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SECURITY

(Robin Cook's Bill on the Security Service)

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Confidential Filing

Mr Robin Cook's Bill on the Security Service

SECURITY

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November 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
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Security

c Mr Chilcot
Miss Dews
Mr Andrew
Mr Heaton
Mr Phillips
Mr Daly

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17 DEC 1979
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MR PANTLING

PA

MS

DRAFT SPEECH IN REPLY TO MR ROBIN COOK'S CONSOLIDATED FUND DEBATE ON THE SECRET SERVICE : 18TH DECEMBER 1979

D 18/12

I attach the draft of a speech for Mr Brittan in reply to Mr Cook's debate on the Secret Service in the consolidated fund debate on Tuesday night.

I am awaiting final clearance of the text from one or two other departments; I have asked for this by 11 am tomorrow so I hope that we can make any amendments to the text which are necessary by mid-day tomorrow.

RMW

17th December 1979
Secretariat

R M WHALLEY

DRAFT SPEECH IN REPLY TO MR ROBIN COOK'S CONSOLIDATED FUND DEBATE ON THE SECRET SERVICE : 18TH DECEMBER 1979

1. Mr Speaker, debates about the Security Service in this House happen infrequently. This is because the House has always acknowledged that the requirements of national security substantially limit the information which can be given. But there is nothing secret about the existence of the Security Service. What is secret, and rightly so, is the way in which it carries out the responsibilities laid upon it. There is a feeling in some quarters that because the Service operates out of the public eye, and most of its activities remain secret, it is in some way not accountable to Ministers, and through Ministers to this House. That feeling seemed to me to lie at the heart the speech the hon member for Edinburgh Central made when moving his Bill a week ago.

2. Mr Speaker, it may assist the hon member if I remind him of the arrangements which already exist for the supervision of the Security Service. They rest on two grounds: the responsibility of the Security Service to Ministers, and the accountability of Ministers to Parliament. I should like to refer the hon member to Lord Denning's report of 1963. That report, of course, was not principally concerned with the Security Service. But aspects of the Security Service's work were closely concerned in the case which Lord Denning was inquiring into; and therefore he set out in his report some of the basic information about the Security Service. This included the terms of the Directive

/from the

from the then Home Secretary, Sir David Maxwell Fyfe, to the Director General of the Security Service on 24th September 1952.

3. I will not take up the time of the House with a recital of that Directive (it can be found in paragraph 238 of Lord Denning's report) or of the way in which Lord Denning interpreted it. But it is worth reminding the House of two particular points. The first is that the Directive of 1952 sets out quite clearly and unequivocally the relationship between the Director General and Ministers. There can be no doubt here. The Director General is put in operational charge of his service. But he is made responsible to the Home Secretary personally; he has the right of direct access to the Prime Minister on appropriate occasions.

4. The second point which I would like to draw to the attention of the House is that Ministers are accountable to this House. The House expects Ministers to keep a fair balance between the need to keep the House informed on important matters of national security and the need not to reveal information which will endanger the work of the Security Service. Lord Denning was as clear about the Home Secretary's accountability to Parliament for the actions of the Director General of the Security Service as he was about the direct responsibility of the Director General of the Security Service to the Home Secretary for the efficiency and proper working of the Service. The chain of accountability is thus clear. It depends entirely on the trust which this House is prepared to place in Ministers. Furthermore, we have a very recent statement by the Government on how the principles governing the relationship between the Security Service and Ministers,

/as

as set out in the Denning Report, are expected to operate. I refer the hon member to the speech my rt hon friend the Prime Minister made in the Debate on the Adjournment on 21st November.

5. Mr Speaker, the procedures take proper account of the need to exercise an effective control over the Security Service. But they also have regard to the need not to endanger the work of the Security Service. The House will have noticed the reference my rt hon friend the Prime Minister made in her speech on 21st November to the need to support the work of the Security Service. The Government believe that the arrangements I have described have worked well; and that they ensure the proper degree of control and accountability at political level, without prejudicing the effectiveness of the Security Service.

6. I should like next to deal with two matters which I know are troubling the hon member for Edinburgh Central. The first is financial control over the Security Service. Authority for the financing of the Security Service is conferred by the vote for Other External Relations : Secret Service, and the confirming Appropriation Act. The Cabinet Office account for this vote.

7. The second point is that Lord Denning discussed in paragraph 273 of his report the legal basis of the Security Service. He pointed out that it is not established by statute nor is it recognised by Common Law. The House will observe that, in that paragraph, Lord Denning did not suggest that any change was necessary in the arrangements under which the Security Service operate. What he did do was to emphasise that, because the

/Security Service

Security Service have no executive powers of arrest, they depend very closely on co-operation with the police forces. In his view, and I quote now from paragraph 277 of his report, "The degree of co-operation which is essential between the two Services seems to be a further reason why the ministerial responsibility should be in one Minister, namely, the Home Secretary."

8. Mr Speaker, I hope the House will not press me about the operational business of the Security Service. We have a tradition on these matters in this House. I hope we shall continue to adhere to it. My rt hon friend the Home Secretary is well aware of the responsibility this places upon him, which he fully accepts.

Mr. Chilcot.
Mr. Wheeley (Food)
Mr. Thomas (Ch)
Mr. Phillips (Ch)

SB 1/1/3

SECURITY SERVICE

4.2 pm

Mr. Robin F. Cook (Edinburgh, Central): I beg to move,

That leave be given to bring in a Bill to give legal authority for the creation of a security service, and to provide for the appointment of its Director-General and for his accountability to Parliament; and for connected purposes.

I am conscious that the House and the country have been subjected to a welter of information and comment on the Anthony Blunt affair. It reached a new height of absurdity last week when the *Evening News* splashed on its front page an exclusive story that Mr. Blunt is now working on a book on architecture. I hasten to assure the House that I do not propose to weary it with yet another speech about the Blunt affair. However, it would be remiss of the House to allow the Security Service to sink from sight for another decade until the next spy scandal gives us another opportunity to probe what it does in our name. Instead, we should provide a proper legal framework for the Security Service and a proper system of accountability.

It is a remarkable fact that there is no Act on the statute book that provides the Government with the legal authority to raise and maintain a Security Service. I can go further than that. I have had the Library check through the statute book and it has come up with only one statute that even acknowledges the existence of the Security Service—namely, the Civil List and Secret Service Money Act 1782. Section 24 of that far-seeing piece of legislation provides:

"for preventing as much as may be all abuses . . . it shall not be lawful to issue for the purpose of secret service within this kingdom, any sums of money which in the whole shall exceed ten thousand pounds in any one year."

That prompts the unhappy thought that not only is there no legal authority for the existence of the Security Service but that for the best part of the past 200 years the funds released to it from the Treasury have been wholly illegal. The statute to which I have referred was not repealed until 1977, when the funds released for the Security Service exceeded not only £10,000 but £10 million. The effect of repeal was to expunge from the statute book the one solitary recognition that the Security Service exists. That is plainly unsatisfactory.

We should set the Security Service on a proper legal footing. We should leave the Government in no doubt that they have the power to raise and maintain such a service. It follows that any measure that provides for the maintaining of a Security Service must also set out the functions of that service.

Fortunately, we have to hand the directive that was issued by Sir David Maxwell Fyfe when he was Home Secretary in 1952. That directive gives us a reasonable basis on which to erect a framework, another directive, or a remit for our Security Service. However, there is one important respect in which the directive has proved too elastic with the passage of time. In his directive to the Security Service Sir David charged it with, among other tasks, the duty of defence of the Realm against

"persons and organisations . . . which may be judged subversive."

We have no way of knowing what persons or organisations the Security Service may regard as subversive. We know that the search for persons whom the Security Service suspects of being subversives has been the main reason for its expansion during the past two or three decades. One of the problems about the debate involving Mr. Anthony Blunt is that it has left the public with the impression—it has reinforced the view—that the Security Service is about catching foreign spies. Regrettably that is so far from the truth that it is now approaching pure myth. The greater part of the activity of the Security Service is the domestic surveillance of the British population in its search of those that it suspects are secret subversives.

Moreover, that surveillance is accompanied by methods such as phone tapping and mail opening, which are lacking in explicit statutory authority and are devoid of any vestige of accountability to the House. These matters are crying out for legislation.

The terms "subversion" and "subversive" are subjective. They are highly elastic. It may be that there are hon. Members who regard such an august and respectable body as the national executive committee of the Labour Party as a subversive organisation. We do not

[Mr. Cook.]

know whether it comes within the definition of "subversive" that is used by the Security Service. That is because we have furnished it with no such definition.

There is the definition that was supplied to me by the Minister of State, Home Office. It is a free definition, which provides plenty of room for subjective judgment to roam at will. It proides as a definition of "subversive"

"activities which are intended to undermine parliamentary democracy by political, industrial or violent means."

That provides carte blanche for the Security Service to stick its nose into any political organisation or any form of industrial action. We should give it a clear remit that restricts its surveillance to citizens who may be judged to be undermining parliamentary democracy by violent means or by any other unlawful means. Parliament has not created a wider crime of subversion and Government have no power to maintain a secret police force to police the political organisations whose views may be held by that police force to be subversive.

The debate on Mr. Blunt concentrated on the question whether the Security Service is properly accountable to Ministers. That missed the point. It does not seem to matter very much whether the Security Services are answerable to a Minister when that Minister is not answerable to the House. At present the Minister cannot be made answerable to this House. He is not even obliged to answer questions on matters that are known to every journalist in Fleet Street, such as the name of the Director-General of the Security Service.

I am greeted with incredulity when I explain to outsiders that I am allowed to ask only one question a year about the Security Service. That one question is invariably replied to with a refusal to answer any further question for the next 12 months. Other democracies manage affairs differently. Both America and Germany arguably have a greater awareness of security than Britain. Both those countries find it compatible to have a committee of Congress or a committee of the Bundestag with broad responsibility for the security services. There is no reason not to have a Select Committee, made up of senior Members, that could meet in private to discuss the principles, policy and resources of the Security Service.

I emphasise that during the past two decades we have seen a major expansion of the Security Service. The number of its agents is believed to have doubled. The latest computer technology has been made available to the security services, making it possible for them to store and retrieve information on a number of individuals. That technology exceeds the wildest dreams of the pre-war secret service.

Perhaps the security services carry out a necessary task effectively, but the House has no means of assuring itself, or the public that it represents, that that is the case. It is not prudent to let the situation continue, and I ask leave of the House to introduce a Bill to remedy that state of affairs.

Question put and agreed to.

Bill ordered to be brought in by Mr. Jonathan Aitken, Mr. A. J. Beith, Mr. Clement Freud, Mr. Michael Meacher, Mr. Christopher Price, Mr. Philip Whitehead, Mr. James Wellbeloved and Mr. Robin F. Cook.

Security Service

Mr. Robin F. Cook accordingly presented a Bill to give legal authority for the creation of a security service, and to provide for the appointment of its Director-General and for his accountability to Parliament; and for connected purposes: And the same was read the First time; and ordered to be read a Second time upon Friday 8 February 1980 and to be printed. [Bill 103.]

OTHER EXTERNAL RELATIONS: SECRET SERVICE

£4,000,000[1]

I

SUPPLEMENTARY amount required in the year ending 31 March 1980 for Her Majesty's foreign and other secret services.

The Cabinet Office will account for this Vote.

SUMMARY	£
EXPENDITURE:	
Increases in present provision for which either additional Supply or Parliamentary authority is sought	4,000,000
Decreases in present provision which it is proposed to apply as an offset to the foregoing additional expenditure	—
	4,000,000
Increase	—
APPROPRIATIONS IN AID	4,000,000
ADDITIONAL PROVISION SOUGHT	

	£
Original Estimate (H.C. 266 of 1978–79)	36,000,000
Provision now sought	4,000,000
TOTAL	40,000,000

[1]As announced in the House of Commons on 26 June 1979, and published in Cmnd. 7604, the Cash Limit has been increased to £40,000,000.

PA
Security

NOTE FOR THE RECORD

The Prime Minister and the Chief Whip discussed Mr. Robin Cook's Bill at 1755 on 10 December. The Prime Minister agreed that the Bill need not be voted down, but she said that she reached this decision reluctantly. The Chief Whip assured her that there was no question of the Bill making further progress, and that the Whips would do their best to prevent any Government Backbencher from opposing it. If, despite this, a division was called, the Whips would do everything possible to ensure that the Bill was defeated.

MS

10 December 1979

PRIME MINISTER

PA 1 MS

The business managers do not want to oppose Robin Cook's Bill, for not particularly good reasons. Would you be prepared to let them play it their way, or should the Bill be opposed despite this letter?

MS 7/XII

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

7 December 1979

Dear Nick

TEN-MINUTE RULE MOTION: SECURITY SERVICE

The Chancellor of the Duchy has seen your letter of 3 December to John Chilcot about the handling of Robin Cook's ten-minute rule motion on the Security Service.

He agrees, of course, with the Prime Minister that the Bill must not be allowed to make progress, but he is not sure that opposing its introduction on Tuesday is necessarily the best way to proceed. The procedure which successive Governments have usually followed on ten-minute rule bills has been to allow their introduction but to ensure that they do not make further progress: to have a bill opposed from the outset creates a much more significant occasion and gives the Member a good deal more publicity than he would otherwise achieve. It also requires the Chief Whip to whip the Party at an unusual time which some Members will find inconvenient.

The Chancellor of the Duchy fully recognises the need to deal firmly with the Bill, but he is concerned that to make a special issue of it would attract attention to it and might give an impression that the Government feel themselves to be unusually vulnerable. Formal opposition at this stage might encourage greater use of the ten-minute rule procedure by Members who will be hoping for similar treatment. He and the Chief Whip are of course satisfied that progress thereafter can be effectively prevented in the usual way.

I am copying this letter to Ian Maxwell (Lord Chancellor's Office), John Chilcot (Home Office), Murdo Maclean (Chief Whip's Office), Mary Howat (Lord Advocate's Department), Sir Henry Rowe and Martin Vile (Cabinet Office).

Yours ever
John Stevens

J W STEVENS
Private Secretary

I think the decision totally wrong. Must be concerned but it is too late to whip for it now.

MT

N J Sanders Esq
PS/Prime Minister
10 Downing Street

CONFIDENTIAL

Security HS
COL
CWO
LAD
Parl Counsel
CO

10 DOWNING STREET

From the Private Secretary

3 December 1979

The Prime Minister has seen the Home Secretary's letter of 29 November to the Lord Chancellor about Robin Cook's Bill on the Security Service.

She has commented that in her view this Bill should be opposed at the outset. It seems to her to be much easier to follow that path rather than to allow the Bill to continue.

I am copying this letter to John Stevens (Chancellor of the Duchy of Lancaster's Office), Murdo Maclean (Chief Whip's Office), Mary Howat (Lord Advocate's Department), Sir Henry Rowe and Martin Vile (Cabinet Office).

N. J. SANDERS

John Chilcot, Esq.,
Home Office.

CONFIDENTIAL

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PRIME MINISTER

QUEEN ANNE'S GATE LONDON SW1H 9AT

29 November 1979

To see
MJS
30/xi

Dear Quintin

Surely we should oppose this outright. It is much easier to show the Bill to be absurd.
MT.

You will have seen that Robin Cook has put down on the Order Paper, for Tuesday, 11 December, a Motion seeking leave to bring in a Bill to give legal authority for the creation of a security service, and to provide for the appointment of its Director General and for his accountability to Parliament; and for connected purposes.

The Bill is unnecessary. Adequate arrangements already exist to deal with these matters, in the form of the Directive from the Home Secretary, Sir David Maxwell Fyfe, to the Director General of the Security Service on 24 September 1952, as published in Lord Denning's Report of 1963 (Cmnd. 2152).

There is no need to oppose the Bill on 11 December, but arrangements should be made with the Chief Whip to ensure that any resulting Bill should be blocked.

I am copying this letter to the Prime Minister, the Leader of the House, the Chief Whip, First Parliamentary Counsel, the Lord Advocate's Department, the Secretaries to the Legislation Committee, and to Sir Robert Armstrong.

Yours
Willie

The Rt. Hon. Lord Hailsham of St. Marylebone, CH., FRS., DL.

END

Filmed at the National Archives (TNA) in London

February 2010