Prem 19/1952

TOP

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- SECRET -

PART 3.

CAB ONG

Confidential Filing.

Security of the Secret Services.
Chapman Pincher's book 'Their Trade is Treachery' and related papers including Sir Roger Hollis.

THE PETER WRIGHT CASE

SECURITY

Part 1: May 1979.

Part 3: October 1986

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PART 3 ends:-

SIR A. KERSHAW TO M.A 29.11.86

PART 4 begins:-

T. WOOLLEY TO NLW (A086/3326) 1.12.86

WEST
~~THE PIPPIN~~E BARN
DIDMARTON
BADMINTON
GLOUCESTERSHIRE
DIDMARTON (045 423) 630

29 Nov 80.

Prime Minister
I have asked for a note on Sir Anthony's point.
N.C.W.
2-12.

Dear Michael,

It is essential that the P.M. should know the following:-

It is not true that the Government made no attempt to stop the publication of Harry Chapman Pincher's latest book because they did not at the moment of decision, know his sources.

I am advised, on the most

certain authority, that two members of MI5 had seen the manuscript and had concluded that some of it could only have been provided by Peter Wright.

They so advised the then head of MI5.

The Government therefore did know the source of Harry Chapman Pincher's book, before it was published. The P.M. may not have been told, but the Govt had been.

It would be very damaging

THE TITHE BARN
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if a mistake in presentation were to be made, which was subsequently found out. [illegible]

I am very sorry that I must be in Cyprus with the Select Ctee when the debate takes place on Wednesday.

Yours sincerely, Anthony Kershaw

STEPHEN JAQUES STONE JAMES
ATTORNEYS, SOLICITORS AND NOTARIES

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File

Page 1 of ..14.. (total) Pages

Date: November 28, 1986

Attention: C. MALLABY, ESQ.
Company: CABINET OFFICE
City/Country: LONDON, U.K.
FAX No: 233 6195
(Alternative C/o Foreign Office 233 3244)

Sender: MR. DAVID HOGG
Our ref: RCCF:TREA0007-002

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IMMEDIATE

SUBJECT H.M. ATTORNEY-GENERAL IN AND FOR THE U.K. v HEINEMANN PUBLISHERS AUSTRALIA PTY. LIMITED & PETER WRIGHT

Report of Proceedings Friday, 28 November, 1986

1. Simos told the Judge that we would show him the documents the subject of the claim for public interest immunity and would not appeal at this stage his judgment that the documents be produced to him for inspection.

2. Sir Robert Armstrong's cross-examination continued in camera.

3. The only interesting material has been the subject of an application by Turnbull that that part of the transcript be treated as not confidential. No objection was taken by us and a copy of the relevant extract is sent herewith. *

4. The programme for Monday is that Codd for the plaintiff and Whitlam for the defendants will be interposed as they have commitments abroad. On Tuesday morning it is anticipated that the Judge will give his judgment in respect of the claim for P.I.I. and that subject thereto the cross-examination of Sir Robert Armstrong will continue.

5. Please copy to Sheldon and Saunders.

Regards,

David Hogg

D.A. HOGG

* To follow shortly.

RCCF022402:L22568

start from here

Q. And you are the Prime Minister's principal adviser on security and intelligence matters? A. Principal official adviser I think is what we said.

Q. Who is the principal unofficial adviser? A. He - has Ministerial advisers as well.

Q. What, on an unofficial basis, are they? A. No. The official is trusted with Ministerial problems in this matter.

Q. So you are the principal non-political adviser on political affairs? A. I am the principal adviser among official persons, yes.

Q. And you have been sent out here by the Prime Minister to espouse the policy - A. By the Government anyway.

Q. You said the Attorney General earlier. So now it is the Governme is it? A. For this purpose I think they are one and indivisable.

RESTRICTED AND CONFIDENTIAL:

Q. That is, of course, what Mrs Thatcher said in the Commons yesterday. Was the decision not to seek to restrain "trade is treachery" the indivisable policy of Government or - A. I wouldn't like to have to answer questions without finding out what the Prime Minister actually said, with respect.

Q. I ask you about this one question. You said about "trade is treachery" that it was a decision of the Attorney General himself and not of the Government collectively. Do you have any reason to revise that answer now? A. I should wish to say that I am afraid I did mislead the Court in that matter and in that matter only and that I have - since I gave those answers I have been advised that the answer to Interrogatory No. 150 was correct insofar as the plaintiff was the Crown. The conclusion that there was no basis for restraint was a view reached by legal advisers after consultation among all the legal advisers concerned and it was a unanimous view. I was aware of the view that was reached. I am afraid I assumed from what I was told that it had been referred to the Attorney personally. I now understand that it was not referred to the Attorney personally.

Q. So who was it referred to? A. It was the view of the legal advisers.

Q. Which legal advisers? A. The various legal advisers who were consulted.

Q. Who were they? A. I presume they were the legal advisers in the security service and the Treasurer's solicitor.

Q. Is that Mr Bailey at the time? A. He was not the Treasurer's solicitor at that time.

Q. Was he involved in the decision? A. I don't know.

Q. So the legal adviser to the security service and the Treasurer's solicitor formed the view there was no legal basis to seek an injunction? A. I would like to inquire further about that but certainly I was informed before - my state of information when I answered your questions the last time was that this was the view of the legal advisers concerned.

Q. But who made the decision not to seek the injunction? A. Well, the decision - the decision followed from the conclusion that there was no basis for restraint.

Q. Who made that decision? A. I don't know who made that decision. I do not think it was a single person. I think it was a collective decision among those concerned.

Q. Who was concerned? A. I would like to find out about that. I do not know exactly.

Q. You do not know? A. I have been informed, as I say, that it was a decision taken by legal advisers concerned. I have not yet found out who they all were. I am afraid there are no papers in regard to the decision and I am afraid it may be impossibl

to find out who were the people concerned but that is what I have been informed.

MR TURNBULL: What Sir Robert has said is not a confidential matter.

MR SIMOS: We accept that your Honour.

MR TURNBULL: Those answers should be made public. It is a concession of enormous gravity.

MR SIMOS: We do not object your Honour.

RESTRICTED AND CONFIDENTIAL

HIS HONOUR: Since it will be necessary to identify with particularity the questions and answers which Sir Robert has just given, I would propose to wait until today's restricted and confidential transcript is available and, at an appropriate time and when the court is open, I would propose to have read onto the open transcript the particular portions of what wold otherwise be the restricted and confidential transcript. That way, we can preserve the confidentiality of the restricted transcript but I think, as you very rightly say, Mr Turnbull, have recorded openly a matter which bears on evidence that has otherwise been given openly.

MR TURNBULL: Q. Sir Robert, I'm sorry, this is rather an intriguing turn of events? A. I'm sorry, if I may say so, I'm truthfully sorry that I unintentionally misled the court in this matter but I would like to state that in my judgment the answer to interrogatory 150 was correct insofar as the plaintiff was the Crown, it was advised as that answer says, and the basis - the absence of basis of restraint - or the basis of it - was the reasons which I mentioned when we were discussing this matter in open court.

Q. Sir Robert, I want to put to you that the only reason you have made this concession is because Sir Michael Havers has made it very plain in London that he had no part in the decision not to restrain ... that is so, isn't it? A. Sir Michael Havers was unhappy with the answers which I gave and, having made inquiries, I was intending to find an opportunity of putting the record straight in this matter. Your questions have given me that opportunity now.

Q. Sir Robert, you have told this court that the answers you gave to the interrogatories had been drafted by the Treasury Solicitor, didn't you? A. I told you that they were brought to me by the Treasury Solicitor or his, or one of his officers.

Q. If you will just give me a moment, I will just find the transcript reference.

(Discussion on transcript reference)

Q. (Page 184 referred to) Now Sir Robert, could you go to p 183?
A. I haven't the transcript in front of me, I'm afraid.

Q. (Witness handed transcript) If you just go over the page, you said that you accepted responsibility for the answer. I asked you who drew the answer and you said you didn't know. I asked you who gave it to you to sign. You said you supposed the Treasury Solicitor would have done so. You told us Mr Bailey wasn't forgettable, and then over the page at 185 you said - the answer - you can't remember who it was - to the second last question - it would likely be Mr Bailey or Mr Hogg. Now both those gentlemen are in court today, aren't they?A. Yes, they are.

RESTRICTED AND CONFIDENTIAL

Q. So what you are saying is - (interrupted)?A. I'm sorry, what I am saying is that I was assured before taking responsibility FOR THAT answer that it was correct and I am assured that the answer was fully discussed in London before it was submitted to me.

HISHONOUR: May I just interpolate, Mr Turnbull, as I do not have the transcript at the moment. Is this at or about the page where Sir Robert referred to the word "it"?

WITNESS: Yes, it was about then, your Honour. I can't remember exactly where, but I did say that I was surprised, or words to that affect, at the word "it".

HIS HONOUR: And I think I observed that it may well be right that the plaintiff was the juristic person rather than Sir Michael, and then observed at some stage around about there, as I have been bound to observe over the years since the drafting of affidavits and the like has passed from the Bar to others, I am often told that a witness said to his solicitor "That's not quite the way I said it" and he is told "Shut up you fool and sign it. It reads better that way."

WITNESS: I'm afraid that I assumed from what I was told that it was not just the juristic but the actual person and that assumption was wrong and I'm sorry if I have misled the court by that.

MR TURNBULL: Q. Sir Robert, these inquiries that preceded your giving the answer were done by the Treasury Solicitors office, weren't they? A. It was very fully done departmentally, the Treasury's solicitors Department was certainly involved.

Q. Sir Robert, how can such an inquiry be very fully done if the Attorney General on behalf of whom the answers are given is not even asked whether he received advice in those terms? A. I can only say that his department was party to the inquiries, to the preparation.

Q. Sir Robert, do you know who the people were, the names of the people that formed the view there was no legal basis to stop "Trade Is Treachery"? A. I do not know at this time, no. I know that I have, as I have said to you before, I have been informed that there was consultation among the legal advisers concerned. Who all of them were, I don't know, and it may not be possible for me to find out because I was not party to the consultation myself and there are no documents which record who was.

Q. Well, have you asked Mr Bailey who was involved?A. I have asked Mr Bailey and he is in the same position as I am.

Q. And Mr Hogg is in the same position too? A. Yes, I presume so.

Q. So Mr Hogg and Mr Bailey, one or other of them came to you with some answers to interrogatories which they prepared and which you must concede they had no proper basis for drafting? A. Well, I am advised, I am assured that the answer to that interrogatoryx was correct in the sense of the plaintiff being theCrown or the juristic person rather than the Attorney General personally.

RESTRICTED& CONFIDENTIAL

Q. Well, who was the piece of blood and bone, who was the human being that received the advice from these lawyers, that there was no basis to restrain the book? A. It was a conclusion reached in discussion among a number of people.

Q. What are their names? A. As I have said, I can't tell you who they were.

Q. You have no idea? A. I don't know because I wasn't party -

Q. Was the Prime Minister one of them? A.No.

Q. Was Mr Hurd one of them? A. Which, what episode?

Q. We are talking about "Trade is Treachery"? A. 1980?

Q. Yes? A. Mr Hurd was not Home Secretary at that time but the Home Secretary as far as I know was not party to it.

Q. Let's go through them. The Prime Minister had nothing to do with it ? A. It was official legal advisers but I don't know who they were.

Q. You are not telling me that official legal advisers to the Security Service and some nameless person in the Treasury Solicitors made the ultimate decision not to seek an injunction? A. They concluded that there was no basis for restraint.

Q. I am asking you now to whom was that advice given? A. That advice was available to all those concerned.

Q. And who were the people concerned? A.Well, the Director General of the Security Service, no doubt.

Q. That's one, the Director General of the Security Service. Who else? A.I was aware of the conclusion, as I have told the court before.

Q. Did you receive the conclusion yourself? A. I didn't receive it, I was aware of it.

Q. Sir Robert Armstrong is number two. Who else was involved? A. Who else was aware of it, I wouldn't know.

Q. So it was a decision taken by you and the Director General of MI5? A. It was not a decision taken. We were aware of the conclusion that had been reached.

Q. Now this advice that there was no legal basis to restrain the book - ? A. I didn't say "legal basis", no basis for restraint, and the advice was based, as I have told you, on two matters. First, that we did not have a text, the possession of which the Government was prepared to admit and second, we had not been able to identify with sufficient particularity and certainty the sources of confidential information on which the book was apparently based.

Q. Well, you wanted to restrain publication of thebook, didn't you? A.I have told the court that I thought that it would be preferable that the book should not be published.

Q. And I take it the Director General of MI5 took the same view? A. I should imagine so.

Q. Well, do you know? A. I am sure that he took the same view.

Q. Did he tell you that he had the same view? A. I don't specificall remember. I think he was bound to take that view.

Q. Now, who was the Treasury Solicitor in 1981? A. Mr Kerry, or he may have been Sir Michael Kerry by then.

Q. Did Sir Michael Kerry form the view that there was no basis to seek restraint? A. I'm afraid I don't know.

Q. You don't know? You didn't discuss it with Sir Michael? A. Not myself at the time, so far as I remember.

Q. Who was the person that conveyed to you the news that some lawyers had formed the view that there was no basis to restrain publication ? A. It would have been somebody from The Security Service, either theDirector General or a senior officer of it.

FROM: Sir Eldon Griffiths, M.P.

PRIVATE & CONFIDENTIAL

HOUSE OF COMMONS
LONDON SW1A 0AA

Prime Minister
I have passed to the appropriate quarter. I would not put much store on this.
N.C.W.

28th November, 1986. 5.12.

Dear Michael.

I enclose correspondence which I received this morning from Nicholas Hagger. I do not know Mr. Hagger well and since he sends the memorandum anonymously, I am afraid I can make no comment upon the validity of the allegations; but you will obviously recognise their significance.

Yours sincerely,

Eldon

Michael Alison Esq., M.P.
10 Downing Street,
LONDON, S.W.1.

received Friday at 1700.

(LWS.

OAK-TREE BOOKS LTD.

556a HIGH ROAD, WEMBLEY, MIDDX. HA0 2AA 01-903 7801

26th November 1986

Dear Sir Eldon,

You will recall that we met in Essex on September 19th, when we discussed the Brighton bombing. You know that my authors' sources can be very good.

At Norris McWhirter's suggestion I enclose a deliberately anonymous memorandum which I would like you to pass urgently to Michael Allison at 10 Downing Street.

Yours sincerely,

Nicholas Hagger

Nicholas Hagger

Registered in England. Reg. No. 1823500 Registered office: 171/3 High Street, Epping, Essex CM16 4HB Director: Nicholas Hagger

1. Two unpublished books that are unlikely to be published claim that Lord Victor Rothschild is the "fifth man" who was behind Burgess, Maclean, Philby and Blunt. The allegation is that Lord Rothschild was a master Soviet agent for over 50 years, and that he selected and directed many anti-Western spies while being held in high esteem by the Apostles, giving Burgess his first job, and owning the flat Blunt shared with Burgess at 5 Bentinck Street.

2. The author of one of the books has said that he was given this information by Peter Wright. Wright believes that Rothschild 'controll Hollis. He has therefore presumably named Lord Rothschild and exposed his role in introducing him to Pincher partly to embarrass the Government by suggesting that Rothschild was acting on the Government's behalf, and partly to challenge the Government to distance itself from Rothschild, for example by a prosecution which could lead to the unmasking and exposing of Lord Rothschild.

3. It is possible that Rothschild organised the printing of allegations about Hollis to deflect attention from himself, to save himself from exposure. If this is so, the public exposure of Rothschild as the fift man in the course of a prosecution would vindicate the Government's handling of the Wright case; for the Government would be seen to have defended the stability of Hollis's MI5 and to have demonstrated that Wright was manipulated into unreliable publicity by the fifth man. The Cabinet Office should therefore review the evidence on Lord Rothschild in the light of this possibly new perspective.

SECRET

30

(copied to SIR ANTHONY DUFF 3.12.86.)

PRIME MINISTER

Sir Edward Gardner has been to see the Chief Whip to say that Mr. Callaghan took him aside at a function last night to make the following points.

Mr. Callaghan told Sir Edward that he was greatly concerned about the present Wright affair. His talks with MI5 and some members of the Security Commission (sic) led him to believe that they are similarly concerned. These contacts had reinforced him in the view that the arrangements whereby Prime Ministers handled intelligence matters were not right. There was apparently a case in his time when he felt let down. The arrangements needed a broader base. What he seemed to mean by this - and this is an interpretation of a second hand conversation - was that the Prime Minister's main channel of advice was the Cabinet Secretary which did not allow the options to be sufficiently ventilated.

Mr. Callaghan went on to tell Sir Edward that he was thinking of intervening in next Wednesday's debate to make these points (though in precisely what terms is unclear) and to suggest that the Government should look at other countries' experiences to see whether matters could be improved.

He asked Sir Edward to draw his views to the attention of the Prime Minister. Hence Sir Edward's conversation with the Chief Whip. Sir Edward apparently undertook to go back to Mr. Callaghan some time on Monday.

The Chief Whip and I have discussed a message which Sir Edward might take back. This could be on the lines:

- midway through the Wright affair was not the time to consider these matters;

- but no doubt all concerned would reflect on any lessons to be drawn from it later on;

SECRET

- if Mr. Callaghan is really concerned about these matters, (not just wanting to make Party points), he ought, as a former Prime Minister, to ask to see you so that he could put the benefit of his experience before you on this point. You would be ready to see him on the normal Privy Counsellor terms;

- you were concerned that the activity of some politicians in the House would break down the traditional bipartisan approach to security matters. Clearly it would be in everybody's interest if they were told to calm down.

We have a meeting at 1130 on Monday morning to discuss the latest state of play on the Wright case. I suggest that you mention this approach from Mr. Callaghan to them so that the advice to Sir Edward can be agreed. It will, of course, be relevant to the Home Secretary's speech in the Debate on Wednesday.

If you agree, I will ask the Chief Whip to come for the first part of the meeting.

N.L.W.

NIGEL WICKS

28 November 1986

VC3AON

CONFIDENTIAL

PRIME MINISTER

MEETING OF MINISTERS AT 1130 ON MONDAY 1 DECEMBER

Those who will be attending are the Lord President, Foreign and Commonwealth Secretary, Home Secretary, Attorney General, Solicitor General and the Chief Whip (for the first part of the meeting to discuss the item at Flag A). The purpose of this meeting is to take stock of the latest position. The Home Secretary's ad hoc group will have met beforehand. He can report on the latest position and indicate any urgent decisions likely to be necessary.

Points to consider:

(i) the state of the case (of the Wright case in Australia and the Joan Miller case);

(ii) what urgent decisions are likely to be necessary during the week;

(iii) how should the matter be handled in Parliament during the week (the Chief Whip might stay for this item);

(iv) what is our line in the debate on Wednesday?

(v) is there anything more that can be done on the presentation of our position?

I attach at Flag A a minute about an approach to the Chief Whip from Sir Edward Gardner concerning his conversation with Mr. Callaghan. The Chief Whip needs a line on this. It is also relevant to Wednesday's debate.

N. L. W.

28 November 1986

N. L. WICKS

LOKAHY

010

CONFIDENTIAL

Prime Minister
An "old" meeting
but see marked
passages.
N. L. W.
1.12

RECORD OF A MEETING HELD IN
CONFERENCE ROOM A, CABINET OFFICE
ON FRIDAY 28 NOVEMBER 1986 AT 9.00 AM

R 29/11

MINISTERIAL GROUP ON THE PETER WRIGHT CASE

PRESENT

The Rt Hon Douglas Hurd MP	Home Secretary (In the Chair)
The Rt Hon Sir Geoffrey Howe QC MP	Foreign and Commonwealth Secretary
The Rt Hon Sir Michael Havers QC MP	Attorney General
Sir Antony Duff	Security Service
Mr D A Goodall	Foreign and Commonwealth Office
Mr G Warner	Foreign and Commonwealth Office
Mr C Battiscombe	Foreign and Commonwealth Office
Sir Brian Cubbon	Home Office
Mr M J A Partridge	Home Office
Mr J Nursaw	Home Office
Mr S Boys Smith	Home Office
Mr A Inglese	Law Officer's Department
Mr C L G Mallaby	Cabinet Office
Mr D R C Christopher	Cabinet Office
Mr B Dinwiddy	Cabinet Office
Mr N P F Brind	Cabinet Office

THE HOME SECRETARY said that the Ministerial Group would meet as necessary to consider developments in the Peter Wright case. It was important that the Group should as far as possible look ahead and try to anticipate potential problems arising from the case as it continued.

In discussion, the following points were made -

a. In answer to Interrogatory No 150 before the proceedings in Sydney, the Cabinet Secretary had said that the plaintiff had been advised that it had no basis for restraint of publication of Mr Chapman Pincher's book "Their Trade is Treachery". Early in his cross-examination the Cabinet Secretary had assumed that this conclusion had been agreed unanimously by legal advisers, including the Attorney General, and had said that the decision had been taken by the Attorney General personally. In fact, the Attorney General had not been consulted about the question of legal action to restrain publication of Mr Pincher's book. During examination in-camera on 28 November, therefore, the Cabinet Secretary had apologised for misleading the Court and put on record that the conclusion reached among legal advisers had not been submitted to the Attorney General. If asked about this Government press officers should: refer to the transcript of the proceedings on 28 November (the relevant parts were being published by the court); confirm that the conclusion in 1981 had been reached by legal advisers rather than by the Attorney General himself; and say that the reasons for that conclusion were as given by the Cabinet Secretary in his examination, namely that the Government did not have a copy of the text of the book to which it could admit and that it was not possible to identify the sources of insider information in the book with sufficient certainty.

b. The decision taken by our Counsel in Australia not to offer to the judge immediately the documents for which he had asked so that he could take a decision on disclosure had not accorded with instructions from London. The tactical reasons put forward by Mr Simos for acting as he had were not very convincing, and the delay had damaged the Government's public standing without bringing any advantage.

c. The judge was expected to rule on 1 December on the Government's claim that certain documents should not be discovered on the grounds of public interest immunity (PII). There might be scope for an arrangement whereby the defence would see a description of some or all of the documents rather than the documents themselves. Clearly, a day or more would be needed to consider any documents ordered to be shown to the other side or any partial arrangement if it was offered. Our team in Sydney would be asked to make clear the need. If the judge rejected the PII claim and did not offer an arrangement, a decision would be needed whether to appeal.

d. An interim injunction had been obtained in the Irish Republic to prevent until 2 December the publication, distribution and communication of Joan Miller's book "One Girl's War". A similar injunction was being sought in the English courts. The book had, however, already appeared at some bookshops in London. It was about Joan Miller's experiences as Maxwell Knight's secretary in MI5 between 1940 and 1945. It described one operation to infiltrate a right wing club which had led to a successful prosecution and was therefore public knowledge. The rest of the book was mainly gossip. It was trivial, and any attempt to prevent publication permanently on the grounds of content would invite ridicule. It would also be undesirable for Anglo/Irish relations to get drawn into litigation in Dublin when the book had already appeared in book shops there as well as in London. Any action that might be taken would have to be on the grounds that the book breached the principle of no unauthorised disclosure of information by members or ex-members of the security services. The book was due to be considered again in an inter-partes action in Dublin on 1 December. The Law Officers would advise colleagues on the prospects of success in that action.

In considering the line to be taken by the Government, it would be necessary also to consider the implications for the Wright case; and the handling of a London publisher who, two years before, had agreed not to publish the book.

THE HOME SECRETARY, summing up the discussion, said that the handling of the press in relation to the Cabinet Secretary's expanded comments on the involvement of the Attorney General in the decision not to oppose publication of "Their Trade is Treachery" should be as agreed in discussion. On the discovery of documents and the PII claim, the Cabinet Office would circulate to members of the Group the documents in question, together with the preliminary view of officials on their sensitivity. On Joan Miller's book, the Law Officers would advise on the psoepcts of success in the inter-partes action in Dublin and the Security Service would say whether the text had previously been seen by officials. In the meantime, it was the preliminary view of the majority of the Group that it might be best, having obtained an interim injunction and time to study the text, to withdraw our objections to publication on grounds that the content was trivial. But the public explanation for this line of action would need to be carefully handled.

As regards future work, the Group would need to consider soon whether another official with executive authority should be sent to Australia when the Cabinet Secretary returned; and whether there was any scope to relax the present constraints on comments on the case by Ministers, especially the Prime Minister. In due course it would also be necessary to consider the Government's general policy on the handling of cases involving the publication of books by members or ex-members of the security services, including implications for the Official Secrets Act.

There was to be a debate in the House of Commons on 3 December on a motion by Dr David Owen about the establishment of a committee of Privy Counsellors to oversee the security services. For his speech, the Home Secretary would need background material on the practice in other countries, measures already taken by this Government to take a more open approach on oversight, and on the doctrine of Government responsibility rather than accountability for the security services. Departments should prepare appropriate material accordingly.

Cabinet Office

28 November 1986

Distribution

Those present.

Mr Wicks - No 10
Sir Colin Figures

227 9133

F Wright file

RESTRICTED AND CONFIDENTIAL

Q. Who was the Director General in 1981? A. There was a changeover at just about that time and I - at the relevant time it might still just have been Sir Howard Smith, I can't remember.

Q. So - ? A. It was right about the changeover.

Q. Now, so, you think it was probably Sir Howard Smith who told you that the lawyers didn't think there was a good enough case? A. No, I said it was either him or a senior officer of the Service, I can't remember which.

Q. Why would a senior officer of the service have dealt with you, rather than the Director General? A. Because the Director General is not the only officer of the Security Service whom I see.

Q. This was a matter of some considerable importance, wasn't it? A. It may have been. I'm afraid I simply can't remember.

Q. Who would have been the senior officer that you think informed you, if it wasn't Howard Smith? A. It would have been the Deputy Director General or it could have been a director or it could have been a legal adviser. It could have been any one of the four. I'm sorry not to be able to remember, but I assure you, that is the fact.

Q. This is the fact, this time? A. I promise you that I cannot remember from whom I got that information.

Q. Who conveyed the news that the lawyers felt there wasn't a good enough case to get an injunction, to the Prime Minister? A. I can't remember. I think that would have been done at a meeting to discuss the case, but I can't remember who actually conveyed it.

Q. Were you at that meeting with the Prime Minister? A. I almost certainly should have been.

Q. Who else was? A. There would have been a number of people there.

Q. Who were the others? A. I have no doubt the Home Secretary would have been there and probably the Director General.

Q. That was William Whitelaw? A. At that time, yes.

MR TURNBULL: Q. So there was a meeting, you believe, between yourself, the Prime Minister, the Director General of MI5 and the Home Secretary. (Objected to).

MR SIMOS: The witness didn't say he believed ...

WITNESS: I'm afraid I cannot remember exactly how the information or in what way it was conveyed and it is mere speculation if I say that.

MR TURNBULL: Q. Sir Robert, what assurance do we have that any of your evidence can be trusted, given this extraordinary inconsistency that has now emerged?A. Well, I'm very sorry that I unwittingly mislead the court and you, Mr Turnbull, on this matter, but I assure you that I have made every endeavour to answer your question truthfully and as fully as I can. I thought when I gave these answers, I thought that I was saying the truth as I knew it.

Q. But the lawyers in the Treasury Solicitors Office, Messrs Bailey & Hogg, were extraordinarily incompetent, weren't they, not to check that this answer was correct? (Objected to).

MR SIMOS: There is no evidence that they didn't check that it was correct.

MR TURNBULL: Q. Well, did they check that it was correct? A. What, the answer to the interrogatory?

Q. Yes? A. I am sure it ws very fully checked.

Q. But not with the Attorney General? A. And I asserted that it was correct insofar as the plaintiff was the juristic person of the Crown, that was one of the factors in my own assumption which was incorrect, that it was the Attorney General personally.

Q. When did you first learn that this answer to interrogatoty 150 was not correct?

MR SIMOS: Your Honour, the witness has not said it was not correct, the witness has said the opposite, it was correct when you understand it means the government.

MR TURNBULL: It's Alice in Wonderland.

Q. When did you first learn that, Sir Robert? A. I say that the answer to the interrogatory was correct on the basis that I have said that I first learned that the Attorney General was not the person responsible earlier today.

Q. What time today, please? A. I think this morning in a telephone call from London.

Q. Did you speak to the Attorney General? A. I did not.

Q. Who did you speak to?A. I spoke to my colleague in the Cabinet Office.

RESTRICTED AND CONFIDENTIAL

Q. Sir Robert, you have told us in evidence before that the decision not to stop "Trade is Treachery" was taken by the Attorney General, haven't you? A. I either said or implied that and insofar as I said or implied that, I am afraid I was misleading the court, unintentionally.

Q. If I could just take you to 137 ? A. The transcript, is that?

Q. Yes. I asked you, I put to you that y-ou were the government's man principally involved in the decision about "Trade is Treachery" you said you were one of a number of people involved but by no means the only one. I put to you that the final decision not to do anything about "Trade is Treachery" was taken by you and the Prime Minister and not the Attorney General. You said that was absolutely untrue. Now who was the final decision taken by? A. Well, I have to say that I think the final - I don't think it was taken as a decision in that way. The conclusion emerged from the discussion of the business that there was no basis for restraint and that was accepted. I accepted it myself and I didn't take steps to test it.

Q. But you see, Sir Robert, this book was going to reveal matters of great importance, wasn't it? A.Yes.

Q. And you have access through the British Government to the advice of the Attorney General, theSolicitor General, don't you? A. I can do, if I wish to have it.

Q. That's right, and you also have theability to retain advice from the leading members of the English Bar, don't you? A. I don't myself do that.

Q. No, but the Crown has the ability? A.The Attorney can do that.

Q. You have toldus in evidence before that the advice that there was insufficient basis to seek an injunction did not accord with your own albeit layman's views on the law of confidence at the time? A. I have said that I thought that there was a legal - I would have thought that there was a legal right for theCrown to - for the Attorney - for theCrown to proceed to seek an injunction, if it had the basis on which to do so. I was advised that in this case there was not such a basis. I did not query that advice.

Q. Was the Prime Minister in favour of "Trade is Treachery" being published? A. No, not at all.

Q. Sir Robert, what about Mr William Whitelaw? Was he in favour? A. I don't think he was anymore in favour of it than anybody else.

Q. So we have the Security Service, the Prime Minister, the Cabinet Secretary and the Home Secretary all against the publicatio of this book, correct?A. I think that the government would have preferred this book not to be published but it was advised that the was no basis for restraint.

Q. Right; that advice was given not by the Solicitor General, not by the Attorney General, not by the Treasury Solicitor., but by some annonymous lawyers whose names you can't remember, and whose position in the hierarchy hardly indicates that they were people of first class calibre; that is so, isn't it? A. I don't think that follows at all. I have said that I am not informed about who they were. I have been informed that the advice was sought, the conclusion was reached after consultation among the legal advisers concerned. I am not able I'm afraid to advise you who those were because I can't find out. There are no documents to show it.

Q. Do you only tell the truth when there are documents likely to demonstrate it? A. I have tried to tell the truth throughout, Mr Turnbull. I'm sorry that I was misled in this case, that I misled myself in this case. I assumed that when it said the legal advisers concerned, it included the Attorney, but I was wrong.

Q. Sir Robert, why was the Attorney General leftout of the decision making process in respect of "Trade is Treachery"?A. I don't know why he was not brought into the process by which that conclusion was reached.

Q. He wasn't part of the conspiracy, was he? A. He was not part of the conspiracy.

Q. And you were? A. I was not part of any conspiracy either. As I have made quite clear, he was party to the drafting of the statement that the Prime Minister made.

Q. And did the Attorney,at the time he helped you draft the statement for the Prime Minister, express any surprise at the legal advice that had been given? A. Not to my knowledge.

Q. Well, he didn't express any surprise to you? A. Not to me.

Q. Do you know what Mr Bailey and Mr Hogg's sources of information were for drafting that answer to the interrogatories? A. I understand that the draft was discussed with a number of departments concerned, all those concerned, I don't know exactly who not by name.

Q. Sir Michael Havers has refused to carry the can for this, hasn't he? A. Sir Michael Havers has said that he, made it clear, that he was not personally responsible for a decision not to restrain the publication.

Q. Is Sir Michael Havers going to resign this week? A. I have no knowledge about/Michael Havers intentions in that respect.

Q. Number 10 Downing Street -? A. He clearly would be required to take a decision to institute proceedings. He would not nedessarily be required to take a decision not to institute proceedings. Proceedings of this kind, I mean, not criminal proceedings.

RESTRICTED AND CONFIDENTIAL:

Q. Can I just read you a passage from Halsbury's Laws of England? I just want you to tell me if you generally agree with it. I know that you are not a bad - there's very little you have said on the record that I haven't read, and I know you are not a bad constitutional lawyer, for a layman, anyway. This is from vol 8 at p 899, for the benefit of the transcript:

> "There is no act of the executive for which some officer or minister of the Crown is not responsible and for which he may not be made liable either to punishment upon an impeachment ...".

Now, I probably read more than I needed to. Do you agree that there is no act of theexecutive for which some officer or Minister of the Crown is not responsible? (Objected to).

MR SIMOS: It is a legal question.

MR TURNBULL: This man is the Cabinet Secretary of the United Kingdom, your Honour).

MR SIMOS: I still object.

HIS HONOUR: I think there are two problems, Mr Turnbull, leaving aside Sir David Maugham's view of that book. Even the word "responsible" has a variety of connotations in this area, I would have thought. If one is posing the question of legal responsibility then, with respect to Sir Robert, I would question whether he could express a view. If he were asked a matter of responsibility in the context of the political system in general terms in the United Kingdom, then I would think there would be few in the United Kingdom better qualified to express a view.

WITNESS: I think I have indeed expressed a view, your Honour, in a document which carries my name and I daresay that is what Mr Turnbull has in mind and I think I would agree, in the political sense which you are talking about, a Minister is responsible for every act taken by his department and "responsible" means that he is answerable to Parliament. As I understand it,- that would mean that in a case of this kind where a conclusion was reached which was not referred to the Attorney, it would nonetheless be, if there were a question in the House, the Attorney would answer it. I understand it is also that the Attorney would accept that the view was correct, that there was no basis for restraint in this case.

MR TURNBULL: Q. Well, Sir Robert, who was the Minister of the Crown who was responsible for the decision not to seek to restrain the book? (Objected to).

MR SIMOS: I don't know what that means, "Who was responsible".

MR TURNBULL: Q. All right, I willstart again. Who were the Ministers of the Crown, as opposed to civil servants like yourself, who participated in the decision not to seek an order to restrain this book?

RESTRICTED AND CONFIDENTIAL:

MR SIMOS: Well, your Honour, the witness has said there wasn't a decision of this kind. I think that is what he said, your Honour.

HIS HONOUR: It does make an assumption, Mr Turnbull, and I am not sure the evidence thus far permits you to do that. I think the question, rather, is, there having been a meeting one assumes of the Prime Minister, the Home Secretary, theCabinet Secretary and perhaps the Director General and one or more legal advisers, at which the advice was tendered, who if anyone was it who said "Well, that's that" rather than "bunkum", go and get another opinion.

MR TURNBULL: Q. Yes, well, that is the question, Sir Robert, who was it? A. I think that that conclusion was generally accepted. I think it was never - the question was never raised in thatform, that I remember. Just as I accepted it and didn't seek to query it, I think that was the general position. As I say, I can't remember how or in what terms that conclusion was conveyed, but clearly the fact that a statement was made, implied that that was the conclusion.

Q. That meeting was minuted, wasn't it? A. Not necessaril depending what form the meeting took.

Q. Well, you have not discovered any minutes of it? A. I haven't discovered any minutes, but I have to emphasise that these matters were being discussed in considerable secrecy apparently because we were not supposed to have a copy of thebook.

Q. What about the matter of trust, Sir Robert? You told us that theAttorney General was responsible for thedecision to compromise that action. Do you want to revise that answer? A. My understanding is that the action was taken in the name of the Attorney General by the Attorney General and that he was - the subsequent decision was reported to him and the conclusion authorised by him. He took the decision to seek an injunction and that was withdrawn with his agreement.

Q. Do you have any reason to believe that the Attorney General subsequently agreed with the advice given by these nameless lawyers in respect of "Trade is Treachery"? A.I understand that he would not agree that there was no basis for restraint.

Q. Really? (No reply).

Q. So you understand that is Sir Michael Haver's view on those facts, in respect of "Trade is Treachery"? A. As I understand it, but I am thirty thousand miles away.

Q. Have you checked that with him? A. I haven't checked that with him personally.

F Wright file

RESTRICTED AND CONFIDENTIAL

Q. Who was the Director General in 1981? A. There was a changeover at just about that time and I - at the relevant time it might still just have been Sir Howard Smith, I can't remember.

Q. So - ? A. It was right about the changeover.

Q. Now, so, you think it was probably Sir Howard Smith who told you that the lawyers didn't think there was a good enough case? A. No, I said it was either him or a senior officer of the Service, I can't remember which.

Q. Why would a senior officer of the service have dealt with you, rather than the Director General? A. Because the Director General is not the only officer of the Security Service whom I see.

Q. This was a matter of some considerable importance, wasn't it? A. It may have been. I'm afraid I simply can't remember.

Q. Who would have been the senior officer that you think informed you, if it wasn't Howard Smith? A. It would have been the Deputy Director General or it could have been a director or it could have been a legal adviser. It could have been any one of the four. I'm sorry not to be able to remember, but I assure you, that is the fact.

Q. This is the fact, this time? A. I promise you that I cannot remember from whom I got that information.

Q. Who conveyed the news that the lawyers felt there wasn't a good enough case to get an injunction, to the Prime Minister? A. I can't remember. I think that would have been done at a meeting to discuss the case, but I can't remember who actually conveyed it.

Q. Were you at that meeting with the Prime Minister? A. I almost certainly should have been.

Q. Who else was? A. There would have been a number of people there.

Q. Who were the others? A. I have no doubt the Home Secretary would have been there and probably the Director General.

Q. That was William Whitelaw? A. At that time, yes.

RESTRICTED AND CONFIDENTIAL

MR TURNBULL: Q. So there was a meeting, you believe, between yourself, the Prime Minister, the Director General of MI5 and the Home Secretary. (Objected to).

MR SIMOS: The witness didn't say he believed ...

WITNESS: I'm afraid I cannot remember exactly how the information or in what way it was conveyed and it is mere speculation if I say that.

MR TURNBULL: Q. Sir Robert, what assurance do we have that any of your evidence can be trusted, given this extraordinary inconsistency that has now emerged?A. Well, I'm very sorry that I unwittingly mislead the court and you, Mr Turnbull, on this matter, but I assure you that I have made every endeavour to answer your question truthfully and as fully as I can. I thought when I gave these answers, I thought that I was saying the truth as I knew it.

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Q. Yes? A. I am sure it ws very fully checked.

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MR SIMOS: Your Honour, the witness has not said it was not correct, the witness has said the opposite, it was correct when you understand it means the government.

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Q. When did you first learn that, Sir Robert/? A. I say that the answer to the interrogatory was correct on the basis that I have said that I first learned that the Attorney General was not the person responsible earlier today.

Q. What time today, please? A. I think this morning in a telephone call from London.

Q. Did you speak to the Attorney General? A. I did not.

Q. Who did you speak to?A. I spoke to my colleague in the Cabinet Office.

RESTRICTED AND CONFIDENTIAL

Q. Sir Robert, you have told us in evidence before that the decision not to stop "Trade is Treachery" was taken by the Attorney General, haven't you? A. I either said or implied that and insofar as I said or implied that, I am afraid I was misleading the court, unintentionally.

Q. If I could just take you to 137 ? A. The transcript, is that?

Q. Yes. I asked you, I put to you that y-ou were the government's man principally involved in the decision about "Trade is Treachery" you said you were one of a number of people involved but by no means the only one. I put to you that the final decision not to do anything about "Trade is Treachery" was taken by you and the Prime Minister and not the Attorney General. You said that was absolutely untrue. Now who was the final decision taken by? A. Well, I have to say that I think the final - I don't think it was taken as a decision in that way. The conclusion emerged from the discussion of the business that there was no basis for restraint and that was accepted. I accepted it myself and I didn't take steps to test it.

Q. But you see, Sir Robert, this book was going to reveal matters of great importance, wasn't it? A.Yes.

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Q. Was the Prime Minister in favour of "Trade is Treachery" being published? A. No, not at all.

Q. Sir Robert, what about Mr William Whitelaw? Was he in favour? A. I don't think he was anymore in favour of it than anybody else.

Q. So we have the Security Service, the Prime Minister, the Cabinet Secretary and the Home Secretary all against the publication of this book, correct?A. I think that the government would have preferred this book not to be published but it was advised that there was no basis for restraint.

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Q. And did the Attorney,at the time he helped you draft the statement for the Prime Minister, express any surprise at the legal advice that had been given? A. Not to my knowledge.

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Q. Do you know what Mr Bailey and Mr Hogg's sources of information were for drafting that answer to the interrogatories? A. I understand that the draft was discussed with a number of departments concerned, all those concerned, I don't know exactly who, not by name.

Q. Sir Michael Havers has refused to carry the can for this, hasn't he? A. Sir Michael Havers has said that he, made it clear, that he was not personally responsible for a decision not to restrain the publication.

Q. Is Sir Michael Havers going to resign this week? A. I have no knowledge about/Michael Havers intentions in that respect.

Q. Number 10 Downing Street -? A. He clearly would be required to take a decision to institute proceedings. He would not nedessarily be required to take a decision not to institute proceedings. Proceedings of this kind, I mean, not criminal proceedings.

RESTRICTED AND CONFIDENTIAL:

Q. Can I just read you a passage from Halsbury's Laws of England? I just want you to tell me if you generally agree with it. I know that you are not a bad - there's very little you have said on the record that I haven't read, and I know you are not a bad constitutional lawyer, for a layman, anyway. This is from vol 8 at p 899, for the benefit of the transcript:

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MR SIMOS: It is a legal question.

MR TURNBULL: This man is the Cabinet Secretary of the United Kingdom, your Honour).

MR SIMOS: I still object.

HIS HONOUR: I think there are two problems, Mr Turnbull, leaving aside Sir David Maugham's view of that book. Even the word "responsible" has a variety of connotations in this area, I would have thought. If one is posing the question of legal responsibility then, with respect to Sir Robert, I would question whether he could express a view. If he were asked a matter of responsibility in the context of the political system in general terms in the United Kingdom, then I would think there would be few in the United Kingdom better qualified to express a view.

WITNESS: I think I have indeed expressed a view, your Honour, in a document which carries my name and I daresay that is what Mr Turnbull has in mind and I think I would agree, in the political sense which you are talking about, a Minister is responsible for every act taken by his department and "responsible" means that he is answerable to Parliament. As I understand it,- that would mean that in a case of this kind where a conclusion was reached which was not referred to the Attorney, it would nonetheless be, if there were a question in the House, the Attorney would answer it. I understand it is also that the Attorney would accept that the view was correct, that there was no basis for restraint in this case.

MR TURNBULL: Q. Well, Sir Robert, who was the Minister of the Crown who was responsible for the decision not to seek to restrain the book? (Objected to).

MR SIMOS: I don't know what that means, "Who was responsible".

MR TURNBULL: Q. All right, I willstart again. Who were the Ministers of the Crown, as opposed to civil servants like yourself, who participated in the decision not to seek an order to restrain this book?

RESTRICTED AND CONFIDENTIAL:

MR SIMOS: Well, your Honour, the witness has said there wasn't a decision of this kind. I think that is what he said, your Honour.

HIS HONOUR: It does make an assumption, Mr Turnbull, and I am not sure the evidence thus far permits you to do that. I think the question, rather, is, there having been a meeting one assumes of the Prime Minister, the Home Secretary, theCabinet Secretary and perhaps the Director General and one or more legal advisers, at which the advice was tendered, who if anyone was it who said "Well, that's that" rather than "bunkum" go and get another opinion."

MR TURNBULL: Q. Yes, well, that is the question, Sir Robert, who was it? A. I think that that conclusion was generally accepted. I think it was never - the question was never raised in thatform, that I remember. Just as I accepted it and didn't seek to query it, I think that was the general position. As I say, I can't remember how or in what terms that conclusion was conveyed, but clearly the fact that a statement was made, implied that that was the conclusion.

Q. That meeting was minuted, wasn't it? A. Not necessarily, depending what form the meeting took.

Q. Well, you have not discovered any minutes of it? A. I haven't discovered any minutes, but I have to emphasise that these matters were being discussed in considerable secrecy apparently because we were not supposed to have a copy of thebook.

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Q. What about the matter of trust, Sir Robert? You told us that theAttorney General was responsible for thedecision to compromise that action. Do you want to revise that answer? A. My understanding is that the action was taken in the name of the Attorney General by the Attorney General and that he was - the subsequent decision was reported to him and the conclusion authorised by him. He took the decision to seek an injunction and that was withdrawn with his agreement.

Q. Do you have any reason to believe that the Attorney General subsequently agreed with the advice given by these nameless lawyers in respect of "Trade is Treachery"? A.I understand that he would not agree that there was no basis for restraint.

Q. Really? (No reply).

Q. So you understand that is Sir Michael Haver's view on those facts, in respect of "Trade is Treachery"? A. As I understand it, but I am thirty thousand miles away.

Q. Have you checked that with him? A. I haven't checked that with him personally.

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10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

28 November 1986

Dear Stephen,

THE JOAN MILLER CASE

The Prime Minister read this evening your letter of today's date in which you recalled the Home Secretary's advice that we should continue to pursue the case for an injunction restraining the publication of the late Joan Miller's book, "One Girl's War". She has also seen the Solicitor General's letter of the same date to the Foreign and Commonwealth Secretary in which he explains the legal position on the case.

The Prime Minister agrees with the Home Secretary's advice that we should continue to pursue the case for an injunction.

I am sending a copy of this letter to the Private Secretaries to the Lord President, the Secretary of State for Foreign and Commonwealth Affairs, to Michael Saunders (Law Officers' Department), Sir Antony Duff (Box 500) and to Mr. Mallaby and Mr. Woolley (Cabinet Office).

Yours sincerely,

Nigel Wicks

(N.L. WICKS)

Stephen Boys Smith, Esq.,
Home Office

CONFIDENTIAL

BT

Prime Minister

Do you agree that we should persist with the injunctions?

N.L.W
28.11

CONFIDENTIAL

B.07605

MR WICKS

Yes pls

Joan Miller's book: "One Girl's War"

Flag A

Flag B

The Home Secretary's Private Secretary is writing to you this evening to convey the revised view that on balance we should persist with obtaining injunctions here and in the Irish Republic to restrain publication of this book. The Solicitor General has written a minute with legal advice. I understand that our chances of getting the injunctions confirmed are respectable, although in the United Kingdom at least the fact that copies have reached the shops will tell against us. A comparison of the book as published with the 1984 manuscript, when the Treasury Solicitor intervened and publication was halted, has shown the contents to be virtually identical.

2. The argument for desisting in the applications for injunctions is that we can avoid ridicule for opposing such a trivial book. Other factors on this side of the balance are the risk of losing in the further proceedings and a risk that the further proceedings in the Irish Republic might become very protracted and newsworthy, as those in Australia have done.

3. The main argument on the other side is that the best way of maintaining the principle of confidentiality is to get the injunctions confirmed. Another argument is that it would be very difficult, since the 1984 and 1986 texts are virtually identical, to explain why we stopped publication two years ago but were allowing it today.

4. It is a close run thing. But, given the identity of the two texts and the reasonable chances of success in further proceedings, I think on balance we should persist with the injunctions.

The FCS does not contest the Home Secretary's conclusion N.L.W.

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5. I am advised by the Law Officers' Department that it would be most inappropriate to announce, without going to court, that we were abandoning the applications for injunctions; and that it would be extremely difficult if not impossible to get the court out of bed tonight in order to withdraw our applications.

C L G Mallaby

28 November 1986

From: THE PRIVATE SECRETARY

CONFIDENTIAL

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

28 November 1986

Dear Nigel

THE JOAN MILLER CASE

The Home Secretary considered at his meeting with the Foreign and Commonwealth Secretary, the Attorney General and officials this morning the latest developments in this case since your letter of yesterday to Michael Saunders.

An ex parte injunction was obtained in Dublin at 10 p.m. last night to restrain publication of the book. An application for a similar injunction in London was granted at 10 a.m. today.

Although the official date of publication is this Sunday, 30 November, copies of the book are already on sale in major book shops in London such as Dillons and Hatchards. A copy has been obtained, and it has been found to disclose very little information about the operations of the Security Service. What little there is relates to events some 40 years ago and could in no way be regarded as damaging to national security now.

The inter partes hearing hearing in Dublin is to be on Monday, 1 December. A decision is needed before then on whether the Government should seek to pursue their application for a continuing injunction, on the grounds of the duty of confidentiality owed by a member of the Security Service, i.e. the same grounds as those on which an injunction is being sought against the Wright book in Australia.

Ministers considered the arguments for and against persisting with the Joan Miller case. To withdraw on Monday on the grounds that the book does no harm to national security will be seized on by Mr Wright's Counsel as further evidence that the Government have no consistent policy and that the case there should now turn solely on whether the contents of Mr Wright's book harmed national security. The Government's aim throughout in Australia has been to try and focus on the confidentiality issue and to resist being drawn into arguments about the truth or falsity of Mr Wright's confessions and allegations. That was the purpose of the initial admission that those confessions and allegations were true for the purpose of the court case only. To be drawn into arguments about damage assessment would be a retrograde step.

Furthermore, as you recorded the Prime Minister saying yesterday, to withdraw on Monday in the midst of Sir Robert Armstrong's evidence would undermine his position, which is already difficult, at a critical point in the trial.

Unless the Government can win the case in Dublin, however, the result of either choice would be disadvantageous. To continue to fight and lose would be likely to attract as much publicity as withdrawal and could equally be used as ammunition by Mr Wright's Counsel.

The Home Secretary and his colleagues concluded that before Ministers could reach a decision the Security Service should check the facts about the action taken to prevent publication of Joan Miller's book in the United Kingdom in 1984 and the Solicitor-General should be asked for his advice on the prospects of success in Dublin, which I understand he is providing separately today. We have learned from the Security Service that an advance copy of the text of the Miller book was obtained by them via the D Notice Committee. After discussion between Government legal advisers the Treasury Solicitor wrote to the United Kingdom publishers to draw their attention to the fact that Joan Miller had not obtained the consent of the Crown to publication and that she might be in breach of the Official Secrets Act and would be in breach of a duty of confidence owed to the Crown. He asked for an assurance that they would not proceed with the publication and they did not publish.

This action in 1984 raises a point of difficulty if Ministers decide that the application for an injunction in Dublin (and also in London) should be withdrawn. It means that there are people outside the Government service who know that we intervened to prevent the publication of a copy of the manuscript two years ago. If the manuscript now published by different publishers in Dublin is the same, as it seems to be, the United Kingdom publishers could point to the inconsistency of the Government stance. Attempts could be made to persuade them not to make this knowledge public at the present time but there would be no guarantee of success. Although they might not be able to sustain a claim for damages in respect of their expenses and lost profits which resulted from the 1984 action,, for which they may well have been covered by insurance anyway, if the fact of the Government intervention became known Ministers would have to say that it was essential for them as an immediate step this week to secure an ex parte injunction while a copy of the new book could be obtained and read, if only to check whether it was the same as the 1984 version. That having been done, it was clear that in the changed circumstances from two years ago there were no legitimate grounds for seeking to persist with the present injunction. While this argument might have some slight credibility as far as an OSA offence was concerned, it would still look thin and inconsistent; it would be no answer at all, however, to the charge that the Government was now accepting a considerable modification of its policy of insisting on an insider's duty of confidentiality.

The Home Secretary has not had the opportunity to see the Solicitor-General's advice, or to consult his colleagues further. He is not keen to embark on lengthy proceedings for a book of this kind. But his own view is that the facts revealed since this morning's meeting make it on balance and with some reluctance preferable to continue to pursue the case for an injunction, since the grounds of confidentiality remain the same as yesterday and as in the case in Australia. Any defeat would be seen to be by decision of the court and not through a change of Government policy within 24 hours.

I am sending a copy of the letter to the Private Secretaries to the Lord President, the Secretary of State for Foreign & Commonwealth Affairs, to Michael Saunders (Law Officers' Department), Sir Antony Duff (Box 500) and to Mr Mallaby and Mr Woolley (Cabinet Office).

Yours,

S Stephen

S W BOYS SMITH

Nigel Wicks, Esq.,

28 XII
PM 3 6

010

With the compliments of

the Solicitor-General

Attorney General's Chambers,
Law Officers' Department,
Royal Courts of Justice,
Strand, W.C.2A 2LL

01 405 7641 Extn. 3407

CONFIDENTIAL

SOLICITOR GENERAL

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
London SW1A 2AL

28 November, 1986

Dear Geoffrey:

I believe that Michael Havers promised you and Douglas Hurd an explanation of the legal position in the "One Girl's War" case.

The book in question was written by a former member of the Security Service drawing extensively on her experiences in that capacity. It therefore falls squarely into the class of unauthorised publication which we are seeking to restrain in Australia. The contents of the book, of which our officials obtained a copy when in Dublin yesterday, is in this context not material.

We have sought the advice both of senior Counsel in the Republic of Ireland and Treasury Counsel here. The advice of Counsel in the Republic was that there was a good chance of obtaining an ex parte injunction against the Irish publishers and, if such an injunction was obtained, a good chance of maintaining it at the inter partes stage. This advice was subjected to a caveat when we learned. in the course of yesterday afternoon, that although the UK publication date had been said on the telephone by the Bookseller magazine to be 30 November (curiously a Sunday), the book was already on sale in at least two bookshops in London. Counsel in the Republic then advised that, since he would have to reveal this fact to the court, the success of any action in Dublin depended on being able to assure the court that we were taking equal action in the UK and expecting to succeed.

Treasury Counsel, whom I then consulted urgently during the course of yesterday afternoon, advised that on the basis of the facts as we then knew them, including the extent of distribution in the Republic and the UK, we had good prospects of success. Unless and until the House of Lords reverse the Court of Appeal's judgment in the interlocutory proceedings in the recent Observer and Guardian case, a Judge could be expected to grant an injunction in such a case as this.

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We last night obtained and ex parte injunction in Dublin and this morning we obtained one in the High Court here.

Our prospects when the matter is heard inter partes, probably at the beginning of next week, will in each jurisdiction be affected by the extent of distribution which has in fact occurred. This now seems to have been quite widespread, at least in London.

Our action until now has of course been, and been intended to be, consistent with the principle which we are asserting in Australia. If the injunctions are lifted at the inter partes stage we will still have demonstrated the importance attached by us to this principle.

I am copying this letter to Douglas Hurd, Sir Anthony Duff, Mr Mallaby and Nigel Wicks.

2 G. XII
PM 3 4

THE NATIONAL ARCHIVES

DEPARTMENT/SERIES Prem 19 PIECE/ITEM 1952 (one piece/item number)	Date and sign
Extract details: Letter dated circa 28th of November 1986	
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PRESS INFORMATION

F
Wright file

From the Office of
Rt. Hon Neil Kinnock MP
Leader of the Opposition

Press and Broadcasting Secretary: Patricia Hewitt 01-219 4151 01-267 2567 (home)

EMBARGO: For immediate release November 28th 1986

ATTACHED IS A COPY OF A LETTER THAT NEIL KINNOCK SENT TODAY TO THE SPEAKER, TOGETHER WITH A COPY OF THE ACCOMPANYING STATEMENT

All speeches are issued on a check against delivery basis. Any portion of the speech not actually delivered should be regarded as private and confidential

HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the
Leader of The Opposition

28 November 1986

Dear Mr Speaker,

You may have heard of the proceedings at 11.00 am today in the House during which I directly indicated that there were certain facts that I desired be made known.

I was under the impression that I could make a Statement to the House later today. Regrettably that proved to be a misapprehension since, as you obviously know, the procedures of the House do not afford such an opportunity today. I am, however, departing for a visit on business to the United States tomorrow. I shall not, therefore, be in the House next week. I am consequently enclosing the Statement which I would have made to the House today.

With your permission I would like to release the text to the Press.

Yours sincerely,

Neil Kinnock

NEIL KINNOCK

Mr Speaker

Mr Deputy Speaker, I wish, with permission, to make a personal Statement to the House.

After hearing the early morning news broadcasts of proceedings in the Sydney Court on 20 November, I decided that, following the exchanges in the House on 18 November, they would be an appropriate matter for questions to the Prime Minister that afternoon.

Accordingly, when I got to my office that morning I asked my staff to begin checking the news tapes and broadcasts for details and quotations.

Whilst we were engaged in those discussions, we received a telephone call from Ms Patricia Hewitt who is my Press Secretary, now on Maternity Leave and calling from her home in London. She told us that she had received a call from a British journalist in Sydney, Mr David Leigh, asking for a comment from me on the case and giving a resume of the testimony of Sir Robert Armstrong as background. I was subsequently informed that Mr Leigh had called from Mr Turnbull's office where he was apparently conducting an interview.

When it became known that I could talk to Mr Leigh or Mr Turnbull, I naturally then called Mr Turnbull in order to get precise information about proceedings. Mr Turnbull was previously unknown to me.

/Cont..

He confirmed what I had heard on the radio and also gave me other quotations from the proceedings, all of which were of course publicly accessible to the British media since transcripts were made quickly available to all reporters by the Court. Mr Turnbull also informed me that he understood that transcripts of court proceedings were being transmitted by facsimile machine to the Observer newspaper in London.

I consequently contacted Mr Paul Lashmar of the Observer and later that day obtained from him part of the transcripts of the public proceedings in Court.

I took those transcripts into the House with me when I raised a question with the Prime Minister that afternoon in case I was challenged on specific quotations.

As you will recall, on Monday last 24 November at col 21 of the Official Report I expressed my regret to the House that I had inadvertently transgressed against order by using quotations at Question Time.

My possession of those transcript extracts was obviously in no sense confidential on Thursday or at any other time.

That occasion on Thursday morning 20 November described above is the only one upon which I have personally had any contact with anyone concerned with the Court case in Australia.

/Cont..

There have been other contacts between my office and Mr Turnbull. Not all of my staff could be reached yesterday evening when the matter was raised so I had to wait until this morning to fully check all details.

I am now in a position to inform the House that there were altogether two brief telephone calls from Mr Charles Clarke in my office to Mr Turnbull around lunchtime on 20 November to check on quotations. That was necessary before we received the Court transcript from Mr Lashmar. A further five telephone calls came from Mr Turnbull to Mr Charles Clarke of my office between the morning of Friday 21 November and the morning of Wednesday 26 November.

All of these conversations were also brief - the recollection is of 10 minutes or less in each case - and they all also related to public proceedings, all important details of which had, of course, already been broadcast in Britain in morning news programmes on each of those days.

It is clear, Mr Deputy Speaker, that neither I nor people who work with me have had any form of contact with anyone directly or indirectly connected with the case in Australia that has not been easily available to any newspaper or broadcasting organisation.

/Cont..

Indeed, since contact has been limited entirely to that which I have described in candid detail, it has obviously been less than that undertaken by most of the reporting media.

Against the background of these accurately reported details, Mr Deputy Speaker, the allegations made in Early Day Motion 195 and elsewhere by members of the Conservative Party are clearly and absolutely specious and I would suggest that honourable gentlemen would withdraw them.

Mr Deputy Speaker, you will be familiar with exchanges in this House about matters relating to the Court case in Australia and you will also have heard of the testimony in the most recent session of that hearing by Sir Robert Armstrong.

As I have repeatedly stated, it is obvious that nothing that I have said in the House or elsewhere has had the remotest possibility of "undermining Britain's security interests" nor, indeed, have my statements had the purpose or the effect of "destroying the Government's case". All of that is clear from the record of the House and the newspapers. The Government's responsibility by its decisions and its conduct in these matters for destroying its own case and undermining Britain's security itnerests is, of course, something that they must answer for.

/Cont..

I have in the course of this Statement readily given details of the manner, the purpose and the substance of contacts between my office and the lawyer in Australia. It is obvious that in all respects I have neither sought nor used any information or advice that has not been available to the reporting media and the public well before I have used information and, indeed, such information has always been available even before each contact between Mr Turnbull and my office.

With all of that evident I feel completely justified in saying that the Early Day Motion, the continued anonymous briefings by the Government and the Points of Order raised on the matter by Conservative Members are all of a piece with the efforts of the Government and their MPs to malign and falsely accuse me in order to try to obscure the cuplability of the Government in the various matters relating to the publication of books which they knew to be written with information provided directly by people breaching their duty of confidence.

All of that has been evidence of great agitation in the Conservative Government and Party and since my questions have manifestly related not to national security in any way but to the competance and integrity of the Government in every way it is plainly an agitation born of political desperation.

/Cont..

This morning, Mr Deputy Speaker, I called upon the Prime Minister to make a statement about the matters which she has, without good cause, refused to answer to in the House and have now been to some extent clarified by the recent testimony of the Cabinet Secretary.

The Prime Minister refused to make that Statement.

Her silence on this occasion, as on many others, speaks volumes. Its meaning will not be missed by the House or by the public.

CONFIDENTIAL
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DG2ATV

29

file

10 DOWNING STREET

From the Principal Private Secretary

27 November 1986

Dear Michael,

The recent to-ings and fro-ings about the Joan Miller case have prompted me to consider whether we should try to clarify the arrangements for dealing with cases like this.

I therefore attach the draft of a letter for which, subject to the views of the recipients of this letter, I propose to seek the Prime Minister's endorsement. I hasten to add that my writing in this way is not intended to suggest any hint of criticism about the handling of this particular case.

Please could you, and other recipients, let me have comments by the end of next week.

I am copying this letter to Sir Brian Cubbon, Sir Patrick Wright and to Christopher Mallaby and Trevor Woolley in the Cabinet Office.

Yours ever,

Nigel Wicks

N. L. Wicks

Michael Saunders, Esq.,
Law Officers' Department.

CONFIDENTIAL
covering SECRET

D85.

DRAFT LETTER FROM MR. NIGEL WICKS TO:

The Prime Minister thinks it would be helpful to clarify the arrangements for action by Departments in respect of unauthorised publications by former members of the Security Service, SIS and GCHQ. She would like the following arrangements to apply.

Directly there is any information that an unauthorised book by a former member of the agencies may be in prospect, the Home Secretary, the Foreign and Commonwealth Secretary, the Attorney General and the Secretary of the Cabinet should be notified. The Home Secretary, in the case of the Security Service, and the Foreign and Commonwealth Secretary, in the case of SIS and GCHQ, should thereafter take the lead in deciding, in full consultation with the Law Officers, what civil action should be taken to prevent publication. Any criminal proceedings are, of course, a matter for the Law Officers. The responsible Minister should take the lead in convening any meetings of the group of Ministers and the Cabinet Office. Officials should be co-opted to the group as necessary. The Lord Privy Seal and the Chief Whip should be consulted, as necessary, about Parliamentary handling and the Prime Minister's Press Secretary about press presentation. Prime Minister should be kept closely in touch with developments and her approval sought for the action agreed. If she felt it necessary to summon a meeting to consider the action recommended, she would wish the Lord President to be present as well as the Ministers concerned.

I am sending copies of this letter to appropriate Private Secretaries.

SECRET

28

PRIME MINISTER

Yesterday evening's scurryings around about the Joan Miller case suggest that our arrangements for handling consideration of legal proceedings restraining the publication of books, etc., by former members of the Security Services needs looking at. Here are some thoughts in case anyone raises this at Cabinet.

The allocation of responsibility for taking decisions on such proceedings is unclear. The Attorney's Office seems to be in the lead. Understandably so because they are in the front line in having to go to Court. But theirs is not really the policy responsibility. That lies with the Home Office (in the case of the Security Service) and the Foreign and Commonwealth Secretary (in the case of the SIS and GCHQ). But at the moment these two Departments do not act in any decisive way in these matters. This is not a criticism of any body, but just how things have evolved.

What I think we need are arrangements on the following lines.

Directly anyone hears that an unauthorised book by a former member of the Security Services is in prospect, they should notify the Home Secretary, the Foreign and Commonwealth Secretary, the Attorney General (and any other relevant Minister). In the case of the Security Service, the Home Secretary should take the lead, and the Foreign and Commonwealth Secretary the case of SIS and GCHQ in deciding, in full consultation with the Attorney, on what civil action (injunctions, etc) should be taken to prevent publication of any book. (Obviously, the Attorney is responsible for decisions of criminal actions.) They should keep each other in touch on their decisions, and you and the Lord President should be consulted. Sir Robert Armstrong and the Cabinet Office should be fully involved as well.

I think that arrangements on these lines should ensure more coherent and expeditious action. As soon as the case is under way, we should institute the arrangements for the Wright case which are described in my letter of yesterday to the Home Secretary's Office (attached). Even if this does not come up at Cabinet, shall I ask the Ministers concerned for their comments on whether some such arrangement would be helpful for the future?

One further thought. I understand that the late Miss Miller's book has nothing in it of any embarrassment. All of it is in the public domain. Yet we are prepared, quite rightly, in view of the consequences for the Australian case, to prepare to take action in the Irish Courts to prevent its publication. We should not have been in that position in the first place. Surely there is a case for some system whereby members of the Security Services can seek authority from their agencies for publication of memoirs. This would have to be done within very strict guidelines and limits. Obviously, Mr. Wright would not have been allowed to publish. But Miss Miller could well have been. This is, I think a formalisation of what has, at least in the past, operated. As you know from Mr. Mallaby's note, there have been examples of authorised memoirs in the past, at least in the case of the SIS.

Shall I ask Sir Robert Armstrong, on his return, to give some consideration to such an arrangement? If it were agreed, it could not be announced until some time after the Wright case was concluded.

N. L. WICKS

27 November 1986

LOA AHW

B.07602

MR WICKS

Proceedings in the Irish Republic against Joan Miller's book "One Girl's War"

Our enquiries this morning in Dublin show that the official date for publication of Joan Miller's book in the Irish Republic is today, although some booksellers have apparently had copies for some days. The legal advice is that, since today is the official publication date, we have a chance of securing an interim injunction. We are seeking one.

2. There are also plans to distribute the book in the United Kingdom, starting this weekend. The Law Officers' Department are considering applying for an interim injunction against the distributors.

3. If the Prime Minister is asked about this book in the House today, she could say -

> "This book is by a former member of the Security Service, now dead, and reportedly concerns her experiences in the Service. There has been a move to publish it in the Irish Republic. The Government are taking active steps to inhibit this."

4. I am sending copies of this minute to the Private Secretaries to the Lord President, the Foreign and Commonwealth Secretary and the Home Secretary, to Anthony Inglese (Law Officers' Department, Juliet Wheldon in the Treasury Solicitor's Department and Trevor Woolley.

C L G Mallaby

27 November 1986

PI: keep
The Chances of success are now assessed lower & action has not yet started on file

B.07602

MR WICKS

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My Rht the Attorney-Gtn is considering the matter

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C L G Mallaby

27 November 1986

to be filed on Peter Wright

Harold Wilson. rule p 1.

The Prime Minister and National Security

'It is dangerous and bad for our general national interest to discuss these matters. It has been a very long tradition of the House to trust the relations between the two parties to discussions between the Leader of the Opposition and the Prime Minister of the day. I ask the House now to revert to the older tradition which I think is in our real interests. Otherwise we would risk destroying services which are of the utmost value to us.' HAROLD MACMILLAN[1]

The prime minister has the ultimate responsibility for the national security authorities at home and abroad, though the home and overseas organizations concerned come departmentally under the Home Office[2] and the Foreign and Commonwealth Office responsibility.

The No. 10 responsibility is exercised through the secretary of the Cabinet, who is the prime minister's link with the authorities concerned. The Cabinet Office account for the Secret Service vote which is published under the heading 'OTHER EXTERNAL RELATIONS: SECRET SERVICE being the ESTIMATE of the amount required in the year ending . . .'[3]

In 1975–6 it amounted to £22 millions. No other details of estimates or expenditure are made available to Parliament either in the estimates or the accounts. By agreement with the Public Accounts Committee,

[1] op. cit., Vol. VI, p. 434. See reference to the Philby case, p. 145 above.

[2] Until 1952 the Prime Minister was directly responsible for the security service. Following a report by Sir Norman Brook, responsibility was transferred to the Home Office, and a directive was accordingly sent to the Director-General of the Service, by the Home Secretary, Sir David Maxwell-Fyfe. 'In your appointment as Director-General of the Security Service you will be responsible to the Home Secretary personally. The Security Service is not, however, a part of the Home Office. On appropriate occasion you will have right of direct access to the Prime Minister.'

This was first publicly quoted in The Denning Report on the Profumo Affair, Cmnd. 2152, of September 1963. It came as a complete surprise to Members of Parliament and the Press, and apparently just as much of a surprise to No. 10.

[3] See, for example, *Supply Estimates, 1975–76* (year ending 31 March 1976) HMSO No. 210, printed 11 February 1975, pp. 11–30.

the account is supported by the personal certificate of the Comptroller and Auditor General in a unique form: 'I certify that the amount shown in this account to have been expended is supported by certificates from the responsible Ministries of the Crown.'

The prime minister is occasionally questioned on matters arising out of his responsibility. His answers may be regarded as uniformly uninformative.

There is no further information that can usefully or properly be added before bringing this Chapter to an end.

Told S. B-S that PM had no comments.
N.L.W 28.11

From: THE PRIVATE SECRETARY

SECRET

27

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

27 November 1986

Prime Minister
This looks fine.
N. L. W
27.11

Dear Nigel,

THE WRIGHT CASE

The Home Secretary has considered your letter of 25 November with which you circulated a draft 'Dear Colleague' letter to Conservative backbenchers. He has discussed it with the Chief Whip.

The Home Secretary and Chief Whip have concluded that a letter in these terms ought not to be signed by a Minister. They are concerned particularly that the author would then be deemed to have commented publicly on the substance of the case in a way which would expose him, and so perhaps other Ministers, to questioning and possibly demands for a statement in Parliament. They conclude that a backbencher should be invited to send it, and suggest that an approach should be made to Mr Onslow for this purpose.

I attach a revised draft which reflects the Home Secretary's discussion with the Chief Whip and the changed authorship. Mr Onslow, if he agrees, would no doubt wish to personalise it a bit, but this gives the key material.

Subject to the Chief Whip's views, the Home Secretary thinks the letter, if colleagues agree it, might best be made available to Mr Onslow through the Chief Whip's Office.

Copies of this letter and its enclosure go to Joan MacNaughton (Lord President's Office), Tony Galsworth (Foreign and Commonwealth Office), Michael Saunders (Law Officers' Department), Murdo Maclean (Chief Whip's Office), Christopher Mallaby and Trevor Woolley (Cabinet Office).

Yours.
Stephen

S W BOYS SMITH

Nigel Wicks, Esq

SECRET

SECRET

DRAFT LETTER FOR SIGNATURE BY MR CRANLEY ONSLOW MP

I thought I should try to set out what I understand to be the essential considerations in the Peter Wright case. They seem to me to be as follows.

The Attorney General is seeking an injunction in the Supreme Court of New South Wales to restrain the publication by Mr Peter Wright of his memoirs of his time in the Security Service.

Mr Wright's service with the Security Service ended before the present Government took office; he was, in fact, employed by the Security Service between 1955 and 1976. The Government sought the injunction because publication of Mr Wright's memoirs would breach the fundamental principle that members of the Security Service should not publish unauthorised accounts of their experience and knowledge of the Service. The Security Service's task is to defend the security of the country. Unauthorised disclosure would put that security in jeopardy by making known details of the operations of the Service. I am sure it is right for the Government to do all it can to prevent unauthorised disclosures such as Mr Wright is intending. If they do not, other members of the Service might consider publishing their own memoirs when they are no longer in the service of the Crown. There is an important distinction between former members of the Security Service who publish an unauthorised book in this way and other writers outside the Service who may pick up information and publish it.

The Government is party to the case now before the courts in Australia. Ministers cannot discuss in public matters which are, or may be, before the court there.

The principle of confidentiality is crucial to the effectiveness of the Security Service, and I agree entirely with the view that anyone who for any reason seeks to undermine that principle is acting irresponsibly and against the national interest.

SECURITY; Secret Services, Pt 3.

Three broad issues are raised by the current controversy over the publication of Peter Wright's book which is being contested on security grounds in Australia.

The first issue concerns the judgement on the British Government in seeking to prevent publication of the book. The second issue concerns the different judgements made by the Government when confronted by other books relating to the security services. The third issue concerns the desirability of replacing the Prime Ministerial responsibility for the security services with that of a panel of senior Privy Councillors.

There is also the question of the way in which the Opposition have reacted to these problems.

The case for the attempt by the British Government to prevent the publication of the Peter Wright memoirs is overwhelming. Once it becomes established that former members of the security services can reveal their career secrets not only will national security itself be prejudiced but possibly the lives of those engaged in the security services will be endangered. Britain would become a security risk area. There would be great difficulty in obtaining the cooperation of neighbouring security services. The security work is essentially secretive, and of all aspects of public life it is clearly noticeable for the demands of open Government. Anyone who has worked for the services has an obligation to observe the working standards of secrecy. Indeed, realism and morality both combine to ensure that the Government does all it can be prevent security being prejudiced by Mr Wright's memoirs.

The decision to ~~prosecute~~ bring a case where national security is concerned rests with the Attorney General and the DPP [to be checked]. The Attorney General is acting entirely as a professional legal adviser to the Cabinet. Properly he is neither

subject to political influences nor does he allow political judgements to determine his legal advice. There is nothing particularly surprising that prosecutions have not been brought against Mr Chapman Pincher and Mr Nigel West in respect of their books on the security services. The first and obvious differences is that they were journalists obtaining source material as best they could, whereas Mr Wright had fulfilled a lifetime career in the security services. The reasons that they led the Attorney General to recommend prosecution in respect of Mr Wright and not in respect of Messrs Pincher and West, could, however, be determined by many other factors. One point must be made clear. The judgement would have been related to a lawyers' prosecution appropriate to the responsibilities of the Attorney General.

Allegations have been made by Dale Campbell-Savours MP about impropriety concerning the decision not to prosecute Mr Nigel West. The Attorney General [reference to be checked] has ordered a police inquiry into these matters, and clearly little can be said further until the outcome of the inquiries is known.

Thirdly, a number of Members of Parliament, including Dr David Owen and several Conservative MPs have argued that the political responsibility for the security services shuld be vested in a small group of Privy Councillors rather than in the Prime Minister. This viewpoint has been held by a number of Members of Parliament over a number of years and it usually is made known whenever sharp controversy afflicts the security services. It is quite clear that the security services operate in very considerable secrecy, and thus their general modus operandi is not as intimately known to political authority as other areas of the public service. It is this situation which from time to time gives rise to political difficulties over effective responsibility for the security services. It is not at all apparent that this situation would be improved if nominal political authority were transferred from the Prime Minister and the administrative structures of No 10 to the

collective authority of all-party Privy Councillors.

However, in the current controversy, the argument against the present structure of No 10 control can be used to generate criticism without descending into some of the gutter politics of the Government's opponents. I judge this to be the view of Dr Owen.

Finally there is the political judgement that has been made by Neil Kinnock. He has not been prepared to let the New South Wales trial run its course before making his criticisms. He has judged that the Attorney General has been politically rather than legally motivated in selecting which occasions to make a prosecution. It is clear that there cannot be superficial consistency in prosecutions in these matters, where so many factors have to be evaluated, not least whether the offending work is the product of a former member of the security services or of journalists.

Behind Mr Kinnock is a posse of muck-rakers who has as their objective the discredit of our security services. The suggestion that the Attorney General does not have the legal detachment and independence appropriate for his position and the innuendo that the Prime Minister operates by more generous standards towards those who have affiliations to the Conservative party . All of this are grossly irresponsible and in sharp contrast to the attitudes of former Labour leaders.

It is difficult to avoid the conclusion that the Opposition would far prefer to have the national political debate upon matters peripheral to the performance of the economy and the alliances we seek with our neighbours.

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File

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

MR. MALLABY
Cabinet Office

THE PETER WRIGHT CASE

I sent you a copy of my minute of 26 November to the Prime Minister in which I sought her views on the reply of the question from Mr. Campbell Savours about her discussions with Lord Rothschild concerning Mr. Wright's book.

After some further discussion today, the Prime Minister decided to answer any question which came up during Parliamentary Questions this afternoon in terms of the general answer, "It would be inappropriate.....".

Mr. Gareth Wardell duly asked a question about the Prime Minister's contacts with Lord Rothschild and the Prime Minister gave the general answer. She would, however, like our Counsel in Australia to take an early opportunity to make clear to the court that she had had no discussions with Lord Rothschild about Mr. Peter Wright or his book. Please could you let me know when this has been done.

I am sending a copy of this minute to the Private Secretaries to the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General's Legal Secretary (Mr. Saunders) and to Mr. Woolley in the Cabinet Office.

N.L.W.

N. L. WICKS
27 November 1986

CONFIDENTIAL

Prime Minister
to note.

1 (acknowledged)

CONFIDENTIAL

N.L.W.
27.11

B.07603

MR WICKS

The Peter Wright Case

This minute describes the latest situation in the proceedings in Australia.

2. On 24 November our Counsel submitted to the court the list of documents falling to be discovered under the judge's existing order and the claim for Public Interest Immunity (PII) in respect of many of them. Counsel indicated that we would be prepared to show the documents themselves to the judge if he so required but argued the case for not doing so. In a hostile judgement today the judge ruled that he should see the documents. Our team in Sydney are now considering the merits of -

(a) appealing against the judge's ruling;

(b) not appealing at this stage, showing the documents as listed to the judge and appealing should the judge then refuse our claim for PII.

3. The arguments for (a) would be tactical ones concerned with legal procedure. Option (b) accords with Ministers' decision to show the documents to the judge and is likely to be followed. If after seeing the documents (but not showing them to the defendants) the judge accepted our claim for PII, we should have avoided discovery of sensitive documents. But if, as expected, he insisted that some actual documents (as distinct from descriptions of them) be disclosed to the defendants, we would appeal. The three judge Court of Appeal could consider that appeal in the middle of next week.

4. If our claim for PII was accepted in the Court of Appeal no sensitive documents would have to be discovered. But the Court of Appeal might rule that some of the documents

should be disclosed. We would need to consider how sensitive the selected documents were, and whether discovery of them was a possibility.

5. If our claim was rejected by the Court of Appeal we could seek leave to take it to the High Court of Australia. The case might not be heard there until February 1987 although it is possible that, in view of Wright's health and age, his Counsel might seek to expedite the hearing. Sir Robert Armstrong might be expected to give a commitment to return at that time.

6. Tomorrow the cross-examination of Sir Robert Armstrong on the contents of the Wright manuscript will continue in camera.

7. I am sending copies of this minute to the Private Secretaries to the Lord President, the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

27 November 1986

Superseded

PETER WRIGHT CASE: LORD ROTHSCHILD

General line to take

I have had no discussions with Lord Rothschild about Peter Wright or his book.

Alternative

The Government have at no stage taken any steps whatsoever to seek to procure or encourage the publication of Chapman Pincher's book 'Their Trade is Treachery'.

Did the Prime Minister discuss matters affecting national security with Lord Rothschild in 1980?

I see Lord Rothschild from time to time. I have made the Government's position perfectly clear on the specific point raised by the Opposition about Chapman Pincher's book. My discussions with Lord Rothschild are private. I am not prepared to discuss them further.

Was Rothschild the Fifth Man?

I have no evidence whatsoever to think so. If the Hon. Gentleman has, he should of course make it available to the appropriate authorities.

Alternative

I have made clear that I intend to follow the practice of previous Prime Minister and Home Secretaries in not commenting on matters affecting national security.

SLHACF

Will the Prime Minister see that Lord Rothschild is prosecuted for breach of the Official Secrets Act?

That is not a matter for me. I refer the hon Gentleman to the reply given by my Rt. Hon. Friend yesterday.

Whose job is it to consider the prosecution of the Attorney General?

My Rt. Hon. Friend is a highly distinguished and efficient member of the Government. I have total confidence in him. The Hon. Gentleman's Question is unworthy.

POINTS AGAINST LABOUR

Members of the Opposition are seeking to abuse the procedures of this House to

- smear the good name of eminent people outside this House;

- put Party politics above matters affecting national security;

- raise points for discussion in this House which are at issue or may arise in the proceedings in Australia.

I have made clear that the Government is concerned with upholding the principle of confidentiality and the obligations of staff in the Security Service. That is what we shall continue to do, and that is the position the Opposition are seeking to undermine.

27 November 1986

SLHACF

Her Majesty's Government have received during the past 12 months concerning restitution of the Elgin Marbles to Greece.

Mr. Eggar: We have not received any official representations concerning the restitution of the Elgin Marbles to Greece since a reply was given to the request for their return through UNESCO in October 1985. We have received 12 separate representations from private groups and individuals on this subject within the past 12 months.

Indonesia (Political Prisoners)

Mr. Wigley asked the Secretary of State for Foreign and Commonwealth Affairs what representations he has received, in the context of the Foreign Ministers' meeting at Jakarta last month, concerning political prisoners in Indonesia; whether he took these questions up with the Indonesian authorities; and if he will make a statement.

Mr. Renton: Several hon. Members have written to me about the recent executions of nine people in Indonesia. In early October Her Majesty's ambassador in Jakarta expressed to the Indonesian authorities at a high level the collective concern of the Governments of the member states of the European Community about these executions. He also lodged a strong appeal for clemency for others currently under sentence of death. The Indonesian Government were fully aware of our views when my right hon. and learned Friend visited Jakarta for the EC-ASEAN Foreign Ministers meeting. He did not therefore raise the matter with them again on that occasion.

Iran

Mr. Best asked the Secretary of State for Foreign and Commonwealth Affairs what discussions have taken place between Her Majesty's Government and the United States Administration on the co-ordination of their embargoes on lethal arms sales to Iran.

Mr. Renton: None. Our policy remains as described by my right hon. Friend the Prime Minister on 18 November that:

(i) We should maintain our consistent refusal to supply any lethal equipment to either side;
(ii) Subject to that overriding consideration, we should attempt to fulfil existing contracts and obligations;
(iii) We should not, in future, approve orders for any defence equipment which, in our view, would significantly enhance the capability of either side to prolong or exacerbate the conflict;
(iv) In line with this policy, we should continue to scrutinise rigorously all applications for export licences for the supply of defence equipment to Iran and Iraq.

Cambodia

Mr. Best asked the Secretary of State for Foreign and Commonwealth Affairs if he will make it his policy to give assistance to forces which are resisting the Vietnamese occupation of Cambodia; and if he will make a statement.

Mr. Renton: I refer my hon. Friend to the reply that I gave to him on 20 November, at column 312. It is our policy to continue to give humanitarian assistance to the non-Communist resistance. We have pledged £200,000 for this purpose in 1986-87. We do not provide military assistance nor assistance in cash. Nor do we provide any assistance to the Khmer Rouge.

Electoral Register

Mrs. Peacock asked the Secretary of State for Foreign and Commonwealth Affairs how many overseas electors' declarations have been attested at British consulates under the terms of the Representation of the People Act 1985, with a view to inclusion in the Electoral Register coming into force on 16 February 1987.

Mr. Eggar: The provisional total for the number of declarations attested between 11 July when the regulations governing the Act came into force and 10 October, is 12,207.

ATTORNEY-GENERAL

State Security

Mr. Winnick asked the Attorney-General what contacts he has had with the Australian authorities regarding the Wright case; if he will set out the dates of the relevant letters and telephone conservations; and if he will make a statement.

The Attorney-General: Discussions on these matters between the Australian authorities and Her Majesty's Government are confidential.

Mr. Dalyell asked the Attorney-General what consideration he has given to proceeding against *(a)* Mr. Arthur Franks, formerly head of MI6, and *(b)* Lord Rothschild for breach of confidence in relation to information on matters of state security given to authors.

The Attorney-General: I am considering with the Director of Public Prosecutions the allegations made in respect of the two named individuals.

DEFENCE

European Community (Service Personnel)

Mr. Ralph Howell asked the Secretary of State for Defence what information he has for each European Economic Community country, as to the total number of *(a)* regular service personnel, *(b)* reservists and *(c)* national service personnel.

Mr. Freeman: Details for the United Kingdom are as follows:

	Number
Regular service personnel	[1]322,614
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National service personnel	Nil

[1] At 30 September 1986.
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For detailed information on the armed forces of the other countries of the European Economic Community I would refer my hon. Friend to the International Institute for Strategic Studies publication "The Military Balance 1986-87", a copy of which is in the Library.

Edinburgh Festival

Lord James Douglas-Hamilton asked the Secretary of State for Defence what is the extent of the contribution of

Lynnder

PETER WRIGHT CASE: LORD ROTHSCHILD

General line to take

As I said to the House on Tuesday, it would be inappropriate for me to comment on matters which may arise in the proceedings concerning the Peter Wright case in Australia while these proceedings continue. The Government is concerned with upholding the principle of confidentiality and the obligations of staff without which there could be no effective Security Service. I believe that these principles have been upheld by successive Prime Minister and Home Secretaries of both Parties.

Did the Prime Minister discuss matters affecting national security with Lord Rothschild?

I have made the Government's position perfectly clear on the specific point raised by the Opposition about Peter Wright. The hon. Gentleman is asking me Questions which following the conventions in this House would be wrong of me to answer.

Has the Prime Minister discussed Peter Wright with Lord Rothschild?

I have had no discussions with Lord Rothschild about Peter Wright.
{I have seen speculative reports in the press that the Government sought to procure or encourage the publication of Chapman Pincher's book 'Their Trade is Treachery'. There is no truth in this whatsoever}.

Was Rothschild the Fifth Man?

If anyone has any evidence to lay before the authorities they should do so. Innuendo is not enough. Under our system people do not have to provide the evidence to prove their innocence.

SLHACF

Will the Prime Minister see that Lord Rothschild is prosecuted for breach of the Official Secrets Act?

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27 November 1986

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Edinburgh Festival

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CF file

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Ref. A086/3316

MR ADDISON

Prime Minister's Questions - 27 November - Peter Wright Case

There are three aspects of the Peter Wright case on which the Prime Minister may face questioning today:

a. Progress of the Case in Court: Media reports today have drawn attention to the criticisms by the Judge of the Government's reluctance to comply with orders for the discovery of documents relating to Government decisions not to take legal action to prevent the publication of previous books about the security services. While it would be legitimate to make the point that the case is about the protection of the confidentiality of matters concerning the security services, and the release of certain documents sought by the defendants in the case into the public domain would undermine that very objective, the Prime Minister is advised to adhere to the line that it would be inappropriate to comment on matters which are or may be at issue in the proceedings in Australia while those proceedings continue. The Prime Minister may, however, wish to offer to make a full statement to the House on matters surrounding the Peter Wright case in due course - but not while the proceedings in Sydney continue. This might help reassure the House that it is the propriety of not influencing the hearing in court, rather than the embarrassment of the questions asked, which has determined the Prime Minister's decision to refuse to answer these Questions substantively.

b. The Joan Miller book. Mr Mallaby is minuting separately on this.

c. Lord Rothschild's role in the publication of "Their Trade is Treachery". We have discussed this point separately.

2. I am copying this minute to Michael Saunders (Law Officers Department) and Christopher Mallaby (Cabinet Office).

Trevor Woolley

T A WOOLLEY

27 November 1986

PQSABP

MR. WICKS

PROCEEDINGS IN DUBLIN

The Solicitor General telephoned me to say that the legal advice has changed. Although we cannot take out an injunction against the estate, we may be able to take out an injunction against the publishers.

The advice is that it is too late to take legal action to stop publication tomorrow, but if the book is not published tomorrow such action may be possible.

The grounds for taking out an ex parte injunction would be on grounds of English public policy and this might succeed out of goodwill on the part of the Judge. The Dublin lawyers have doubts about whether the Government would succeed in an action in which the other side were represented.

The Solicitor General has instructed the Legal Secretary and the Treasury Deputy Secretary to fly to Dublin first thing tomorrow morning with Bernard Sheldon to discuss with our lawyers in greater detail the possibility of swearing an affidavit as the basis for an action to restrain publication. When they have discussed this with the lawyers they will report back to London with an up to date assessment and seek a decision on whether or not to try to seek an ex parte injunction.

The Solicitor General mentioned that Bernard Sheldon has not in fact read the earlier book. He seemed put out by this, though I do not know the significance of the point.

DAVID NORGROVE
26 November 1986

Pea on Wright file pl
NCW
27.11

Contingency note

OBJECTS OF VALUE AT No 10

Four silver cups, bowls or salts which are the property of Lord Rothschild have been on loan to the Prime Minister's official residence since last year. They are part of a much larger collection of fine arts objects of all kinds on display in the public and semi-public rooms at 10 Downing Street.

This is in accordance with the long-standing practice of beautifying the parts of the house used for receptions and numerous other meetings with items of artistic merit, mainly by British artists and craftsmen. Pictures, porcelain, furniture, precious metals and glass are among the work represented.

A few of the pieces are in the permanent possession of Downing Street as a result of past benefactions, but for the most part (as in Lord Rothschild's case) they have been generously loaned for varying periods by a wide range of private individuals and public institutions.

26/11/86

cc: Mr Mallaby

MR WICKS

Attached is a photocopy of the PA tape we discussed this morning which went out on Friday, November 21 at 10.30am.

You will see the sidelined passages do in fact confirm that Chapman Pincher denied that the Government had facilitated publication of his book.

BERNARD INGHAM

26 November 1986

AAA HHH

AB0037 5 HHH 205

PA

(1)

. POLITICS Spy Pincher

HAVERS SOURCE OF SPY BOOK CLAIM RUBBISH, SAYS PINCHER

By Paul Wilkinson, PA Staff Reporter

Author and journalist Chapman Pincher today denied Attorney General
ir Michael Havers was the source for a follow-up to his book
iggesting MI5's former head was a Soviet mole.

'It's utter rubbish'', he said at his Berkshire home. ''The
nversation referred to lasted no more than a minute.''

he claim was made in the New South Wales Supreme Court in Sydney
sterday by lawyers acting for ex-MI5 mole-hunter Peter Wright who
fighting British Government efforts to stop publication of his
ok which claims his former chief, Sir Roger Hollis, worked for the
ssians.

olicitor Malcölm Turnbull suggested Pincher and Sir Michael had
cussed the case at a New Year's Day shooting party in 1983.

At that stage Sir Michael and I were not friends. We had met
haps only three times before,'' said Mr Pincher.

We both went to the same shoot which was organised by a mutual
end. At some point, I can't remember exactly when, I asked him
it another book by Nigel West on the security service, which the
ernment was having difficulties with.

RRB

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1 5 HHH 210

OLITICS Spy Pincher

''He said it was a difficult one to deal with, and that was it. My book was some 600 pages long. How could a conversation like that be the basis for such a book?''

Mr Pincher also denied courtroom suggestions that the Government used him to reveal the Hollis affair in his 1981 book Their Trade is Treachery because of his right-wing stance.

''That is completely wrong. The Government and MI5 were horrified. The last thing they wanted was that story making public.

''It has been suggested the Government is being inconsistent in that it is trying to stop Wright publishing while it allowed me to go ahead in 1981, but that is not true.

''Nigel West and I are both writers, not Government servants. We have not signed the Official Secrets Act. We are not bound by an oath of silence.

''Further, I never quoted or named any of my sources. Wright's book has added credibility as it is written by a former MI5 man. With our books they could always say it was inaccurate.

''When Sir Michael Havers considered stopping my book in 1981, he decided it would be an infringement of freedom of speech and he had no right to do that.

''I would add that we were not friends at that time.''

mf RRB

211023 Nov 86

3

LITICS Spy Pincher

He said that after the Government decided it could not prevent publication they determined to reduce its impact by ridiculing it.

''They found a couple of small errors in the section about the Trend inquiry into Sir Roger in 1974 and blew that up to imply the rest was inaccurate, too.

''It was quite cleverly done because at the time it was being serialised in the Daily Mail and the rest of Fleet Street love to rubbish someone else's exclusive.

''But since then the story has come out and I have been vindicated. I have never admitted who my sources were, but now it is out in the open I can admit Peter Wright was a source.

''But the other names I hear being put forward are not my sources. I have never met them.''

Mr Pincher said he knew his book would have controversial effects when published, so he and his publisher had agreed to keep it a secret until it was actually in the shops to forestall a Gobvernment ban.

''But it was serialised a few days before in the Mail and we received a letter from Sir Robert Armstrong (the Cabinet Secretary) asking for two copies. He knew the Prime Minister would face questioning in the House and needed to read it first.

''I later found out they had obtained a typescript or proof copy about four weeks before, but they needed the published book to see if any changes had been made.''

mf RRB

211031 Nov 86

5 HHH 74

(4)

POLITICS Spy Pincher

He said he did not believe its publication was a threat to national security as the Government would have tried to stop it if that was the case.

''I cannot believe that if a publisher was approached and told something was dangerous they would go ahead.

''Perhaps some of the things Wright is trying to say are dangerous. He certainly told me things that I would not put in my books.''

end RRB

211033 Nov 86

...worked for the

...iciter Malcolm Turnbull suggested Pincher and Sir Michael had ...ussed the case at a New Year's Day shooting party in 1983. ...t that stage Sir Michael and I were not friends. We had met ...ps only three times before,'' said Mr Pincher. ... both went to the same shoot which was organised by a mutual ...d. At some point, I can't remember exactly when, I asked him ... another book by Nigel West on the security service, which the ...nment was having difficulties with.

...RB

4 Nov 86

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10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

26 November 1986

THE PETER WRIGHT CASE

It was suggested at the Prime Minister's meeting yesterday on this case that it could pose problems of political management and presentation for a considerable period. Ministers therefore needed some machinery so they could react quickly to new events in the light of their overall objectives for the case.

The Prime Minister has further considered this point and would like the Home Secretary to chair a small ad hoc group of Ministers to put forward suggestions for and to help implement the political management and presentation of this case. The Foreign Secretary and the Attorney General should be members of the group. The Lord Privy Seal and the Chief Whip should be invited when parliamentary aspects are involved. In the particular circumstances of this case, the Home Secretary should feel free to co-opt officials on to the group as needed. The Cabinet Office should be represented on it. Sir Robert Armstrong, on his return from Australia, should advise whether the group should be incorporated into the Cabinet Committee structure.

I am sending a copy of this letter to the Private Secretaries to the Lord President, the Foreign and Commonwealth Secretary, the Lord Privy Seal, the Chief Whip, the Attorney General, and to Sir Robert Armstrong and Mr. Mallaby in the Cabinet Office.

(N.L. WICKS)

Stephen Boys Smith, Esq.,
Home Office

CONFIDENTIAL

Mr. Wicks

CABINET OFFICE

With the compliments of

C. L. G. MALLABY

70 Whitehall, London SW1A 2AS
Telephone 01 233 8220

SECRET

NOTE FOR THE FILE

Chapman Pincher's "Their Trade is Treachery"

I asked Sir Antony Duff and Mr Warner today to confirm orally but formally that, so far as each of the two agencies is concerned, it would be true for the Government to state publicly that the Government had in no way authorised the publication of "Their Trade is Treachery".

2. Sir Antony and Mr Warner gave me this assurance.

C L G Mallaby

26 November 1986

Copies:

Sir Antony Duff
Mr Warner
Mr Partridge
Mr Wicks

SECRET

Nigel Wicks's

minute of

25/11/86

refers

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CYLNAN 1022
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FFFF NORMAL WRIGHT DISTRIBUTION
DD 262200Z SYDNE
FM CAOFF TO SYDNE
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GRS 520

ROOM 3 PLEASE PASS TO:
EXAMINERS

CONFIDENTIAL
FM CABINET OFFICE LONDON
TO DESKBY 262200Z SYDNEY
TELNO MISC 407
OF 261843Z NOVEMBER 86

FOR ARMSTRONG FROM MALLABY

PETER WRIGHT CASE

YOU WILL HAVE SEEN FROM SOME OF MY TELEGRAMS AND THE PRESS CUTTINGS FAXED TO ROBERTS EACH DAY THAT A NUMBER OF KEY POINTS ARE GOING AGAINST THE GOVERNMENT IN THE MEDIA HERE. THIS IS HAPPENING BY DEFAULT, BECAUSE THE GOVERNMENT ARE UNABLE TO COMMENT ON MATTERS ARISING OR LIKELY TO ARISE IN THE PROCEEDINGS.

2. CONSIDERATIONS CONCERNING THE PROCEEDINGS THEMSELVES MUST DETERMINE WHAT WE CAN SAY IN COURT, AND YOUR TEAM ON THE SPOT ALONE CAN DECIDE THIS. BUT IT WOULD HELP MINISTERS GREATLY IF YOU COULD FIND WAYS OF SETTING CERTAIN POINTS ON THE RECORD IN THE PROCEEDINGS AND THUS PUBLICLY, WHETHER IN FURTHER EXAMINATION OF YOURSELF OR IN CROSS-EXAMINATION OF WRIGHT.

3. THE POINTS WHICH FROM THIS POINT OF VIEW NEED TO BE BROUGHT OUT, OR BROUGHT OUT MORE CLEARLY, ARE -

(A) THE CENTRAL IMPORTANCE OF WRIGHT'S OBLIGATION OF CONFIDENTIALITY FOR LIFE=

(B) OUR MOVE FOR AN INJUNCTION BEFORE WE SAW THE MANUSCRIPT UNDERLINES THAT (A) IS OUR CENTRAL POINT=

(C) THAT +THEIR TRADE IS TREACHERY+ WAS IN NO WAY AUTHORISED (PERHAPS QUOTING PINCHER: MY TELNO 387)=

(D) THAT INFORMATION ON WRIGHT'S RECEIPT OF ROYALTIES REVEALED IN THE TIMES OF 24 NOVEMBER DID NOT COME FROM THE GOVERNMENT (SEE QUOTATIONS FROM THE PUBLISHER AND PINCHER IN THAT ARTICLE AND THE REPORT IN TODAY'S TIMES THAT PINCHER WAS THE SOURCE).

4. IT WOULD ALSO BE HELPFUL TO STRESS AGAIN THAT A KEY REASON WHY LEGAL ACTION WAS NOT TAKEN TO STOP PUBLICATION OF +THEIR TRADE IS TREACHERY+ WAS THAT WE HAD NO BASIS, IN TERMS OF INFORMATION ABOUT PINCHER'S SOURCES, ON WHICH TO INITIATE PROCEEDINGS.

5. AS SEEN FROM HERE, THE RECORD, IN PUBLIC AS WELL AS IN THE CASE, WILL LOOK MOST ONE-SIDED IF THERE IS NO FULL CROSS-EXAMINATION OF WRIGHT. WE REALISE THAT THERE IS A DANGER OF APPEARING TO BE SEVERE WITH A FRAIL OLD MAN. BUT WE SUGGEST THAT A CROSS-EXAMINATION COULD BE GENTLE AS WELL AS COMPREHENSIVE. IT WILL BE NECESSARY TO ASK HIM A RANGE OF QUESTIONS. YOU WILL HAVE MANY IDEAS. WE SUGGEST INCLUDING -

(I) WHETHER HE HAS KEPT ANY DIARIES OR OFFICIAL PAPERS ON WHICH HE BASED THE CONSIDERABLE DETAIL (INCLUDING CONVERSATIONS) IN HIS MANUSCRIPT=

(II) WHAT STEPS DID HE TAKE TO TELL THE GOVERNMENT OF HIS CONCERNS ABOUT HOLLIS BEFORE 1980, WHEN HE DISCLOSED SO MUCH TO PINCHER? (AND OTHER QUESTIONS TO SMOKE OUT HIS MOTIVES).

(III) HOW MUCH HAS HE EARNED FROM +THEIR TRADE IS TREACHERY+ AND HAS SO FAR EARNED FROM HIS OWN MANUSCRIPT?

(IV) WHAT HELP DID HE HAVE IN WRITING HIS MANUSCRIPT? (TO BRING OUT THAT GREENGRASS, PRESENT IN COURT AS TURNBULL'S ADVISER, WAS ACTUALLY CO-AUTHOR, A FACT WHICH WE KNOW SUB ROSA AND CANNOT VOLUNTEER.)

6. WE STILL HOPE THAT OCCASIONS WHEN WRIGHT AND/OR TURNBULL HAVE APPEARED TO BE IN CONTEMPT WILL BE BROUGHT OUT IN COURT.

YYYY

CYLNAN 1022

NNNN

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NOTE FOR THE FILE

The Peter Wright Case.

A gloss on my letter of 26 November to Bernard Sheldon. This reports that Lord Rothschild said that he had had no discussion with the Prime Minister about Mr. Peter Wright. He in fact said that he had had no discussion with the Prime Minister about Mr. Peter Wright or about any other intelligence matters whatsoever. This statement should be considered in conjunction with Mr. Bearpark's minute of 25 November.

N.L.W.

(N.L. WICKS)

26 November 1986

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CONFIDENTIAL

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10 DOWNING STREET

From the Principal Private Secretary

26 November 1986

Dear Bernard,

THE PETER WRIGHT CASE

Lord Rothschild telephoned me this morning to say that he is not intending to issue any statement. He was seeing his lawyers again, but they were "allergic" to one. Lord Rothschild volunteered that Mr. Wright's quoted remarks were full of mistakes. He believed that he knew who was putting him up to make them.

I then drew Lord Rothschild's attention to the question from Mr. Campbell-Savours' standing order paper to ask the Prime Minister "what discussions she has had with Lord Victor Rothschild concerning the implications for national security of the proposed publication of Mr. Wright's book about possible ways of preventing its publication in Mr. Wright's name, if she will give the date and outcome of each such discussion and if she will make a statement."

Lord Rothschild immediately intervened to say that there were two points of fact wrong in the question. His name was not "Lord Victor Rothschild"! And he had had no discussion with the Prime Minister about Mr. Peter Wright.

I am sending copies of this letter to Sir Brian Cubbon (Home Office), Michael Saunders (Law Officers Department), Stephen Boys Smith (Home Office), Christopher Mallaby and Trevor Woolley (Cabinet Office).

Yours ever,
Nigel Wicks

N. L. Wicks

Bernard Sheldon, Esq.

CONFIDENTIAL

RM

CF file.

PRIME MINISTER

As you know, Mr. Campbell-Savours has the following question down for priority written answer on Friday:

> "To ask the Prime Minister, what discussions she has had with Lord Victor Rothschild concerning the implications for national security of the proposed publication of Mr. Wright's book about possible ways of preventing its publication in Mr. Wright's name; if she will give the date and outcome of each such discussion and if she will make a statement."

Lord Rothschild has already volunteered to me that he has had no discussions with you about Mr. Peter Wright. He agrees that an answer on the following lines would be factually correct:

> "I have had no discussions with Lord Rothschild about Mr. Peter Wright or his book."

However, since allegations of your discussions with Lord Rothschild might be raised in the Court in Australia, this answer would conflict with your general answer:

> "It would be inappropriate for me to comment on matters which ~~are or~~ may ~~be at issue~~ arise in the proceedings concerning the Peter Wright case in Australia, while those proceedings continue."

Although it is tempting to make an exception from this general answer for this question from Mr. Campbell-Savours, I believe it inadvisable to do so. Mr. Campbell-Savours' caste of mind would lead him to make much of "alleged inconsistencies". He has 17 questions down, many on points of detail, including one in which he asks what discussions you have had with former members of the Security Services about the implications for national security of allegations concerning Sir Roger Hollis.

It would be very difficult to justify answering the question about discussions with Lord Rothschild without answering the question about Hollis. The Attorney General also does not wish you to depart from the general answer.

I therefore suggest that we should proceed as follows:

You should give the general answer that you will not comment while the court case is in progress. But we should immediately instruct our Counsel in Australia to take an early opportunity to make clear in court that you have had no discussions with Lord Rothschild about Mr. Peter Wright or his book. Bernard would make clear in the Lobby that you had no concerns at all about this question from Mr. Campbell-Savours.

Agree to proceed in this way?

N.L.W.

N. L. Wicks
26 November 1986

DG2BOX

JD3ATA

CONFIDENTIAL

MR. WICKS

MEETINGS WITH LORD ROTHSCHILD

Results of my researches to date are as follows:-

31 May 1979	Meeting between Lord Rothschild and Prime Minister at No.10. Subject "subversion". No record of meeting.
13 June 1979	Minute from Lord Rothschild to Prime Minister about "subversion".
19 June 1979	Meeting planned for 1930 did not take place.
9 July 1979	Meeting took place. Private Secretary present for later part of meeting only.
7 August 1980	Lord Rothschild invites Prime Minister to tea in Cambridge to coincide with her visit to Molecular Biology Department.
13 August 1980	PM accepts
27 August 1980	Prime Minister attends tea - no record of what took place.
31 August 1982	Meeting between Lord Rothschild and Prime Minister at No.10. No papers.

This is a preliminary note only. I will let you know if I find anything else.

PAB

25 November, 1986.

CONFIDENTIAL

SECRET

ADVANCE COPY

FILE COPY

1232 - 1

25

mr Wicks
No 10 Downing St

SECRET
FM FCO
TO DESKBY 252200Z SYDNEY
TELNO 108
OF 251751Z NOVEMBER 86

FOLLOWING RECEIVED FROM CABINET OFFICE AS MISC 403 OF 25/11.

SECRET
FM CABINET OFFICE LONDON
TO DESKBY 252200Z SYDNEY
TELNO MISC 403
OF 251751Z NOVEMBER 86

FOR ARMSTRONG AND PARTY FROM MALLABY

PETER WRIGHT CASE

FOR A NUMBER OF REASONS WE WOULD MUCH PREFER NOT TO LEAVE UNCHALLENGED ON THE PUBLIC RECORD WRIGHT'S UNTRUE STATEMENT THAT THE GOVERNMENT WERE BEHIND THE TIMES STORY YESTERDAY THAT HE HAD RECEIVED PART OF THE ROYALTIES FROM +THEIR TRADE IS TREACHERY+. BUT TO MAKE A STATEMENT HERE WOULD SEEM INCONSISTENT WITH MINISTERS' POSITION THAT IT WOULD BE INAPPROPRIATE FOR THEM TO COMMENT ON ATTERS ARISING IN THE PROCEEDINGS: IT MIGHT ALSO BE REGARDED AS ONTEMPT OF COURT.

2. WE THEREFORE HOPE THAT OUR TEAM IN COURT WILL BE ABLE TO FIND A WAY OF PUTTING THE RECORD STRAIGHT IN THE PROCEEDINGS. AN OPPORTUNITY MIGHT WELL ARISE IF, AS WE HOPE, THE QUESTION OF WRIGHT'S STATEMENT BEING IN CONTEMPT IS RAISED TOMORROW. OUR TEAMY SHOULD SAY THAT THE GOVERNMENT HAD NOTHING TO DO WITH THE TIMES STORY AND INDEED DID NOT KNOW THAT WRIGHT HAD RECEIVED ROYALTIES FROM THE BOOK UNTIL THAT STORY APPEARED AND TURNBULL QUESTIONED YOU ABOUT IT SOME FOUR HOURS LATER.

ENDS
HOWE

PETER WRIGHT CASE

LIMITED

DEP HD/PUSD
MR MURRAY, PUSD
PUSD (E 206)
HD/PUSD
HD/SPD
HD/NEWS DEPT.
HD/INFO DEPT.
PS
PS/PUS
MR GOODALL
MR WILSON
MR DARWIN, LEGAL ADVISERS
MR GILLMORE.

COPIES TO:

PS| SIR R ARMSTRONG
SIR C FIGURES
MR MALLABY
MR CHRISTOPHER
} CABINET OFFICE.

MR J BAILEY TREASURY SOLICITORS

MR SAUNDERS
MR INGLESE
} LAW OFFICERS DEPT

MR PARTRIDGE
MR NURSAW
MR MOWER
} HOME OFFICE

SIR B CUBBON, PERM. SEC, HOME OFFICE
LEGAL ADVISERS, SEC. SERVICES) VIA
DIRECTOR GENERAL, SEC. SERVCS) PUSD E203

N. Wicks No. 10 Downing St

CONFIDENTIAL AND PERSONAL

file

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

25 November, 1986.

Lord Rothschild sent me this evening a reply to the letter which I had sent him earlier this afternoon. A copy of his latest letter is attached. Unless I am advised otherwise by the recipients of this letter, I do not believe it calls for any response from me.

I am sending copies of this letter to Sir Brian Cubbon (Home Office), Michael Saunders (Law Officers' Department), Stephen Boys Smith (Home Office), Christopher Mallaby and Trevor Woolley (Cabinet Office).

(N.L. Wicks)

Bernard Sheldon, Esq.

CONFIDENTIAL AND PERSONAL

LORD ROTHSCHILD

Telephone: 01-280 5000

Telex: 888031

N.M. Rothschild & Sons Ltd.
New Court
St. Swithin's Lane
London EC4P 4DU

25th November 1986

Personal

Dear Mr Wicks,

Thank you for your personal letter of November 25. There are two relatively minor points in it which need correction. First, there is no reason for me to mention to Sir Max Williams anything about my contacts with M.I.5. other than those with Peter Wright. (Those other contacts merely came up in conversation with Mr. Sheldon).

Secondly, I do not "intend to issue a statement...". That is subject to the advice of Sir Max Williams. For all I know he may say it would be a mistake to issue a statement.

In any case I will, of course, keep you informed.

Yours
Rothschild

10 DOWNING STREET

Party.

From the Private Secretary

Prime Minister

Further to the typewritten note you will find in your box: Tristan Gasel-Jones has organized a back-bench operation this evening to amend the 40 or so Campbell-Savours Motions on the Order Paper. Basically, the amendments will draw attention to the oddity of the Leader of the Opposition's point of order, avowing a bipartisan approach to national security matters, alongside the many supporting signatures from Labour front-bench spokesmen to the Campbell-Savours Motions which undermine security - or try to.

Secondly, Bob Boscawen has turned up a useful "quote" from Harold Wilson's

"Governance of Britain" (which I have taken out of the Library for you to look at). You will note that Wilson's chapter (9) on National Security runs to some 22 lines! It includes, in its short penultimate paragraph, a nice phrase about Prime Ministerial answers in this area being "uniformly uninformative". A back-bench colleague has re-produced the three lines of this paragraph as a dead-pan, unquoted Motion, which he hopes will draw some Opposition scorn & possible amendment. The trap can then be sprung. So your troops are rallying!

MA 25/11

CONFIDENTIAL

PRIME MINISTER

THE PETER WRIGHT CASE

At this morning's meeting, the Home Secretary made the point that the Wright case could pose problems of political management and presentation for a considerable period ahead. Ministers needed some machinery so they could decide how to react quickly to new events.

I think the Home Secretary is right. Certainly, you need to chair meetings which take major decisions. But I believe that it would help if a processed group of Ministers could meet beforehand so that you could be presented with some considered political advice. At the moment, Christopher Mallaby is performing an excellent service, but he clearly cannot provide the political steer.

I have discussed this with both Robert Armstrong (who sounded on the telephone remarkably cheerful) and Mr. Mallaby. They both agree that there would be advantage in asking the Home Secretary to chair a small group of Ministers, and officials as need be, to perform this task. I believe that the Home Secretary is the right person to do this. Peter Wright came from a Service for which he is responsible, and the Home Secretary clearly ought to be in the lead, with you, in the public presentation.

Shall I therefore write to his Office to ask him to do this?

N.L.W.

NLW
25 November 1986

JA2AHD

CONFIDENTIAL

24

Prime Minister

SECRET

B. 07598

MR WICKS

Publications by Former Members of the Security and Intelligence Services

Following the Prime Minister's meeting this morning, I have asked each of the three Agencies for full details of past and planned publications by their former members. It is plain that unauthorised publication of Wright's manuscript would not be the first unauthorised publication by a former member of any of the Agencies. But it would, I think, be the most serious example.

Security Service

2. Two autobiographies have been published with authorisation:

Sir Percy Sillitoe "Cloak Without Dagger" 1955

J C (Sir John) Masterman "The Double Cross System in the War of 1939-45" 1972.

A few unauthorised articles have been published by former members of the Security Service.

3. As mentioned at the Prime Minister's meeting, the book "One Girl's War" by the late Joan Miller, formerly of the Security Service, was stopped some two years ago in the UK, but there have now been reports that it may be published in the Irish Republic. The Attorney General replied to a Parliamentary Question on 21 November by saying that the question of action against publication in the Irish Republic was under consideration. I understand that the book deals with matters which are long past and public knowledge.

SIS

4. The following former members of SIS have published memoirs:

R V Jones (SIS 1940-45) "Most Secret War" 1978. Not authorised; published after warning by the Government.

Nigel Clive (SIS 1941-69) "A Greek Experience 1943-48" 1985. Not authorised; published after warning from the Government.

5. Nicholas Elliott has accepted cuts requested by the Government, and the book will go ahead with authorisation.

GCHQ

6.

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3(4)
OF THE PUBLIC RECORDS ACT

Conclusion

7. This list, which may not be absolutely complete, excludes books by third parties about members of the Agencies, such as the Intrepid book about Sir W Stevenson and, of course, the authorised official histories of British intelligence in the Second World War and of SOE.

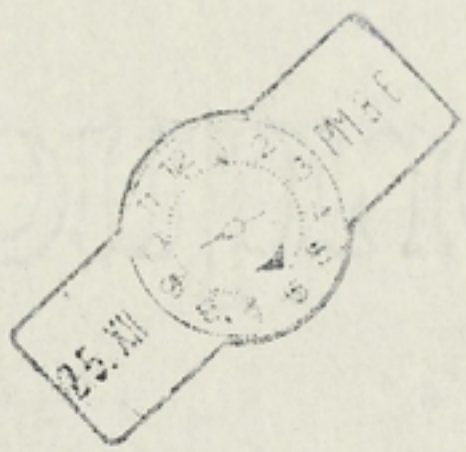
C L G MALLABY

25 November 1986

Distribution attached

Distribution:

Private Secretaries to:
the Lord President
the Foreign and Commonwealth Secretary
the Home Secretary
Mr Saunders, Law Officers' Department



File

8/11

10 DOWNING STREET

From the Principal Private Secretary

Mr. Mallaby,
Cabinet Office.

Following the meeting this morning, I attach a draft form of words which the Prime Minister might use this afternoon in the House of Commons. Please could you, and other recipients of this minute, let Miss Nicky Roche (ext. 3028) have any comments on the draft immediately.

I am copying this minute and enclosure to Stephen Boys Smith (Home Office), Tony Galsworthy (Foreign and Commonwealth Office) and Michael Saunders (Attorney General's office).

N. L. W.

(N. L. WICKS)
25 November 1986

SRWANM

THE PETER WRIGHT CASE

Line to take

Like all present and former members of the Security Service, Mr. Wright owes a life long duty of confidentiality to the Crown. Unauthorised publication of his manuscript would violate this obligation. Mr. Wright's position as a former member of the Security Service is quite different from that of journalists and other authors who have written as outsiders. The Attorney General has accordingly applied in the Supreme Court of New South Wales for an injunction to prevent publication of his book.

Mr. Wright served in the Security Service from 1955 to 1976, well before this Government took office. The Government is concerned with upholding the principle of confidentiality and obligations of staff without which there can be no effective Security Service. I believe that these principles have been upheld by successive Prime Ministers and Home Secretaries.

SECRET

10 DOWNING STREET

From the Principal Private Secretary

MR. C. L. G. MALLABY
Cabinet Office

PETER WRIGHT CASE: APPROACH BY TURNBULL

I have shown the Prime Minister your minute of today covering a draft telegram to the Treasury Solicitor recording the outcome of this morning's meeting.

The Prime Minister thought that this conveyed the meeting's conclusion very well and agreed that the telegram should be despatched.

I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary and to Michael Saunders (Law Officers' Department).

N. L. WICKS
25 November 1986

010

pa.

22.

SECRET

B.07595

MR WICKS

Peter Wright Case: Approach by Turnbull

I attach a draft telegram to the Treasury Solicitor in Sydney conveying the decision reached at the Prime Minister's meeting this morning not to take up Mr Turnbull's proposition concerning a settlement out of counrt.

2. I am sending copies of this minute and the attachment to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

Agreed MF.

C L G Mallaby

25 November 1986

SECRET

SECRET

DRAFT

IMMEDIATE TELEGRAM TO SYDNEY

PERSONAL FOR BAILEY FROM MALLABY

Your telegram number 007 : Peter Wright case

Turnbull's approach has been considered. Counsel should inform Turnbull that we do not wish to take up his proposition.

You and Counsel may judge when to convey this message.

Distribution

PS/Foreign and Commonwealth Secretary

PS/Home Secretary

Michael Saunders, Law Officers' Dept.

Nigel Wicks, No 10

Christopher Mallaby, Cabinet Office

Christopher Battiscombe, PUSD FCO

Sir Antony Duff, Box 500

SECRET

SUBJECT
c MASTER

CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

25 November, 1986.

Dear Stephen.

THE WRIGHT CASE

At their meeting this morning on the conduct of the Wright case the Prime Minister briefly discussed my letter of 24 November to you with the Lord President, Foreign and Commonwealth Secretary, Home Secretary and Attorney General.

It was agreed that the Home Secretary should send a shorter "Dear Colleague" letter to Conservative backbenchers. I attach a first draft. Please could copy recipients send their comments to you as soon as possible.

It was also agreed that the Home Secretary should see half a dozen backbenchers to brief them on the position on the case. I should be grateful if Murdo Maclean could let you have the names of backbenchers to invite to a meeting.

I particularly drew your attention, and that of Sir Michael Saunders, to the last sentence of the second paragraph which has not been said publicly before.

I am sending a copy of this letter and enclosure to the Private Secretaries to the Lord President, Foreign and Commonwealth Secretary, Attorney General, Chief Whip, and to Christopher Mallaby and Trevor Woolley (Cabinet Office).

Yours ever,
Nigel Wicks

N.L. Wicks

Stephen Boys Smith, Esq.,
Home Office.

CONFIDENTIAL

SRWANI

DRAFT LETTER FOR TO SEND TO THE RIGHT HONOURABLE MARK CARLISLE, Q.C., M.P.

It may be helpful if I set out the Government's position on the Peter Wright Case.

The Attorney General, on behalf of the Government, is seeking an injunction in the Supreme Court of New South Wales to restrain the publication by Mr. Peter Wright of his memoirs of his time in the Security Service. Mr. Wright now lives in Australia, and is therefore outside the jurisdiction of the Official Secrets Act.

Mr. Wright's service with the Security Service ended well before this Government took office: he was, in fact, employed by the Security Service between 1955 and 1976. We have sought the injunction because publication of Mr. Wright's memoirs would breach the fundamental principle that members of the Security Service should not make unauthorised disclosures of their experiences and knowledge of the Service. The Security Service exists to help defend the security of the state and the liberties of the citizen. Unauthorised disclosure would put in jeopardy that security and those liberties by making known details of the work of the Service which could be of value to our enemies. If we do not do what we can to prevent such unauthorised disclosures which Mr. Wright is intending, other members of the Service might feel free to publish their own memoirs when they are no longer in the service of the

Crown.

I hope you will understand why I cannot elaborate further on the case. It is a long established practice of successive governments not to comment on security matters. In this particular instance, the Government is party to a case now before the Courts in Australia and it would be quite inappropriate for the Government to discuss in public matters which we have brought before the Court there. I would simply add that the principle of confidentialty is crucial to the effectiveness of the Security Service, and anyone who for particular reasons seeks to undermine that principle is acting irresponsibly and against national interest.

B.O. 7595 refers.

21A

ZCZC
CYLNAN 0007
SECRET
00 SYDNE
FM CAOFF TO SYDNE
251757Z NOV
GRS 100

SECRET
FM CABINET OFFICE LONDON
TO IMMEDIATE SYDNEY
TELNO MISC 404
OF 251757Z NOVEMBER 86

PERSONAL FOR BAILEY FROM MALLABY

YOUR TELEGRAM NUMBER 007 : PETER WRIGHT CASE

TURNBULL'S APPROACH HAS BEEN CONSIDERED. COUNSEL SHOULD INFORM TURNBULL THAT WE DO NOT WISH TO TAKE UP HIS PROPOSITION. YOU AND COUNSEL MAY JUDGE WHEN TO CONVEY THIS MESSAGE.

YYYY

CYLNAN 0007

NNNN

SECRET

SUBJECT
cc MASTER

LIE LO
2'
cdc

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

25 November 1986

Dear Stephen,

THE PETER WRIGHT CASE

The Prime Minister held a meeting this morning to discuss the Defence Counsel's proposition, reported in Sydney telno. 007, that there should be a settlement of the case. The Lord President, Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General and Mr. Mallaby from the Cabinet Office were present.

It was agreed that settlement of the case on the terms put forward by Mr. Turnbull was out of the question. The Government could not compromise its point of principle that a member of the Security Service should not write an unauthorised book. Removal of the offending passages was impracticable since objection would have to be taken to a great deal of the book other than its opening chapters. The makings of a deal were, therefore, not present. It was therefore agreed that the Treasury Solicitor should be told that our Counsel should inform the Defence that we did not wish to take up Mr. Turnbull's proposition. Our Counsel, in consultation with the Treasury Solicitor, should decide when to convey that message. Mr. Mallaby should prepare a telegram of instructions.

The meeting reviewed the next stages in the case. The claim for Public Interest Immunity (PII) would be heard tomorrow. We would appeal if the claim was lost in the Supreme Court. If the appeal was lost, there would need to be an urgent meeting to decide whether, as seemed likely, the Government should abandon the main case. Sir Robert Armstrong's evidence in the main case would perhaps conclude tomorrow. Mr. Wright would soon commence his evidence. If the main case went against us, we would appeal. This scenario suggested that the case could pose problems of political management and presentation for a considerable period. Ministers needed some machinery so they could react quickly to new events in the light of their overall objectives for the case. The Prime Minister said that she would consider what might be done.

The discussion then turned to my letter of 24 November to you about a possible letter to Mr. Mark Carlisle. It was agreed that instead of sending a letter to Mr. Carlisle, the Home Secretary should brief selected

19

backbenchers on the case. He would also consider sending backbench colleagues a "Dear Colleague" letter. The Home Secretary, in consultation with the Chief Whip, should consider how to carry this forward.

The Prime Minister's line in the House of Commons that afternoon was then discussed. This should be as follows:

> Like all present and former members of the Security Service, Mr. Wright owes a life long duty of confidentiality to the Crown. Unauthorised publication of his manuscript would violate this obligation.
>
> Mr. Wright served in the Security Service from 1955 to 1976. His service therefore relates to a period before this Government's time in office. The Government is concerned with upholding the principle of confidentiality and the obligations of staff without which there can be no effective Security Service. I believe that these principles have been upheld by successive Prime Ministers of both parties and Home Secretaries.

The following further points were raised in discussion.

1. It was confirmed that Sir Robert Armstrong should not refer explicitly to Gordievsky's evidence about Hollis. The objective, which was conveyed in the formula which the Prime Minister agreed yesterday (in my minute of 24 November to Mr. Mallaby) was to convey the impression that Gordievsky confirmed Hollis' innocence without mentioning his name.

2. It was important to know, for the public presentation of the Government's case, whether any former member of the Security Service or other other agencies had ever written an unauthorised book about his experience. Mr. Mallaby should check with the agencies and report to the Prime Minister.

3. It was reported that the late Miss Joan Miller had attempted to publish memoirs of her time in the Security Service. The Service had persuaded her not to proceed. There were reports now circulating that her manuscript was to be published in the Republic of Ireland. The Attorney General and Mr. Mallaby should urgently report the position on the late Miss Miller's manuscript.

4. There were rumours that certain members of the SIS were planning memoirs. This underlined the importance of the stand of principle which the Government were taking with Peter Wright's book. The Foreign and Commonwealth Secretary should ensure that a close watch was kept on the possibilities that members of the SIS might make unauthorised publications.

5. The allegations in the newspapers about Lord Rothschild's involvement with Mr. Peter Wright were noted. It would be valuable if the Government could say that they had been unaware that Peter Wright had received royalties

from Chapman Pincher's book and that they had given no backing to Lord Rothschild in any action he may have taken to act as the book's impressario. The Attorney General and Mr. Mallaby should consider what could be said on these scores and how it should be made public.

I am sending a copy of this letter to the Private Secretaries to the Lord President, the Foreign and Commonwealth Secretary, the Attorney General and to Mr. Mallaby and Mr. Woolley in the Cabinet Office.

Yours ever,
Nigel Wicks

(N. L. WICKS)

Stephen Boys Smith, Esq.,
Home Office

20.

Prime Minister

This is the best
way of handling this.
It has been agreed
with the A.G.
N.L.W
25.11

ZCZC
CYLNAN 0006
SECRET
DD 252200Z SYDNE
FM CAOFF TO SYDNE
251751Z NOV
GRS 230

SECRET
FM CABINET OFFICE LONDON
TO DESKBY 252200Z SYDNEY
TELNO MISC 403
OF 251751Z NOVEMBER 86

FOR ARMSTRONG AND PARTY FROM MALLABY

PETER WRIGHT CASE

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2. WE THEREFORE HOPE THAT OUR TEAM IN COURT WILL BE ABLE TO FIND A WAY OF PUTTING THE RECORD STRAIGHT IN THE PROCEEDINGS. AN OPPORTUNITY MIGHT WELL ARISE IF, AS WE HOPE, THE QUESTION OF WRIGHT'S STATEMENT BEING IN CONTEMPT IS RAISED TOMORROW. OUR TEAM SHOULD SAY THAT THE GOVERNMENT HAD NOTHING TO DO WITH THE TIMES STORY AND INDEED DID NOT KNOW THAT WRIGHT HAD RECEIVED ROYALTIES FROM THE BOOK UNTIL THAT STORY APPEARED AND TURNBULL QUESTIONED YOU ABOUT IT SOME FOUR HOURS LATER.

YYYY

CYLNAN 0006

NNNN

QSL DD

CONFIDENTIAL AND PERSONAL

10 DOWNING STREET

From the Principal Private Secretary

25 November, 1986.

Dear Bernard,

I am grateful for your quick advice and help on my reply to Lord Rothschild's letter of 24 November. I now attach, for your records, a copy of the letter which I sent him this afternoon.

I am sending a copy of this letter to Sir Brian Cubbon (Home Office), Michael Saunders (Lord Officers' Department), Stephen Boys Smith (Home Office), Mr. Mallaby, and Trevor Woolley (Cabinet Office).

Yours ever,
Nigel Wicks

(N.L. Wicks)

Bernard Sheldon, Esq.

CONFIDENTIAL AND PERSONAL

PERSONAL

10 DOWNING STREET

From the Principal Private Secretary

25 November 1986

Dear Lord Rothschild,

Thank you for your letter of 24 November.

I understand from your conversations this morning that you wish to inform your solicitor, Sir Max Williams, the senior partner of Clifford Turner, of your contacts with Peter Wright and other members of the Security Service in connection with investigations being conducted by them but that you do not need to go into any detail. I have taken advice and understand that there is no objection to this.

I also understand that you intend to issue a statement about the circumstances in which you paid for Peter Wright to visit this country but do not envisage that you will wish to refer in it to your earlier contacts in connection with investigations.

Please do not hesitate to get in touch with me again if you should wish to say more.

Yours sincerely,

N. L. Wicks

N. L. WICKS

The Lord Rothschild, G.B.E., G.M., F.R.S.

Mr Wicks

Rylear
Wrightfield

Lord Rothschild

This draft is by Bernard Sheldon. My suggestions are in pencil.

L MacLean 25
X1

PERSONAL

32

Draft letter from Nigel Wicks to

The Lord Rothschild GBE GM FRS

changes cleared with B.S. and also members of the Security Service

Thank you for your letter of 24 November. I understand from your conversations this morning that you wish to inform your solicitor, Sir Max Williams, the senior partner of Clifford Turner, of your contacts with Peter Wright and ~~some others~~ in connection with investigations being conducted by them but that you do not need to go into any detail. There is no objection to this.

2. I also understand that you intend to issue a statement about the circumstances in which you paid for Peter Wright to ~~come to~~ visit this country but do not envisage that you will wish to refer in it to your earlier contacts in connection with ~~the~~ investigations. Please do not hesitate to get in touch with me again if ~~your solicitors advise that you should go further~~ you should wish to say more.

cc Nallaby
B Sheldon S S.
Wadley
Cubbon H O
Woolley
Saunders

PL for a Wright file

NIGEL

Lord Rothschild's secretary telephoned

The letter has arrived.

Alan
25/11

1610.

CONFIDENTIAL

FILE NOTE

Nigel Wicks spoke to Lord Rothschild on the telephone at 1645 on Monday 24 November. Mr. Wicks explained that the Prime Minister was generally aware of Lord Rothschild's letter of 24 November but had not had an opportunity to study it. Mr. Wicks suggested that Lord Rothschild might initially like to have a word with the legal adviser to the Security Service, and offered to arrange this. Lord Rothschild said he was grateful for this. Mr. Wicks then said he would ring up the legal adviser to the Security Service and would be in touch with Lord Rothschild.

PAB

P A BEARPARK

24 November 1986

CONFIDENTIAL

cc Cab. Office

re Wright file.

LORD ROTHSCHILD

Telephone: 01-280 ~~5000~~ 5321

Telex: 888031

N.M. Rothschild & Sons Ltd.
New Court
St. Swithin's Lane
London EC4P 4DU

24th November 1986

Dear Mr. Wicks,

In the last few days there has been a good deal about Peter Wright and me in the daily press and, of course, incessant telephone enquiries to which I have not responded.

Obviously I must take legal advice but it is impossible for my legal advisors to give me that advice unless I violate the Official Secrets Act by disclosing to them certain matters.

The purpose of this letter is to ask the Prime Minister for permission to put my legal advisors in the picture, naturally on a "need to know" basis.

You will appreciate, if only from reading the front page of this morning's Times, that this matter is very urgent from my point of view and I should therefore greatly appreciate your early help.

Yours
Rothschild

Perhaps you could call me at the above number during office hours.

CONFIDENTIAL AND PERSONAL

Prime Minister

To see; this might be raised at Jean's 9.30 meeting tomorrow.

N.C.J.

24.11

10 DOWNING STREET

From the Principal Private Secretary

24 November 1986

THE PETER WRIGHT CASE

I understand that the Whips' Office believes that it would be helpful if Conservative back benchers had in convenient form a letter which summarises the Government's position on this case. One possibility would be for a Government Minister to send to Mr. Mark Carlisle, Chairman of the Conservative Back Bench Home Affairs Committee, a letter which draws together the essence of the Government's present position on the case. Mr. Carlisle would, of course, have to be warned that the letter was coming and told of its terms in advance so that we could be certain that he would put it to the use intended.

I attach a cockshy of such a letter. Certainly its drafting needs refinement and its details need checking, but it gives, I hope, an indication of what might be provided. The draft does not, I think, conflict with the principle that we are not commenting on matters in issue before the Australian courts. I should be grateful if recipients could check the draft and let me have their comments. It would also be helpful if you could let me know whether the Home Secretary would be the appropriate Minister to write.

I have not included in the draft letter material on a possible committee of Privy Counsellors to oversee the Security Services. If it was thought that such a paragraph would be appropriate, something on the following lines might be included:

> "There have also been suggestions that a committee of Privy Counsellors should oversee the Security Services. This is, of course, not a new idea. But it has been a tradition in this country, under Governments of all political parties, that the Security Services are accountable to Ministers and that Parliament trusts Ministers to discharge that responsibility faithfully. The Government does not think that it would assist the effectiveness or efficiency of the Security Services to have their operations and management exposed to cross examination, either in Parliament or by an independent committee."

CONFIDENTIAL AND PERSONAL

I should be grateful for comments as quickly as possible tomorrow, Tuesday 25 November.

I am sending copies of this letter to the Private Secretaries to the Lord President, Foreign and Commonwealth Secretary, Attorney General, Chief Whip, and to Christopher Mallaby and Trevor Woolley (Cabinet Office).

N. L. Wicks

Stephen Boys Smith, Esq.,
Home Office.

SECRET

SECRET
PERSONAL
DEDIP
TO FLASH CABINET OFFICE
TELNO 007
OF 241210Z NOVEMBER 86
INFO FLASH 10 DOWNING STREET (FOR WICKS)
INFO FLASH FCO (FOR PS/FOREIGN AND COMMONWEALTH SECRETARY)
INFO FLASH HOME OFFICE (FOR PS/HOME SECRETARY)
INFO FLASH LOD (FOR PS/ATTORNEY GENERAL)
INFO FLASH SNUFFBOX (FOR DUFF)

FLASH

FOLLOWING FOR MALLABY, CABINET OFFICE, FROM ARMSTRONG

THE WRIGHT CASE

1. WE HAD A QUIET BUT REASONABLY GOOD DAY IN COURT TODAY. TURNBULL LOOKED TIRED AND PERFORMED BELOW FORM. HE STARTED BY TRYING TO DEMONSTRATE PINCHER'S AUTHORITATIVENESS AS A SOURCE ON SECURITY AND INTELLIGENCE MATTERS, MAINLY BY QUOTING PINCHER'S OWN CLAIMS (IN HIS BOOK INSIDE STORY) THAT HE HAD BEEN USED BY THE SECURITY SERVICE AS A TRUSTED CONDUIT PIPE IN 1956 AND 1961. THE JUDGE MADE CLEAR HIS VIEW THAT THE FACT THAT THE SECURITY SERVICE MADE USE OF PINCHER'S CONTACTS IN 1956 AND 1961 DID NOT PROVE THAT HE WAS USED TO GET THE HOLLIS STORY OUT INTO THE OPEN IN 1981. THE JUDGE'S INTERVENTION PREVENTED ME FROM DRAWING ATTENTION TO PINCHER'S RECENT DENIAL, IN A PUBLIC STATEMENT, THAT HE WAS SO USED. I HOPE TO HAVE ANOTHER OPPORTUNITY TO GET THAT OUT.

2. TURNBULL THEN TURNED TO OUR FAILURE TO TRY TO PREVENT THE PUBLICATION OF TOO SECRET TOO LONG. I SAID THAT WE EXPECTED THAT THIS WOULD BE LARGELY A REPETITION OF THE THEME OF THEIR TRADE IS TREACHERY, THAT WE ASSUMED THAT PINCHER WOULD TRY TO GET HOLD OF ADDITIONAL CONFIDENTIAL INFORMATION, THAT WE DOUBTED WHETHER HE WOULD GET ANYTHING NEW THAT WOULD SIGNIFICANTLY ADD TO THE DAMAGE CAUSED BY THE EARLIER BOOK, AND DID NOT THEREFORE SEEK TO RESTRAIN PUBLICATION SEMI COLON AND THAT THE ASSESSMENT OF THE BOOK AFTER ITS PUBLICATION PROVED THAT OUR EXPECTATION WAS CORRECT.

3. THERE WERE SOME DESULTORY QUESTIONS ABOUT THE EXTENT TO WHICH BLUNT COOPERATED WITH THE SECURITY SERVICE'S INQUIRIES AFTER HIS CONFESSION, DESIGNED NO DOUBT TO SUGGEST THAT THE PRIME MINISTER'S STATEMENTS IN NOVEMBER 1979 WERE MISLEADING. THESE QUESTIONS, AND A SUBSEQUENT SET OF QUESTIONS ABOUT MY THIRD AFFIDAVIT, WERE NOT TOO DIFFICULT TO ANSWER, I HOPE CONVINCINGLY. AT THE VERY END OF THE AFTERNOON TURNBULL RAISED THE SUBJECT OF GORDIEVSKY. I MADE IT CLEAR THAT I WAS NOT PREPARED TO ANSWER ANY QUESTIONS ON THAT SUBJECT IN OPEN COURT.

THIS IS A COPY. THE ORIGINAL IS RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT

5. LATER THIS EVEWING TURNBULL TELEPHONED SIMOS TO SUGGEST THAT A MEETING SHOULD BE HELD THIS EVENING BETWEEN TURNBULL, SIMOS AND ME TO WORK OUT A SOLUTION. PART OF THE SOLUTION WOULD BE THAT MRS THATCHER WOULD RECOGNISE THE PROBLEM WITH, QUOTE OLD SPOOKS WANTING TO TELL THEIR STORIES UNQUOTE AND THAT SHE WOULD REFER THE WHOLE MATTER TO A COMMITTEE OF INQUIRY WITH A VIEW TO ENDING UP WITH THE AMERICAN SYSTEM (TO WHICH TURNBULL HAS SEVERAL TIMES REFERRED - SEE PARAGRAPH 13 BELOW). IF MRS THATCHER WOULD DO THIS, QUOTE SHE WOULD BE A CHAMPION OF FREEDOM OF INFORMATION AND FREEDOM OF SPEECH AND THE AMERICANS COULD NOT COMPLAIN. ANY ORDERS FOR COSTS COULD BE KEPT CONFIDENTIAL. TURNBULL WOULD TO HIS BEST TO SAY THAT SIR ROBERT ARMSTRONG DID A SPLENDID JOB (VERY GOOD OF HIM, I MUST SAY) AS AGAINST THE POSSIBILITY THAT THE JUDGE MIGHT SAY THAT HE WAS NOT AN ACCEPTABLE WITNESS. KERRY PACKER COULD MEDIATE IF THAT WERE NECESSARY UNQUOTE.

6. I HAVE ASKED SIMOS TO SEND A RETURN MESSAGE TO THE EFFECT THAT I HAVE NO INSTRUCTIONS TO DISCUSS A SETTLEMENT AND I MUST CONSULT LONDON.

7. THE LAST WORDS SPOKEN BY THE JUDGE THIS AFTERNOON WERE TIMEO DANAOS ET DONA FERENTES. WE CERTAINLY NEED TO VIEW TURNBULL'S PROPOSITIONS IN THAT LIGHT. BUT I FEEL BOUND TO REPORT THEM TO YOU, AND TO SEEK INSTRUCTIONS AS TO WHETHER AND IF SO HOW I SHOULD RESPOND.

8. FIRST, AS TO THE FUTURE. TURNBULL INDICATED THIS AFTERNOON THAT HE EXPECTED TO FINISH HIS CROSS-EXAMINATION OF ME IN OPEN COURT TOMORROW (TUESDAY) BY MID-MORNING. HE WOULD THEN HAVE QUESTIONS TO PUT TO ME IN CLOSED SESSION SEMI COLON HE EXPECTED TO BE FINISHED WITH THAT (AND THEREFORE ME) BY WEDNESDAY LUNCHTIME. WE KNOW THAT HE WANTS FOR HIS OWN REASONS TO FINISH WITH ME IN THAT SORT OF TIMESCALE BECAUSE HE WANTS TO CALL CODD BEFORE CODD DEPARTS FOR THE COMMONWEALTH SENIOR OFFICIALS MEETING IN DACCA AT THE BEGINNING OF NEXT WEEK. WHO KNOWS? I COULD YET BE HOME BY CHRISTMAS.

9. I HAVE BEEN DISCUSSING WITH JOHN BAILEY TURNBULL'S POSSIBLE MOTIVES IN REVIVING THE IDEA OF A SETTLEMENT. WE THINK:

- TURNBULL PROBABLY THINKS THAT WE SHALL WIN OUR PII CLAIM, ON APPEAL IF NOT WITH POWELL J, THOUGH HE HAS MADE IT CLEAR THAT HE WILL OPPOSE IT.

- HE MAY BE LESS CONFIDENT THAT HE WAS ABOUT WINNING THE MAIN CASE. THE JUDGEEE'S INTERVENTIONS TODAY AND AT THE END OF LAST WEEK SHOULD HAVE MADE HIM MORE DOUBTFUL ABOUT SUCCEEDING EVEN AT FIRST INSTANCE. THIS WOULD DIMINISH HIS PERSONAL ENTHUSIASM FOR CONTINUING SEMI COLON HE IS CLEARLY VERY INTERESTED IN PROMOTING HIS OWN IMAGE. AND HIS CLIENTS MIGHT WELL NOT WANT TO SPEND MONEY ON AN APPEAL IF THEY LOST AT FIRST INSTANCE.

Crem 19/11/92

Note dated 24.11.86 SECRET

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- HE MAY BE GENUINELY CONCERNED ABOUT WRIGHT'S STATE OF HEALTH, AND THINKS THAT THE BEST SERVICE HE CAN DO HIS CLIENT IS TO BRING THE CASE TO A CONCLUSION WHICH ENABLES A BOOK OF SOME KIND TO BE PUBLISHED SOONER RATHER THAN LATER.

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TAINED UNDER SECTION 3
THE PUBLIC RECORDS AC

10. ON THE OTHER HAND HE MAY SIMPLY BE TRYING TO TEST WHETHER POLITICAL AND MEDIA PRESSURES IN LONDON, OF WHICH HE IS CLEARLY WELL AWARE AND WHICH WE HAVE NO DOUBT ARE AT LEAST IN PART STIMULATED AND ORCHESTRATED FROM HERE, ARE WEAKENING THE GOVERNMENT'S RESOLVE TO GO THROUGH WITH THE CASE. HE MAY THINK THIS A GOOD MOMENT TO PUT THAT TO THE TEST, SINCE MEDIA INTEREST IN LONDON WILL PROBABLY DECREASE WHEN MY CROSS-EXAMINATION IS FINISHED AND IN THAT EVEN T THE PRESSURES MAY EASE OFF.

11. I DO NOT KNOW WHETHER THERE IS ANY BASIS ON WHICH A SETTLEMENT COULD CONCEIVABLY BE MUTUALLY ACCEPTABLE. WE HAVE TAKEN OUR STAND ON THE ABSOLUTE DUTY OF CONFIDENTIALITY OWED BY FORMER MEMBERS OF THE SECURITY SERVICE TO THE CROWN SEMI COLON AND IT IS PRETTY WELL ESTABLISHED HERE NOW THAT OUR PRIMARY CASE FOR SEEKING TO RESTRAIN PUBLICATION OF WRIGHT'S BOOK IS BECAUSE IT IS BY AN INSIDER. AS THE CASE HAS PROCEEDED, THAT HAS INCREASINGLY COME TO BE SEEN AS AN ABSOLUTE BAR TO PUBLICATION. FOR INSTANCE, PARAGRAPH 3 OF MY THRID AFFIDAVIT DATED 11 AUGUST 1986 STATED THAT INFORMATION ABOUT THE WORK OF THE SECURITY SERVICE SHOULD BE DISCLOSED ONLY BY WAY OF OFFICIAL PUBLICATION, AND THAT INDIVIDUALS WHO DO NOT HAVE ACCESS TO ALL RELEVANT MATERIAL AND WHO ARE NOT AWARE OF ALL THE RELEVANT CONSIDERATIONS AFFECTING DECISIONS ON DISCLOSURE, ARE IN NO POSITION TO JUDGE WHAT MAY BE DISCLOSED WITHOUT RISK AND SHOULD NOT BE PERMITTED TO PUBLISH INFORMATION ABOUT SUCH MATTERS. ON THE OTHER HAND OUR FORMAL CLAIM IN THIS CASE IF FOR AN ORDER RESTRAINING THE DEFENDANTS WITHOUT THE PRIOR PERMISSION OF THE PLAINTIFF FROM DISCLOSING OR PUBLISHING. IN OTHER WORDS THE CLAIM SEEMS TO CONTEMPLATE THE POSSIBILITY OF PUBLICATION WITH PRIOR PERMISSION SEMI COLON AND THERE ARE PRECEDENTS FOR PUBLICATION WITH PERMISSION, EG MASTERMAN'S DOUBLE CROSS SYSTEM, THOUGH IN THAT CASE PERMISSION WAS MOST RELUCTANTLY GIVEN.

12. WHAT THE DEFENCE WOULD NEED OUT OF ANY SETTLEMENT WOULD BE EARLY PUBLICATION OF A BOOK. THE PUBLISHERS NEED IT FOR FINANCIAL REASONS, WRIGHT NEEDS IT FOR PERSONAL AND ALSO NO DOUBT FINANCIAL REASONS. INCIDENTALLY TURNBULL SEEMED TO DISCLOSE TODAY THAT WRIGHT HAD BEEN PAID FOR HIS CONTRIBUTIONS TO THEIR TRADE IS TREACHERY, APPARENTLY OUT OF THE ROYALTIES ON THE BOOK.

13. IT IS THEREFORE ARGUABLE THAT IF WE COULD SETTLE FOR PUBLICATION OF A BOOK WITH PERMISSION, WE COULD CLAIM A VICTORY, IN THAT WE HAD ESTABLISHED A PRINCIPLE THAT SUCH BOOKS COULD BE PUBLISHED ONLY WITH PRIOR PERMISSION, AND THEY COULD CLAIN A VICTORY, IN THAT WE HAD BEEN FORCED BY THESE PROCEEDINGS TO ABANDON THE PRINCIPLE THAT NO INSIDER SHOULD EVER PUBLISH A BOOK AND TO ALLOW WRIGHT TO PUBLISH.

14. THAT TURNBULL MAY BE THINKING IN THESE TERMS IS SUGGESTED BY THE FACT THAT HE HAS REFERRED IN COURT MORE THAN ONCE, AND

AGAIN

AGAIN THIS EVENING, TO THE PRACTICE IN THE CIA OF ALLOWING FORMER MEMBERS TOUBPUBLSI PUBLISH WITH CIA AGREEMENT. HE HAS SAID THAT THE CIA HAS A MANUSCRIPT REVIEW COMMITTEE WHICH HAS SCRUTINISED AND CLEARED FOR PUBLICATION -SUBJECT TO AMENDMENTS WHERE NECESSARY) 400 SUCH BOOKS. HE HAS SUGGESTED THAT THE CIA, AS OUR MOST IMPORTANT LIAISON SERVICE, COULD HARDLY OBJECT TO OUR FOLLOWING THE PRACTICE THEY FOLLOW.

15. A SETTLEMENT ON THE BASIS DESCRIBED WOULD CONSTITUTE A SIGNIFICANT CHANGE OF POLICY. I UNDERSTAND THAT MINISTERS HAVE TAKEN THE VIEW THAT POLICY IN THIS AREA WILL IN ANY CASE NEED TO BE REVIEWED AS A RESULT OF THIS CASE. THEY MIGHT WELL BE RELUCTANT, HOWEVER, TO APPEAR TO BE PUSHED INTO A CHANGE OF POLICY IN ORDER TO GET A SETTLEMENT IN THIS CASE.

16. IF WE HAVE ANY INTEREST AT ALL IN THE POSSIBILITY OF A SETTLEMENT, THE QUESTION ARISES ON WHAT TERMS WOULD WE BE PREPARED TO ALLOW WRIGHT TO PUBLISH. WE SHOULD NEED TO TEST THE REALITY AND EXTENT OF THE DEFENCE'S WILLINGNESS TO SETTLE BY PITCHING OUR TERMS HIGH. I DO NOT FAVOUR TURNBULL'S IDEA OF A COMMISSION OF INQUIRY SEMI COLON OR OF KERRY PACKER AS A MEDIATOR. I SUGGEST THAT, IF WE WERE PREPARED TO SETTLE AT ALL, THE TERMS WOULD HAVE TO BE:

- AGREEMENT NOT TO PUBLISH WITHOUT PRIOR PERMISSION,
- AGREEMENT TO MAKE WHATEVER DELETIONS OR CHANGES WE REQUIRED IN THE INTEREST OF NATIONAL SECURITY,
- US TO BE THE JUDGES OF WHAT WAS LIKELY OR LIABLE TO DAMAGE NATIONAL SECURITY,
- IN PARTICULAR, NO PUBLICATION OF MATTER NOT ALREADY WITHIN THE PUBLIC DOMAIN, OR OF MATTER PUT INTO THE PUBLIC DOMAIN BY AN OUTSIDER CONFIRMATION OF WHICH IN PUBLICATION BY AN INSIDER WOULD IN OUR VIEW BE LIABLE TO DAMAGE NATIONAL SECURITY.

17. WE SHOULD ALSO HAVE TO REQUIRE CHANGES IN THE ACCOUNT OF THE ALLEGATIONS AGAINST HOLLIS AND OF THE INVESTIGATIONS THEREOF, TO DELETE MATTER NOT ALREADY IN THE PUBLIC DOMAIN, AND TO DELETE OR AMEND STATEMENTS WEYYYYYYYYYYYYYICH WERE UNTURE, INACCURATE OR UNJUST IFIABLY
TENDATIOUS.

18. THESE WOULD BE STIFF TERMS, AND I SHOULD NOT EXPECT TURNBULL TO ACCEPT THERM. HE COULD SIMPLY DISMISS THEM AS TOTALLY UNREASONABLE. IN THAT CASE WE SHOULD NOT HAVE LOST MUCH - AND WE MIGHT EVEN GAIN A POINT OR TWO - BY HAVING TRIED. HE MIGHT ON THE OTHER HAND SEEK TO NEGOTIATE ON THE TERMS THEMSELVES, IN WHICH CASE WE SHOULD NEED SOME BOTTOM LINES. OR HE MIGHT SEEK TO TAKE US INTO A DETAILED NEGOTIATION ON THE TEXT ON THE BASIS OF OUR TERMS, WITHOUT PREJUDICE TO HIS RIGHT TO REJECT THEM AT THE END OF THE DAY. WE SHOULD CERTAINLY NOT GET DRAWN INTO THAT.

19. THERE IS NOT MUCH ENTHUSIASM HERE FOR STARTING DOWN THIS COURSE. WE DO NOT TRUST OUR GREEK.
IF WE GET BY ON OUR PII CLAIM, WE HAVE A REASONABLE HOPE OF WINNING THE MAIN CASE, AN APPEAL IF NOT AT FIRST INSTANCE. WE THINK THAT THE DEFENCE ARE FINDING THE GOING HARDER THAN THEY EXPECTED. IT IS FEARED THAT, IF WRIGHT WAS ALLOWED TO PUBLISH WITH PRIOR PERMISSION, THERE WOULD BE A QUEUE OF OTHER WOULD-BE AUTHORS, NOT ONLY FROM THE SECURITY SERVICE, APPLYING FOR PERMISSION. IT IS CLEARLY EASIER TO STAND ON PRINCIPLE OF ABSOLUTELY NO PUBLICATION

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Note dated 24.11.86

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BY INSIDERS THAN ON A SYSTEM OF PUBLICATION ONLY WITH PRIOR PERMISSION. THOSE WHO HAD TO VET MANUSCRIPTS AND NEGOTIATE CHANGES WOULD HAVE A DIFFICULT AND UNREWARDING TASK, IN WHICH THEY COULD FIND THEMSELVES HAVING ALWAYS TO DISCUSS QUESTIONS OF CONTENT AND INCREASINGLY HAVING TO DEAL FROM WEAKNESS. CONSIDERABLE ADDITIONAL RESOURCES WOULD BE REQUIRED FOR VETTING AND CLEARING MANUSCRIPTS.

20. ON THE OTHER HAND - TO BE DEVIL'S ADVOCATE FOR A MOMENT - EVEN IF WE WERE TO WIN THIS CASE WE SHOULD NOT NECESSARILY STOP THE PUBLICATION OF WRIGHT'S BOOK. THERE ARE ALREADY REPORTS THAT THE MANUSCRIPT IS IN THE HANDS OF AN AMERICAN PUBLISHER, AND IT IS POSSIBLE TO IMAGINE OTHER JURISDICTIONS IN WHICH IT WOULD BE EVEN MORE DIFFICULT TO SEEK TO RESTRAIN PUBLICATION. THE POSSIBILITIES OF PUBLISHING OUTSIDE THE JURISDICTION HAVE BEEN HIGHLIGHTED BY THIS CASE. IT IS ARGUABLE THAT THE INTERESTS OF NATIONAL SECURITY WOULD BE BETTER SERVED BY A SETTLEMENT WHICH GAVE US A REASONABLE PROSPECT OF BEING ABLE TO CONTROL THE CONTENTS OF THIS AND OTHER SIMILAR PUBLICATIONS THAN BY A VICTORY IN THE CASE WHICH LED TO A SUCCESSION OF BOOKS PUBLISHED OUT OF OUR CONTROL IN OTHER COUNTRIES. WE SHOULD HAVE TO EXPLAIN WHY WE HAD SETTLED NOW AND NOT EARLIER. THE ANSWER WOULD HAVE TO BE TO THE EFFECT THAT OUR DISPLAY OF DETERMINATION IN PURSUING THE CASE HAD PRODUCED A SETTLEMENT ON MUCH BETTER TERMS THAN WOULD HA VE BEEN AVAILABLE HAD WE NOT SHOWN THAT DETERMINATION AND SETTLED EARLIER.

21. IF THE ANSWER TO TURNBULL IS TO BE THAT WE ARE NOT INTERESTED IN THE POSSIBILITY OF SETTLING ON ANY TERMS,THAT CAN BE GIVEN AT ANY TIME. IF THE ANSWER IS TO BE THAT WE SHOULD BE PREPARED TO CONSIDER TERMS FOR A POSSIBLE SETTLEMENT, WITHOUT PREJUDICE TO OUR RIGHT TO CONTINUE TO FIGHT THE CASE IF NO SETTLEMENT IS POSSIBLE, I SHOULD PREFER NOT TO GIVE ANY INDICATION OF THIS UNTIL MY CROSS-EXAMINATION IS FINISHED. I DO NOT WANT TURNBULL TO THINK THAT HE HAS SCARED ME OFF.

SINDALL

YYYY
FCO PLEASE PASS ALL

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HR Goodall

Copies to
HR Wicks No 10 Downing St
PS/Attorney General LOD

CONFIDENTIAL AND PERSONAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

MR. C. L. G. MALLABY

Cabinet Office

PETER WRIGHT CASE

I attach a copy of the background briefing note issued by the Whips this afternoon, for information.

I am copying this minute to Tony Galsworthy (Foreign and Commonwealth Office), Stephen Boys Smith (Home Office), Michael Saunders (Law Officers' Department) and to Trevor Woolley (Cabinet Office).

Mark Addison

Mark Addison

24 November 1986

CONFIDENTIAL AND PERSONAL

HOUSE OF COMMONS
LONDON SW1A 0AA

NATIONAL SECURITY: THE PETER WRIGHT CASE

The first duty of any Government is to protect the security of the nation. Publishing Peter Wright's memoirs would threaten that security.

1. Peter Wright is a former member of the security service who wishes to publish his memoirs. If the Government does not try to stop him, it might encourage others to try to go into print once they leave the service. That would give information to our enemies, and inhibit our allies from co-operating with our security service. The Government is therefore acting in defence of national security.

2. Previous Labour leaders and frontbench spokesmen have adopted a responsible approach to the security service and to matters affecting national security. Sometimes, they have had to do something in the teeth of opposition from their own leftwing backbenchers. [After the debate on the expulsion of Messrs Agee and Hosenball of 3 May 1977, some 34 Labour members voted against Merlyn Rees, including Eric Heffer, Doug Hoyle, James Lamond, Eddie Loyden, Oonagh MacDonald, Max Madden, Joan Maynard, Dennis Skinner, Stan Thorne]. Neil Kinnock is the first Labour leader to break with tradition and to use matters affecting national security to try and score party points. He has overturned the views of his predecessors on the need to maintain our country's defences, and he has overturned the approach of his predecessors to matters affecting national security generally.

3. The difference between Peter Wright and others such as Chapman Pincher and Nigel West is that Peter Wright worked for the security service and the others did not. The Government totally condemns all unauthorised disclosure of confidential letters concerning security. But there is a clear difference between a journalist publishing stories secondhand, and a former member of the service revealing his first hand knowledge of security measures and arrangements.

There is a fundamental issue of principle here: that it is impossible to tolerate the position whereby former members of the security service breach the promise freely given of lifelong confidentiality to the crown.

QUOTATIONS

HOUSE OF COMMONS
LONDON SW1A 0AA

From a former Labour Prime Minister

"I think we are all agreed that the security of the State must be of the deepest concern of whatever Government should be in power and whatever Opposition is co-operating with them in these matters".
[Harold Wilson, Official Report, 10 May 1965]

From the press

on the principle

"A former member of our intelligence services speaks with an authority that no journalist can command on the subject. No matter how knowing and "authoritatively" briefed he may be, an outsider's words will always be regarded sceptically by the public and by foreign intelligence services".
[Daily Express, Saturday 22 November 1986].

"...the books of Mr Nigel West and others provide neither parallel nor precedent for the publication of Mr Wright's memoirs."

"...if Mr Wright had not been pursued with all possible vigour, the principle would have been lost for ever. Those with responsibility for our security services can be justly chary of hindsight".
[The Times, Thursday 20 November 1986]

on Mr Kinnock:

"Mrs Thatcher has every right - and even duty - to try to stop former British agent Peter Wright from disclosing the secrets entrusted to him."

"... Labour leader Neil Kinnock is doing everything possible to sabotage the Government's efforts."

"Is he suggesting that under a Labour government there would be an open house for any public servant, out of malice or

greed, to disclose every particle of information he acquires in his career? Or is he implying that once Labour has stripped Britain of her defences, there will be no secrets worth keeping?"
[The Sun, 24 November 1986].

"For little Kinnochio is the last man to pontificate on the nation's security. He is committed to strip Britain of its nuclear defence and kick the Americans out of their bases".
[The Daily Mail, Monday 24 November 1986].

"We would like to know just what the leader of Her Majesty's loyal Opposition thinks he is playing at. He and his colleagues think they should seek to capitalise on the government's anxious attempt to prevent publication of former MI5 man Peter Wright's memoirs".

"...the issue here is the safety of the realm".

"... He has happily smashed the bi-partisan approach that all former Labour leaders took on security matters".
[Daily Express, Saturday 22 November 1986].

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MR WICKS

Peter Wright Case: Public Interest Immunity

The Prime Minister, the Home Secretary and the Attorney General agreed that my affidavit of yesterday claiming public interest immunity in the case in Sydney should be written on their instructions and authority.

2. I attach a copy of the affidavit.

3. I am sending copies of this minute to the Private Secretary to the Home Secretary and to Michael Saunders in the Law Officers' Department. I am not attaching the affidavit since both Departments have copies.

C L G Mallaby

24 November 1986

IN THE SUPREME COURT OF NEW SOUTH WALES
SYDNEY REGISTRY
EQUITY DIVISION

No. 4382 of 1985

HER MAJESTY'S ATTORNEY GENERAL IN AND FOR THE UNITED KINGDOM
Plaintiff

HEINEMANN PUBLISHERS AUSTRALIA PTY. LIMITED
First Defendant

PETER MAURICE WRIGHT
Second Defendant

AFFIDAVIT

Deponent: C.L.G. Mallaby C.M.G.

Sworn: 23rd November 1986

Stephen Jacques Stone James
AMP Centre, Level 24
50 Bridge Street
SYDNEY NSW 2000
DX 113 SYDNEY
RCCF (02)250.3000
LO18094.9:22374

On 23rd November, 1986, I, CHRISTOPHER L.G. MALLABY, C.M.G., of the Cabinet Office, Whitehall, London, say on oath:

1. I am a Deputy Secretary in the Cabinet Office of Her Majesty's Government of the United Kingdom. I have been a member of the British Diplomatic Service since 1959, and thus have experience of security matters in Her Majesty's Government over that period. My responsibilities as one of Sir Robert Armstrong's Deputies in the Cabinet Office concern principally policy in the fields of defence and foreign affairs.

2. I have read the documents listed in the plaintiff's Further Supplementary List of Documents. I have received instructions and authority from the Right Honourable Margaret Thatcher, M.P., Prime Minister of the United Kingdom, the Right Honourable Douglas Hurd, C.B.E., M.P., Secretary of State for the Home Department, and the Right Honourable Sir Michael Havers, Q.C., M.P., Attorney General in and for the United Kingdom,

that an application to this Honourable Court be

made for an order that certain of the said documents be not produced, on the ground of public interest immunity, and to express the opinions hereinafter set forth, on behalf of Her Majesty's Government of the United Kingdom. I shall hereinafter refer to such documents by the letters and numbers used in Part 3 of Schedule 1 to the said list.

In relation to the following documents in Part 3, all of which relate to the deletions agreed to be made to the West manuscript, namely A(a), A(b)1, A(b)2, A(c)1, A(c)2, A(c)3 and A(c)4, I have formed the opinion that it is necessary in the public interest that the production of such documents be withheld, and that to disclose them would be detrimental to the national security of the United Kingdom for the following reasons. Such documents contain information which is highly confidential and would confirm the truth of such information, being information of the following kinds:

(a) information as to the identities of currently serving and former officers of the British Security Service;

(b) information disclosing details of former operations of the Service which have current relevance to operations today;

(c) information disclosing the identity of sources of information obtained by the Service;

(d) information disclosing the identities of persons investigated by the Service.

The disclosure of such information is likely to cause harm to the British national security of the United Kingdom in the manner to which Sir Robert Armstrong has referred in relation to information of these kinds in his Affidavits filed herein.

In relation to the following documents in Part 3, namely those marked A(b)1 and A(c)1, in my opinion disclosure of such documents will confirm or tend to confirm the truth of

particular allegations appearing in the book, "A Matter of Trust", as published and will therefore cause the very harm to the national security of the United Kingdom which these proceedings are taken to prevent, as referred to in the Affidavits of Sir Robert Armstrong filed herein. Such allegations, previously so published, are of the following kinds:

(a) allegations as to the identities of currently serving and former officers of the British Security Service;

(b) allegations as to details of former operations of the Service which continue to have current relevance to operations today;

(c) allegations as to the sources of information obtained by the Service.

. In relation to the documents in Part 3 marked C2, C7, E1, E2, E3, and E4 being confidential communications within the Security Service or between civil servants at the highest level relating to security matters, in my opinion, disclosure of any documents within these classes would seriously impair the efficiency of the Service and the work of Service would be made more difficult in the future for the reasons contained in the relevant parts of the affidavits of Sir Robert Armstrong.

Further, the documents in Part 3 marked A(d)1, B1, B2, B3, B4, B5, C1, C3, C4, C5, C6 and C8, in addition to falling within the classes referred to in paragraph 5 hereof, disclose information which is highly confidential and confirm the truth of such information and, insofar as such documents disclose information which has already been published by a person other than an officer or former officer of the Service will confirm or tend to confirm the truth of particular allegations previously so published, of the following kinds:

(a) allegations as to the identities of currently serving and former officers of the British Security Service;

(b) allegations as to details of former operations of the Service which continue to have current relevance to operations today;

(c) allegations as to the sources of information obtained by the Service;

(d) allegations as to the identities of persons investigated by the Service.

The disclosure of such information, or the confirmation of, or the tendency to confirm, the truth of such previously published allegations is likely to cause harm to the national security of the United Kingdom of the kind to which Sir Robert Armstrong has referred, in relation to information of these kinds, in his filed Affidavits.

7. Further, the documents in Part 3, marked D1, D2, D3, D4, D6, D7, D8, D9, and the documents in Part 2, marked (a)1, are documents which relate to the policy and the formulation of policy within Her Majesty's Government at the highest level in relation to matters of national security and/or the investigation and/or the prosecution of offences under the criminal law. In my opinion, for this reason also, the disclosure of such documents would be seriously detrimental to the efficiency of Her Majesty's Government in relation to such matters and thus cause harm to the national security or otherwise to the public interest of the United Kingdom.

8. The document in Part 2, marked (a)1, the documents in Part 3, marked D8 and D9, are all confidential communications between the Director of Public Prosecutions and other persons made in connection with the performance by the Director of Public Prosecutions of his statutory duties and documents relating to such communications.

9. The document in Part 3, marked D5, is a document which relates to pending criminal prosecutions and police investigations

with a view to criminal prosecution which has not taken place, disclosure of which would prejudice such investigations and disclose police methods of operation and the identity of police sources of information.

SWORN this 23rd day of)
November ,1986 at)
London, United Kingdom,)
before me:)

M.A.Q. STEVENS
24 WEST PARK ROAD
.....KENTON..MIDDLESEX.HA9.4DA.U.K.

A solicitor authorised to
administer Oaths in accordance
with the law of the United Kingdom

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SECRET

18 : file

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

MR. C. L. G. MALLABY

Cabinet Office

THE PETER WRIGHT CASE: DISCOVERY OF DOCUMENTS

The Prime Minister saw at the weekend your minute of 21 November about a claim of Public Interest Immunity (PII) in connection with this case.

As I told you on Saturday, the Prime Minister believes that there is no alternative but to try the course of action advocated in your minute; that is, to go for a claim of Public Interest Immunity. She therefore agreed your recommendations, subject to the agreement of the Foreign and Commonwealth Secretary and the Home Secretary (which was, I understand forthcoming).

The Prime Minister sought confirmation from you that the Australian judge could not use knowledge gained in the application for PII for any other purpose should the PII application be successful and the case continue. You told me, after seeking advice from our team in Australia, that the judge was obliged to segregate knowledge obtained from his reading of the papers in support of the PII application from the conduct of the rest of the case.

On Sunday you telephoned to report that it was necessary to swear an affidavit in support of the PII claim. The advice from our Australian team was that it would be inadvisable for Sir Robert Armstrong to sign the affidavit since this could give the defence the opportunity to reopen their cross examination of the previous week. Rather similar considerations suggested that the Treasury Solicitor should not sign the affidavit. It had therefore been concluded that you yourself were the appropriate person to sign the affidavit and you sought the Prime Minister's authority to do so. You added that it would be necessary to state explicitly in the affidavit that you were signing on the instructions and authority of the Prime Minister. You believed that there was no risk that the Prime Minister would be called to give evidence because the practice was for the signatory of the affidavit to be summoned.

I reported this to the Prime Minister and after further discussion and consultations it was agreed that you should sign the affidavit which should say that you were doing so on the authority and instructions of herself, the Home Secretary and the Attorney General.

I am sending a copy of this letter to the Private Secretaries of the Foreign and Commonwealth Secretary, the Home Secretary and to Michael Saunders in the Law Officers' Department.

N.L.W.

(N. L. WICKS)

24 November 1986

SECRET

File. SRW 17.

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

24 November 1986

Mr. Mallaby,
Cabinet Office.

THE PETER WRIGHT CASE: GORDIEVSKY'S VIEWS ON HOLLIS

I have shown the Prime Minister your minute of today asking if the draft telegram attached to your minute may be despatched to Sir Robert Armstrong in Sydney. The Prime Minister is content with the draft telegram, except that she wishes the words "...one of whom was Gordievsky" to be omitted from the indented passage in the second paragraph of the draft telegram. She would wish no mention to be made of any of the defectors, for the very reasons which are quoted in paragraph 3 of the draft telegram.

You also asked, during the course of the day, for advice on the following matters:

(i) Our Australian team has suggested that it would strengthen our claim for PII if it were possible to say in Court that we had offered to show the relevant documents to the Australian government. The Prime Minister agrees, subject to the agreement of other colleagues, that we can offer to show the documents to either the Australian Attorney General or their Solicitor General, but to no other official. There was some doubt whether either officer would wish to take up this offer;

(ii) You reported that the Defence Counsel had brandished in Court today the letters which Mr. Jonathan Aitken had sent the Prime Minister on 31 January 1980. You asked whether Sir Robert Armstrong should seek to block these letters being placed on the public record. The Prime Minister would not want us to take action to block these letters.

I am sending a copy of this minute to Tony Galsworthy (Foreign and Commonwealth Office), Stephen Boys Smith (Home Office) and Michael Saunders (Attorney General's office).

N.L.W.

(N. L. WICKS)
24 November 1986

SECRET

Nigel Nicks's

minute of

24/11/86

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FOR ARMSTRONG FROM MALLABY

YOUR TELNO 006 PARAGRAPH 7= PETER WRIGHT CASE

1.

THIS IS A COPY. THE ORIGINAL IS
TAINED UNDER SECTION 3 (4)
THE PUBLIC RECORDS ACT

2. WE THEREFORE WISH TO STICK TO THE LINES IN PARA 2 AND 3 OF OUR EARLIER TELEGRAM.

3. ON THE ISSUE WHY DEFECTOR INFORMATION IS NOT MADE PUBLIC, WE SUGGEST THE FOLLOWING LINE IN CAMERA=

A SOVIET OFFICIAL SEEKS ASYLUM IN THE WEST IN ORDER TO LEAVE A TOTALITARIAN REGIME TO LIVE IN A FREE SOCIETY, AND IN ASYLUM HE HAD THE SAME RIGHTS AS ANY OTHER MEMBER OF A DEMOCRACY. DEFECTOR INFORMATION THEREFORE IS NOT NORMALLY MADE AVAILABLE IN DEFERENCE TO THE DEFECTOR'S OWN WISHES. HE (OR SHE) WILL NORMALLY WISH TO PROTECT FAMILY AND RELATIVES IN THE USSR, AND WILL MOREOVER BE CONCERNED FOR HIS OWN PHYSICAL SAFETY. APART FROM HUMAN RIGHTS ASPECTS, IT IS CLEAR THAT IT IS IMPORTANT THAT THE WEST BE SEEN TO TREAT DEFECTORS WITH CONSIDERATION AND DISCRETION. TO DO OTHERWISE WOULD BE TO DISCOURAGE OTHERS WHO MIGHT WISH TO FOLLOW THEIR EXAMPLE. IT IS ALSO IMPORTANT FOR NATIONAL SECURITY AND INTELLIGENCE REASONS TO TREAT MOST DEFECTOR INFORMATION AS SECRET. WHEN AN INTELLIGENCE OFFICER DEFECTS, THE ORGANISATION FROM WHICH HE COMES CAN NEVER BE CERTAIN HOW MUCH HE HAS REVEALED. THEIR DAMAGE ASSESSMENT MUST THEREFORE BE BASED ON A WORST CASE ASSUMPTION, AND OUR SECURITY AND INTELLIGENCE SERVICES MUST ACCORDINGLY REVEAL AS LITTLE AS POSSIBLE IN ORDER TO MAXIMISE THE DAMAGE TO THEIR OPERATIONS.

4. IF ASKED WHY DEFECTOR INFORMATION HAS NOT BEEN ADDUCED PUBLICLY TO LAY TO REST THE HOLLIS STORY, YOU MAY SAY IN CAMERA THAT ONE CONSIDERATION WHEN THIS WAS LAST CONSIDERED IN OCTOBER WAS THAT IT WOULD LOOK AS THOUGH THE INFORMATION HAD BEEN RELEASED IN ORDER TO PUT PRESSURE ON WRIGHT IN THE CASE IN AUSTRALIA.

YYYY

CYLNAN 0999

THE NATIONAL ARCHIVES

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 1952 (one piece/item number)	Date and sign
Extract details: Folio 16 Minute dated 24 November 1986 (B.07593), with attached draft telegram	
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SRWANJ

Prime Minister

SECRET AND PERSONAL

SECRET

15

MR. WICKS

PETER WRIGHT CASE

I suggest that the main points for discussion at the Prime Minister's meeting at 0930 tomorrow are:-

a. Turnbull may have interests in seeking a negotiated settlement. But it could just be a ploy to sap our determination. So surely we should be tough in our response, even if it is not blankly negative.

b. Turnbull will want a book by Wright to be published. A great deal of the book is unacceptable. Therefore any negotiating proposal by us should embody the principle that we judge what is to be deleted. Negotiations on deletions would follow the settlement.

c. HMG do not set up enquiries at the bidding of the likes of Turnbull.

d. Our best outcome from this affair is to win the case. Our second best would be a negotiated settlement where publication by insiders, although seen to be permissible, would be made clearly subject to government authority as to text as well as publication itself; and where Wright's book was subject to cuts (in effect) at our discretion.

e. Arguably it is already the position that insiders publish without authority, through people like Pincher and West. And Wright and Massiter have appeared on television. Could we make an outcome on the lines of d. above stick also in cases like these?

f. A major consideration is how much chance we have of winning the main case. I shall obtain Sir Robert Armstrong's latest view before the Prime Minister's meeting.

N.L.W

fp

C. L. G. MALLABY
Cabinet Office
24 November 1986

SECRET

SRWANI

DRAFT LETTER FOR TO SEND TO THE RIGHT HONOURABLE MARK CARLISLE, Q.C., M.P.

I said that I would write to you about the Peter Wright case. In this case, the Attorney General, on behalf of the Government has sought an injunction in the Supreme Court of New South Wales to restrain the publication by Mr. Peter Wright of his memoirs of his time in the Security Service. Mr. Wright's service ended well before this Government took office: he was, in fact, employed by the Security Service between 1955 and 1976. We have sought the injunction because publication of Mr. Wright's memoirs would breach the fundamental principle that members of the Security Service should not make unauthorised disclosures of their experiences and knowledge of the Service. The Security Service exists to help defend the security of the state and the liberties of the citizen. I believe that unauthorised disclosure would put in jeopardy that security and those liberties by making known details of the work of the Service which could be of value to our enemies. If we do not do what we can to prevent such unauthorised disclosures which Mr. Wright is intending, other members of the Service might feel free to publish their own memoirs when they are no longer in the service of the Crown.

You asked why the Government is taking action in the case of Mr. Wright when it did not do so in the case of Mr. Pincher and Mr. West. The answer is clear. Mr. Wright was an employee of the Security Service for over 20 years, who can

write with direct knowledge of the workings of the Service. His position is therefore quite different from those who write without first-hand knowledge of the Service. I hope you will understand why I cannot elaborate further on these particular points. It is a long established practice of successive governments not to comment on security matters. Furthermore, in this particular instance, the Government is party to a case now before the Courts in Australia and it would be quite improper for me to discuss in public matters which we have brought before the Courts there.

My final point concerns the conduct of the Opposition Front Bench. For many years, opposition Front Benchers of both Parties have adopted a bipartisan approach to security matters. Quite rightly so when questions concerning the security of the Realm are involved. As an example of this bipartisan approach, you will no doubt remember the debate on 3 May 1977 when we were in Opposition and ~~we came to the rescue of~~ supported the then Labour government in helping them defeat a resolution supported by 36 Labour members who were objecting to the Labour Government's decision to deport Mr. Agee and Mr. Hosenball. But contrast the responsibility of the then Conservative Opposition Front Bench with the antics of today's Labour Opposition Front Bench. It is most regrettable that one of their Front Bench spokesman should lend his name to the terms of a recent Early Day Motion and that the Leader of the Opposition should issue the sort of statement that he did last Thursday. You will no doubt draw your own conclusions about Labour's motives in abandoning all sense of responsibility

about the vital issues of national security in their efforts to make cheap debating points.

10 DOWNING STREET

MT

PRIME MINISTER

Telephone message from the Duty Clerk, No 10 (in consultation with Nigel Wicks):

"the Foreign Secretary has read Mr. Mallaby's minute and looked at the papers and he agrees with Mr. Mallaby's recommendations"

I have read the minute several times, gone through most of the papers, and feel we have no alternative but to log this course of action, i.e. P.I.I. and agree Mallaby's recommendation. I think that too.

Catherine
22 November 1986

the Judge cannot use knowledge gained in this application for any other purpose, i.e. should the Application be unsuccessful the Court

continued

10 DOWNING STREET

PRIME MINISTER

A further message from the Duty Clerk:

"The Home Secretary has seen Mr. Mallaby's minute and has agreed to the proposal on the basis that he does not like it but can see no other option."

Catherine
22-11-86

14

Copy No. 1 of 7 copies

SECRET
covering TOP SECRET

B.07591

MR WICKS

The Peter Wright Case: Discovery of Documents

Flag C

My submission of yesterday described the documents which we are being pressed to discover to the court in Australia and the procedure for making a claim of public interest immunity (PII).

2. The Australian Government have now said that they will support, by giving evidence in court on Monday 24 November, a claim by us for PII on classes of documents. They would say that, if they were the plaintiff in the case, they would be claiming PII. They would not require to see the documents for which we were claiming PII. But the judge would have the right to see those documents, and would be likely to exercise it. As reported in my minute of yesterday, the strong advice of our Counsel in Australia is that the judge could be relied on to keep confidential the documents he saw for this purpose.

3. The documents to be discovered are still as described in paragraph 2 of my minute of yesterday, but our Counsel are trying to limit the range of the damage assessments we would have to discover. Instead of our discovering assessments of damage relating to each earlier publication in its entirety, we would discover them only in so far as they assessed likely damage in the book from revelations to the author by former members of the security services.

4. The relevant file on the television interview by Cathy Massiter in 1985 is a file of the Law Officers' Department. It covers consideration of the question whether criminal proceedings should be taken against Massiter or other people.

The Attorney General has reviewed this file, which is not sensitive in terms of national security, and decided that it could be shown to the judge in Australia and that we would claim PII on grounds not of national security but because possible criminal prosecutions were under consideration.

5. The files on the other four earlier publications are files of the Security Service, and on Nigel West's book "A Matter of Trust" there are also Cabinet Office papers. We have made folders, which are attached, of the papers from the files which might relate to the demand for discovery.

6. Officials have looked at each paper in these folders, to judge whether it is strictly relevant to the demand for discovery and whether it could be shown to the judge in connection with a PII claim. Inside the front cover of each folder is a summary of the contents and of officials' views.

7. These papers present broadly four types of problem with regard to discovery -

(a) papers which relate to legal action contemplated or taken by the Government in relation to publication of the earlier books, etc. The main example is Nigel West's "A Matter of Trust" (green folder), where many of the papers are part of the negotiation through which we secured deletion of passages from the book;

(b) documents where sources of the Security Service are revealed or might be deduced;

(c) papers concerning consideration within Government of policy with regard to various publications before they appeared;

(d) assessments of the damage that forthcoming publications might do, with comments on the contents showing which revelations were new and which were true; such papers reveal the names of many members of the security and intelligence services.

8. Officials consider that papers in group (a) can be shown to the judge in Australia in connection with a claim for legal professional privilege and, in the case of most documents, for PII. Other groups are more sensitive. The salient example of (b) is the identification in the flagged paper in the pink folder about Wright's television appearance in 1984 of Mr Glencross of the IBA as a source of the Security Service. In showing that document to the judge, our people in Sydney could be asked to persuade him that he need not know the name of the source, which would be erased before the document was passed to him. Group (c) is not very large. Difficult examples are flagged on the buff folder of Cabinet Office documents and the blue folder concerning Pincher's "Their Trade is Treachery". If our Counsel are successful in narrowing the demand for discovery on the lines described in paragraph 3 above, we may avoid showing complete damage assessments (group (d) above). The most significant example is flagged on the blue folder on Pincher's "Their Trade is Treachery". This one goes so far as to identify by name in paragraph 13 persons who are referred to but not identified in the book itself. Another significant example is flagged in the buff folder of Cabinet Office papers.

9. It would be an entirely new step for the Government to show many of these documents to an outsider, namely the Australian judge. We should obviously continue to negotiate hard for further narrowing of the demands for discovery and

should not show documents to the judge except where it is necessary in our interest in order to maximise the chances of securing PII. But, subject to those points, it will ultimately be a question of showing the documents relevant to the demand for discovery to the judge or giving up a claim of PII. To give up that claim would leave us with an order for public discovery of sensitive documents, and to avoid meeting that we would have to give up the main Peter Wright case in Australia.

10. The attached documents have been shown to the Attorney General who considers it a lesser evil to show the documents to the judge, relying, as we must, on the assurances of Counsel that the judge will not show them to others. (There is, of course, no question of showing them to the other side's extremely hostile counsel, Mr Turnbull.) If the Prime Minister, the Foreign and Commonwealth Secretary and the Home Secretary agree, Sir Robert Armstrong should be instructed to work as hard as possible to narrow the demand for discovery and to show documents to the judge only when that is essential in the interest of our PII claim, but ultimately to show any of the attached documents on a personal basis to the judge. The Attorney General considers that, if we fail in our claim for PII at first instance, we should appeal against that decision; Sir Robert Armstrong could also be given instructions to this effect.

11. Since Sir Robert Armstrong will need time to prepare this complex material for the hearing on discovery on Monday 24 November, his instructions should leave London early on Saturday 22 November (which is Saturday evening Sydney time).

12. I am sending copies of this minute and the attachments to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

21 November 1986

THE NATIONAL ARCHIVES

DEPARTMENT/SERIES Prem 19 PIECE/ITEM 1952 (one piece/item number)	Date and sign
Extract details: Letter dated 21st of November 1986	
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CONFIDENTIAL File SRW

10 DOWNING STREET

From the Principal Private Secretary 21 November 1986

Dear Michael,

THE PETER WRIGHT CASE

I think the Attorney General would like to see the exchange of correspondence attached between Mr. Pincher and Lord Trend.

I am sending a copy of this letter to Christopher Mallaby (Cabinet Office).

Yours sincerely

Nigel Wicks

(N. L. WICKS)

Michael Saunders, Esq.,
Attorney General's Office.

CONFIDENTIAL

Telephone
Kintbury (04885) 8855
or 397

Church House
16 Church Street
Kintbury, Nr. Newbury
Berks. RG15 0TR

6.8.81

Dear Lord Trend,

I am completing the paperback version of my book Their Trade is Treachery and wish to ensure that any inaccuracies in the first edition are rectified.

The changes and expansions I have made take full account of your decision-unknown to me before - that you had decided that Sir Roger Hollis had not been an agent of the Russian intelligence service, as the Prime Minister told Parliament. I understand that you are also on record as saying that you agree with all that the Prime Minister said, concerning your inquiry, to Parliament. I would welcome your confirmation of this because I am anxious not to misrepresent your findings in a book which is to have world-wide distribution.

The part of the Prime Ministerial statement which worries me - and others - is the paragraph indicating that each of the leads on which the case for investigating Hollis was based could also be taken as pointing to Philby or Blunt. The evidence presented in my book, much expanded in the paperback, indicates that much of it eventuated after 1951, by which time both Blunt and Philby were out of the picture.

I appreciate the sensitivity of the situation but I do not wish to attribute that view to you without giving you the opportunity to say whether it also your opinion or not.

Yours sincerely,

Chapman Pincher

LINCOLN COLLEGE, OXFORD OX1 3DR

FROM THE RECTOR.

RHA

CABINET
A 5251
13 AUG 1981
FILING INSTRUCTIONS
FILE No.

12th August, 1981

Dear Mr. Pincher,

Thank you for your letter of 6th August. I think that, in reply, I can only confirm that, so far as the Prime Minister's statement in Parliament was concerned with my own part in the matter in question, it had, of course, my full agreement.

Yours sincerely,

Lord Hill

Chapman Pincher, Esq.,
Church House,
16 Church Street,
Kintbury,
Nr. Newbury,
Berks, RG15 0TR.

Prime Minister

Further research in the files enables me to set your mind completely at rest. Written confirmation from Lord Trend that your statement in Hollis had his full agreement.

N. C. W.

21.11

Good

File

SRWAMW

cc Home Office.

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

Mr. Mallaby,
Cabinet Office.

THE PETER WRIGHT CASE: PQs

We agreed earlier today that it might be helpful to record the outcome of our discussion about the way the Prime Minister had decided to reply to Questions relating to proceedings before the Australian Court.

The Prime Minister believes it is appropriate to answer all Questions relating to matters which are or may be at issue in the proceedings in the following way:

> "It would be inappropriate for me to comment on matters which are or may be at issue in the proceedings concerning the Peter Wright case in Australia, while those proceedings continue."

There will of course be Questions bearing on the Wright case (e.g. on the costs of airfares, etc.) to which we can give a substantive answer. But it is clearly important that all Departments, and their press offices, adopt the approach set out here and I am accordingly sending a copy of this minute to Tony Galsworthy (Foreign and Commonwealth Office), Michael Saunders (Attorney General's office) and Trevor Woolley (Cabinet Office).

(MARK ADDISON)
21 November 1986

PRIME MINISTER

cc. Mr. Wicks
Mr. Powell
Mr. Ingham
Mr. Addison

The Politics of the Peter Wright case

I have not been involved in any discussions on this matter and therefore know only what I read in the newspapers. The Government is clearly constrained from saying anything about the case it is still before the courts and it may still be similarly constrained afterwards for reasons of national security. The result of this is to leave the ground free for our opponents to attack the Government but with no Minister putting the Government's case. The following points, which are blindingly simply, are not therefore being made:

(1) Peter Wright is a former member of the Secret Service who wishes to publish a book. If the Government did not try to stop him, there would be nothing to stop other people going into print once they leave the Service.

(2) The reason we want to stop ex-Secret Service members writing books is to stop them giving information to our enemies. We are therefore acting in defence of national security.

(3) Those, including those Labour members, who want Secret Service ex-employees to go public want to help the enemy rather than Britain.

(4) The difference between Peter Wright and others such as Chapman Pincher and Nigel West is that the former had worked for the Secret Service and the latter had not.

The questions therefore are:

(i) How can we get these points across?
(ii) Who can talk to the press?
(iii) Who can we gear up in Parliament?
(iv) Who can we get on television or radio?

SS.

STEPHEN SHERBOURNE

21.11.86

12

PRIME MINISTER

THE PETER WRIGHT CASE: DISCOVERY OF DOCUMENTS

In his minute below (Flag A) Mr. Mallaby seeks the approval of yourself, the Home Secretary and Foreign and Commonwealth Secretary to show, as far as is necessary, the documents in the folders below to the Australian Judge in support of our case for Public Interest Immunity (PII). Mr. Mallaby would like an answer as early as possible tomorrow morning (Saturday) so that instructions can be telegraphed to Sir Robert Armstrong in Sydney in time for him to prepare himself for a hearing on Monday.

The Foreign and Commonwealth Secretary is seeing the papers at 1030 tonight (Friday), and the Home Secretary at 1000 a.m. tomorrow (Saturday). I have made arrangements for their offices to tell us of their views. We will let you know.

The Attorney considers it a lesser evil to show the documents to the Judge rather than giving up the claim to PII (and consequently the main Peter Wright case). I know that you will be very reluctant to sanction the course which Mr. Mallaby suggests. But it is of considerable comfort that Sir Antony Duff (in his letter to me at Flag B) says that:

> "If the choice lies between showing the papers to the Judge or having to give up the case, I would certainly choose the former".

So, provided the Home Secretary and Foreign and Commonwealth Secretary are content, do you agree to the course proposed by Mr. Mallaby in his minute, and especially in paragraph 10?

N.L.W.

NLW

21 November, 1986.

RESTRICTED

file 4 b

10 DOWNING STREET

From the Principal Private Secretary

MR. MALLABY,
CABINET OFFICE

THE PETER WRIGHT CASE

THe Prime Minister has seen and noted without comment your minute to me of 20 November about this case.

I am copying this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary and to Mr. Saunders (Law Officers' Department).

N. L. WICKS

21 November 1986

KLB

Mr. Peter Wright (Australian Court Action)

4.7 pm

Mr. D. N. Campbell-Savours (Workington): I beg to ask leave to move the Adjournment of the House, under Standing Order No. 20, for the purpose of discussing a matter that is important, urgent and specific, namely,

"the need for the Government to withdraw from proceedings in the Australian courts against Peter Wright."

You will know, Mr. Speaker, that I raised this issue on 21 July and again on 25 July 1986, when I sought successfully to break the injunctions affecting *The Guardian* and *The Observer*. I ask today that the Government withdraw, and I set out my reasons.

The House needs to know why Messrs Blair, Symons, Simkins, Cairncross, Demowbray, King, Leigh, Harmer, Luke, Robertson, Foster, Burgess and his wife, Colonel William Skerden and Colonel Leo Long, Sir Ashton Roskill, Sir Robert Mackenzie, Sir Martin Furnival Jones, Lord Clanmorris, Lord Dacre, and Lord Victor Rothschild have not been dragged through the courts in an attempt to block publication of books for which they gave evidence as former security officers. If the answer is that the Government believes that the Wright position is different, because Wright was publishing a book himself, why did they not take action in the Irish courts against Brandon publishers for the book by Joan Miller, who was a special assistant to Maxwell Knight, former head of——

Mr. Richard Hickmet (Glanford and Scunthorpe): On a point of order, Mr. Speaker.

Mr. Speaker: I cannot take it now.

Mr. Campbell-Savours: There is a parallel: no action in the Irish courts, yet action in the Australian courts. The House needs to know why, prior to the Wright case being heard in the Australian courts, the Government refused to make a statement that they were intending to prosecute Mr. Arthur Martin, a former MI5 officer, and Mr. Rupert Allason, a Conservative parliamentary candidate and author of the book, "A Matter of Trust", when Mr. Martin passed to Mr. Allason classified information——

Mr. Speaker: Order. The hon. Gentleman must not make the speech that he might make if his application is granted. He must say why the matter is urgent, specific and important.

Mr. Campbell-Savours: That is precisely what I am doing. I have abbreviated my remarks to ensure that I am in order.

To be brief, perhaps I may draw attention to a letter from Mr. Pincher to Mr. Wright, which will undoubtedly influence your judgment, Mr. Speaker. It said:

"On New Year's day I was shooting with Havers, the Attorney. . . Havers told me that West met Martin six times, and on each occasion Martin told West secret information. In addition he showed him secret documents which should not have been in his possession. West then wrote his book and in it not only quoted Martin by name but quoted from the documents saying that they were secret! Havers then issued an injunction to have the offending parts removed, for had the book been published, the Government would have had no option but to prosecute both Martin and West . . . Havers told me"—

that is Pincher—

"that he is still considering whether to prosecute Martin but says he cannot do that without prosecuting West who has been adopted as a Tory candidate! Mrs. T. is furious with him."—

Mr. Speaker: Order. The hon. Gentleman has had his time and he must now bring his application to a close.

Mr. Campbell-Savours: Mr. Speaker, he goes on to say——

Mr. Speaker: Order. The hon. Gentleman has had his three minutes. I am sorry.

Mr. Campbell-Savours: Perhaps I can conclude my remarks, Mr. Speaker, by referring to other matters that are directly relevent—[HON. MEMBERS: "No."]

Mr. Speaker: Order. The hon. Gentleman will be aware of the new rule, which is not so new because we have known about it for six months. The rule is that an application under Standing Order No. 20 must be limited to three minutes. The hon. Gentleman must now complete his application with his peroration.

Mr. Campbell-Savours: May I put it to you, Mr. Speaker, that sedentary interjections and proper interventions of your own have prevented me from having a full three minutes. the House needs to know about conversations——

Mr. Speaker: Order——

Mr. Campbell-Savours: —that a former head had——

Mr. Speaker: Order. In fairness to everyone, three minutes must be the limit. The hon. Gentleman has had four minutes, which takes into account any interventions that I may have made.

The hon. Gentleman asks leave to move the Adjournment of the House for the purpose of discussing a specific and important matter——

Mr. Campbell-Savours: On a point of order, Mr. Speaker.

Mr. Speaker: —that he thinks should have urgent consideration, namely,

"the need for the British Government to withdraw from proceedings in the Wright case in the Australian courts".

I have listened carefully to what the hon. Gentleman has said, and I regret that I do not consider the matter that he has raised to be appropriate for discussion under Standing Order No. 20. I cannot, therefore, submit his application to the House.

Mr. Brian Sedgemore (Hackney, South and Shoreditch) *rose*——

Mr. Andrew Faulds (Warley, East) *rose*——

Mr. Speaker: I hope that any further points of order will not challenge what I have said. Mr. Sedgemore.

Mr. Sedgemore: On a point of order, Mr. Speaker. I wonder whether you will make a ruling on the propriety of what my hon. Friend the Member for Workington (Mr. Campbell-Savours) has done. I have seen the documents and I have heard what he has said. He appears to be traducing the Attorney-General in a serious fashion by saying that he has abused the security services for party political reasons. That is an extraordinary allegation for an individual to make against a Member of this place, and I should like to know whether it is in order for my hon. Friend to do so?

affairs. I cannot hold out the prospect of a debate in Government time, but I very much hope that my hon. Friend will be able to raise the matter on the Adjournment.

Mr. Rob Hayward (Kingswood): Further to the question put by my hon. Friend the Member for Ealing, North (Mr. Greenway), may we have a full debate on extremism in local government? In my constituency, an avowed Marxist represents the Labour party on Bristol city council, and his wife is now standing as a Labour party candidate for the neighbouring ward. Presumably she is also a Marxist.

Mr. Biffen: Important though the topic is, it is simply not feasible to offer Government time for such a debate. However, there are many other opportunities to raise the matter, and I wish my hon. Friend success in that regard.

Mr. Edward Leigh (Gainsborough and Horncastle): Following the Leader of the Opposition's remarks, may we have an early debate that will reassure the House that there are no zealots lurking deep within the Conservative Government who want to increase public spending by £28 billion a year resulting in the largest ever tax increase in our history, no zealots who want to indulge in one-sided disarmament tactics, and no zealots who want to prevent the largest ever number of ordinary people from buying shares? Alternatively, does my right hon. Friend think that the Leader of the Opposition should look for zealots on his own Front Bench before looking at the loony Left councils that his party controls?

Mr. Biffen: The reference to zealots within the Conservative Government has me confused. I am hoping that my hon. Friend will, therefore, correct the *Official Report* so that I can then make my response. But on Conservative Benches there is a sense of balance and a desire to judge all these matters in a practical and unideological way, thus striking a natural chord with the British public in total contrast to the zealots that the Leader of the Opposition sees rising up in the city halls and urban centres, and which will eventually swamp the Labour party.

Mr. Peter Bruinvels (Leicester, East): Does my right hon. Friend share my concern at the continuing misuse by Labour councils of ratepayers' money, which is spent on political and partisan propaganda? Should not something be done quickly, particularly as Leicester city council is now advertising in the *Labour Party Weekly* for jobs with the chief executive? When will the local government Bill come before the House? Will it contain provisions affecting such propaganda? Will it give more effective control over the allocation of inner area programme funds? Much of that money is deliberately sent to Labour party organisations within councils such as Leicester.

Mr. Biffen: As I listened to my hon. Friend's abominable indictment and reflected on the inevitably rather measured processes of government, I realised that my hon. Friend, who is a man of speedy decisions, was outlining a subject that was suitable for someone who had come third in the ballot.

Official Report (Division List)

4.6 pm

Mr. Robert N. Wareing (Liverpool, West Derby): On a point of order, Mr. Speaker. I seek your guidance on a matter of importance for the House and the country which arises out of a possible mistake in the *Official Report*. In columns 667 and 668 of the *Official Report*, the Division List for those going into the No Lobby against the Queen's Speech shows the names of the leader of the Liberal party and 14 of his colleagues, but fails to mention the hon. Member for Liverpool, Mossley Hill (Mr. Alton), the Liberal Chief Whip. Can that be right, or is the hon. Gentleman no longer the Liberal Chief Whip?

Mr. Speaker: I know nothing about these matters. The hon. Gentleman knows that only those who vote in the Division Lobby have their names recorded.

Mr. Speaker: The hon. Member for Workington (Mr. Campbell-Savours) must take responsibility for his speech. I heard the very same comments made on the 1 o'clock news.

Mr. Faulds: Further to that point of order, Mr. Speaker. I am not questioning your putting down of my hon. Friend the Member for Workington (Mr. Campbell-Savours), although it does appear unfortunate that he was not able to extend the evidence he wanted to achieve a Standing Order No. 20 debate. The point I want to make to you, Mr. Speaker, is whether it is advisable to have a three-minute limit on the Standing Order application when often there may be massive material to adduce for the reasons for a debate, which can only be shortened and the request made less effective if this introduction of the new three-minute limit is applied. Is it advisable in terms of the health of Parliament?

Mr. Speaker: I think that the hon. Gentleman should seek to become a member of the Procedure Committee, which made a report on this matter and others which was debated and passed by the House.

Mr. David Winnick (Walsall, North) *rose*——

Mr. Alan Williams (Swansea, West): On a point of order, Mr. Speaker. I appreciate fully your ruling, and would not challenge it. I accept entirely the attitude that you have taken. Given the severity of the allegations that we have heard, you will appreciate the difficulty in which the House finds itself. We have been told that the Attorney-General is aware of six occasions on which security information was passed by members of the security forces——

Mr. Speaker: Order. This is not a matter for me in any way. I have no knowledge of these things. I heard about them on the news, and now I have heard about them in the House.

Mr. Winnick *rose*——

Mr. Campbell-Savours *rose*——

Mr. Michael Morris (Northampton, South) *rose*——

Mr. Speaker: Order. The right hon. Member for Swansea, West (Mr. Williams) should be allowed to complete his point of order before other hon. Members intervene.

Mr. Williams: It must be a matter of great concern to the House when the Attorney-General, who is in charge of the administration of justice, and the Prime Minister, who is in charge of security, have both colluded, according to the letter, to avoid taking action to prosecute someone who has been party to a breach of state security. Because, for reasons which I well understand, you cannot allow us to have a debate on the matter at this stage, may I ask the Leader of the House, through you, to arrange that on Monday we have a statement from the Prime Minister?

Mr. Michael Morris: On a point of order, Mr. Speaker. For the guidance of the House, could you tell us whether, given that you heard about this matter on the news at 1 o'clock, it is in order under the new rules for Standing Order No. 20 applications for such issues to be raised subsequent to something that appeared on the news?

Mr. Speaker: It is in order. The application was submitted before 12 o'clock.

Mr. Winnick: On a point of order, Mr. Speaker.

Mr. Campbell-Savours: On a point of order, Mr. Speaker.

Mr. Speaker: Order. I shall take first the hon. Member for Walsall, North (Mr. Winnick).

Mr. Winnick: You have ruled, Mr. Speaker, although your ruling was challenged, that the matter raised by my hon. Friend the Member for Workington (Mr. Campbell-Savours) is not sub judice. Allegations have been made concerning the Attorney-General, and I know that these are not matters for you. My point of order is this: would it not be right to come to the conclusion that, as this is not a matter that is sub judice, it would be in order for the Attorney-General to come to the House, if he wished to do so? The fact that the case is proceeding in Australia——

Mr. Speaker: Order. The only conclusion to which I need come is whether the matter is in order. I cannot speculate on other matters.

Mr. Campbell-Savours: On a point of order, Mr. Speaker.

Mr. Speaker: I do not think that I can help the hon. Gentleman. Is his point of order on a different matter?

Mr. Campbell-Savours: It cannot be a different matter, Mr. Speaker. I have raised an issue——

Mr. Speaker: Order. I have ruled on the matter.

Mr. Campbell-Savours: No, Mr. Speaker——

Mr. Speaker: Order. I have ruled on the matter.

Mr. Campbell-Savours: On a point of order, Mr. Speaker. You have seen repeated attempts over the recent past on the Floor of the House to bring about a debate in the Chamber on the matters that I have sought to raise in my application under Standing Order No. 20. I do not see why Parliament should be shackled——

Mr. Speaker: Order.

Mr. Campbell-Savours: —because Ministers——

Mr. Speaker: Order.

Mr. Campbell-Savours: —do not wish such a debate to take place.

Mr. Speaker: Order. This is unlike the hon. Gentleman.

Mr. Campbell-Savours: It is monstrous.

Mr. Speaker: Order. The hon. Gentleman is an experienced parliamentarian and knows full well the rules of the House. He has made his submission and I have ruled upon it, and that is the end of the matter.

Mr. Faulds: On a further point of order, Mr. Speaker. It is a procedural point of order.

Mr. Speaker: Is it a helpful point of order?

Mr. Faulds: On a procedural point of order, Mr. Speaker. Would you be kind enough to advise hon. Members—we want to take the quickest action possible — how we can proceed to impeach the Attorney-General?

Mr. Speaker: I have no idea.

Moors Murders

4.17 pm

Mr. Geoffrey Dickens (Littleborough and Saddleworth): I beg to ask leave to move the Adjournment of the House, under Standing Order No. 20, for the purpose of discussing a specific and important matter that should have urgent consideration, namely,

"the moors murders investigation and the implications for prosecution and parole".

This will be a three-minute application, Mr. Speaker. As you will know, the Saddleworth moors are in my constituency. The bodies of Lesley Ann Downey, aged 10 years at the time of her death, and of John Kilbride, aged 12 at the time of his, were found buried in those moors, which are one mile from my home. Today, the Manchester police have started a massive dig-and-search operation on the moors, acting on information received from child murderess Myra Hindley. If other remains are discovered, two important issues will be brought into question. Should any deal be upheld with a child murderess for parole consideration in return for information on other murders? Should prosecutions follow for these other crimes committed 21 years ago?

A debate would provide Members of this honourable House with the opportunity to express public opinion so that our principal Law Officers — my right hon. and learned Friend the Attorney-General, my hon. and learned Friend the Solicitor-General and the Director of Public Prosecutions—are in no doubt about their duties. If the DPP, in conjunction with my right hon. Friend the Home Secretary, were ever to be hoodwinked by Myra Hindley and her eccentric friend in another place, they would never rest in their beds. They would be haunted by the spectre of anguished parents and relations who are sadly having to serve their own life sentence. I am convinced that public opinion demands no deal with child murderers and that those who sexually abuse and murder children should stand trial even 21 years later.

If you felt able to grant my request for a debate, Mr. Speaker, you would discover that hon. Members are more likely now to support my call to fight fire with fire. I believe that you would be amazed, Mr. Speaker, how strongly has grown the number of those who would wish to see capital punishment restored for child murderers.

Mr. Speaker: The hon. Member for Littleborough and Saddleworth (Mr. Dickens) asks leave to move the Adjournment of the House for the purpose of discussing a specific and important matter that he believes should have urgent consideration, namely,

"the moors murders investigation and the implications for prosecution and parole".

I have listened to what the hon. Gentleman has said, but I regret that I do not consider the matter that he has raised to be appropriate for discussion under Standing Order No. 20. Therefore, I cannot submit his application to the House.

STATUTORY INSTRUMENTS, &c.

Ordered,

That the draft General Lighthouse Authorities (Beacons: Hyperbolic Systems) Order 1986 be referred to a Standing Committee on Statutory Instruments, &c.

That the Medicines (Hormone Growth Promoters) (Prohibition of Use) Regulations 1986, (S.I., 1986 No. 1876) be referred to a Standing Committee on Statutory Instruments, &c.—*[Mr. Portillo.]*

Financing the BBC (Peacock Report)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Portillo.]*

Mr. Speaker: Before I call the Home Secretary, may I tell the House that no fewer than 29 right hon. and hon. Members wish to take part in this important debate. It will plainly not be possible to call all of them if speeches are very long. Although I have no control over the length of speeches, I ask for brief contributions.

4.20 pm

The Secretary of State for the Home Department (Mr. Douglas Hurd): Before mentioning the Peacock report it might be sensible to say something briefly about the principles that lie behind the recent exchanges between my right hon. Friend the chairman of the Conservative party and the BBC about its coverage of the Libyan bombings. As my right hon. Friend the Prime Minister made clear, it is not for the Government as such to form a view on that coverage, and that certainly applies to the Home Secretary, but the principles involved are worth restating.

First, the BBC has a responsibility, contained in article 13 of the licence and agreement, to refrain from sending any broadcast matter expressing its opinion on current affairs or on matters of public policy. It has also undertaken to treat controversial subjects with due impartiality. Those are responsibilities assumed by the board of governors. They put the BBC and those who work for it in a different position from those who work, say, for a newspaper or a cable company. Those responsibilities were undertaken in return for the privilege granted by Queen and Parliament in the charter of exercising what was once a monopoly and is now half a duopoly.

Second, it is not for the Government to enforce that responsibility as regards the normal content of the BBC's output. The responsibility rests on the board of governors. Under the charter and the licence and agreement the Home Secretary has some powers, but it is clear from the texts and from past practice that those powers should be used only in an emergency or wholly exceptional circumstances. As I have already stated in public, the Government have neither the power nor the wish to control the normal output of the BBC.

Third, any group or individual who believes that a broadcasting authority is falling below the standards set has an absolute right to say so. There is no reason why the chairman of the Conservative party should be deprived of that right. My right hon. Friend has shown himself entirely capable of distinguishing clearly between his duties as Chancellor of the Duchy of Lancaster and his role as chairman of the Conservative party. He showed that again during Question Time on Monday.

Broadcasters have no reason to believe themselves persecuted or insulted when such criticisms are made, whether by my right hon. Friend or by anyone else. As we observe, they have plenty of opportunities to reply and the public can then judge. Private individuals or political parties have no reason to regard with dumb reverence the output of broadcasters. I have not noticed that broadcasters approach the output of politicians with any such reverence. Both professions are in the public arena and learn to look after themselves. Members of both professions also learn, if they are wise, while defending

file BM

PRIME MINISTER

THE PETER WRIGHT CASE: TAM DALYELL'S PQ

Earlier this evening you approved a draft reply (attached) to Tam Dalyell's question, down for written answer tomorrow.

Since we spoke, we have heard that the Home Office Press Office were briefed last weekend to respond to a question like the one Mr. Dalyell tabled with a simple "No".

The Home Office are urgently trying to find out whether the question was in fact put to the Home Office. If so, whether they answered with a simple denial, and if so whether that denial was reported. We shall not know the answers to these questions for sure until tomorrow morning, and we therefore need to clear with you contingent replies to take account of a number of different possibilities.

(i) The question was not put to the Home Office

Your original "blocking reply" can stand.

(ii) The Home Office were asked the question, responded with a denial, but this did not find its way into the papers.

There seems a good case for sticking with the blocking reply. A reply on the record from the Prime Minister is one thing; a comment from a Home Office press spokesman is another. The response would be unlikely to be challenged; even if it were, you would not, of course, be over-turning the Home Office's response - merely saying it would be inappropriate for you to comment while the case is in full swing.

(iii) <u>The Home Office responded to the question with a denial, which clearly featured in the press.</u>
The arguments for following the Home Office line and answering Tam Dalyell with a simple "No" are clearly strongest in this case. Though such a reply would unfortunately break with the pattern you have so far followed, this may be a lesser evil than courting the possibility of Tam Dalyell and co trying to drive a wedge between your line and the Home Office's, and arguing that you are now "covering up".

Content for us to determine on this basis which of the two replies you give?

We shall ask Cabinet Office to ensure that all Departments from now on use the formula which you are adopting on any matters which are or may be at issue in the proceedings in Australia.

MARK ADDISON

PS Latest information from the Home Office is that they are fairly sure that they did not use the denial, but they cannot be absolutely certain until tomorrow. So it looks as if the answer at i) above will be all right.

N.L. WICKS

<u>20 November 1986</u>

LO4AHK

010 F.

Prime Minister 11

No decisions needed yet.

But a warning of decisions likely to be needed over the weekend.

SECRET

B.07590

MR WICKS

The Peter Wright Case

Following today's proceedings in the main trial in Sydney, the view of our people on the spot is that the case is winnable if only we can get round the major problem about discovery of documents.

NLW 20.11

2. The documents now sought concern five earlier books or publications -

(i) Nigel West's book "A Matter of Trust" 1982;

(ii) Chapman Pincher's book "Their Trade is Treachery" 1981;

(iii) Chapman Pincher's book "Too Secret Too Long" 1984;

(iv) Television interview by Cathy Massiter 1985;

(v) Television interview by Peter Wright 1984.

The types of documents sought for discovery are -

(a) assessments of the damage that publication would cause;

(b) documents relating to our foreknowledge of publication: what we knew and when;

(c) documents showing whether we preferred to allow any of the publications to go ahead; and probably

(d) documents on why we decided not to take proceedings.

3. The other side's lawyer has said that he is prepared to drop the demand for discovery of documents leading up to the Prime Minister's statement in 1981 on Hollis, and we are taking him at his word.

4. The Prime Minister's meeting yesterday decided that our aim now should be to secure public interest immunity in respect of sensitive documents sought for discovery. The Treasury Solicitor explored with the Australian Solicitor General this morning the possibility of an Australian claim for PII on our behalf. The reaction was sympathetic, but the Australian Solicitor General alluded to possible political difficulties in securing his Government's agreement. It was made clear that the Australian Attorney General would need to see the relevant documents on which we propose that they should claim PII. The Judge would also have the right, which he would be likely to exercise, to require to see such documents.

5. Should the Australian Government be unwilling to enter a PII claim, officials consider that we should ourselves try to make one. This is a forlorn hope, but it would at least show our determination to do everything possible to preserve the duty of confidentiality in the Wright case.

6. The process of making a PII claim would run as follows:

(a) we prepare folders of documents we consider relevant under the descriptions above and send copies of these folders to our people in Sydney;

(b) we provide to the Australian Government a description of these documents, showing which if any we could discover under an agreement on discovery and which should be covered by a PII claim;

(c) if the Australian Government agree to consider seriously making a PII claim on our behalf, and if as expected they insist on seeing the documents to be covered by the claim, we show some or all of those documents to the Australian Attorney General;

(d) by the court's deadline of 10 a.m. Sydney time on Monday 24 November (11 p.m. our time on Sunday) we give the court the description of the documents in the folders, together with the Australian or failing that British claim for PII in respect of some or all of those documents;

(e) there is then a discussion with the court in which we would probably be pressed to show documents covered by the PII claim to the Judge.

7. Officials have been reviewing the files on the former publications listed above. They have thought hitherto that the relevant papers could not be shown to the Australian Government, let alone the court. That view was also expressed on page 2 of your minute of 19 November recording the Prime Minister's meeting yesterday. Officials are preparing folders of relevant documents which will be sent by Queen's Messenger to our people in Sydney tonight. Tomorrow morning senior officials will reconsider the relevant documents inter-departmentally, to see whether there is any way of reconciling the difficulty of showing documents to the Australian Government with that Government's insistence, conveyed by their Solicitor General to the Treasury Solicitor this morning, on seeing documents covered by any PII claim. Officials will ask themselves whether each paper relevant to each former publication can be shown to the Australian Attorney General and/or to the Judge and whether any could be discovered. I shall report again to Ministers tomorrow afternoon, so that decisions can be taken on whether to proceed with steps (b), (c) and (d) in paragraph 6 above. As further background, I should add that our Counsel in Australia has assured us in the strongest terms that, despite

Simply on a contingency basis in case it is decided to show the documents - flight time requires despatch tonight if documents are to be in Australia by Monday.

the evident faults of the Judge in the Supreme Court of New South Wales, we can have full confidence that the Judge could be relied upon to keep confidential any documents that were shown to him during the process described above. Second, officials are sure that, if at the end of that process the order to discover documents was confirmed, actual discovery - i.e. publication of documents - could not go ahead until we had had time to decide whether to abandon the case in order to prevent that. Thirdly, we are advised that, if discovery was eventually agreed, there would be a possibility of obtaining deletions of sensitive points from the documents discovered after the Judge had seen those documents in unexpurgated form.

19.11.86

8. I attach a telegram from Sir Robert Armstrong with his views on the future of the case. He is coming to the conclusion, in line with that of Ministers yesterday, that we might have to abandon the main case if faced ultimately with an order to discover sensitive documents. Most of the points discussed in the telegram came up in yesterday's meeting of Ministers. The point at 6A. in the telegram can be assessed more fully after the further review of relevant papers tomorrow morning. As regards the point at 7B., Ministers' view yesterday was that it should be possible, if we were faced with a demand to discover sensitive documents, to abandon the main case on solid grounds of logic.

9. I am sending copies of this minute and attachment to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

20 November 1986

C L G Mallaby

per Wright case

STATEMENT BY THE RT. HON. NEIL KINNOCK, M.P., LEADER OF THE OPPOSITION ON SIR ROBERT ARMSTRONG'S EVIDENCE IN COURT IN AUSTRALIA

After studying copies of the transcript of Sir Robert Armstrong's evidence in the Australian courts on Tuesday and Wednesday this week (parts of which are attached) I have made further enquiries from which I concluded that there are important matters relating to the conduct of the Government which require answers.

It is necessary for the Prime Minister to clarify the situation as she did not do before the House of Commons this afternoon.

She declined to answer questions on the grounds that the case is still in progress. This is not relevant because the issues raised by Sir Robert's testimony relate explicitly to the conduct of Government and in no respect jeopardise any aspect of national security. These issues do not relate directly to the case of Sir Roger Hollis but to matters which appear to have arisen as a result of the contacts between Mr Chapman Pincher and individuals bound by their "duty of confidence".

Sir Robert has testified explicitly:-

(1) That the publication in 1981 of Chapman Pincher's book, 'Their Trade is Treachery', "could certainly prejudice national security, including current and future operations", and that Mr Pincher's assertion that no security damage could result was in his opinion wrong.

(2) That Mr Pincher's book drew upon information directly received from members of the security services, in breach of their duty of confidence to the Crown.

(3) That photocopies of the manuscript of the book were in the possession of officers of the Crown some weeks before its publication, and that the book was read by Sir Robert himself before publication.

(4) That the Attorney General was fully advised on the legal and security implications of publication of the book, and the damage to national security that publication would cause.

(5) That the Attorney General decided that there was no basis upon which an injunction could be launched and so did not seek any injunction to forbid publication of material which was prejudicial to national security, and which had been assembled with information from officers and ex-officers of the security services.

(6) That it was not the case that the damage done to national security by the publication of the book was rectified by the Prime Minister's statement to the House of Commons on this matter in March 1981.

(7) That the Attorney General and Mr Pincher meet from time to time, and that Mr Pincher and Sir Arthur Franks, alleged to be the Head of MI6 between 1976 and 1982, met from time to time.

It is obvious that any Government which had fore-knowledge that information prejudicial to national security was to be published - and which knew that that information had been directly obtained from officers bound by a duty of confidence - would have no difficulty in obtaining an injunction against its publication.

And of course an injunction was sought and secured in 1982 in very similar circumstances in the case of Mr Nigel West's book, and now is being sought in Australia in the case of Mr Peter Wright's book.

It is not acceptable for there to be one application of the law in respect of Mr Pincher who used information from officers under a "duty of confidence", another use of law for Mr West who is in precisely the same position and yet another in the case of Mr Wright who is both ex-officer and author.

A full explanation of the Government's conduct in this matter is essential and the Prime Minister should take the earliest possible opportunity to make a full statement to the House of Commons.

END

HOUSE OF COMMONS
LONDON SWIA OAA

Alan Williams
Dale Campbell-Savours
Bruce George
Denis Skinner.

Official Secrets Act — Conduct of Ministers

This House calls on the government to set up a judicial enquiry into allegations that the Prime Minister ~~attempted~~ acted with the Attorney-General to prevent the prosecution under the Official Secrets Acts of RUPERT ALLASON, alias NIGEL WEST: and calls immediate statements for an Answer by the Prime Minister.

HOUSE OF COMMONS
LONDON SW1A 0AA

Dob Campbell-Savours
Brian Sedgemore
Denis Skinner

Security of the nation — tried in Australia

This House calls on the government to set up a judicial enquiry to examine ① the nature of the relationship between Lord Victor Rothschild and Chapman Pincher which led to the publication of classified material in a number of publications ② reports of conversations between Sir Arthur Franks former head of MI6 and Chapman Pincher when the view expressed that no action would be taken against Rupert Allason under the Official Secrets Acts because he was a Conservative conducted ③ allegations that Sir Arthur Franks gave Chapman Pincher the green-light to breach national security and ④

the statement made by Sir Robert Armstrong
on 19 November 1986. that the Prime
Ministers statement of 1981 was not
a comprehensive account of the events she
supported to describe -

Wright file

DAILY MIRROR, *Thursday, November 20, 1986*

MI5 booked in New York?

EVEN if the Government succeed in their desperate bid to stop the book by former MI5 agent Peter Wright from being published in Australia, they may face an even bigger hurdle.

I hear that the book is being handled for publication in the United States of America—by a leading and reputable New York agency, Wallace and Sheil.

Lois Wallace, who runs the agency, was very embarrassed when I asked her about it.

"Are you handling Peter Wright's book?" I asked.

"Er ... no comment" was her reply. Our conversation went on as follows:

"Can I say anything at all about what you are doing with it?"

"I'd really prefer you didn't."

"What is your understanding about the effect of an Australian court's decision on possible publication in the United States?"

"My understanding is—no comment."

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INFO FLASH LAW OFFICERS DEPT (FOR SAUNDERS)
INFO FLASH SNUFFBOX (FOR DUFF AND SHELDON)

FOLLOWING PERSONAL FOR MALLABY, CABINET OFFICE, FROM ARMSTRONG

1. I THINK THAT WE MAY BE COMING TO A CRUNCH POINT HERE, AT WHICH WE SHALL HAVE TO ASK FOR INSTRUCTIONS FROM LONDON. THIS IS NOT A REQUEST FOR SUCH INSTRUCTIONS, BUT I HOPE THAT IT MAY ENABLE YOU AND OTHERS TO START THINKING ABOUT THE ADVICE WHICH MIGHT NEED TO BE GIVEN TO MINISTERS IN CERTAIN CIRCUMSTANCES.

2. IN THE COURT OF APPEAL THIS MORNING WE WERE REFUSED LEAVE TO APPEAL AGAINST POWELL'S ORDER ON DISCOVERY. TURNBULL HAD INDICATED THAT HIS CLIENT WAS OLD AND SICK, THAT FINANCIAL RESOURCES WERE LIMITED, AND, AT ONE STAGE, THAT HE WOULD RATHER DROP ALL HIS DEMANDS FOR DISCOVERY THAN BE OBLIGED TO ACCEPT FURTHER DELAY IN THE MAIN PROCEEDINGS. THE BEST HOPE OF OVER-THROWING POWELL'S ORDER ON DISCOVERY IS BY MEANS OF A PUBLIC INTEREST IMMUNITY (PII) CLAIM.

3. SIMOS SEEMS TO BE WILLING TO PROCEED WITH SUCH A CLAIM ON HIS OWN, WITHOUT AUSTRALIAN GOVERNMENT SUPPORT. BUT COUNSEL'S ADVICE IS THAT OUR CHANCES OF SUCCEEDING ON OUR OWN ARE SMALL. BAILEY WILL THEREFORE EXPLORE WITH THE SOLICITOR GENERAL TOMORROW (20TH) MORNING SYDNEY TIME THE POSSIBILITY OF COMMONWEALTH GOVERNMENT SUPPORT FOR SUCH A CLAIM. HE WILL SEEK TO FIND OUT WHETHER, IF THEY WERE DISPOSED TO SUPPORT, THEY WOULD BE PREPARED TO DO SO WITHOUT SEEING ANY OF THE PAPERS IN QUESTION, OR ALTERNATIVELY ON THE BASIS OF SEEING ONLY A SELECTION OF THE DOCUMENTS IN QUESTION, SUFFICIENT TO SATISFY THEM AS TO THE MERITS OF THE CLAIM AND ITS RELEVANCE TO AUSTRALIAN (AS WELL AS BRITISH) PUBLIC INTEREST. THIS OF COURSE ASSUMES THAT WE SHOULD BE WILLING TO DISCLOSE SUCH A SELECTION TO THE COMMONWEALTH ATTORNEY-GENERAL (AS WELL AS TO OFFICIALS OF HIS OFFICE, ASIO AND PROBABLY DPMC) OR POSSIBLY, IF THE COMMONWEALTH ATTORNEY GENERAL AGREED, ONLY TO CODD, AND IF NECESSARY SUBSEQUENTLY TO THE AUSTRALIAN COURT. IT MIGHT BE POSSIBLE TO ARRANGE MATTERS SO THAT THEY HAD TO BE SHOWN TO THE COURT ONLY ON APPEAL (EITHER TO THE COURT OF APPEAL OR TO THE HIGH COURT) AND NOT TO THE COURT OF FIRST INSTANCE, WHICH WOULD BE POWELL'S COURT.

4. IF WE DO NOT PROCEED WITH A CLAIM FOR PII, OR WE DO PROCEED BUT DO NOT SUCCEED, WE SHALL FACE A STARK CHOICE: EITHER TO DISCOVER THE DOCUMENTS OR TO ALLOW THE CASE TO BE DISMISSED. THAT WOULD BE THE CHOICE ON WHICH WE SHOULD NEED INSTRUCTIONS.

5. THE QUESTION WOULD BE WHETHER THE DAMAGE TO NATIOOAL SECURITY WOULD BE GREATER IF WE DISCOVERED THE DOCUMENTS TO BE DISCOVERED THAN IF WE ALLOWED THE CASE TO BE DISMISSED.

6. THERE ARE TWO POSSIBLE SETS OF DANGERS FROM DISCOVERY:

A. THE DAMAGE RESULTING FROM DISCLOSING TO THE COURT AND TO THE DEFENDENTS THE MATERIAL IN THE DOCUMENTS TO BE DISCOVERED SEMI-COLON

B. THE DANGER OF SETTING A PRECEDENT FOR DISCOVERY OF DOCUMENTS TO WHICH IN ENGLISH COURTS WE SHOULD EXPECT TO SUCCEED IN A CLAIM FOR PII, AND THUS PUTTING AT RISK OUR PROSPECTS OF SUCCEEDING IN PII CLAIMS, INCLUDING ''CLASS'' CLAIMS, IN THE ENGLISH COURTS.

7. THERE ARE ALSO TWO SETS OF DANGERS FROM ALLOWING THE CASE TO BE DISMISSED:

A. THE DAMAGE TO NATIONAL SECURITY FROM THE PUBLICATION OF WRIGHT'S BOOK, INCLUDING THE DAMAGE FROM THE CONTENTS AND THE PRECEDENT FOR OTHER FORMER MEMBERS OF THE SECURITY SERVICE MINDED TO PUBLISH.

B. THE POLITICAL CONSEQUENCES OF EXPOSING THE GOVERNMENT TO CHARGES OF ''GIVING UP'' OR OF ''BEING DEFEATED''.

8. THE DISCOVERY ORDER HAS BEEN STAYED UNTIL MONDAY 24 NOVEMBER OR UNTIL FURTHER NOTICE. WE THUS HAVE A LITTLE TIME IN HAND, DURING WHICH THE MAIN PROCEEDINGS CAN CONTINUE WITH FURTHER ROUNDS OF TURNBULL VERSUS ARMSTRONG. BUT, IF THE AUSTRALIAN GOVERNMENT IS NOT WILLING TO SUPPORT US IN A PII CLAIM, OR IS WILLING TO CONSIDER SUPPORTING US ONLY ON A BASIS WHICH WE COULD NOT ACCEPT BECAUSE IT WOULD MEAN SHOWING THEM DOCUMENTS WHICH WE ARE NOT PREPARED TO SHOW THEM, WE SHOULD FIND OURSELVES, QUITE POSSIBLY BEFORE MONDAY MORNING, IN A POSITION WHERE WE COULD GO FORWARD WITH A PII CLAIM ONLY ON OUR OWN. GIVEN COUNSEL'S ADVICE THAT WE SHOULD BE VERY UNLIKELY TO SUCCEED, WE SHOULD NEED TO CONSIDER WHETHER NONETHELESS TO GO FORWARD, IN ORDER AT LEAST TO DEMONSTRATE THAT WE HAD TRIED EVERY POSSIBILITY OPEN TO US BEFORE ALLOWING THE CASE TO BE DISMISSED.

9. IT IS DIFFICULT FOR US HERE TO ADVISE SENSIBLY, SINCE WE DO NOT KNOW ENOUGH ABOUT THE DOCUMENTS IN QUESTION, AND THEREFORE ABOUT THE DANGERS OF DISCLOSING EVEN A SELECTION OF THEM TO MICHAEL CODD OR THE COMMONWEALTH ATTORNEY GENERAL (IF HE WAS PREPARED TO REGARD SIGHT OF A SELECTION AS A SUFFICIENT BASIS FOR SWEARING AN AFFIDAVIT IN SUPPORT OF OUR CLAIM). WE HAVE ASSUMED FROM YOUR TELNO MISC 371 THAT THERE IS NO QUESTION OF DISCOVERY OF ALL THE DOCUMENTS TO THE COURT AND THE DEFENCE, AND WE ACCEPT THAT. WE SHOULD BE GLAD TO KNOW WHAT IS YOUR PROVISIONAL VIEW ON THE POSSIBILITY OF EXHIBITING A SELECTION OF DOCUMENTS TO MICHAEL CODD AND/OR THE COMMONWEALTH ATTORNEY GENERAL AND IF NECESSARY THE COURT IN ORDER TO SECURE AUSTRALIAN GOVERNMENT SUPPORT FOR A PII CLAIM SEMI-COLON OR WHETHER YOU THINK THAT THAT IS OUT OF THE QUESTION, EVEN IF THE POSSIBILITY OF AUSTRALIAN SUPPORT, AND THEREFORE OF SUCCEEDING IN THE CLAIM, TURNS ON IT.

10. ON THE FACTORS DISCUSSED IN PARAGRAPHS 6 AND 7, I DO NOT EXPRESS A JUDGEMENT ON 6A, SAVE THAT I DO NOT BELIEVE WE COULD DISCOVER ANY OF THE DOCUMENTS USED OR REFERRED TO IN THE PREPARATION OF THE PRIME MINISTER'S STATEMENT OF 26 MARCH 1981 (THOUGH THERE HAVE BEEN INDICATIONS IN THE COURT OF APPEAL THAT TURNBULL HAS DROPPED OR WOULD BE PREPARED TO DROP THAT PART OF HIS DEMANDS). ON 6B, IT SEEMS TO ME TO BE VERY IMPORTANT NOT TO PUT AT RISK THE INTEGRITY OF OUR ENTITLEMENT TO CLAIM PII IN THE ENGLISH COURTS. I DO NOT KNOW HOW FAR WE SHOULD RISK DOING SO BY DISCOVERING IN AUSTRALIA DOCUMENTS WHICH WOULD BE PROTECTED BY PII IN ENGLAND. ON 7A, THE INTRINSIC DAMAGE FROM PUBLICATION OF THE CONTENTS OF WRIGHT'S BOOK MAY BE LIMITED, GIVEN THE AMOUNT ALREADY PUBLISHED IN PINCHER AND ELSEWHERE SEMI-COLON AND ONCE THIS CASE IS OVER WE SHALL BE FREE TO REASSERT AND REINFORCE WHAT THE PRIME MINISTER SAID IN MARCH 1981 ABOUT THE HOLLIS ALLEGATIONS. THERE REMAINS THE DAMAGE DONE BY THE FACT THAT THIS WOULD BE PUBLICATION BY AN INSIDER. THE QUESTION HERE IS WHETHER WE HAVE GONE FAR ENOUGH WITH THIS CASE IN AUSTRALIA, EVEN IF IT DOES NOT SUCCEED, TO DEMONSTRATE BOTH OUR DETERMINATION TO STOP INSIDER PUBLICATION IN ENGLAND AND (IF WE HAVE TO STOP SIMPLY IN ORDER TO AVOID DISCOVERY OF DOCUMENTS FOR WHICH WE SHOULD HAVE PII IN ENGLAND) A CONSIDERABLE DEGREE OF PROBABILITY THAT WE SHOULD BE ABLE TO SUCCEED IN A SIMILAR CASE IN ENGLAND. I EXPRESS NO VIEW ABOUT 7B, SAVE THAT THERE OBVIOUSLY WOULD BE SOME POLITICAL EMBARRASSMENT. I SUPPOSE THAT THE MAIN DEFENCE WOULD HAVE TO BE THAT WE WERE NOT ABLE TO PERSUADE THE AUSTRALIAN COURTS TO GRANT US PII, THAT WE HAD CONCLUDED THAT THE DAMAGE TO NATIONAL INTEREST FROM DISCOVERY WOULD BE GREATER THAN THAT FROM DROPPING THE CASE AND ALLOWING PUBLICATION OF WRIGHT'S BOOK TO PROCEED, BUT THAT THE GOVERNMENT'S POLICY ON THE DUTY OF CONFIDENTIALITY AND ON INSIDER PUBLICATION REMAINED UNCHANGED AND THE GOVERNMENT WOULD CONTINUE TO SEEK TO ENFORCE IT IN THE ENGLISH COURTS. THAT COULD, I SUPPOSE, ENTAIL TAKING STEPS TO TRY TO PREVENT DISTRIBUTION OF WRIGHT'S BOOK IN THE UNITED KINGDOM, AND POSSIBLY ALSO CONSIDERATION OF SOME ACTION AGAINST ARTHUR MARTIN, WHO HAS CLEARLY BREACHED HIS DUTY OF CONFIDENTIALITY AGAIN WITH FREEMAN AND PENROSE, DESPITE THE WARNINGS GIVEN TO HIM AFTER HE BREACHED IT WITH WEST.

11. THE PURPOSE OF THIS MESSAGE IS TO CONTRIBUTE TO YOUR THINKING, AND GIVE YOU SOME IDEA OF MATTERS AS SEEN FROM HERE. AFTER ALL THAT HAS HAPPENED, WE HERE HAVE A NATURAL DESIRE TO CARRY THE CASE THROUGH TO A CONCLUSION, IN THE HIGH COURT OF AUSTRALIA IF NEED BE. BUT WE RECOGNISE THAT THE DECISION WILL HAVE TO BE TAKEN ON A COOL CALCULATION OF CONFLICTING CONSIDERATIONS OF PUBLIC INTEREST, WHICH CAN IN THE END BE MADE ONLY IN LONDON.

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FCO PLEASE PASS ALL

SECRET

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

MR. MALLABY,
CABINET OFFICE

THE PETER WRIGHT CASE

I should be grateful for your advice on a particular point which came up at this morning's meeting but which I have deliberately not set down in the record.

The Prime Minister indicated at the meeting that she might wish to make clear in public, at a suitable stage, the following:-

> Mr. Wright had left the Government service in 1976, before this Government took office. This Government was under no obligation to account to Parliament for the actions of the Security Services before they took office. The Government's concern in relation to the Wright case is simply with the breach of confidentiality. The Government is not responsible for the actions of the Security Service, or any other Department, which took place under a previous administration.

From his reaction at the meeting, it seemed that the Home Secretary was unhappy with this approach since, if I understood him aright, it might suggest that the Government were abandoning the Security Service for the time in question.

I should be grateful for advice, cleared with other Departments as necessary, on whether the Prime Minister could make the points above. If so, please could you suggest an appropriate form of words.

N. L. WICKS

19 November 1986

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SECRET

SUBJECT
cc master

file BM 8
cc Sir P C.

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

MR. MALLABY

CABINET OFFICE

THE PETER WRIGHT CASE

The Prime Minister held a further meeting this morning to discuss the Wright case. The Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General, and yourself were present. The Lord Privy Seal and the Chief Whip were present for part of the meeting.

It was agreed that the Chief Whip should discuss with the Speaker the most appropriate way of clarifying the distinction between what the Prime Minister meant by sub-judice in relation to the Wright case and the Speaker's statement about the sub-judice rule as it related to the proceedings of the House. The Prime Minister's Chief Press Secretary should brief the Lobby on these lines as well. At this point the Lord Privy Seal and the Chief Whip left the meeting.

You then reported on the latest position on the case. Our leave to appeal on the discovery order had been refused without reasons being given. It was possible, though unlikely, that the defence solicitors might be willing to drop their demands for discovery in order not to delay the main case. We were considering claiming public interest immunity for the relevant documents. Such a claim would probably, but not certainly, have to be made by the Australian government. This was now being discussed with them. It might prove necessary to disclose certain information about the relevant papers to the Australian government and to the judges. On the main case, the burden of the defence's case seemed to be that HMG were inconsistent in permitting the publication of other books on the Security Service while trying to prevent publication of Wright's book. The answer, of course, to this argument was that Wright was under a particular duty of confidentiality as a member of the Security Service.

The following were the main points raised in discussion:

i) If the public interest immunity claim was unsuccessful or the defence did not drop their request for discovery, it seemed likely that HMG would have to abandon the case; discovery of the relevant documents would breach the very

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principle of confidentiality which the case was intended to protect. Abandonment of the case, though highly regrettable, could be defended in these circumstances. It would be important to ensure that we did not let down the Australian government who were supporting us on the main case. They should recognise the impossibility of our position if documents had to be discovered.

ii) It was unclear which information would need to be disclosed to the Australian government and judges, in support of a claim for public interest immunity. It might be possible to confine the information to a summary of papers or to an acceptable selection. There were over-whelming difficulties in disclosing the relevant files to anyone outside the British Government's service.

iii) If Wright's book was published, the Government would need to make an early firm statement on the lines that many of its so-called revelations were rehashes of old stories; there were now new rules governing the operations of the intelligence services which were working satisfactorily; and that the Government were considering further how to ensure the maintenance of the essential duty of confidentiality laid on public servants, especially those involved in sensitive work. The objective should be to mobilise the wide-standing public support for the central principle of confidentiality of the operations of the Security Service, which was essential to the security of the realm.

iv) More generally, it was felt that there was a need for some strategic machinery to assist Ministers to take an over-view of the management of episodes like the Peter Wright case and to create a firm foundation on which to base general Government policy in this area, for example on disclosure of information about the activities of the intelligence services. For example, it was necessary to examine the possibility of a new form of contract between employees and their agencies which could be enforced to prevent unauthorised disclosure. The Official Secrets Act might be made more effective by drawing it more narrowly. It might be possible to make more information available about the operations of the Security Service so as to bring home to the public the importance of maintaining confidentiality about its activities.

Summing up the discussion the Prime Minister said that our aim should be to secure public interest immunity in respect of the relevant documents, so long as this did not involve the disclosure outside the British Government of sensitive documents and information. We should try to secure the immunity by offering summaries or general descriptions of the documents concerned. The Group would need to meet urgently if public interest immunity could not be secured and the discovery order went ahead. But it looked as if there were very good reasons for dropping the main action in these circumstances. The Cabinet Secretary should arrange for the establishment of some Cabinet machinery which would provide an over-view for the management of episodes like the Peter Wright case and for the establishment of the foundation for a future

policy referred to in the discussion. This machinery might comprise a committee at official level which supported a committee of Ministers under her Chairmanship, consisting of the Home Secretary, the Foreign Secretary, the Attorney General, the Secretary of State for Defence, and the Lord President in view of his previous responsibility for security matters as Home Secretary.

I am sending a copy of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General, Sir Percy Cradock and Mr. Woolley (Cabinet Office).

N.L.W.

N. L. WICKS

19 November 1986

LINE TO TAKE WITH LOBBY ON MI5 ETC

1. The Prime Minister never challenged the Speaker's interpretation of the rules of the Commons; indeed she accepted his ruling.

2. Our understanding is that the Speaker is undoubtedly correct in interpreting Erskine May to say that proceedings in a court outside this country are not sub judice for the purposes of Commons procedure - ie that questions on the Australian case are not prohibited in the British Parliament.

3. But that was not the Prime Minister's point: her point is that a case is being heard in the Australian courts to which the British Government is a party and that it would be "most unwise, indeed rash of me as Prime Minister of the UK to comment on a case to which the Attorney General is party in Australia" (Col 437, November 18). In other words, the case is sub judice in Australia and that while there is nothing under the Speaker's ruling to prevent British MPs asking questions upon the case, British Ministers, as representatives of the Government which is a party to the Australian case, are undoubtedly inhibited from commenting upon it.

4. As the Prime Minister said (Col 437, November 18): "I would have thought that most people would understand that".

5. In any case the Prime Minister, like all her predecessors, "adheres to the normal practice of not commenting on security matters". (Col 437, November 18).

6. In short, there is nothing to prevent British MPs from asking questions but there are reasons, both in Australia (court proceedings) and in the UK (long standing practice on security issues) why the Prime Minister is, and will be, restricted in her Answers.

Mr. Speaker: Order. The Prime Minister is about to make a statement.

Mr. Kinnock: On a point of order. Mr. Speaker. It is clear that inadvertently—and I am certain that was the case—the Prime Minister referred to the matter being heard in Australia as a matter of sub judice that affects the proceedings of this House. The acknowledgement has been made that that is not the case. However, the Prime Minister's answers to questions influenced the direction of questions. I think that the Prime Minister would now want to avail herself of an early opportunity to say that the matter is not sub judice in this House so that the subject need not be raised in the same form again, thereby allowing questions to be raised.

The Lord Privy Seal and Leader of the House of Commons (Mr. John Biffen) *rose—[Interruption.]*

Mr. Speaker: Order. I have called the Leader of the House.

Mr. Biffen: Further to that point of order, Mr. Speaker. In making your judgment on this matter would you kindly take account of the fact that the United Kingdom Government are a party to the case in Australia and indicate how that relates to the sub judice rule?

Mr. Speaker: I prepare myself very carefully for question time every day and for every eventuality, and I took this matter into account today.

Mr. Williams: Further to that point of order, Mr. Speaker. I am grateful to you for a very helpful and clear ruling. Will you now indicate whether, in your experience, it is not the case, when an hon. Member has found that he or she has misled the House—even if inadvertently—that Member would normally make an apology to the House?

The Prime Minister: Further to that point of order, Mr. Speaker. I made it clear in my answer that the Attorney-General has accordingly applied in the Supreme Court of New South Wales for an injunction to prevent the publication of the Wright book. You have ruled that the matter is not sub judice in this House, but I must submit that it would be most unwise—*[Interruption.]*

Mr. Speaker: Order. This is an extremely important matter. [HON. MEMBERS: "Hear, hear."]

The Prime Minister: It would be most unwise, indeed, rash of me as Prime Minister of the United Kingdom to comment on a case to which the Attorney-General is party in Australia. I would have thought that most people would understand that. If not, perhaps they would understand the comments of a previous Labour Prime Minister who said:

"I shall adhere to the normal practice of not commenting on security matters."—[*Official Report*, 29 June 1978, Vol. 952, c. *631*.]

Mr. Kinnock: Further to that point of order, Mr. Speaker. It is easily seen that the Prime Minister's response does not satisfy the House. That places you in an invidious position, especially since your judgment was so unequivocal and clear. Can I suggest that a period of further reflection is given to the matter because the alternative is obviously the continued distraction of the House on the matter when we have other serious business to transact? It will be necessary to give further attention to this, taking account of the matter of national security raised by the Prime Minister, in order to discover whether that is the valid question under consideration or whether it is a more politically partisan question.

Mr. Speaker: Order. I think that the Leader of the Opposition has made a wise judgment on this matter. The two matters are not connected, but they are relevant.

Mr. Beith: Further to that point of order, Mr. Speaker. The position remains that a challenge has been issued to the Chair. The Prime Minister gave her interpretation and her assumption that the matter was sub judice. You gave your ruling and the Leader of the House then challenged that ruling in polite terms.

Mr. Biffen *indicated dissent.*

Mr. Beith: The Leader of the House effectively asked you to review your ruling. I see no reason why you should be asked to alter your ruling. Therefore, we cannot move forward until the Government make it clear that they accept your authority.

Sir John Biggs-Davison: Further to that point of order, Mr. Speaker. You have ruled that the sub judice rule does not apply and we accept that absolutely—*[Interruption.]* But for the future, Her Majesty's Government of the United Kingdom are party to a case in a court before one of Her Majesty's Australian judges. How do Her Majesty's Government or any party to such a case obtain justice if the sub judice rule does not apply?

Mr. Speaker: Order. We have a full day ahead of us and I hope that I can clear up the matter. I said to the House that under our rules the matter before a court in another country was not sub judice. Whether it is a matter of national security is a completely different issue and a perfectly legitimate one to call in aid.

Mr. Andrew Faulds *rose——*

Mr. Skinner *rose——*

Mr. Gow: Further to that point of order, Mr. Speaker. Would it not be for the convenience of the House if you could explain how it is that a matter before one of Her Majesty's judges in Australia in a case to which Her Majesty's Government are party is not sub judice under the rules of the House?

Several Hon. Members *rose*

Mr. Speaker: Order. I shall take all the points of order together.

Mr. Faulds: On a point of order

Mr. Speaker: I have not called the hon. Gentleman yet.

Mr. Faulds: I was on my feet first.

Mr. Speaker: Order. I decide the order in which I take these questions.

Mr. Campbell-Savours: Further to that point of order, Mr. Speaker. I put it to you that the people of Australia are having reported to them our proceedings, and questions on the Order Paper, in detail. It is most important that the position is clarified because today in Australia there are calls for the resignation of Sir Robert Armstrong in so far as yesterday he had to admit in a court of law in Australia that he deliberately misled the court by submitting in affidavits some days ago inaccurate information. I and my hon. Friends have pressed for a

tement on this matter from both the Attorney-General and the Prime Minister, but none has been made. I again ask that a statement be forthcoming. The people of Australia——

Mr. Speaker: Order. Hon. Members cannot ask for statements through me.

Mr. Hickmet: Further to that point of order, Mr. Speaker. I speak for Glanford and Scunthorpe, not Australia. In considering the representations made by my hon. Friend the Member for Eastbourne (Mr. Gow), will you also consider that, notwithstanding the fact that this case is in front of one of Her Majesty's judges in Australia, it might finish up before the Privy Council?

Mr. Faulds: I am most grateful to you, Sir. Further to that point of order, Mr. Speaker. It is clear that you made a ruling that the matters in Australia were not sub judice as far as this House is concerned. We are not asking the Prime Minister to make a statement on those matters. We are asking her to withdraw the incorrect assertion that she made that these matters were sub judice, and she should be required by you, Sir, to do that.

Mr. Skinner: Further to that point of order, Mr. Speaker. As I see it, the issue is relatively simple. In the past 10 minutes there have been a series of incidents in which you and one Member of Parliament, who happens to be the Prime Minister, have been in dispute. Normally, when a Member of Parliament challenges the authority of the Chair, he has either to withdraw or leave. Why is it that a Back Bench Member of Parliament can be called upon to withdraw when he challenges the authority of the Chair, but the Prime Minister is allowed to get off the hook? This is a classic example of where you need to show your authority, Mr. Speaker, and if you fail to do so, do not expect any of us to have to bow to the Chair.

Mr. Speaker: Order. It is very unlike the hon. Gentleman to threaten me. The Prime Minister has not challenged what I have said.

Mr. Campbell-Savours: She has.

Mr. Speaker: Order. We have a heavy day in front of us. I think that we should have some quiet reflection on this matter.

Mr. Campbell-Savours: Name her.

Mr. Speaker: Order. We can return to this matter on another day.

The Prime Minister: Further to that point of order, Mr. Speaker. I accept your ruling on sub judice as far as the House is concerned. Therefore, any questions can be asked. I know of no rule which means that I am circumscribed in the way in which I answer questions and as you said, I can invoke security, and have done so.

Several Hon. Members *rose*——

Mr. Speaker: Order. I shall take one more question. Mr. Lofthouse.

Mr. Lofthouse: Further to that point of order, Mr. Speaker. As one of the questioners whom the Prime Minister misled by her answer—*[Interruption.]*

Mr. Speaker: Order. This seems to be an attempt to carry on Question Time.

Mr. Lofthouse: As one of the questioners whom the Prime Minister misled—[HON. MEMBERS: "She did not mislead you."]—I should gladly accept an apology—or is the Prime Minister above this House and above you, Mr. Speaker?

Mr. Speaker: Order. The Prime Minister has made her position very clear. I shall take one further point of order.

Mr. Gow: Further to that point of order, Mr. Speaker. I wonder whether I could revert to, and add to a point of order that I put to you previously? It would be of assistance to the House if you could please explain to us why it is that proceedings in a case which is before one of Her Majesty's judges in Australia, a case to which Her Majesty's Government are a party, are not sub judice for the purposes of this House? May I make a further submission to you, Mr. Speaker.

You have said quite rightly that this is a very important matter. We all know the basic reason for the existence of the sub judice rule. It exists so that no influence of an improper or outside kind shall be brought to bear upon the courts.—[HON. MEMBERS: "We know that."] That is the whole purpose of the sub judice rule. Even if it is correct, as you have said, Mr. Speaker, that, in accordance with past precedent, a case of this kind——

Mr. Winnick: Get to the point!

Mr. Gow: — does not fall within the sub judice rule, would you be prepared to consider whether, in this particular case, the sub judice rule ought to apply?

Mr. Speaker: Order. I carefully calculated that a question of this kind might arise today. Therefore I was prepared with the answer that I gave. Australia is an independent country. I shall of course reflect carefully, as I always do in exchanges of this kind, upon whether the rulings that I have given are right. If I find that I was wrong, I shall gladly and certainly return to the House and make a further statement.

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PRIME MINISTER

Thank you note

THE WRIGHT CASE

I have looked further at the chronology of the preparation of your statement in March 1981 on the Hollis case to check that Lord Trend approved the passage in the statement about his report.

The dates are as follows:

(i)	Sometime during 24 March	RTA submits draft statement which is referred to in my minute at flag A.
(ii)	1500 24 March	RTA had meeting in Cabinet Office with Lord Trend. My presumption is that it was at this meeting that Robert cleared the draft of the statement referred to in (i) above.
(iii)	25 March	RTA submits a further draft of the statement.
(iv)	1600 25 March	RTA sees Lord Trend again.
(v)	1630 25 March	You see Lord Trend. There is no record of this discussion, but the files show that you amended the relevant passage of the draft statement referred to at (iii) to read:

"Lord Trend with whom I have discussed the matter...."

My presumption is that you discussed the text of the statement at paragraph (iii) with Lord Trend and it was as a result of that discussion at 1630 that you amended the draft to make it clear that you had discussed the matter personally with him. Again, though it is no more than presumption, it seems very likely that you actually had the draft in the room during your meeting with Lord Trend.

(vi) 1800
25 March

Meeting with Home Secretary, Foreign Secretary, Chancellor of the Duchy of Lancaster, Attorney General and RTA on the draft statement referred to at (iii). From this discussion there emerged the text of the relevant paragraph which, except for minor editorial changes, you used in the House of Commons.

All in all I think that, taken together with what I said in my minute of yesterday and the timetable above, there is, I think, sufficient evidence on the files that you agreed the text of your statement with Lord Trend.

N.L.W.

N.L. WICKS
19 November 1986

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PRIME MINISTER

THE PETER WRIGHT CASE

The objects of this meeting are:

1. To assess the prospects for the case

In fact, there are two cases:

- The main case against Wright.
  If we lose in the Supreme Court, lawyers seem to think that there is a good prospect of victory in the High Court.

- The appeal on the discovery of documents.
  We may know the outcome of the appeal early next week. If we lose, and we have no particular reason to think we will, we would probably have to drop the main case against Wright because compliance with discovery would breach the very principle which the proceedings were undertaken to maintain.

No immediate decisions are needed, but it would be helpful to run over the ground in case urgent decisions are needed soon. Some particular points to consider are:

(i) Is there any option except to drop the main case if we lose our appeal on discovery?

(ii) What do we do if we drop (or later on lose) the main case? An immediate statement in Parliament making the points in paragraph 8 of Mr. Mallaby's minute below? Would we seek to continue the injunction against the Observer and the Guardian?

(iii) What action should we take to safeguard the effectiveness of the security services?

2. To consider how to convey the strength of the Government's case to those backbenchers willing to support our position but who need arguments to do so.

The Attorney General's Department has a paper in preparation for the Whips Office. Is that enough? Should certain backbenchers be given special briefing eg Mr. Onslow, Mr. Brittan (as an ex-Home Secretary), Mr. Jenkin, so that they are in a position to rally to the Government's position in any Parliamentary discussion.

3. To consider what more can be done to convey the strength of the Government's case to the press

The press are likely to be generally hostile to the Government's position. But that does not absolve us from putting across our position. But we must do that in a way which does not breach the confidentiality of the security service, nor prejudice the case in Australia. The risk is that these two factors will so inhibit our public presentation that we will look beleaguered. We must not allow that to happen. There needs to be a strong presentation of our case within the constraints set by security of information and the Australian trial.

4. To consider whether the Attorney General or the Chief Whip (who will not be at the meeting) should take any further initiative with the Speaker to see whether the subjudice position can be extended to cover cases where HMG is involved in a court action abroad.

5. To consider what further you can say in Parliament on Thursday.

For example, would it be in order for you to say words to the effect

- "Mr. Wright left Government service in 1976, before this Government took office. This Government's concern

is simply with the breach of confidentiality. We are not responsible for the actions of the security service, or any other department of government, which took place under a previous administration.

N.L.W.

NLW
18 November 1986

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PRIME MINISTER

LORD TREND'S ENQUIRY INTO SIR ROGER HOLLIS' CASE

You asked whether there was anything on our files which provided evidence that you had agreed with Lord Trend the paragraphs in your statement on Hollis.

The files contain a minute of 24 March from Robert Armstrong which says:

"I have still to show Lord Trend the revised version [of the draft statement]: I will let you know if I have anything to report as a result."

Robert asterisked that statement in his minute as follows:

"I have now done so; and he is content."

I can find no trace on our files (though there may be on Cabinet Office files) that Robert showed any later version of the statement to Lord Trend.

The paragraphs about Lord Trend's enquiry in the draft attached to Robert's minute of 24 March are as follows:

9. This view was challenged by ~~one or two~~ of those concerned, however, and in July 1974, Lord Trend, the former Secretary of the Cabinet, was asked to review in detail the investigations that had taken place into ~~two~~ the cases, ~~those~~ of Sir Roger Hollis ~~and of one other man~~, and to say whether they had been done in a proper and thorough manner, and whether in his view the conclusions reached were justified ~~on the basis of the investigation~~. ~~He~~ Lord Trend

examined the files and records ~~of the~~ ~~investigations~~, and ~~he~~ discussed the cases with many of those concerned, including ~~some~~ 2 people who considered that the investigation ~~of Sir Roger Hollis~~ should be reopened. Mr. Pincher's account of Lord Trend's conclusions is wrong. The book asserts that Lord Trend "concluded that there was a strong prima facie case that MI5 had been deeply penetrated over many years by someone who was not Blunt", and that he "named Hollis as the likeliest suspect". ~~He~~ said neither of those things, and nothing resembling them. ~~On the contrary~~, he reviewed the investigations of the ~~two~~ cases ~~in question~~, and found that they had been carried out ~~with great thoroughness~~ and ~~objectivity~~. ~~In other words~~, he was satisfied that ~~there was no~~ cover-up. He agreed that none of the relevant leads identified Sir Roger Hollis as an agent of the RIS, and that each of them could be explained by reference to Philby or Blunt. ~~He~~ agreed with ~~the conclusion~~ that Sir Roger Hollis was not and had never been a spy. Lord Trend did not refer, as the book says he did, to "the possibility that Hollis might have recruited unidentified Soviet agents into MI5". Again, he said no such thing.

10. That is how the matter rests. If new evidence came to light, the investigation would of course be reopened. But new evidence is not now very likely to appear. The events in question took place 30 to 50 years ago. All the leads which suggest penetration of the Security Service can be accounted for by reference to known cases, ~~like those of~~

You can see your manuscript changes. Later you made some other changes between that edition of the statement and the

final version given to Parliament and I have marked these in red. But none of the changes altered the substance of Lord Trend's account of his investigation into the Hollis case. To that extent I believe that it can truthfully be said that the passage about the Trend Report in your statement to Parliament was agreed with Lord Trend.

N.L.W.

(N.L. WICKS)

18 November 1986

DCABOB

Security

The Prime Minister (Mrs. Margaret Thatcher): With permission, Mr. Speaker, I will make a statement about the security implications of the book published today that purports to give a detailed account of the investigations into the penetration of the Security Service and other parts of the public service that were undertaken following the defection of Burgess and Maclean in 1951.

The events into which those investigations were inquiring began well over 40 years ago. Many of those named or implicated in this book as having been the subject of investigation have died. Others have long since retired. None of them is still in the public service.

The extent of penetration was thoroughly investigated after the defection of Burgess and Maclean, as, indeed, the author of this book makes clear. The book contains no information of security significance that is new to the security authorities, and some of the material is inaccurate or distorted. All the cases and individuals referred to have been the subject of long and thorough investigation.

The investigations into the possibilities of past penetration have inevitable extended widely. They have covered not only those suspected of being guilty but all those who could conceivably fit the often inconclusive leads available. The fact that somebody has been the subject of investigation does not necessarily, or even generally, mean that he has been positively suspected. Many people have had to be investigated simply in order to eliminate them from the inquiry.

The results of the investigations into Philby and Blunt are now well known. There were good reasons for suspecting a few others, but as it was not possible to secure evidence on which charges could be founded they were required to resign or were moved to work where they had no access to classified information. Many others were eliminated from suspicion.

Apart from the main allegation, to which I will come, I do not propose to comment on the allegations and insinuations in this book. Nor can I say which allegations are unsubstantiated or untrue—as some certainly are—since by doing so I should be implicitly indicating those that were suspected of having a degree of substance.

I must, however, comment upon the grave allegation that constitutes the main theme of the book—that the late Sir Roger Hollis, director general of the Security Service from 1956 to 1965, was an agent of the Russian intelligence service.

The case for investigating Sir Roger Hollis was based on certain leads that suggested, but did not prove, that there had been a Russian intelligence service agent at a relatively senior level in British counter-intelligence in the last years of the war. None of these leads identified Sir Roger Hollis, or pointed specifically or solely in his direction. Each of them could also be taken as pointing to Philby or Blunt. But Sir Roger Hollis was among those that fitted some of them, and he was therefore investigated.

The investigation took place after Sir Roger Hollis's retirement from the Security Service. It did not conclusively prove his innocence. Indeed, it is very often impossible to prove innocence. That is why, in our law, the burden of proof is placed upon those who seek to establish guilt and not on those who defend innocence. But no evidence was found that incriminated him, and the conclusion reached at the end of the investigation was that he had not been an agent of the Russian intelligence service.

This view was challenged, however, by a very few of those concerned, and in July 1974, Lord Trend, the former Secretary of the Cabinet, was asked to review in detail the investigations that had taken place into the case of Sir Roger Hollis and to say whether they had been done in a proper and thorough manner, and whether in his view the conclusions reached were justified. Lord Trend examined the files and records and he discussed the case with many of those concerned, including two people who considered that the investigation should be reopened.

Mr. Pincher's account of Lord Trend's conclusions is wrong. The book asserts that Lord Trend

"concluded that there was a strong prima facie case that MI5 had been deeply penetrated over many years by someone who was not Blunt",

and that he

"named Hollis as the likeliest suspect".

Lord Trend said neither of those things, and nothing resembling them. He reviewed the investigations of the case and found that they had been carried out exhaustively and objectively. He was satisfied that nothing had been covered up. He agreed that none of the relevant leads identified Sir Roger Hollis as an agent of the Russian intelligence service, and that each of them could be explained by reference to Philby or Blunt. Lord Trend did not refer, as the book says he did, to

"the possibility that Hollis might have recruited unidentified Soviet agents into MI5".

Again, he said no such thing.

Lord Trend, with whom I have discussed the matter, agreed with those who, although it was impossible to prove the negative, concluded that Sir Roger Hollis had not been an agent of the Russian intelligence service.

I turn next to the arrangements for guarding against penetration now and in the future.

All Departments and agencies of the Government, especially those concerned with foreign and defence policy and with national security, are targets for penetration by hostile intelligence services. The Secrurity Service, with its responsibilities for countering espionage and subversion, is a particularly attractive target. Recent security successes, such as the expulsion of members of the Russian intelligence service from this country in 1971, would hardly have been achieved if the Security Service had been penetrated.

The Security Service exercises constant vigilance not only against the risk of current penetration but against the possibility of hitherto undetected past penetration, which might have continuing implications. But, however great our confidence in the integrity and dedication of those now serving in the Security Service, we need to make sure that the arrangements for guarding against penetration are as good as they possibly can be, both in this area and throughout the public service.

Existing security procedures were introduced during the years following the Second World War. Burgess, Maclean, Philby and Blunt were all recruited by the Russian intelligence service before the Second World War and came into the public service either before or during the war, well before existing security procedures were introduced.

It was in 1948 that the then Prime Minister announced the Government's intention to bar Communists and Fascists and their associates from employment in the

blic service in connection with work the nature of which was vital to the security of the State. This led to the introduction of what came to be known as the "purge procedure".

In 1952, the positive vetting procedure was instituted, with the object of establishing the integrity of civil servants employed on exceptionally secret work. In 1956, it was publicly declared that character defects, as distinct from Communist or Fascist sympathies or associations, might affect a civil servant's posting or promotion. In 1961, security procedures and practices in the public service were reviewed by an independent committee under the chairmanship of the late Lord Radcliffe.

The committee's report, published in 1962, contained an account of those procedures, and made various recommendations for modifying them, which the Government accepted. These procedures, as modified in 1962, are still in operation.

These arrangements have over the years substantially reduced the vulnerability of the public service to the threat of penetration and have served the interests of national security well. But it is 20 years since they were last subject to independent review. In that time the techniques of penetration and the nature of the risks may have changed. We need to make sure that our protective security procedures have developed to take account of those changes. I have therefore decided, after consultation with the right hon. Gentleman the Leader of the Opposition, to ask the Security Commission:

"To review the security procedures and practices currently followed in the public service and to consider what, if any, changes are required".

These terms of reference will enable the Security Commission to review, and to make recommendations as appropriate, on the arrangements and procedures used in all parts of the public service for the purposes of safeguarding information and activities involving national security against penetration by hostile intelligence services, and of excluding from appointments that give access to highly classified information both those with allegiances that they put above loyalty to their country and those who may for whatever reason be vulnerable to attempts to undermine their loyalty and to extort information by pressure or blackmail.

There are difficult balances to be struck here between the need to protect national security, the nature and cost of the measures required to do so effectively, the need for efficiency and economy in the public service, and the individual rights of members of the public service to personal freedom and privacy. The Security Commission will be able to consider how these balances ought to be struck in the circumstances of the present time, as it conducts its review and prepares its recommendations. It will be my intention to make its findings known to the House in due course, to the extent that it is consistent with national security to do so.

In conclusion, Mr. Speaker, I should like to emphasise once again that this statement arises out of a book that deals with investigations of matters and events that occurred many years ago. My concern is with the present and with the future. That is why I am asking the Security Commission to undertake the review that I have described.

M. Michael Foot (Ebbw Vale): Although it is not always the custom to make statements to the House on such matters, I am sure that the right hon. Lady was right to do so in this instance. The House and the country will be grateful to her for having done so. In different parts of her statement she emphasised the fact that some of the material in the book is unsubstantiated, untrue, inaccurate and distorted. That must be taken into account. Individuals can be grossly misjudged and defamed by such material. People should take account of such matters, whether they are writing about the dead or the living.

Some of the newspaper reports included material that, in the right hon. Lady's words, was "inaccurate or distorted", as if it were proven and unchallengeable. Such reports could also lead to grave injustices. In addition to the extremely important security questions involved, those matters must be taken into account.

When the right hon. Lady put the proposal to me that we should have a commission of investigation, with the suggested terms of reference, I thought that that was the right course for the Government and the House to take. I certainly support it. I should like to call the attention both of the House and of the right hon. Lady to the statement made by my right hon. Friend the Member for Cardiff, South-East (Mr. Callaghan), the previous leader of the Labour Party. When these matters were debated in the House on 21 November 1979 he made a recommendation to the Government concerning the appointment of an inquiry. He did so following the changes in security arrangements that my right hon. Friend the former Home Secretary had made as a result of certain revelations.

My right hon. Friend the Member for Cardiff, South-East proposed that there should be an inquiry. He said:

"We could discuss how it were done, what its terms of reference were and who would conduct it. It would report back on whether any change were needed in relations between Ministers and the heads of the services, or whether Parliament could be involved more, not in the decisions, but in the rules and in the way in which they were applied and observed".—[*Official Report*, 21 November 1979; Vol. 974, c. 511.]

I hope that the right hon. Lady will take into account all my right hon. Friend's recommendations. I agree that the House should be primarily concerned with the present and the future rather than the past. It is right that the House should adopt the recommendation that she has made and I certainly hope that it will be adopted.

The Prime Minister: I am grateful to the right hon. Gentleman for what he said and for the spirit in which he said it. I especially agree with some of his earlier comments. I remember when my predecessor, the former Prime Minister, made some comments in the debate on Blunt. I have now made references to the Security Commission. During that debate I announced certain changes in accountability between the director general of the service and Ministers. It would be best to rest on those new arrangements for the time being.

Sir Harold Wilson (Huyton): Is the right hon. Lady aware—I think that she is—that with her agreement I refreshed my memory about what I was told about Sir Roger Hollis' pre-Civil Service connections at university and elsewhere? There were reasons for anxiety. However, two other persons—either Philby or Blunt, or both—would have been a sufficient cause for anxiety. The right hon. Lady referred to the Trend inquiry, which I set up in 1975. Will she confirm that Lord Trend spent nearly a year on that inquiry and felt that what successive Governments had done had been thoroughly and objectively investigated? There was certainly nothing that could substantiate any accusation of a cover-up. He agreed with the conclusions of those who were satisfied that

[Sir Harold Wilson]

Hollis had not been a spy, although, according to the report, the inquiry's members felt that they would not be able to prove that 100 per cent. Will the right hon. Lady confirm that although Sir Roger Hollis operated during seven premierships—including my own—I was the first to set up an independent inquiry? Indeed, I am very glad that she is setting up this inquiry.

The Prime Minister: The date of the inquiry—I think that it was July 1974—shows that the right hon. Gentleman set up the Trend inquiry. Lord Trend certainly took a full year on it. It was an exhaustive inquiry, in that it examined all the documents and also interviewed people. There is no doubt about its conclusion, as the right hon. Gentleman said. Since the premiership of the right hon. Gentleman, all Prime Ministers and Home Secretaries have been told of the results of that inquiry.

Sir Derek Walker-Smith (Hertfordshire, East): Does my right hon. Friend appreciate that thinking people will give the Prime Minister a warm welcome both for her reference to the Security Commission—under the distinguished and objective chairmanship of Lord Diplock—and for her characteristically full and frank statement? It was at least equal to, and probably superior to, any statement made on security matters within the recollection of the House.

Will my right hon. Friend continue to have regard to the importance of not prejudicing the work of the Security Service? Does she recognise that a Prime Minister of this country is under no duty to canvass on the Floor of the House every allegation or insinuation made by private persons against people—regardless of whether those people are alive or dead, whether the allegations are made orally or in print, and whether or not they are made for gain?

The Prime Minister: I entirely agree with everything that my right hon. and learned Friend said. It would be appalling if we had defamation by allegation in the House. We should be very careful not to do it. I am grateful to my right hon. and learned Friend for pointing out that it is unusual to have a statement in such detail as this on security matters. There is not much that I can usefully add, because, as my right hon. and learned Friend pointed out, in an open society we must have security services and they must necessarily operate partially in secret. We must protect them in doing that.

Mr. Speaker: Order. I propose to call three hon. Members from either side and then to move on to other business.

Mr. A. E. P. Duffy (Sheffield, Attercliffe): Is the Prime Minister aware that the House has heard assurances and denials on national security before, but scandals and rumblings of scandals have endured? The House understands her contention that in any assessment of the integrity of a security officer it is impossible to prove the negative, but is she satisfied that none of the achievements of those years when Philby and Blunt were operating, or when their influence was pessisting—the Portland naval spy ring, Blake, Blunt, Vassall and Philby—were merecover-ups of even greater scandals affecting national security? Will she impress upon the Security Commission the importance, in future and recent recruitment, of selecting a different type of officer, from a different social background—someone who is well aware of the social conditions of the entire country and not one part of it? She may stumble, and the House may stumble, on a more patriotic, dependable and reliable officer.

The Prime Minister: With respect, I do not think that the hon. Gentleman's words do full justice to our security services, in whom I have the greatest confidence. The events referred to in the book published today were events of 20 to 40 years ago, by a group that was recruited just before or during the war. I am concerned now with the future. I am sure that the hon. Gentleman will agree with that. I assure the hon. Gentleman that security services recruit from all social backgrounds. They are anxious to obtain those most suitable and appropriate for the difficult work that they have to do. I hope that the hon. Gentleman will join the rest of us in paying tribute to and recognising the value of that difficult work.

Mr. Julian Amery (Brighton, Pavilion): Does my right hon. friend agree that in the perennial clandestine war there are bound to be casualties on both sides, but that the number of defections to our side has been considerably greater than the other way? Will she take the opportunity to pay tribute to the remarkable successes of our intelligence and counter-intelligence organisations, which, for obvious reasons, cannot be publicised.

The Prime Minister: My right hon. Friend is pointing out that the defections the other way have far exceeded any defections from this country to Soviet Russia and, indeed, have given us a great deal of information. The successes of the security services, even the known ones, have been very considerable. The Lonsdale case, and the cases concerning Houghton and Gee, the Krogers, Vassall and Blake was all successes, and so were the expulsion of over 100 spies from the Soviet embassy in the early 1970s.

Mr. Richard Wainwright (Colne Valley): Does the Prime Minister accept that the review that she has just announced, welcome though it is, is unlikely to provide full reassurance to the public unless it is known that the commission is examining carefully every possibility of making the Security Service more responsible to Ministers? In that connection will she bear in mind that the Security Commission at present contains no one who has ever b een elected to public office? Will she consider the possibility of adding to the commission, for the review, one or more suitable persons who have b een Members of the House?

The Prime Minister: No, Sir. The Security Commission has been set up and has been in existence for some time. During the Blunt debate I announced changes that made the director-general of the Security Service more responsible to Ministers. I think it is best if we let those work for a time.

Mr. Raymond Whitney (Wycome): I add my congatulations to my right hon. Friend on the way that she has responded to this difficult problem. Does she agree that we as a nation should be playing into the hands of our adversaries—who have succeeded on occasions in the past in subverting elements in our security services—if we allowed our natural concern about those successes, generations or decades ago, to damage the present morale or operating efficiency of our services today or in the future?

The Prime Minister: I agree with my hon. Friend. The security services are a vital part of the defence of our country. It is important that we enable them to continue to do their work properly.

Mr. Leo Abse (Pontypool): Is there not a clear need to strengthen still further the rigours of the Security Service selection board which was introduced in 1977, so that the motivation of candidates is probed in depth. The dangers are increasing. We face dangers in admitting those whose private heterosexual infidelities bear witness to their incapacity for loyalty, or those whose disturbed homosexuality—following a long line of spies from Marlowe, to Casement, to Burgess and Blunt—means that they are compulsively disloyal. Surely it is time that we sophisticated our procedures and brought in psychoanalysts and psychiatrists to be attached to the board, so that we do not use out-of-date, old-fashioned, rule-of-thumb methods of selection. If the Prime Minister is looking to the future as she says, surely it is time that we made certain that our selection procedures were worthy of the twentieth century and not the nineteenth century.

The Prime Minister: That is exactly what the terms of reference will enable the commission to do, among other things. The terms of reference are:

"To review the security procedures and practices currently followed in the public service and to consider what, if any, changes are required."

What the hon. Gentleman said will be within the terms of reference.

Mr. Kenneth Warren (Hastings): I welcome the Prime Minister's statement. Will she give an a sssurance to the House that she is well aware of the disinformation practices of the KGB, which seek to undermine the credibility of loyal citizens and thus draw fire away from secret agents still in position? I feel that that might mistakenly be inherent in some of the statements in the book.

The Prime Minister: I am very well aware of the disinformation practices of the KGB. That is one of the difficulties with which the security services have to contend. Beyond what I have said, I do not wish to comment further on the allegations in the book.

Mr. Dennis Canavan (West Stirlingshire): On a point of order, Mr. Speaker. I was the first hon. Member to table a question to you about this matter——

Mr. Speaker: Order. The hon. Gentleman is his customary self, but he must obey the rules of the House.

Business of the House

Mr. Michael Foot (Ebbw Vale): Does the Leader of the House have a statement to make about the business for next week?

The Chancellor of the Duchy of Lancaster, Paymaster General and Leader of the House of Commons (Mr. Francis Pym): Yes, Sir. The business for next week will be as follows:

MONDAY 30 MARCH—Supply [14th Allotted Day]: Debate on unemployment in the Midlands, on a motion for the Adjournment of the House.

Remaining stages of the Parliamentary Commissioner (Consular Complaints) Bill *[Lords]*.

TUEDSAY 31 MARCH—Remaining stages of the Forestry Bill and the Criminal Attempts Bill.

Motions relating to the National Health Service (Dental and Optical Charges and Remission of Charges) Regulations.

WEDNESDAY 1 APRIL—Remaining stages of the British Telecommunications Bill.

THURSDAY 2 APRIL—Remaining stages of the Energy Conservation Bill *[Lords]*.

Motion on EEC Document 4460/80 on research and development in biomolecular engineering, and on the Department of Industry's Supplementary Memorandum of 8 December 1980.

Motion on Queen's University of Belfast (Northern Ireland) Order.

The Chairman of Ways and Means has set down opposed private business for consideration at 7 o'clock.

FRIDAY 3 APRIL—Private Members' motions.

MONDAY 6 APRIL—Remaining stages of the Insurance Companies Bill.

The House will wish to know, Mr. Speaker, that it will be proposed that the House should rise for the Easter Adjournment on Thursday 16 April until Monday 27 April.

[Debate on the European Community document relating to biomolecular engineering. The relevant Reports of the European Legislation &c. Committee are: 21st Report 1979-80, H/C 159-xxii para. 5; 38th Report 1979-80, H/C 159-xxxviii para. 2; and the 9th Report 1980-81 H/C 32-ix para. 1]

Mr. Foot: The terrifying unemployment figure is the main domestic question facing the nation. The time for Monday's debate is provided by the Opposition. I urge the Leader of the House to take into account my request for Government time for continuous debates on that subject, which the House must have to deal with the matter properly. I hope that the Government will provide the time to debate next month's unemployment figures.

I wish to raise three other matters. When will we have the debate on public expenditure that the right hon. Gentleman promised last week? When will we have a debate on the Government's energy policy, for which we have asked on a number of occasions? Will the right hon. Gentleman confirm that the Petroleum and Continental Shelf Bill, about which the Government have becom properly bashful, has been abandoned for this Session? We hope that it will be abandoned altogether. Will he assure the House that he will not introduce it this Session?

Mr. Pym: I note the right hon. Gentleman's first point. Since the new year the Government have provided

(2)

PRIME MINISTER

cc Mr. Wicks

SUB JUDICE

The Chief Whip saw the Speaker this evening. The Speaker understands the difference between something being sub judice, and something being sub judice under the rules of the House. He accepts that what you said was perfectly correct and a reasonable position for the Government to take. He knows that you were not challenging his ruling.

CDP

MF

(C.D. POWELL)

18 November 1986

DCABNX

Prime Minister 5

I think an early meeting on all this would be valuable.

N. L. W

18.11

SECRET

B.07583

MR WICKS

THE PETER WRIGHT CASE

The proceedings in the Court in Sydney began today. They resume tomorrow (11 p.m. our time today). Sir Robert Armstrong may be called as a witness at any time. The affidavit of the Australian Government has now been read in court; their Cabinet Secretary will appear as a witness on our behalf.

2. The difficult question of discovery of documents, described in my minutes of 13 and 14 November, now stands as follows. We immediately sought leave to appeal against the judge's decision on 14 November that we should discover a wide range of documents relating to (a) our decisions whether to seek to prevent publication of earlier books etc. concerning the Security Service and related subjects, and (b) the Prime Minister's statement in the House of Commons on 26 March 1981 about the case of Sir Roger Hollis. Our appeal on this will be heard on 19 November. Wright's lawyers have now given indications of willingness to drop the demand for category (b). But it is not certain that they will do so. As regards category (a), the number of earlier books and television programmes has been reduced to five.

3. Officials have again considered whether we could discover the material in question. Their views are given in the attached telegram sent this evening to Sir Robert Armstrong in Sydney. Officials have also considered again whether, if the ultimate ruling on discovery is against us, we could persuade the Australian Government to seek public interest immunity in relation to documents which we are ordered to discover. That too is covered in the telegram.

4. Important points raised in recent media coverage of the Wright case and related matters are covered in Annex A. Material on these and other aspects of the Wright case has been provided for the Prime Minister's use in question time tomorrow.

Prospects

5. We may soon face a conflict over how best to uphold the principle of confidentiality. It is obviously desirable to take all available steps to win the case in order to strengthen the enforcement of the duty of confidentiality. But if we ultimately face an order to disclose sensitive documents, compliance would breach the very principle which the proceedings were undertaken to maintain.

6. In deciding then whether to abandon the case Ministers would need to consider the immediate and longer term implications. Those implications would be similar to those if the case were eventually lost through an adverse judgement, but they could be more difficult to handle because they would come much sooner - perhaps as soon as next week - and perhaps more dramatically.

7. The main implications would be:

(a) the Wright book would be free to appear, to considerable publicity, in Australia and other countries, and probably fairly quickly in this country, since the United Kingdom Courts might be loath to restrtain publication once copies started to appear in any numbers here, as would happen as people brought them back from overseas;

(b) it would seem difficult to continue to defend the injunctions againstthe Observer and the Guardian, or any other newspapers or magazines, from revelation of Wright's allegations;

(c) other ex-members or members of the Security Service or other agencies might well be moved to publish their own accounts, not least to reply to allegations by Wright which they considered wrong or unfair;

(d) the critics of Government policy on preventing publication of documents about security matters would argue that the policy had been shown to be ineffective because it could be by-passed, e.g. by leaving the jurisdiction.

8. In that situation Ministers would need to consider, as a first step, a robust statement about security and confidentiality. It would seem necessary to re-affirm strongly the vital importance to the Defence of the Realm of protecting the confidentiality of security information and operations. The Government would re-affirm its clear responsibility in the public interest to continue to take all available steps to protect our security in this regard. The Wright proceedings could be described as only one example of the duty of Ministers to uphold the principle of confidentiality. Each case or incident was different, and each would be dealt with on its merits. Nobody contemplating the publication of any unauthorised material should be misled into thinking that they would be free from action in the Courts here or abroad if they were to attempt that.

9. Beyond that immediate statement Ministers would need to consider how the duty of confidentiality could be enforced in the new and more difficult circumstances, whether by injunction, the Official Secrets Act, disciplinary proceedings, new instructions to present and former servants of the Crown or other means. There would also be a need to consider how to deal with renewed demands for some kind of Parliamentary or other oversight of the intelligence services. Officials would submit advice.

10. I am sending copies of this minute and the attachments to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

17 November 1986

SECRET

TELEGRAM TO SYDNEY

DESKBY 17 2200Z

FOR SIR ROBERT ARMSTRONG FROM MALLABY

THE PETER WRIGHT CASE: DISCOVERY AND PUBLIC INTEREST IMMUNITY

1 Following Marsh's report of proceedings on 17 November, officials have looked again at the questions of discovery and public interest immunity (PII).

DISCOVERY

2 On the categories of documents which the other side are demanding, our views are as follows:

(i) Nigel West's "A Matter of Trust" 1982. To disclose either West's original manuscript or correspondence on excisions from it between the Treasury Solicitors and West's solicitors would be to reveal precisely the passages in the original to which the Crown took exception because they disclosed sensitive material. That would render nugatory our success in obtaining excisions of those passages, which was confirmed in the Consent Order of the Court. The same difficulty arises with regard to meetings between the Treasury Solicitors and West's solicitors. We also should not forget that disclosure of some of these documents might be a breach of confidence owed to a third party, namely West's solicitors. As to notes of internal meetings (item F) they concerned the formation of policy and the security assessment of passages in the book and therefore cannot be discovered; a claim for public interest immunity before an English Court in respect of all of these documents would probably succeed. The Nursaw affidavit can be discovered and has been sent today to your team in Sydney.

Nursaw is the A.Gs. formal legal Secretary. His affadavit explained why public interest immunity was being claimed

(ii) Chapman Pincher "Their Trade is Treachery" 1981. The documents relevant to our decision not to seek to restrain publication include damage assessments and would raise problems of avowal. They cannot be discovered.

(iii) Chapman Pincher "Too Secret too Long" 1984. The D Notice Committee unsuccessfully sought a copy from the publishers in advance. We obtained one by other means four days before serialisation began.

The documents on this would raise problems of avowal among other things. Because of the short notice between private receipt of a copy and publication, the Government took no decision on whether to restrain publication. It would therefore be ~~try~~ true to tell the court that there are no documents relating to such a decision.

(v) Massiter television interview 1985. See my telegram number 352. On 20 February 1985 the Home Office heard that the IBA had banned the programme. The producers sent the Cabinet Office a copy on 22 February. It was then shown privately to MPs and others, and edited versions appeared in the press on 1 March. On 5 March the Attorney General announced that there would be no prosecution under the OSA. On 6 March the IBA lifted the transmission ban. On 8 March the programme was transmitted. At first we did not consider action to restrain transmission because the IBA already had it banned: later we did not consider it because the substance had appeared in the written media. There are thus no documents relating to a decision not to seek an injunction to restrain broadcast of the programme. As regards (the possible) prosecution of Massiter, documents would be covered (in the event) by a different head of public interest immunity, namely non-disclosure of deliberations concerning criminal proceedings.

(vi) Peter Wright Interview on Granada TV 1984. See my telegram number 352. There are internal documents, showing how we heard in advance that the programme was planned and setting out the internal considerations that it raised. They cannot be disclosed.

(vii) Papers relating to the Prime Minister's statement on Hollis in 1981 We understand that the other side may drop this demand. The Cabinet Office file contains references to different subjects of which you are aware. It also refers to Lord Trend's review, showing that the words of his conclusions were not quite as definite as those which he agreed the Prime Minister should use on 26 March. There is an internal

paper about the contents of "Their Trade is Treachery" confirming many elements and adding many more. Problems of avowal abound. There are papers with advice to Ministers on very secret matters. There are drafts, amendments and supplementaries for the statement on 26 March. There is an account of a meeting between the Prime Minister and the Leader of the Opposition on Privy Council terms. These papers cannot be discovered.

3 We conclude that we cannot meet even the reduced demands for discovery concerning earlier publications. Some of the arguments used above, such as those concerning criminal aspects of the Massister case, may possibly interest, quite apart from the arguments of public security and interest, not to speak of relevance, which we would put first. We must persist in ~~following~~ the order to discover.

PUBLIC INTEREST IMMUNITY

4 We agree that this idea must be considered in case we are ultimately ordered to discover. The Australian Government would have to act for us. The arguments would presumably be, first, those of common interests through liaison and, second, that the Australians if faced with similar circumstances would resist discovery of their own documents. Officials here are not hopeful. They believe that we ~~would have~~ to show the Australian Government all the documents held by HMG in the categories where discovery orders had been handed down. The same documents might well have to be shown to the Australian judge. It is out of the question for us to show many of the papers described above .. to the Australian Government,

5 We suggest that it might help to clarify the prospects of persuading the Australians to act if you could try the question on one of their law officers or their Cabinet Secretary. You could describe orally the papers that would be involved, drawing on this telegram, and see whether they seem likely to entertain the idea of making a claim on our behalf without seeing all our documents in all categories ordered for discovery.

THE NATIONAL ARCHIVES	

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 1952 (one piece/item number)	Date and sign
Extract details: Folio 5 Annex A to Minute dated 17 November 1986	
CLOSED UNDER FOI EXEMPTION	
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THE NATIONAL ARCHIVES

DEPARTMENT/SERIES Prem 19 PIECE/ITEM 1952 (one piece/item number)	Date and sign
Extract details: Telegram dated 17th of November 1986	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	22/05/23
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NUMBER NOT USED	
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Prime Minister 2

To note

N.L.W.

14.11

CONFIDENTIAL

B.07579

MR WICKS

THE PETER WRIGHT CASE

Since my minute of yesterday, the situation in the case has developed further.

2. The Court in Sydney ruled today that we should discover virtually all the documents described in my earlier minute, i.e. documents referring to a number of earlier books and television programmes concerning the Security Service and related subjects and documents leading up to the Prime Minister's statement in the House in 1981 about the case of Sir Roger Hollis.

3. The Australian Government have just provided us with an affidavit sworn by their Cabinet Secretary about Australia's national interest in connection with the case. It will be served to the Court first thing on Monday. (Until it is actually served, we are saying in public only that we are optimistic that the Australian Government will intervene.)

4. Early on Monday we shall also seek leave to appeal the Court's ruling about discovery.

5. The initial feeling of our Counsel in Sydney is that the Australian Government's intervention will considerably strengthen our chances of success in appealing against the ruling at first instance on discovery.

6. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

14 November 1986

CONFIDENTIAL

14. XII AM 8 6

DIO

Prime Minister
to note
N.L.W.
13.11

CONFIDENTIAL

B.07577

MR WICKS

Bad news no

THE PETER WRIGHT CASE

This minute describes the problem about discovery of documents which has arisen in the case in Australia.

2. We have already provided or are providing certain documents to the court, for instance the security instructions issued to members of the Security Service when Wright was a member of it, showing that unauthorised disclosure was explicitly a disciplinary offence as well as being liable to prosecution under the Official Secrets Act.

3. In our view, we are not required by the rulings made hitherto by the judge to discover further documents. But Wright's lawyers are pressing for much more. The two areas which give us especial difficulty are -

(a) damage assessments, briefs, memoranda, submissions relating to the publication, or consideration of preventing publication, of a number of earlier books, articles and television programmes concerning the Security Service and related subjects;

(b) all briefs, memoranda, submissions and files relating to the Prime Minister's statement in the House of Commons on 26 March 1981 about the case of Sir Roger Hollis.

4. We are resisting these demands, standing firmly on the position that they are irrelevant to the case, which concerns Wright's duty of confidentiality to the Crown. In particular, our technical admission of the allegations in Wright's manuscript means that the question whether Hollis was a spy, like all matters in the book, is not part of the subject of the proceedings; and that papers leading up to the Prime Minister's statement in 1981 are therefore irrelevant. Among the other points we can add is that even Wright in his book does not claim that a case against Hollis can be proven, so that discovery of the innumerable files which might be considered relevant would anyway not provide conclusive evidence.

5. On (a) above, we have considered whether to suggest a narrower definition of the documents to be discovered. But this is not a way out: whatever description we proposed, there would always be at least one document falling within it which included material we could not reveal. We are considering with our Counsel whether, as a fallback if our arguments about irrelevance appear to be failing to sway the judge, Counsel could make a statement in lieu of discovery which would show when we knew about the various earlier books, etc. and state that we did not authorise publication of any of them. This approach could turn out to present more disadvantages than advantages.

6. On the category of documents at (b) above, there are a few uncontroversial documents among those that lead up to the Prime Minister's statement in 1981 on the Hollis case. But one may not provide only selected documents within a requirement set by the court, and our files contain many that cannot possibly be disclosed.

7. It is not open to us to claim public interest immunity in the courts in Australia. We have considered the possibility of asking the Australian Government to make such a claim on our behalf. Sir Robert Armstrong will no doubt consider this idea further in the light of his discussions in the coming days with the Australian Law Officers and Cabinet Secretary. But it seems most unlikely that they would agree unless we first showed them a comprehensive set of documents on the Hollis case. This we cannot do, the more so since the judge might also have a right to see any documents which we showed to the Australian Government.

8. The next hearing about discovery takes place in Sydney in the early hours of 14 November our time. If the Judge rules against us and requires discovery of documents which we cannot disclose, we shall appeal against his ruling to the New South Wales Court of Appeal. Our appeal would probably be heard on Monday 17 November. If we appealed further to the High Court of Australia, that could not be heard until 24 November. There is thus a possibility that the start of the main proceedings, presently scheduled for 17 November, will be postponed.

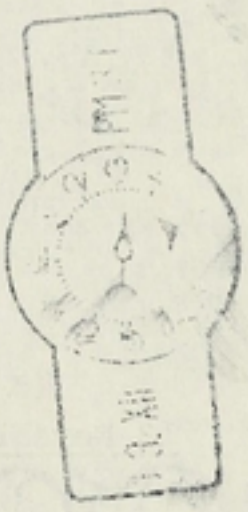
9. If we were to face a ruling in the High Court in Australia that we must discover documents which are sensitive the question whether we should continue with the case in Australia would have to be considered. An urgent submission would be made to Ministers.

10. On another aspect of the case, the Australian Government have not yet committed themselves finally to intervening in the case on our behalf. All the signs are that they intend to do so, once the issue of discovery is settled.

11. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

13 November 1986



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

11 November 1986

CF,
PC cc Mr Coe.
+ pa N.C.W
12.11

Mr Nigel Wicks
10 Downing Street

PETER WRIGHT

In response to your minute of 3 November I agreed with Christopher Mallaby (and have already told Bernard Ingham) the following line in response to the question of why we had delayed until now a referral to the DPP:

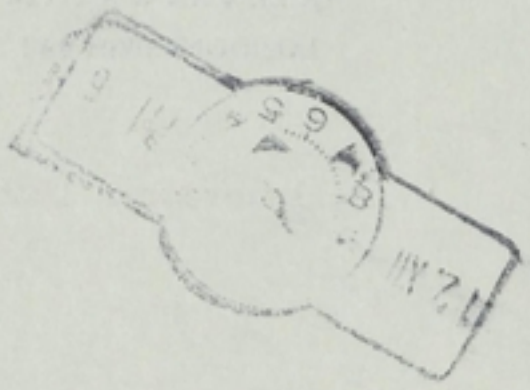
> "The decision to refer this to the DPP has been taken only after very careful study and consideration of the manuscript which was received in June of this year."

This of course is not now for use immediately but only if and when such referral were made. If by then it were public we could add:

> "The Attorney General earlier sought permission of the court to use the manuscript to refer it to the DPP, but this permission was not granted."

Brian Mower
Director of Information

SECURITY: Secret Series: Pt 3.



CONFIDENTIAL

Ref. A086/3198

MR WICKS

I am responding to your minute of 3 November to Mr Mallaby about the Peter Wright case, since Mr Mallaby is on leave this week.

2. On Bernard Ingham's two points, it is for the Law Officers' Department to advise whether the answer to Q4 could be made more convincing.

3. As to the question whether the Government should take action to make known the decision to refer Peter Wright's manuscript to the Director of Public Prosecutions, the Attorney General has taken the view that, since the manuscript was discovered by us for the purpose of the case, the leave of the Court should be obtained before referring the mansucript to the Director of Public Prosecutions. Accordingly the defendant's solicitors have been told that the plaintiff is intending to make an application to the Court accordingly. The defendant's solicitors may well publicise the fact themselves, in order to claim that they have driven the plaintiff to this action. Even if they do not do that, the fact that the application has been made will become public knowledge when it is considered by the Court. Whether and however the fact becomes public knowledge, the defendant's solicitors will no doubt claim that our action has been taken with a view to its effects in the proceedings of the Court. I understand that the Attorney General took the view that it would look weak simply to announce that he had applied to the Court for leave to refer the manuscript to the Director of Public Prosecutions, and that it would be better not to make any announcement until leave had been granted. I have suggested to the Law Officers' Department that that difficulty might be

overcome by an announcement to the effect that the Attorney General had decided to refer the manuscript to the Director of Public prosecutions, subject to the agreement of the Court; but I understand that the Attorney General thinks that that might look as if he was seeking to put pressure on the Court.

4. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary and to the Legal Secretary to the Law Officers' Department.

RA

ROBERT ARMSTRONG

6 November 1986

SECURITY: Secret-Service Pt-3.

10 DOWNING STREET

Nigel.
Mr. Inglese phoned from the Law officers Dept. tel: 936-6494.
His message is:
"RE: Peter Wright case, and your letter to C. Mallaby (attached) dated 3.11.86. The penultimate paragraph spoke about the government taking action to make known the decision to refer the manuscript to the DPP. We've been looking at this matter but our room for manoeuvre is severely limited because we first need to get the leave of the Australian courts to pass the manuscript to the D.P.P. We hope to get such leave at the end of the week. Meanwhile we think that we can only act "defensively" "

Mr Inglese will be happy to discuss this with you tomorrow. Sue.

CONFIDENTIAL

File

DCABNF

10 DOWNING STREET

From the Principal Private Secretary

MR. MALLABY
CABINET OFFICE

THE PETER WRIGHT CASE

Thank you for your minute of 31 October with which you enclosed briefing material against the time when it becomes known that the Attorney General is referring Wright's manuscript to the Director of Public Prosecutions.

I showed this material to the Prime Minister over the weekend. She was generally content and asked me to pass on Bernard Ingham's views.

Bernard Ingham believes the material provides an adequate line for briefing. But he thinks that it is worthwhile considering whether the answer to Q4 might not be made more convincing. Without knowing any of the background, Bernard Ingham has commented that it looks to him as if the decision to refer the manuscript to the DPP has been taken in order to strengthen our chances in the court proceedings!

Bernard Ingham has also advised that there would be advantage in the Government taking action to make known the decision to refer the manuscript to the DPP. It is always better, in his view, to present such a decision if the Government decides the timing of its announcement, rather than reacting defensively to a "leak". I should therefore be grateful for further advice on whether the Government should make the decision known, and if so how. I would, of course, need to consult the Prime Minister before any action was taken.

I am sending a copy of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary, to Sir Robert Armstrong and Michael Saunders (Law Officers' Department).

N.L.W.

(N.L. WICKS)

3 November 1986

CONFIDENTIAL

DSS

CONFIDENTIAL

B.07575

MR WICKS

The Peter Wright Case

At the Prime Minister's meeting on 28 October, officials were requested to prepare a line for use in Parliament and with the media when it becomes known that the Attorney General is referring Wright's manuscript to the Director of Public Prosecutions.

2. I attach material to meet this remit, which has been prepared in conjunction with the interested Departments.

3. I am sending copies of this minute and attachment to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, to Sir Robert Armstrong and to Michael Saunders in the Law Officers' Department.

C L G Mallaby

31 October 1986

CONFIDENTIAL

I

REFERRAL OF WRIGHT'S MANUSCRIPT TO THE DPP

Line for use in Parliament and with the Media

BACKGROUND (not for use)

News of the decision to refer Wright's manuscript to the DPP may come out before the referral actually takes place, since it is necessary, in the Attorney General's view, to apply to the Court in Australia for leave to pass the manuscript to the DPP. The news will certainly come out when Sir Robert Armstrong appears during the proceedings in Australia, due to begin on 17 November. Members of Parliament and the media will no doubt ask questions about the allegations attributed to Wright in the reports in the Observer on 22 June and the Guardian on 23 June. MPs may indeed have knowledge of the manuscript beyond what appeared in those reports.

LINE TO TAKE

I confirm that the Attorney General has referred [has decided to refer] the manuscript by Mr Peter Wright to the Director of Public Prosecutions, so that the latter can review the manuscript and decide what action if any to take on any statements in it which he may regard as suggesting that criminal offences have been committed. It is for the DPP to decide how he will pursue the matter and to reach his own conclusions.

MATERIAL FOR USE IN REPLY TO FURTHER QUESTIONS

Q1. What are the allegations? What is in the book?

A. Mr Wright owes a duty of confidentiality to the Crown not to make any unauthorised statements about his work in the public service between 1955 and 1976. Breach of this duty would harm the national interest. The Attorney General has accordingly instituted proceedings in Australia seeking orders to restrain publication of the book. Proceedings are taking place in the Australian courts. [In June 1986 two newspapers in this country published descriptions of the alleged contents of Mr Wright's manuscript. The Attorney General secured an injunction against these newspapers to prevent further publication. Court proceedings continue in this country too.] In these circumstances, the Government cannot be expected to answer questions about the contents of Mr Wright's manuscript. I confirm that the whole of the manuscript has been referred to the DPP.

Q2. [If asked whether the allegations include any particular matter, whether or not that matter is actually mentioned in the book.]

I have nothing to add, save to confirm that the whole of the manuscript has been referred to the DPP.

Q3. What about allegations of impropriety (rather than criminality)?

A. It would be wrong, before the DPP reaches conclusions on the manuscript, to decide whether action should be taken on Mr Wright's statements which allege impropriety. It is for the DPP to decide which of Mr Wright's statements suggest that criminal offences have been committed. The scope of the matters remaining for consideration will therefore not be known until the DPP has reported.

Q4. Why were the allegations not referred sooner to the DPP?

A. The Government received Mr Wright's full manuscript in June 1986. It required careful study and consideration. The matter was not one of great urgency in view of the time that has passed since the period which Mr Wright's manuscript purports to cover.

Q5. Did the Attorney General consult Ministers before deciding to refer the manuscript to the DPP?

A. Before reaching his decision, the Attorney General consulted the Prime Minister, the Foreign and Commonwealth Secretary and the Home Secretary, because of their interest in matters of national security, about the public interest considerations arising from the manuscript.

Q6. Have you not referred the manuscript to the DPP merely in order to strengthen your chances in the court proceedings?

A. I have said that the DPP will review the manuscript and decide whether action should be taken on any statements in it which he may regard as suggesting that criminal offences have been committed. That speaks for itself.

Q7. Is it not invidious for the Attorney General both to be Plaintiff in the Court case and to refer the manuscript to the DPP?

A. The office of Attorney General has various roles. This is a long established constitutional arrangement which works well. [In addition to his Ministerial functions, the Attorney General acts as guardian of the public interest, and in that capacity referred Mr Wright's manuscript to the DPP. Another of his roles is to act as plaintiff in civil proceedings brought by the Crown, as he is doing in the case in Australia.]

SECURITY: Pincher/Hollis: Pt3

CONFIDENTIAL

SUBJECT cc MASTER

10 DOWNING STREET

From the Principal Private Secretary

28 October 1986

MR. PETER WRIGHT'S MANUSCRIPT

The Prime Minister held a meeting today which was attended by the Foreign and Commonwealth Secretary and the Home Secretary and, for part of the time, by the Attorney General and Sir Robert Armstrong.

The Attorney General and Sir Robert Armstrong described the allegations in Mr. Wright's manuscript, certain of which might be suggested to have involved criminal offences.

After the Attorney General and Sir Robert Armstrong had left the meeting, the Prime Minister discussed the matter with the Foreign and Commonwealth Secretary and the Home Secretary. They concluded that it would be right for the Law Officers to consider whether to refer the manuscript to the Director of Public Prosecutions, so that he could review the allegations and decide what action if any to take on any allegations that he regarded as involving the commission of criminal offences.

Please would you inform the Law Officers accordingly.

I am sending copies of this letter to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Sir Robert Armstrong.

N.L. WICKS

Michael Saunders, Esq.,
Law Officers' Department.

CONFIDENTIAL

CR.

PL type

CONFIDENTIAL

E(3BM)1

Draft letter from Nigel Wicks to

Michael Saunders Esq
Law Officers' Department

Mr Wicks

This has been prepared jointly with Michael Saunders.

Copied to Sir Robert Armstrong.

N Wicks 28/X

Mr Peter Wright's Manuscript

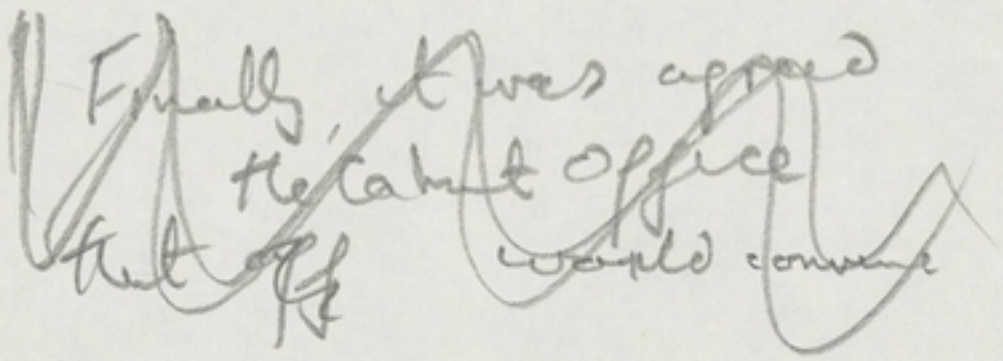
The Prime Minister held a meeting today which was attended by the Foreign and Commonwealth Secretary and the Home Secretary and, for part of the time, by the Attorney General and Sir Robert Armstrong.

The Attorney General and Sir Robert Armstrong described the allegations in Mr Wright's manuscript, certain of which might be suggested to have involved criminal offences. ~~It was felt that it would not be appropriate for them to participate in discussion of whether any action should be taken on the allegations.~~ the Attorney or Sir Robert

After the Attorney General and Sir Robert Armstrong had left the meeting, the Prime Minister discussed the matter with the Foreign and Commonwealth Secretary and the Home Secretary. They concluded that it would be right for the Law Officers to consider whether to refer the manuscript to the Director of Public Prosecutions, so that he could review the allegations and decide what action if any to take on any allegations that he regarded as involving the commission of criminal offences.

Please would you inform the Law Officers accordingly.

I am sending copies of this letter to the Private Secretaries to the Foreign and Commonwealth Secretary and the Home Secretary, and to Sir Robert Armstrong.



SECRET

FILE
SLH
3

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

THE PETER WRIGHT CASE

As you know, the Prime Minister has agreed to hold a meeting tomorrow with the Foreign Secretary, Home Secretary and Attorney General to discuss your minute of 24 October about the Wright case.

In preparation for this meeting you should know that she has commented as follows against the sentence in the second paragraph of the suggested line attached to your minute which reads: 'they have full power to take any action which they judge necessary'.

> 'Is this quite accurate; I thought this was for the police or Attorney General?'

You will no doubt be able to answer the Prime Minister's point at tomorrow's meeting.

N. L. W.

N L WICKS

27 October 1986

SECRET

SECRET

2A CC CBTUP CC FCO

Ref. A086/3034

PRIME MINISTER

Prime Minister
Agree to have an urgent meeting about this?
Yes please
N.L.W
24.10

The Peter Wright Case

Flag A

Ministers decided, at your meeting on 6 October, not to refer the allegations of criminal acts and of improper acts in Wright's manuscript to any outside authorities, but possibly to reconsider the question if the judgment in the trial at first instance, which begins in Sydney on 17 November, went against us. Views expressed since 6 October by our Australian Leading Counsel, Mr Theo Simos QC, as well as the great importance of the case to the future of the intelligence services, have led me to reopen this aspect.

Flag B

2. As noted in my minute of 3 October, Counsel advised that we had a better than 50 per cent chance of ultimately winning the case, assuming that Wright's allegations of criminal acts were referred to the Director of Public Prosecutions (DPP) and his allegations of impropriety to some other outside authority. The decisions which Ministers took on 6 October were conveyed to Mr Simos, and he then repeated his advice that we had a distinctly greater chance of winning the case if we announced before the trial a decision to refer Wright's allegations to outside bodies. This is his view even though the trial is now only some three weeks away (however, such an announcement under pressure during the trial would not help our case significantly). An announcement after the trial at first instance would probably not help us to win the case in a higher court, since the proceedings in the Appeal Court and the Supreme Court will be confined to points of law, and new evidence is not likely to be admitted.

SECAAU

3. The arguments relating to the legal proceedings for referring the allegations to outside authorities were set out in my minute of 3 October. The essence is that this move would enable us to counter the argument of the other side that the book reveals many cases of criminal, illegal or improper actions by the Security Service, that the Crown therefore has "unclean hands" and that the public interest in publishing these matters should override and limit Wright's duty of confidentiality to the Crown, on which our whole case rests.

4. Wright's allegations of criminal actions could be referred to the DPP, who is clearly the "proper authority" for purposes of such a reference. The advantages and disadvantages of this were set out in paragraph 8 of my earlier minute. There is a risk that, when interviewed by the police, Wright might make additional and possibly more damaging allegations. The police would decide how far to investigate these allegations and the ones in the manuscript. The DPP, who would treat the investigation like any other, would reach decisions in the light of the staleness and the seriousness or otherwise of the offences alleged. There is a risk that announcement of an investigation by the DPP would be followed by the spreading of rumours and suggestions in the press and Parliament; and Ministers, who would already be inhibited from countering these by the existence of legal proceedings in Australia and in this country, could feel further inhibited by a DPP investigation being in train. That said, Wright's allegations are likely to come out in due course, by "seepage" or through publication of the book if we fail to stop it, and there might well be a need then to refer the allegations to the DPP. If the allegations are to be referred to the DPP, it would be better to make the move now in order significantly to improve our chances of winning the case in Australia.

SECAAU

5. As regards Wright's allegations of civil torts and of improper actions, Ministers were not disposed to refer them to Lord Griffiths, who is the Chairman of the Security Commission, since he might feel obliged to take a strict legal view, without sufficient regard for other considerations such as national security.

6. An alternative procedure might be for the Home Secretary to appoint one or two distinguished persons outside Government - perhaps Privy Counsellors - to look into, and to report privately to him on, the allegations of civil torts and impropriety and what if anything should be done about them. Since the report to the Home Secretary would not be published, the appointed persons could look at the allegations on the basis of the Security Service's records. However, if those persons were seen as close to Government - such as retired Permanent Secretaries - the exercise might be decried as a whitewash; while in reality the Government would not have control over the contents of a report even by such people and would come under strong pressure to publish it after all. There would also be a risk that, once referral to such people had been announced, the Government would be inhibited from defending itself against rumours and suggestions in the media and in Parliament. Against these points, the obvious sensitivity of the subject would enable Ministers to argue that the procedure was the best way of getting an independent view without doing violence to our national security; and Ministers could refuse to publish the report, but indicate readiness to publish the findings and recommendations in so far as that would be consistent with national security (there are precedents for dealing with Security Commission reports in this position).

7. If Ministers preferred to avoid an immediate reference of Wright's non-criminal allegations, even for a private report, there is another possible course which would help our case in Australia to some extent, but less. This would be to refer

Wright's criminal allegations to the DPP before the trial but to take no immediate action on the other allegations. We would take the position in court that Ministers considered that it would be wrong, before the DPP reached decisions, to decide the question of what action if any might be appropriate regarding the allegations of impropriety; until the DPP had reported the scope of the matters remaining for consideration would not be known.

8. Ministers may prefer to decide the question of referral of Wright's allegations later, when the extent can be seen of public interest in the case and of the renewed interest which we must expect in the question of oversight of the intelligence services. If Ministers did prefer this course, I should have to stand, in cross-examination at next month's trial, on the broad principle that it is for Ministers to decide what if anything to do about Wright's allegations and that they prefer to reach decisions after the Australian proceedings are over. One weakness of this argument is that it offends against the principle that the pursuit of criminal offences has priority over the pursuit of civil proceedings. I attach a draft speaking note, which shows the best line that officials can devise for this purpose. I would preface it by saying that I was authorised by Ministers to speak in these terms. But I must confess that my position in court would be more comfortable if there had been a reference, at least of the allegations of criminal acts, to the DPP.

CONCLUSION

9. Ministers are invited to decide between three courses of action:

a. referral before the trial of the criminal allegations to the DPP and the other allegations to one or two eminent persons outside Government;

b. referral before the trial of the criminal allegations to the DPP, but with no action on the other allegations before the trial;

c. no referral of any allegations before the trial, so that I would speak in line with the attached draft.

10. If Ministers choose course a., it will be necessary to select one or two eminent persons, who would need to be sounded out before the non-criminal allegations were referred to them. I can quickly suggest some names.

11. Although I know that the pressures on Ministers' time are particularly great at present, I think that a further short meeting on this matter would be useful.

12. I am sending copies of this minute to the Foreign and Commonwealth Secretary, the Home Secretary and the Attorney General.

RTA

ROBERT ARMSTRONG

24 October 1986

SECAAU

SUGGESTED LINE TO BE TAKEN BY SIR ROBERT ARMSTRONG IN RESPONSE TO QUESTIONS ABOUT ACTION ON STATEMENTS IN WRIGHT'S MANUSCRIPT

Sir Robert Armstrong's main argument should be that Ministers can be relied on to do what is necessary about the criminal and other allegations. To give weight to this the points below will need to be brought out. Sir Robert would preface these remarks by saying that he was authorised by Ministers to speak in these terms.

2. The United Kingdom is a Parliamentary democracy with universal suffrage in which respect for the rule of law is fundamental. Government are direcly accountable to Parliament. One of the first responsibilities of Government is to maintain the security of the nation. The Ministers of Her Majesty's Government who have responsibility for the Security Service are the Prime Minister and the Home Secretary. The statements in Wright's manuscript which allege illegal or improper actions have been disclosed to the holders of those offices. It is for them to decide what should be done about these statements. They have full power to take any action which they judge necessary. They have the matter under consideration. Their view is that decisions should await the conclusion of these proceedings, in which the Government and the person who has made the statements are adversaries. After the conclusion of these proceedings, Ministers will be in a position to take into account the judgment of this court and any other matters arising out of the proceedings which seem to them to be relevant. In those circumstances, any measures that require to be taken can be more comprehensive and satisfactory. Ministers see no significant disadvantage in this approach, in view of the years which have passed since the events alleged in the manuscript.

Is this fair account? I thought this was for the public? RTA will amend at meeting N.C.W

3. The Security Service is answerable to the Home Secretary and the Prime Minister for the discharge of the functions laid upon it by the Directive and for the performance of its duties. While

SECAAV

the Home Secretary and the Prime Minister are not involved in the day-to-day direction of the activities of the Service, they may at any time institute such inquiries as seem to them to be required by particular circumstances. Whenever allegations which might appear to have some substance have been made in the past, Ministers of successive Governments (and different political parties) have taken them seriously and ensured that appropriate action was taken. Examples are:

[Examples from the period covered by Wright's book are being prepared by the Security Service.]

4. The Home Secretary and the Prime Minister are fully committed to the exercise of their responsibilities for the Service in this matter. They could in no way have been responsible for the matters alleged in the manuscript, which deals with a period ending in 1976. They have been alerted to these statements and will take such decisions as they see fit in the overall public interest. Their decisions will not be affected by whether or not Wright's book is published.

5. The court should accept that any measures which responsible Ministers consider should be taken will be taken. The statements allege misconduct by servants of the Crown and the nature of the allegations is such that they can only be dealt with by authorities within the United Kingdom. There are no grounds on which the Australian court could conclude that responsible Ministers will fail to take any action which may be required in the public interest.

24. XI 1986

MJ2CLJ

10 DOWNING STREET

From the Principal Private Secretary

MR MALLABY
CABINET OFFICE

THE WRIGHT CASE

I have consulted the Prime Minister about the order of discovery which has been served on HMG for certain documents in connection with this case.

The Prime Minister agrees that her letters of 28 February 1985 and 6 March 1985 to Mr Kinnock and her letter of 28 February 1985 to Lord Bridge should be made available.

Unless you would advise otherwise, I would not propose to tell Mr Kinnock and Lord Bridge that the Prime Minister's letters are being made available.

I am copying this minute to Mr Woolley (Cabinet Office).

N.L. Wicks

21 October 1986

PRIME MINISTER

THE WRIGHT CASE

The Australian courts have made an order of discovery on HMG for certain documents in connection with the Wright case. The Treasury Solicitors Department have managed to avoid giving up many papers, but they advise that there are certain documents which have to be made available to the Australian courts (and probably thus to Wright's legal advisers). Two concern letters from you to Mr. Kinnock and one to Lord Bridge about the Massiter case. They are attached. I can see no reason why these should not be made available to the Australian courts, especially as our legal advice is that our case would be weakened if we argued in the courts that they should not be the subject of discovery.

Content for the documents to be given to the Australian courts?

N.L.W.

Yes

N. L. Wicks

20 October 1986

VSCABL

CABINET OFFICE
A 1761
28 FEB 1985
FILING INSTRUCTIONS
FILE No. .....

10 DOWNING STREET

THE PRIME MINISTER

28 February, 1985

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT

Dear Mr. Kinnock

As you will be aware, a number of allegations about the Security Service and the interception of communications have been made recently in a television programme made for Channel Four and reported in the national press.

I have no reason to believe that there is any substance in the allegations that improper interception has taken place. In order that this can be independently confirmed, I have asked Lord Bridge of Harwich, who is the monitor of interception arrangements, to determine whether authorisations since May 1979 have named the individuals in question; and whether, if such authorisations exist or have existed, they have been sought and given in accordance with the published procedures and criteria in force at the relevant times, as set out in the Birkett Report of 1957 (Cmnd 283) and the Command paper presented to Parliament by the then Home Secretary in April 1980 (Cmnd 7873). In this review, as in his work as monitor, Lord Bridge will have unrestricted access to all papers and will be able to speak to whomever he wishes.

If Lord Bridge finds that there have been no authorised interceptions, or none other than is provided for in the Command papers in question, he will report to me that in

relation to those allegations he has found no contravention of the relevant provisions of the Command papers. If he finds that there has been any such contravention, he will report accordingly. We shall report his findings to the House, insofar as that can be done without damage to national security.

I am also seeking the agreement of former Prime Ministers and Home Secretaries to the extension of Lord Bridge's examination to any allegations which might relate to their periods in office.

Yours sincerely

Margaret Thatcher

The Right Honourable Neil Kinnock, M.P.

CABINET OFFICE
A 1762
28 FEB 1985
FILING INSTRUCTIONS
FILE No. .....

10 DOWNING STREET

THE PRIME MINISTER

28 February 1985

THIS IS A COPY. THE ORIGINAL IS RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT

Dear Lord Bridge

Sir Brian Cubbon spoke to you on 25 February about the various allegations which have been made over the past week of improper investigation by the Security Service of subversive activities, and of allegations of interception authorised in this connection in circumstances which did not warrant it.

I have no reason to believe that there is any substance in the allegations that there has been improper interception; but I am sure that it would help to establish confidence that this is so if it were to be confirmed by independent review.

I am accordingly most grateful to you for agreeing to conduct such a review. The Home Secretary hopes to make an announcement this afternoon saying that in the light of the recent allegations of improper interception, and subject to the approval of the Prime Ministers and Home Secretaries concerned - I have asked you to examine any relevant papers and to indicate whether authorisations have named the individuals concerned and whether, if so, the authorisations have been properly sought and given in accordance with the procedures and criteria in force at the relevant times. I attach a copy of the letter which I have sent to the Leader of the Opposition, describing these arrangements and the form

which I envisage your report will take.

I understand that you are willing for your findings to be reported to Parliament. The announcement will refer to this being done, in so far as that can be done without damage to national security. If your findings were ready at the beginning of next week, I think it would be best for the Home Secretary to refer to them during the course of the Second Reading of the Interception and Communications Bill, which is provisionally planned for the middle of the week. There would be no question of a formal report or of its publication.

I much appreciate your response to this proposal, and the speed with which you have offered to undertake the review. The resources of the Home Office and of the Security Service are naturally at your disposal in any way that you would find helpful.

Yours sincerely

Margaret Thatcher

The Rt Hon The Lord Bridge of Harwich

Sir Antony - to see

2754

Re JTR

cc Mr Allan

Lord Bridge

10 DOWNING STREET

THE PRIME MINISTER Prime Minister

6 March 1985

This letter was made public. See last paragraph

Dear Mr. Knight,

CABINET OFFICE
A 1880
6 MAR 1985
FILING INSTRUCTIO
FILE No. .....

In my letter of 28 February I said that the findings of Lord Bridge's investigation into allegations about improper authorisation of interception would be made public insofar as that was consistent with national security.

You will wish to know that Lord Bridge has now reported to me. Lord Bridge has agreed to the following extract, which gives a full and fair account of his findings, being made public:-

"In my capacity as judicial monitor of the interception of communications under the authority of warrants issued by the Home Secretary I have carried out, as arranged, an urgent investigation into the allegations of improperly authorised interceptions contained in the 20/20 Vision television programme entitled "MI5's Official Secrets" which was to have been, but was not in the event, shown on Channel Four. The period covered by the allegations goes back to 1970, the year in which Miss Massiter, the principal source of the material in the programme, was first employed by the Security Service. Consent to my carrying out the investigation has, as you know, been obtained from all surviving persons who at any time during this period, held the office of Prime Minister or Home Secretary.

"The criteria governing the propriety of authorising interceptions directed against subversive activity and the considerations which assist in interpreting and applying those criteria are to be found in the following public documents:

(1) Sir David Maxwell-Fyfe's Directive to the Director-General of the Security Service in September 1952, paragraphs 2 - 5 (published in Command 2151);

(2) the Birkett Report of October 1957 (Command 283), paragraphs 67, 68, 113 and 141;

(3) the definition of "subversive activities" given by the Minister of State at the Home Department (Lord Harris of Greenwich) on 26 February 1975: House of Lords Debates, Col. 947;

(4) the White Paper on Interceptions of April 1980 (Command 7837), paragraph 6;

(5) Lord Diplock's Report of March 1981 Command 8191), the conditions numbered (1) to (3) on page 4.

I have naturally not set out this material in extenso in this letter, but you may think it appropriate, in any public statement of my conclusions, to indicate, by appropriate quotation, the criteria prescribed as applicable to the issue of warrants of the kind in question to which I have had regard." [Note:- These criteria are set out in the Annex to this letter.]

"I have sought and obtained from the Home Office and the Security Service all the documents which I felt could be of any assistance to me in determining whether the issue of a warrant was justified.

I am satisfied, after full examination of all relevant documents, that no warrant for interception has been issued in contravention of the appropriate criteria."

I have copied this letter to the former Prime Ministers and Home Secretaries who consented to Lord Bridge's enquiry covering their periods of office and I shall be placing copies of this letter in the Vote Office, and releasing it to the press, at 10 a.m. this morning.

Yours sincerely

Margaret Thatcher

The Right Honourable Neil Kinnock, MP.

10 DOWNING STREET

Rt Hon

Please tell

RTA, correct

at Y

Can we find it?

CR

SECRET AND PERSONAL

CABINET OFFICE
A 10063
13 OCT 1986
FILING INSTRUCTIONS
FILE No. .....

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

Sir Robert

I've now been through X1 and there's nothing relevant But A + B on attached file may jog your memory? Chris 30/10.

Mr. Cloke
Cabinet Office

(below) Your minute ref A086/2844 of 9 October.

I have looked through all the papers we can find covering the events mentioned in your minute.

As regards the Blunt affair, Sir Robert Armstrong saw papers on this in February and March 1973 (when they were shown to Mr. Edward Heath) and in July 1974 (when they were shown to Lord Wilson).

We can find no record on our files of Mr. Peter Wright speaking or writing to Sir Robert about the succession of Jones to Hanley as DGSS. I will get Mr. Wicks to check the papers in his cupboard when he returns from Bournemouth. X

Y We cannot find any papers relating to Hollis earlier than 1977. This seems curious to me, and I am having a further search made.

C D P.

C. D. POWELL
9 October 1986

Y There was a submission to the then PM about Hollis on 5 August 1975.

RWT 5.xi

SECRET AND PERSONAL

SECRET

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

PETER WRIGHT CASE

The Prime Minister discussed your minute of 3 October with the Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General and yourself.

After some discussion it was agreed that the Government should continue to use its existing arguments to fight this case, namely those of breach of confidence and breach of contract. These were broad and well founded principles, especially since a member of the Security Service was involved. In the event of the Government receiving an unsatisfactory decision from the lower court, Ministers should reflect on the Government's tactics in the case, including some of the points referred to in your minute, when formulating the appeal to the higher court. The Government should be ready to carry the appeal to the highest court in Australia.

It was also agreed that there should be an urgent examination and comparison of the current instructions of guidance given to MI5 and MI6. Guidance for MI6 ought to be put on an analogous basis to that given to MI5. It was also necessary to see how this guidance had changed and developed over the years, including the years covered by Mr. Wright's memoirs. There should be an examination of the arrangements in other countries, particularly in the USA regarding the CIA, for controlling and authorising activities of the relevant security agencies

Finally, the Home Office should, in consultation with others concerned, identify, on a contingency basis, possible candidates for any inquiry of the sort described in paragraph 10 of your minute.

The Prime Minister and the other Ministers concerned should continue to be kept in close touch with all developments on this case. They should also have early advice on the more general issues referred to in the third paragraph above.

I am sending a copy of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary and the Attorney General.

N. L. W.

N.L. WICKS
6 October 1986

SECRET

SECRET

Ref. A086/2787

PRIME MINISTER

Yes MG

The Peter Wright Case

I reported to you on 5 September on recent developments in the case against Mr Peter Wright and his Australian publishers. This minute is a further progress report, and seeks decisions on certain points. It also summarises the case for other recipients who have not so far been involved.

2. The Attorney General is seeking an injunction in the New South Wales Court to prevent publication in Australia of a very damaging book of memoirs by Mr Peter Wright, who was a member of the Security Service from 1955 to 1976. It may be that we shall not in the end prevent publication (see paragraph 15); but it is important to do all we can to prevent it, not least in order to deter other members and former members of the intelligence services from seeking to publish books. If published, Wright's book would attract great publicity and cause damage politically and to the standing of the Security Service. It discusses at length the case of Sir Roger Hollis, in which Wright was one of the leading investigators, and reports Wright's conclusion that Hollis was a Soviet spy. It makes extensive revelations of operations conducted by the Security Service and of methods used during Wright's time as a member of the Service, and identifies numerous personnel of the Service. There are references to the Secret Intelligence Service (SIS) and its work. The book contains some pieces of fantasy and many mistaken opinions and inaccuracies. Many, but not all, of Wright's revelations have already appeared in books by Chapman Pincher and Nigel West; but it would of course be a completely different matter for a former member of the Security Service to make revelations notably

Prime Minister

You need to discuss this with the 3 Ministers concerned. It cannot wait until the FCS returns from China. I have contingently set up a meeting for 11.30 am Monday. Agree to discuss them.

N.L.W.

We must - I am advised by the 3.10 revelations in the book.. The consequences of publication would be enormous

because such revelations would be more authoritative. The book could stimulate renewed pressure for external oversight of the intelligence services.

3. It is over a year since the injunction was first sought in Australia. After a series of interlocutory proceedings, the trial is scheduled to start on 17 November. Background on the --- proceedings so far is at Annex A. Our case will rest firmly on Wright's duty of confidentiality to the Crown while a member of the Security Service and afterwards for life. In this we are supported by the view accepted in the Court of Appeal here by the Master of the Rolls (and his two colleagues), when upholding an interlocutory injunction granted to the Attorney General against publication by The Observer or The Guardian of material from Wright's manuscript (Paragraph 4 of Annex A).

4. The Australian Government have agreed to our request that they should intervene in the case to support the argument that it is not in the public interest for Wright's book to be published. It is important to our case that the Australian Government should be prepared to say that publication would not be in the Australian public interest: without that support our chances of winning would be much reduced.

5. Our Australian Counsel expects the other side to make two major points with which the Australian Court could sympathise. The first is that the duty of confidentiality should not apply to matters that are already public, already known to the Soviet Union or long out of date. Secondly, the other side may argue that the book reveals many cases of criminal, illegal or improper actions by the Security Service, that the Crown therefore has "unclean hands" and that the public interest in publishing these matters should override and limit Wright's duty --- of confidentiality. The synopsis of the book at Annex B notes the allegations of criminal or improper actions.

RTAACN

6. On the first of these likely arguments by the other side, we shall take the position that revelations made directly by a former member of the Security Service, owing confidentiality throughout life to the Crown, are quite different from allegations by journalists and other writers. We shall also argue that in the case of Pincher we had no basis for legal action; and in that of West we took action and the proceedings were settled when he agreed to remove material which we knew to have been obtained in breach of confidence. It is also open to us to argue that revelation of specific categories of information - for example about the Security Service's methods of working, its liaison with security services in other countries, or its knowledge of the activities of hostile intelligence services - in a book by Wright, a former member of the Security Service, would be harmful in particular ways, irrespective of whether they had already been published by others or related to events many years ago. We could also go further and identify places throughout Wright's book where such categories of information are revealed. Our Australian Counsel believes that the Court will expect us to do both things, and officials have concluded that we must be prepared to do so.

7. On the second likely argument by the other side noted in paragraph 5, our Australian Counsel believes that it would greatly strengthen our position if we could argue in Court that the question whether criminal or improper acts had been revealed by the manuscript was already under consideration by appropriate bodies in the United Kingdom and therefore that the Australian Court would serve no public interest, and had no business, in sanctioning their revelation to the public in general. This raises the question whether the allegations of criminal acts in the manuscript should now be referred to the Director of Public Prosecutions (DPP). The DPP would of course treat the matter exactly as any other, asking the police to investigate the possible criminal acts alleged in the book. The police would probably first seek to see Wright, and then might wish to

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interview members and former members of the Security Service and SIS and to see relevant files. The police might even wish to interview former Ministers who might have known at the time of any alleged illegalities (and former Prime Ministers, Foreign Secretaries and Home Secretaries might therefore need to be warned if the matter was referred to the DPP). The DPP would decide in the light of the investigations, taking into account the nature of the alleged offences and the time that had elapsed, whether any prosecutions were in the public interest.

8. The advantages of this move would be that, in the view of our Australian Counsel, it would considerably increase our chances of winning the case; and that it would improve our already good prospects in further proceedings in the English courts. The disadvantages include the possibility that Wright, or other people interviewed by the police, might make new and possibly more damaging allegations, which the DPP would probably feel obliged to investigate; that the reference of this case to the DPP, soon after the reference of the case of Miss Cathy Massiter, a former member of the Security Service who made revelations in a television programme in 1985, would confirm the practice of the DPP investigating allegations against the Security Service; and that, given the time that has elapsed since many of the alleged acts, the death of many of the persons concerned and the lack of evidence, the police could conclude that they were unable to carry out a satisfactory investigation, leaving us without a substantive rebuttal of the allegations and facing fresh demands that someone else should do the job.

9. Officials, including the Director General of the Security Service have concluded on balance that it would be in the Government's interest to refer Wright's criminal allegations to the DPP. A major reason for this view is that a reference to the DPP is likely to be needed in any event, following "seepage" of allegations in the book or following publication if we fail to prevent it. On this argument, the Government will gain from

early reference to the DPP. To reduce the risk of leaks, the police would be asked to conduct their inquiries very discreetly. (Ministers would need to decide whether allegations in the book of past breaches of the Official Secrets Act should be included in the reference to the DPP along with other allegations of criminal acts.)

10. The DPP would be concerned with criminal offences but not with civil torts or with improper actions alleged in the manuscript. In the view of our Australian Counsel, we should be much more likely to succeed in the trial if we could say that investigation of these aspects also by some authoritative person or body outside Government had been set in hand. It does not seem appropriate to ask the Security Commission to undertake this task, but Lord Griffiths, its Chairman, could be approached about the possibility of his examining Wright's allegations of improper activity with a view to recommending what (if any) action should be taken. He might well not wish to start his investigation until the outcome of the investigations instituted by the DPP was known. But reference to Lord Griffiths would be an innovation. Again it could be a dangerous precedent; proposals to repeat the procedure might be made whenever there were further allegations of impropriety by the Security Service. Lord Griffiths would be bound to take the task seriously, and might feel obliged, in the face of great public interest and considerable political pressure, to make serious criticisms of the Security Service during the time when Wright was a member.

11. It has seemed to officials that a possible alternative to approaching someone like Lord Griffiths would be to follow the general line which Ministers have taken in the past; namely that they are satisfied that the Security Service has carried out no action otherwise than for the purposes laid down in its directive and with the propriety which successive Governments have rightly demanded of it. In the Australian Court we could add that the Government cannot be expected, while the DPP is

RTAACN

investigating allegations of criminal acts, to refer other parts of the book to some other outside authority, but that Ministers are treating this case, like earlier ones, with great seriousness and the possibility of further steps would not be excluded after the DPP had reported. But a further message from our Australian Counsel on 2 October has stressed the importance to our position in the case of being able to show that the allegations in the manuscript had been referred to someone outside the British Government. A separate submission on this point will be put to Ministers shortly.

12. It is most important that we avoid to discuss in Court the truth or falsity of the contents of the manuscript, since this would attract particular attention to those allegations which had not already been denied by the British Government, and would thus create the very mischief which we are seeking to avoid; it is anyway a side issue in relation to the grounds of confidentiality upon which we are standing. It was therefore decided in August, on the advice of our Australian Counsel, that we should take the issue of truth or falsity out of the proceedings by agreeing - for the purposes of those proceedings only and not ohterwise - that the court should treat the allegations in the book as being true. This is a frequent legal device and it secured the result that the judge ruled that the truth or falsity of the material was no longer an issue for the Court. But the public effect of this manoeuvre was unfavourable; it created confusion in the minds of Members of Parliament, the media and others, particularly about the allegation that Sir Roger Hollis was a Soviet agent. The Law Officers therefore put out a statement here which made clear that our admission in Court had been made for the limited procedural purposes of the action; that this did not imply, and the Government did not admit, the truth of any of the allegations in Wright's book; and in particular that the Government's position on Sir Roger Hollis remained as stated by you in the House of Commons on 26 March 1981.

13. Our Australian Counsel has estimated informally that we have a better than a 50 per cent chance of winning the case, bearing in mind the considerable value which we shall gain from the intervention by the Australian Government and assuming that allegations of criminal acts are referred to the DPP and allegations of impropriety to an authority such as Lord Griffiths. Counsel thinks it quite possible however that we shall lose in the Court of first instance. It seems that, whatever the outcome in the court of first instance, the case will be taken to the Appeal Court of New South Wales and it may very well go from there to the High Court of Australia. In Counsel's view our chances of success improve the higher the case goes, since the senior and more experienced judges in the higher courts will tend to give even greater weight to the arguments about public interest on which we (with the Australian Government's backing) will base our case.

14. The defendants' solicitor (who is legal adviser to the Packer group of companies and is well aware of the potentialities of the case for the media) has several times tried to sound us about a settlement out of court. He claims to be doing this because it is obvious to him that the British Government will lose the case and will be destroyed in the process; and that neither he nor his client wishes needlessly to humiliate the Government. He may of course have other reasons: he may see that he and his clients are faced with long and expensive litigation, and be interested in pursuing the possibility of avoiding that and allowing the book to be published reasonably soon. He may even be less than confident of winning the case in the High Court - assuming that it goes all the way up. His suggestion would be that some passages could be deleted from the book and the bulk then published. We did this kind of deal with Nigel West on his history of M15; but he was not a member of the Security Service. We have responded negatively to the approaches in the present case because (a) this book is so replete with sensitive material that little

would be left after all necessary deletions have been made; (b) to do so would be inconsistent with the principle on which we are fighting the case, namely that Wright owes a duty of total confidentiality to the Crown; (c) such an exercise would identify material which is both accurate and sensitive; and (d) it would deprive us of success in one of our main purposes in bringing this case - to deter other members or former members of the intelligence services from seeking to publish similar books and publishes from commissioning such books. Moreover to settle or discontinue the proceedings in Australia would be likely to prove fatal to our proceedings in the English courts against The Observer and The Guardian: more damaging indeed than pursuing the case in Australia and eventually losing it.

15. If we win the case, there will still be a risk that the same or other publishers will try to bring the book out elsewhere: in the United States, or in some third country (and not necessarily an English-speaking one, since copies could be exported to Anglophone markets). In that event we would need to consider what further proceedings could be taken against the present defendants in Australia or in the English courts to prevent distribution of the book in this country. We would also need to be ready to consider seeking injunctions to prevent publication in third countries. If we ultimately lose the case in Australia, Heinemann will no doubt seek to publish the book in this country. We should need to institute proceedings to stop this, and we might succeed despite an unfavourable outcome in Australia. We might also need to seek an injunction to prevent distribution in this country of copies published elsewhere and possibly even to prevent distribution in some third countries. The English courts might refuse an injunction to stop distribution on the grounds it would be in vain, ie that copies would enter the country anyway. At the end of the day, even if the book itself was never published, much of the contents would be likely to emerge gradually and become widely known.

RTAACN

16. There is already substantial press interest in the case, and when Parliament resumes there will no doubt be Questions. It will be necessary to explain again that acceptance that the allegations in the book are true was made only for the purposes of the action. It will also be necessary to restate the position on Sir Roger Hollis which you gave in the House on 26 March 1981.

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Conclusion

17. Ministers will wish to note the state of play on this important and potentially embarrassing case, and to decide whether Wright's manuscript should be referred to the DPP (the question of a reference to Lord Griffiths will be the subject of a further submission).

18. Before reaching decisions you will no doubt wish to discuss this with the Home Secretary, the Foreign and Commonwealth Secretary and the Attorney General, to whom I am sending copies of this minute.

RCA

ROBERT ARMSTRONG

3 October 1986

ANNEX A

The Peter Wright Case - Background

In Spring 1985 press reports here and in Australia suggested that Peter Wright, a member of the Security Service from 1955 to 1976, proposed to publish his memoirs in Australia. Wright was initially a scientist in the Security Service and latterly a counter-intelligence officer; he was closely involved in the investigation of Sir Roger Hollis. It was decided that legal action should be taken in Australia and the United Kingdom to seek to prevent the damage that the book would cause and to deter others from writing similarly.

2. On 10 September 1985, a summons was issued in the name of the Attorney General of the United Kingdom in the Supreme Court of New South Wales against Heinemann Publishers Australia Pty Ltd. and Wright, seeking orders restraining them from disclosing or publishing any information obtained by Wright in his capacity as an officer of the Security Service or publishing a book concerning the Security Service written by Wright. A temporary injunction was granted. A week later the Australian publisher and Wright gave an undertaking to the Court that they would not take any steps in the preparation for publication of such a book pending further order of the Court.

3. An undertaking was also obtained from Willian Heinemann Ltd. in the United Kingdom that they would give 14 days' notice in writing of any intention to publish or distribute any book or article written by Wright or based on information supplied by him.

4. On 22 June 1986 the Observer, followed by the Guardian the next day, published details of certain of the contents of Wright's manuscript. The Attorney General issued proceedings for an injunction against these newspapers to prevent further publication. His application for an interlocutory injunction was successful at first instance and in the Court of Appeal, whose decision is at present the subject of a petition by the two newspapers for leave to appeal to the House of Lords. In the Court of Appeal, the Master of the Rolls based his decision on the special duty of confidence owed to the Crown by a member or ex-member of the Security Service.

THE NATIONAL ARCHIVES

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E.R.

Chapter	Page	
	18	Hollis investigation by K7 (new investigation branch). Russian defector Lyalin. Size of Russian espionage effort in Britain. Russian expulsions from London. Angleton's decline. Victor Rothschild and succession to Furnival Jones as DG. Clash with Sir Philip Allen, who wanted Sir James Waddell as DG. Sir Robert Armstrong, Graham Harrison considered. Hanley appointed DG. Northern Ireland. Rise of F branch. Sir John Jones made DG. Counter-subversion, especially of left wing groups. Will Owen. Tom Driberg. John Stonehouse. Harold Wilson. Row with Home Office over Wright providing No.10 with information about Opposition members. James Goldsmith offers Wright a job in return for intelligence on left wingers. Wharton plans leaks of MI5/6 information on Wilson and Labour Party before 1974 Election. 1975 rumours about Wilson. Blunt. Hollis case raised again by De Mowbray. Angleton's resignation. Senate hearings into CIA. Trend review of Hollis case. Mrs Thatcher's statement.
	18/22	"There were many secrets which MI5 have kept from their political and Civil Service masters, and the last thing anyone in MI5 wanted at that stage was the explosive story of the mole hunts to receive an airing around Whitehall."
	18/40	Desire to establish computer links with DHSS records at Newcastle. Description of existing liaison with DHSS.

PART 2 ends:-

PM to T. Dalyell MP. 9.9.86

PART 3 begins:-

RTA to NLW (A086/2787) 3/10/86.

~~NLW to PM (Batts)~~ 20.10.86