex B) it has since become apparent that the Cabinet Office, despite the disclosure being inadvertent, have decided to retain in the National Archives, the paper referred to in my correspondence, *The Future of the Nuclear Deterrent: A Commentary*. This paper is a commentary on the so-called Duff/Mason Report which was discussed by myself and three other Ministers in the Callaghan Government in December 1978 and resubmitted to Ministers in the Thatcher Government in June 1979. It is hard to understand why the full Duff/Mason document, that I requested should not have been made available to Parliamentarians, prior to the debate on Trident in 2007. It was denied despite the relevant papers being only two years short of the 30 year rule. I was told by the Cabinet Secretary on 2 March, 2007 that the Ministry of Defence was "looking to withdraw it from National Archives" and I was asked if in the interim I would refrain from referring publicly to this document and some other documents. I agreed to do so for the Commentary on the Duff/Mason Report because I recognised that that dealt with some sensitive questions but I told the Cabinet Secretary on 6 March, 2007 that I could not accept his request to refrain from referring publicly to the issue of the Chief of Defence Staff's view conveyed to the Defence Secretary in 1975 because I had already mentioned it in the House of Lords debate on the UK's nuclear deterrent on 24 January, 2007.

I do not believe I should have been asked not to comment on these documents that were then and still now are in the National Archives and which were no longer covered by the 30 year rule. The information concerned was embarrassing, but it was not by then a defence secret that needed to be protected. The embarrassment came from the revelation that the Defence Secretary and the Chief of Defence Staff were deliberately withholding from the Chancellor of the Exchequer the new fact that the nuclear deterrent was no longer capable of penetrating Moscow's ABM defences. It is pretty clear from the papers in the National Archives that the information was withheld for a period from two Prime Ministers, Harold Wilson and James Callaghan. There is also evidence from Mr Brooke's letter to me of 3 July, 2007 that it was never made available to Denis Healey or myself as Foreign Secretary despite there being extensive discussion within the group of four Ministers on whether it was necessary for any future deterrent to be able to penetrate Moscow's ABM defences. The fact that for at least six years Britain had a deterrent that could not penetrate was highly relevant to these Ministerial discussions. This material should not by any disclosure criteria have been withheld. Ministers were perfectly well aware, from 1974, that there was some doubt that Polaris missiles, without Chevaline, could be guaranteed to penetrate Soviet ABM defences but the definite knowledge that they could not and that alternative targeting strategies were being contemplated was highly relevant to other Ministers and should not have been withheld by the Ministry of Defence.

I hope this information helps and I look forward to responding orally to any questions you may have.

END

February 2008